



Competitive Tendering Policy

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Version Control

This policy is to be read in conjunction with:

- Financial Policy
- Anti-Fraud and Corruption Policy
- Whistleblowing Policy

1. KEY PRINCIPLES

- When considering the procurement of, and tendering for goods and services, consideration should be given to **probity, accountability** and **value for money**.
- The Trust values of transparency and fairness will inform our financial practices

2. PURPOSE

This policy has been produced to ensure that Education and Leadership Trust manage public funds in a proper and effective manner as set out in the Academies Financial Handbook. When considering the procurement of, and tendering for goods and services, consideration should be given to **probity, accountability** and **value for money**.

3. KEY REQUIREMENTS OF PROCESS

- All purchases with a value greater than **£50,000** must be put out to formal tender
- Work specifications to be agreed by the Academy Head Teacher and authorised by the chair of the Local Governing Bodies.
- For any major building works of a value greater than **£50,000** the services of an architect would be engaged to deal with the handling of specifications and suitability to tender.
- All tenders will be opened at the same time and details of the contractor, quotation and any other details recorded at the time of opening,
- For purchases up to £50,000, provided the expenditure is included in the budget, the decision as to which tender to accept will be taken by the Academy Head Teacher, in consultation with the School Business Manager and the chair of Local Governing Body.
- For purchases exceeding £50,000, provided the expenditure has been budgeted for, a decision will be recommended by the Local Governing Body.
- Where expenditure is not included in the budget or anticipated expenditure exceeds the budget allocation, the decision as to which tender to accept will be taken by the Local Governing Body, in line with their terms of reference and then ratified by the full Trust Board; and
- The reasons for accepting a particular tender must be documented, especially if it is decided to accept other than the lowest tender. All decisions must be reported to the full Trust Board
- Wherever possible and practicable the Academies will collaborate so that resources or services can be tendered across the Trust, so greater value for money can be achieved.
- *See Appendix E: Competitive Tender Selection Process Flowchart*

4. QUOTATION AND TENDERING

The minimum required number of tenders or quotations, from appropriate contractors, for a given **estimated value** of contract, are:

- Up to £2,000 **minimum of one oral or on-line quotation**
- Above £2,000 and up to £10,000, **three written quotations**;
- Above £10,000 and up to £50,000, **three formal quotations** to be submitted in writing by a specified date and time and based on a written specification and evaluation criteria;
- Above **£50,000** and up to EU thresholds, **four** tenders;
- Over EU thresholds, **five** tenders.

The values are for single items or groups of items, **which must not be disaggregated artificially**.

The sterling equivalents of EU thresholds (net of VAT) from 01/01/2016 are: **£164,176** for supplies and Part A services, and **£4,104,394** for works. The sterling equivalents are changed on 1 January of each even-dated year.

For tenders expected to exceed EU thresholds, advertisements must also be placed in OJEU (the Official Journal of the European Union) and must follow EU procurement requirements with particular regard to be given to the timescale for such tenders.

5. PROCEDURES

All purchases with a value greater than **£50,000** must be put out to formal tender. The following procedures must be followed in such circumstances:

- 4.1 A specification will be prepared, authorised by the chair of the Trust Finance Committee and Academy Head Teacher and sent to at least three suppliers. It is anticipated that for any major building works of a value greater than **£50,000** the services of an architect would be engaged to deal with the handling of specifications and suitability to tender.
- 4.2 Where appropriate, the suppliers invited to tender should be drawn from an approved list or from those agreed with the architect. Otherwise, invitations to submit tenders will be advertised in local newspapers and trade journals if appropriate. The invitations to tender will include:
 - a) an introduction/background to the project;
 - b) the scope and objectives of the project;
 - c) any technical requirements;
 - d) implementation details for the project;
 - e) the terms and conditions of the tender; and
 - f) the form and date of response to the academy, or in the case of building works, to the School Business Manager, architect or quantity surveyor
 - g) tender evaluation criteria

- 4.3 All replies, if to the academy, should be addressed to the School Business Manager in a plain sealed envelope marked 'Tender' to reach her/him by a specified date. All replies must be kept sealed until that date.
- 4.4 All tenders will be opened at the same time and details of the contractor, quotation and any other details recorded at the time of opening,
- 4.5 No contractor will be allowed to amend the tender after the time fixed for receipt.
- 4.6 The School Business Manager will open a separate correspondence file for each tender which will contain copies of all correspondence or other relevant information.
- 4.7 For purchases up to £50,000, provided the expenditure is included in the budget, the decision as to which Quotation/tender to accept will be taken by the Academy Head Teacher, in consultation with the School Business Manager and the chair of the Local Governing Body.
- 4.8 For purchases exceeding £50,000, provided the expenditure has been budgeted for, a decision will be recommended by the Local Governing Body.
- 4.9 Where expenditure is not included in the budget or anticipated expenditure exceeds the budget allocation, the decision as to which quotation/tender to accept will be taken by the Trust Finance Committee, in line with their terms of reference and then ratified by the Trust Board.
- 4.10 The reasons for accepting a particular tender must be documented, especially if it is decided to accept other than the lowest tender. All decisions must be reported to the full Trust Board.
- 4.11 The successful bid may not always be the cheapest.

