



The Oak Partnership

Procurement and Competitive Tendering Policy

We are committed to safeguarding and ensuring the health, safety and well-being of all pupils in accordance with safeguarding procedures and guidance for staff outlined in the schools' Health and Safety, Child Protection, Security and Safeguarding policies.

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Introduction

- 1.1 This Policy sets out the Framework for ensuring that The Oak Partnership (TOP) maintains and develops competitive tendering processes and procedures, which meet the requirements of procurement legislation, financial accountability and managing public money.
- 1.2 The Trust is committed to buying practices in order to achieve value for money and to be worthy custodians of public money. The aim is to make efficiencies including savings and spend funds prudently in order to invest in teaching and learning.

2. Legal Framework

- 2.1 This Policy takes its legal framework from the following legislation and statutory guidance:
 - a. The Trust's Master Funding Agreement;
 - b. The Trust's Articles of Association;
 - c. The Public Contract Regulations 2015;
 - d. The EFSA Academy Trust Handbook.

3. Extent and Application

- 3.1 This policy applies to all spending on goods, services and works for and on behalf of the Trust, including ad-hoc one-off requirements and will be applied by any Trustee, governor or staff member, which is undertaking any purchasing or procurement activity on behalf of the Trust.

4. Why is Procurement Important?

- 4.1 The Trust spends public money; therefore, it must ensure that the money is spent in a way that is fair, open and represents good value for money (VFM).
- 4.2. Poor procurement decisions and a failure to comply with procurement legislation could result in legal challenges from suppliers, contracts being cancelled and financial penalties which can be costly, time-consuming and impact on the Trust's reputation.
- 4.3. Any non-compliance or breach of this policy can seriously impact upon the legal standing of the public money being spent and the resultant contract that is let and can increase the ability of unsuccessful suppliers to seek redress through the courts.
- 4.4. The benefits of effective procurement practices include:
 - a. Financial savings that can then be re-invested in priorities;
 - b. Goods or services purchased are fit for purpose;
 - c. Suppliers deliver (and continue to deliver) as agreed;
 - d. Legal and financial obligations are complied with.

5. Procurement Planning

5.1. Before a procurement process is commenced, the following will be considered:

- a. Whether equipment can be loaned or resources shared with any other public body;
- b. Are there any available collaborative opportunities which will increase the buying power;
- c. Are there any existing contracts or frameworks in place through the local authority or another purchasing consortium.

6. Estimating the Value of the Procurement

6.1. The calculation of the estimated value of a procurement is based on the total amount payable including any contract extension options. Account shall be made of the total estimated value for the Trust and not just for an individual school.

6.2. The procurement shall not be sub-divided, nor should the choice of the method used to calculate the estimated value be made with the intention of avoiding the application of this policy. Where a procurement is proposed to be awarded in the form of lots, account shall be taken of the total estimated value of all the lots.

6.3. The estimated value of the Procurement for goods and services is calculated by taking:

- a. The value of the total amount payable for the full term of the contract, including extensions and is for 36 months or less; or
- b. The value of the total amount payable for each month multiplied by 36 if the term of the contract, including extensions, is for more than 36 months, or over an indefinite period.
Or, where there is
- c. A requirement over a period of time for goods, or services that are for the same type or have similar characteristics and for that purpose a series of contracts are entered into, or a contract with renewable terms is being used, the value shall be calculated by taking the spend from the previous 12 months, taking into account any expected changes in the next 12 months;
- d. The estimated value of the procurement for works shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the contractor and are necessary for executing the works.

7. EU Spend Threshold

7.1. Where an estimated value of a procurement is equal to or exceeds the EU spend threshold values, then the Public Procurement Regulations 2015 apply to the procurement process. However there are exceptions whereby the Public Procurement Regulations 2015 also apply to certain aspects to a procurement which has been estimated at below the EU spend thresholds.

7.2. The Public Contract Regulations stipulate that the following applies to below EU spend threshold procurement processes:

- a. Restricted procedure is not permitted;
- b. Selection criteria used to assess the meeting of minimum standards or criteria must be relevant to the subject matter of the procurement and proportionate;
- c. Selection criteria used to assess the meeting of minimum standards or criteria must be in accordance with guidance issued by the Cabinet Office.

8. Preferred Supplier List

8.1 All new suppliers will be subject to due diligence checks by the central finance team before being set up. Some of these suppliers will be 'preferred suppliers' and added to our preferred suppliers list.

8.2 Suppliers on the preferred supplier list will be benchmarked periodically to ensure continued value for money from that supplier. Existing suppliers will be benchmarked against the following criteria:

- i. Cost – based on a comparison with alternative quotes for the same service or goods
- ii. Quality control – suppliers will be scored on the quality of the service/product they have supplied
- iii. Health and Safety (where applicable) – suppliers will be scored on the standard of health and safety mechanisms employed when on TOP sites

8.3 All assessments will be scored on a scale of 1-4 against fixed criteria (see appendix 1). When benchmarking, any score of 1 in any individual category will result in non-inclusion on, or immediate removal from, the approved supplier list.

8.4 The approved supplier list will be reviewed at least annually by the TOP Finance Business Partner or Finance Manager and any particular supplier will be reviewed immediately if problems become apparent.

8.5 Any staff member who has problems with the quality of materials, goods or services, should report them to Finance central email to ensure that all relevant information comes together at a single point.

8.6 The 'preferred supplier' list will generally be any supplier with which TOP has an ongoing contractual arrangement to supply a service or, in other cases, the supplier who scores highest on the benchmarking exercise.

9. Selecting the Procurement Process

9.1. The procurement process selected must be in accordance with the table below:

Value (Excluding VAT)	Decision to spend on goods and services within budget	Approval to vire funds between budget headings or commit to spending that would exceed budget	Procedure for identifying potential supplier(s) and price(s)	Award of contract (including selection of supplier and confirmation of price)
£0 to £1,000	Academy Head or Central Manager Trust Finance Business Partner	Academy Head or Central Manager (report to CFO)	MOVE Only one quotation necessary. Ensure probity and value for money	Academy Head or Central Manager (with CFO/COO if new supplier)

			(new suppliers to be subject to due diligence checks)	
£1,001 to £5,000	Academy Head or Central Manager Trust Finance Business Partner	Academy Head or Central Manager (report to CFO)	Where the supplier to be used is the 'preferred supplier' on the approved supplier list, only one quotation is necessary. Otherwise, three quotations (email/written) should be obtained where possible, and documentation held on finance system. In the case of premises related works, the works must have been identified under the school and/or Trust's prioritised maintenance plan or be urgently required in the interests of health and/or safety.	Academy Head or Central Manager (with CFO/.COO if new supplier) Trust Finance Business Partner
£5,001 to £10,000	CFO/COO	CFO/COO	Where the supplier to be used is the 'preferred supplier' on the approved supplier list, only one quotation is necessary. Otherwise, three quotations (email/written) should be obtained, and documentation held on finance system. Consider using a DfE Framework if relevant. In the case of premises related works, the works must have been identified under the school and/or Trust's prioritised maintenance plan or be urgently required in the	Member of Executive Team to sign contract Trust Finance Business Partner

			interests of health and/or safety.	
£10,001- £40,000	CEO	FAR Committee	<p>Three quotations (email/written) should be obtained, and documentation held on finance system.</p> <p>Consider using a DfE Framework if relevant.</p> <p>In the case of premises related works, the works must have been identified under the school and/or Trust's prioritised maintenance plan or be urgently required in the interests of health and/or safety.</p>	<p>CEO/ CFO/ COO to sign contract</p> <p>Trust Finance Business Partner</p>
£40,001- £100,000	FAR Committee	MAT Board	Competitive tendering or use of the DfE framework	FAR Committee (signed by CEO) following advertised tendering
Over £100,001	MAT Board	MAT Board	<p>Advertised invitation to Tender or use of DfE framework agreement</p> <p>Procurement process to be run in accordance with the Public Contract Regulations 2015.</p>	MAT Board (signed by CEO) following advertised tendering

9.2 In all cases, a supplier on the approved supplier list will be preferred wherever possible. For all procurement, if a supplier to be used is not on the approved list, they must be pass our due diligence process.

9.3 Where the procurement process is outsourced, as part of a significant project, the managed service should be in compliance with this policy. Any deviation from the policy will require a Decision Request Form, as set out in Appendix 2 of this policy.

10. Planning the Procurement

10.1 In order to avoid any distortion of competition and ensure equal treatment of suppliers, the Trust is legally required to take all appropriate measures to effectively identify, remedy and prevent any conflicts of interest that may arise during the course of a procurement process.