6. ACCEPTANCE OF TENDER

The following points will be considered when deciding which tender to accept:

- 5.1 The overall price and the individual items or services which make up that price.
- 5.2 Whether there are any 'hidden' costs; that is additional costs which the school/Trust will have to incur to obtain a satisfactory product.
- 5.3 Whether there is scope for negotiation, whilst being fair to all tenderers.
- 5.4 The qualifications and experience of the supplier, including membership of professional associations.
- 5.5 Compliance with the technical requirements laid down by the school.
- 5.6 Whether it is possible to obtain certificates of quantity.

- 5.7 The supplier's own quality control procedure; pre sales demonstrations, after sales service and, for building works, a minimum six month defects period and insurance guarantees.
- 5.8 The financial status of the supplier.
- 5.9 References from other establishments.
- 5.10 Understanding & compliance with Health & Safety, CDM regulations and Child Protection issues related to working on a school site
- 5.11 For OJEU contracts, a mandatory Alcatel period will apply.

In the case of building works, where the tendering process is being carried out by the architect or quantity surveyor, they will be responsible for checking the documentation of the lowest tender before making a recommendation to the Academy/Trust.

Once a tender is accepted an order should be issued immediately to the supplier in the normal way.

The successful contractor should be provided and sign for a copy of the Academies 'Contractors Guide' and reminded that the school is a NON SMOKING site.

The Academy's Funding Agreement should be considered when applying this policy

7. COLLABORATION AND TRUST-WIDE TENDERING

- 6.1 An ongoing programme of reviewing services across Academies in the Trust is to be established in order to improve efficiencies and value for money
- 6.2 Where appropriate, for both new and established SLAs, suppliers will be asked to tender in respect of contracts for both schools
- 6.3 Where goods or services can be obtained of acceptable quality and competitive price on a Trust-wide basis, the decision to award the tender will reside at Trust level, but Local Governing Bodies will be kept informed at all times
- 6.4 In the case of Trust-wide contracts, the Trust's Chief Financial Officer will lead the process. The Executive Head Teacher will have oversight of the process and make any recommendations to the Trust Board.

8. FRAMEWORK AGREEMENTS

- 7.1 Where appropriate, for both new and established SLAs, the Trust may enter into framework agreements with contracting authorities
- 7.2 In all cases, the Trust will ensure that the agreement is made in line with EU procurement rules
- 7.3 In all cases, the selection will be made based on value for money criteria

9. RELATED PARTY TRANSACTIONS

- 8.1 All staff, Governors and Trustees must declare pecuniary interests annually and in any meetings where any issues are discussed that might involve the related organisation.
- 8.2 Further details of trading with connected parties are set out in Appendix B

Appendix A

1. Forms of Tenders

There are three forms of tender procedure: **open**, **restricted** and **negotiated** and the circumstances in which each procedure should be used are described below.

1.1 Open Tender: This is where all potential suppliers are invited to tender. School management must discuss and agree with the Trust Finance Committee 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.

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

1.2.1 There is a need to maintain a balance between the contract value and administrative costs

1.2.2 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 school/Trust's requirements

1.2.3 The costs of publicity and advertising are likely to outweigh the potential benefits of open tendering

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

1.3.1 The above methods have resulted in either no or unacceptable tenders;

1.3.2 Only one or very few suppliers are available

1.3.3 Extreme urgency exists

1.3.4 Additional deliveries by the existing supplier are justified

2. Preparation for Tender

In order to help with the transparency of the procurement and tendering process the academy should have a **register of business interests** for LGB Governors, Trust Directors and any other person that may be involved in the procurement and tendering process. The school/Trust need to be aware that the EU introduced a requirement for public bodies to follow a prescribed tendering procedure, which operates to a minimum timescale, as well as requiring adverts to be placed in the Official Journal of the European Union if goods and services are to exceed the value of **£164,176 (€209,000)** (excl VAT) over the life of the contract, or if Public works contracts for the procurement of construction or civil engineering work exceeds **£4,104,394 (€5,225,000) for the procurement of works** (excl VAT). (Effective 1 January 2016).

2.1 Full consideration should be given to:

- 2.1.1 Objective of project – should be in line with a Academies Development Plan and any budget constraints
 - 2.1.2 Overall requirements – as set out in the Specification or Statement of Requirement
 - 2.1.3 Technical skills required
 - 2.1.4 After sales service requirements
 - 2.1.5 Form of contract
- 2.2 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. Any current level of service should not be regarded as the standard needed.