10.2 The Trust must not disclose information which has been provided by a supplier and designated as being confidential by that supplier, this includes but is not limited to technical or trade secrets and the confidential aspects of tenders unless it is required to do so under the Freedom of Information Act.

10.3 Where a procurement procedure requires the sharing of confidential information with suppliers, such as details relating to the transfer of staff, this must not be disclosed unless the supplier has signed and submitted an appropriate confidentiality agreement.

10.4 TUPE Regulations may apply when a service contract is transferred from one external supplier to another or where staff are being outsourced. Under both TUPE and Public Contract Regulations there is a requirement for the Trust to share anonymous information relating to the staff who may be eligible to transfer.

11. Preparing the Tender Documents

11.1 Appropriate tender documentation must be used for advertised opportunities.

These documents must include as a minimum:

- a. Suitable instructions for the applicants;
- b. A specification of your requirements;
- c. Procurement information and evaluation criteria;
- d. Pricing requirements;
- e. Tender submission requirements;
- f. Contract terms and conditions.

11.2 Value for money is not always about the lowest price. It's about getting the right balance between quality and cost. Consideration will be given on how these will be measured when setting the evaluation criteria.

11.3 Contracts must be awarded on the basis of the evaluation criteria laid out within the tender documents. Selection and award criteria must be treated separately and all criteria, sub-criteria and weightings must be clearly detailed within the tender documents, which consist of the following:

- a. Selection criteria
 - i. Mandatory exclusions;
 - ii. Discretionary exclusions;
 - iii. Economic and financial standing;
 - iv. Technical and professional ability;
 - v. Insurance;
 - vi. Compliance with equality legislation;
 - vii. Environmental management;
 - viii. Health and safety.
- b. Award Criteria
 - i. Pricing requirements;
 - ii. Technical questions/method statements;
 - iii. Presentations;
 - iv. Interviews;
 - v. Site visits.

12. Undertaking Formal Procurement Processes

- 12.1 All procurement processes over £40,000 and up to the EU spend threshold must be advertised appropriately by a form of public notice and out for at least ten working days. For example Trust website, newspapers or journals. The length of notice must be appropriate and proportionate to the nature and complexity of the contract to allow sufficient time for suppliers to submit a suitable and compliant tender.
- 12.2 For above EU spend threshold procurements, all tender documents must be offered unrestricted and with full direct access via an Electronic Tendering System or on the Trust website. There are exceptions regarding procurement documents which are confidential in nature. Email is not a suitable electronic means as this does not offer direct access and requires the supplier to request information.
- 12.3 All procurement processes over £40,000 and up to the EU spend threshold must be conducted in a manner which enables all communication and information exchange to be provided by electronic means to ensure the process is conducted in a fair and transparent manner, ideally using an electronic tendering system. Where communication is via email, the anonymity of all suppliers must be maintained.
- 12.4 For above EU spend threshold procurements, the process must be conducted using an electronic tendering system.
- 12.5 Tenders must be submitted in accordance with the requirements set out in the tender documents. All tenders over £40,000 and up to the EU spend threshold must be submitted in a way that enables them to be opened at the same time after the closing time and date for submission. The two options are an electronic tendering system or postal submission. For above EU spend threshold procurements, postal submissions are not acceptable. In this case the verifier must be independent of the procurement process.

13. Tender Evaluation

- 13.1 All tender submissions received must be evaluated in accordance with the pre-determined evaluation criteria, set out in the invitation to tender documents issued. Criteria, sub criteria, weightings and the attributed breakdown must not be changed from what was published in the tender documents and must be applied consistently for all tender submissions.
- 13.2 Tender evaluation processes must be recorded on a suitable evaluation matrix. All criteria, sub criteria and scoring must be detailed for each tender submission to enable a complete assessment of what scores are attributed to each criteria set. Reasons for scores allocated must be recorded which provides an appropriate justification and is used to complete the tender outcome letter.
- 13.3 An evaluation process for every compliant tender received must be fully completed. It must not be stopped part way through because it has been assessed that they won't be successful. Suppliers are entitled to a full assessment of the submission, which must be provided in their tender outcome letter and available to facilitate a de brief if requested.

14. Approval to Award the Tender

14.1 All successful and unsuccessful suppliers must be notified of the tender award decision at the same time via a suitable tender award decision email/ letter, including where a decision is not to award.

15. Contracts

15.1 Where a formal contract is required but for procurement below the EU spend threshold, the following terms and conditions will be used:

- For goods or services that do not involve TUPE liability the Crown Commercial Services "Short Form Terms and Conditions" will be used.
- For goods or service that do involve TUPE liability the Schools' Buying Hub "Standard Contract" will be used.
- For construction works construction industry standard contracts will be used
- For IT contracts the standard terms and conditions for the procurement framework used will be used

Where a Department for Education approved procurement framework has been used, the standard terms and conditions/contracts provided by the framework can be used in preference to the above listed. Professional advice will be sought for appropriate contract terms and conditions for EU spend threshold and above procurements.

There may be certain exceptions to the above, where particular suppliers will not entertain using anything other than their own terms and conditions, for example, certain software providers. In such cases, any departure from the use of the above specified terms and conditions must be approved by the Operations Manager or Chief Financial Officer before agreement is made.

15.2 Prior to issuing a contract, staff must obtain from the supplier evidence of compliance with any contractual requirements, such as insurances, disclosure and barring service checks and policies and procedures.

15.3 A supplier shall not be allowed to commence performing the contract prior to the formal contract documents being signed. In the case of framework agreements a supplier shall not be permitted to participate in any call-off from the Framework until such time as their agreement has been duly signed.

16. Contract Management

16.1 The Trust must maintain a register of contracts.

16.2 Contracts awarded must be monitored and managed throughout the contract term to ensure delivery of the contracted goods, services or works in accordance with the contract requirements and performance standards.

16.3 Contract monitoring and management arrangements must be proportionate to complexity, value and risk associated with the contract.

17. Monitoring and Enforcement

17.1 The Trust's FAR Committee will undertake continuous monitoring of its activities to ensure that this policy is applied and value for money is being achieved.

18. Exemption from the Application of this Policy

18.1 An application can be made for an exemption from this policy by submitting a Decision Request Form to the Finance Audit and Risk (FAR) Committee.

The exemption will only be applied in the following circumstances:

- a. The spend is urgently required and delay would cause loss, injury or damage, The urgency must be brought about by events that were unforeseeable by and not attributable to the Trust and which will result in loss or damage to the Trust if the suspension or exemption is not allowed; and / or
- b. The spend is of such a special nature that no advantage would be gained by inviting competitive tenders; or
- c. There is no effective competition because payment is fixed under statutory authority or the item is a patented or proprietary article or is available from only one source.
- d. The procurement process is undertaken by a third party as part of a managed service.

18.2 The following must be considered before applying for an exemption:

- a. Lack of planning and / or internal process delays will not constitute special, exceptional or emergency circumstances;
- b. Exemptions from this policy must not be applied for retrospectively;
- c. Exemptions from this policy must not be applied for where spend will exceed the relevant EU Spend Threshold.

19. Policy Circulation

19.1 This Policy will be published on the Trust's website and included in the Trust's Policy Monitoring Schedule

19.2 The Trustees are responsible for overseeing, reviewing and organising the revision of the Competitive Tendering Policy.

Adoption of the Policy

This Policy has been adopted by the Trustees of TOP and will be reviewed by them every two years.

Appendix 1 – Benchmarking Criteria for Preferred Supplier List

Description	Score Mark 1-4 1 inadequate 2 adequate 3 good 4 excellent
Is company familiar with TOP business needs Hours of work? Term time deadlines?	
How recently has the company visited the school site, i.e. do they have current knowledge of the site etc? (where applicable)	
Are staff appropriately qualified/skilled?	
Are staff DBS checked? Where site visits are required	
Does the company offer an emergency/quick turnaround on orders?	
Does the company hold stock or have an established supply chain to satisfy orders?	
Are the service/goods considered good value for money compared to similar companies? (compare to at least two other companies if possible)	
Does the company provide a reliable service, i.e. is it a large enough company to ensure continuity of service?	
Does the company have good Health and Safety policies and procedures? (where applicable)	
Does the company pass the financial due diligence checks? And have any appropriate industry memberships/accreditations?	
Is there any reason not to include the company in the preferred supplier list – reputation damage, complaints, poor performance, inefficient? Please state reason:	

Appendix 2- Decision Request Form

This form should be used when applying for an exemption from the Procurement and Competitive Tendering policy.

Date of application:	
Name and role of person submitting Decision Request Form:	
Details of procurement:	
Reason for exemption:	
Decision: (Approved or Rejected)	
Date of Decision:	
FAR committee name and signature:	
<i>Completed form to be saved on Share Point; Finance – current financial year</i>	