3. 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:

- 3.1 Introduction/background to the project
- 3.2 Scope and objectives of the project
- 3.3 Technical requirements
- 3.4 Implementation of the project
- 3.5 Terms and conditions of tender, and
- 3.6 Form of response

4. Aspects to Consider

4.1 Financial

- 4.1.1 Like should be compared with like and if a lower price means a reduced service or lower quality this must be borne in mind when reaching a decision
- 4.1.2 Care should be taken to ensure that the tender price is the total price and that there are no hidden or extra costs
- 4.1.3 Academy should consider the possible flexibility of a short-term agreement with the consistency and possibility of a lower price for longer term agreements
- 4.1.4 If there is scope for negotiation, this must be considered

4.2 Technical/Suitability

4.2.1 Qualifications of the contractor

4.2.2 Relevant experience of the contractor

4.2.3 Descriptions of technical and service facilities

4.2.4 Certificates of quality/conformity with standards

4.2.5 Quality control procedures

4.2.6 Details of previous sales and references from past customers

4.3 Other Considerations

4.3.1 Pre-sales demonstrations

4.3.2 After-sales service

4.3.3 Financial status of supplier. Suppliers in financial difficulty may have problems completing contracts and in the provision of after sales service. It may be appropriate to have an accountant or similarly qualified person examine audited accounts etc.

5. 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. 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 received after the submission deadline should not normally be accepted.

6. Tender Opening Procedures

6.1 All tenders submitted should be opened at the same time and the tender details should be recorded. Two persons should be present for the opening of tenders.

6.2 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 both people present at the tender opening.

7. Tender Evaluation

7.1 The evaluation process will involve at least two people. Those involved shall 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

7.2 Those involved in making the decision shall not accept gifts or hospitality from potential suppliers that could compromise or be seen to compromise their independence

7.3 Full records will be kept of all criteria used for evaluation and for contracts over £50,000 a report should be prepared for the Local Governing Body highlighting the relevant issues

and recommending a decision. For contracts under £50,000 the decision and criteria should be reported to the Local Governing Body

- 7.4 Where required by the conditions attached to a specific grant from the DfE/EFA, the department/Agency's approval must be obtained before the acceptance of tender
- 7.5 The accepted tender should be the one that is economically most advantageous to the academy. All parties shall then be informed of the decision
- 7.6 In the event that a tender other than the lowest is accepted, those involved in making the decision shall document and report the reasons for not accepting the lowest bid to the Governing Body.

8. Insurance Requirements

Generally insurance requirements are stated within the PQQ/tender documents. However, as a minimum most contracts will require the contractor to be covered by an Employers and Public Liabilities Insurance to the value of **£10,000,000**.

9. Retention of Records

9.1 All relevant documents relating to the tender process (including minutes of meetings and a written record of the reasons for the decision made) shall be retained by the Academy for audit purposes, and to use in defence if any complaint or allegation of improper practice is made.

9.2 Document retention periods will be as follows:

- Pre-Qualification Questionnaires: 6 months
- Invitations to tender: 1 year
- Evaluation criteria/decision making documentation: 1 year
- Successful bid: 7 years from start of contract

Trading with connected parties

1. This part of the handbook deals with goods or services provided by individuals or organisations connected to the academy trust
2. The 'at cost' requirement applies to contracts for goods and services from a connected party:
 - agreed by the academy trust on or after 1st September 2016; and
 - exceeding **£2,500**, cumulatively, in any one financial year of the trust.
3. For these purposes, where a contract takes the trust's cumulative annual total with the connected party beyond £2,500, the element above £2,500 must be at no more than cost.
4. In relation to organisations supplying legal advice or audit services to the academy trust, the 'at cost' requirement applies where the organisation's partner directly managing the service is a member or trustee of the trust, but not in other cases for those organisations. The Companies Act 2006 and the ethical standards of some professions also contain requirements which may prevent certain professionals from acting as a trustee of the trust.
5. The 'at cost' requirement does not apply to the trust's employees unless they are also one of the parties described at point 1.
6. The academy trust must ensure that any agreement with an individual or organisation referred to in point 1, to supply goods or services to the trust is properly procured through an open and fair process and is:
 7. Supported by a statement of assurance from that individual or organisation to the trust
8. When trading with connected parties, the overriding judgement is whether any transactions pose a potential risk to public funds
9. Evaluation of risk should include:
 - Value
 - Nature of transaction
 - Position of the connected party
 - Capacity of the connected party to control and influence the decision making process
 - Transparency
10. If the transaction is judged to be potentially irregular/improper then the contract should not be awarded to the individual or organisation connected to the Trust.
11. On an annual basis, all trading with connected parties should be reviewed and a pro-forma statement of assurance should be completed for each individual/organisation (see Appendix D)

New Public Procurement Thresholds for 1 January 2016 published

The European Commission has published the revised euro thresholds for the application of the procedures for the award of contracts under the EU public procurement directives (Directive 2004/17 (utilities), Directive 2004/18 (public sector contracts) and Directive 2009/81 (defence and security contracts)), which are to apply from 1 January 2016. We note that although EU thresholds have been revised upwards, the £sterling thresholds are slightly lower than the current thresholds due to fluctuations in exchange rates over the previous two years.

The thresholds for the application of the EU public procurement directives are revised every two years to ensure that they remain consistent with those that are used for the WTO Government Procurement Agreement, whose requirements are incorporated into the directives.

For the UK the thresholds in the Public Contracts Regulations 2006, Utilities Contracts Regulations 2006 and the Defence and Security Public Contracts Regulations 2011 will be amended as follows.

Public Contract Regulations

Current threshold	Revised EU threshold Applicable from 1 January 2016	Revised UK threshold Applicable from 1 January 2016
Supply and service contracts/design contests awarded by other contracting authorities	£172,514	EUR 209,000 £164,176
Works contracts, subsidised works contracts and works concession contracts	£4,322,012	EUR 5,225,000 £4,104,394

Current threshold Public Contract Regulations			
Revised EU threshold	Revised UK threshold Applicable from 1 January 2014	contracts/design contests awarded by other contracting authorities	1 January 2014
Works contracts, subsidised works contracts and works	£172,514	EUR 209,000	£164,176
concession contracts	£4,322,012	EUR 5,225,000	£4,104,394

Appendix D

Pro-forma statement of assurance

This form is for completion by an individual or organisation (the 'supplier'), defined in the Academies Financial Handbook (the 'handbook') as a 'connected party' to an academy trust. Individuals and organisations supplying goods or services to a connected trust must charge no more than cost (defined at the end of the form). This form will also help trusts comply with their funding agreement obligations

Section 1: Supplier details Name and address of supplier	
Company number (if applicable)	
Start date	
End date	
Estimate of commercial price, including profit	<i>A reasonable and fair estimate</i>
Connection with trust, e.g. trustee is also a director of the supplier of goods and services	<i>Explain the nature of the connection between the supplier and academy trust</i>
Value of goods or services to trust	<i>£ At cost without profit</i>
Does this value include direct costs and indirect costs only?	<i>Yes / No</i>
Nature of contract	<i>Such as building supplies or professional services</i>

Section 2: Details of contract

Explanation of how the supplier is charging the academy trust

This should include a sufficiently detailed explanation setting out that the supplier understands its direct and indirect costs in such a way to demonstrate to the academy trust that it is supplying goods and services at cost, without any element of profit.

[Please extend the rows below if the contract is longer than three years]

Direct costs	Indirect costs	Total	
Year 1	£	£	£
Year 2	£	£	£
Year 3	£	£	£
Total	£	£	£

Section 3: Supplier certification

I certify, on behalf of [name of supplier] that:

- the goods and services detailed in this form will be supplied to the academy trust on the basis of direct cost plus indirect costs, with no element of profit;
- we are supplying the goods and services on an open book basis and we will provide more information on request; and
- we will make an adjustment in the following year if we identify a miscalculation on our direct or indirect costs, and supplied goods or services which included an element of profit.

Name and position	<i>Should be sufficiently senior to sign this declaration</i>
Date	
Signature	

Section 4: Academy signoff Certification of academy trust

In signing this document I am satisfied that:

- the goods and services being supplied comply with the requirements on trading with connected parties as set out in the handbook, and represent value for money;
- there is full compliance with the trust's scheme of delegation;
- open and fair procurement and compliance with the trust's procurement procedures have taken place;
- potential conflicts of interest within the academy trust have been robustly managed; • the trust's register of interest captures relevant business and pecuniary interests as set out in the handbook, and will be updated to reflect this contract (if not already);
- the supplier understands that open book arrangements are in place and they will provide more information on request, if needed; and
- both the trust's accounting officer and chair of board of trustees have agreed to trade with this connected supplier, and that the measures and safeguards listed above are in place.

Name and position (in academy trust)	<i>Person signing must be sufficiently senior within the academy trust</i>
Date	
Signature	

Notes

Direct costs means the costs of any materials and labour used directly in producing the goods or services.

Indirect costs means a proportionate and reasonable share of fixed and variable overheads.

At cost means without profit as it includes direct and indirect costs only.

Estimate of commercial price acknowledges that the value of such contracts varies depending on a number of factors and negotiations. The supplier should identify a reasonable and fair price, e.g. from previous similar contract

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