



# Epping Forest Schools Partnership Trust

*Unlocking the Potential of Collaboration*

## Procurement Policy

It was ratified by the Board of Trustees on:	17 <sup>th</sup> October 2019
Signed by the Chair of Trustees:	
This Policy will be reviewed by the Trust on an annual basis. Next review date:	October 2020
<u>Associated documentation</u>	
Academy trust funding agreement	1st April 2018
Academies Financial Handbook	September 2019
Academies Accounts Direction	April 2019
EFSPT Financial Regulations	July 2019

## **Policy Statement**

1. This Policy sets out the rules by which the Epping Forest Schools Partnership Trust (the Trust) spends money and explains the Trust's approach to the purchase of goods, works and services for its schools.

2. The Trust is obliged to comply with the Academies Handbook, funding agreements with the DFE, any DFE guidance and the Public Contracts Regulations 2006 (the Regulations). This Policy should be used in conjunction with the Trust's Financial Regulations.

## **Who does this Policy apply to?**

3. This Policy is mandatory and applies to everyone who is responsible in the Trust and the schools for purchasing, whether as an employee or contractor. This Policy applies to any contract which results in a payment being made by the Trust or the schools.

## **What are the principles behind this Policy?**

4. The basic underlying principle is that more detailed rules apply for higher value contracts. Not all purchasing will require a competitive procurement process.

5. All suppliers in a competitive process should be treated in a way which ensures equality of treatment, non-discrimination and transparency, for example:

- All bidders must be given the same information at the same time, and no bidder should be treated more favourably than another; and
- There must be clear and transparent timescales, requirements, specifications and deadlines to comply with any competition.

## **Procedures**

6. The details of individuals authorised to enter into contracts for the Trust are updated from time to time by the Trust Finance Manager.

7. For Higher Value and Upper Threshold contracts (as set out below), authorisation must be sought from the Trust Finance Manager in the first instance to ensure sufficient cash flow.

8. Check with the Trust Finance Manager whether any other schools or the Trust itself need to make the same purchase. If so, spend should be included within the same contract.

9. Consider how the purchase is going to be sourced. Can the Trust use an existing framework agreement, or can another school provide the requirement without needing a procurement process?

10. As a minimum requirement, you must set out clearly what you want to buy. This means knowing in advance what you want the goods, works or services to do, together with the quantity, maximum cost and deliver/completion requirements.

11. The Trust may divert from this Policy where the contract is required in cases of extreme urgency for reasons not caused by the Trust or school. This exemption should only be relied upon with express written consent from the Trust Finance Manager.

### **Using framework arrangements**

12. Wherever possible, the Trust should avoid running its own procurement processes, and instead use an existing framework arrangement.

13. Examples of those set up are Pro5, ESPO and YPO.

14. In each case, it is important that:

- The Trust is entitled to call off from the arrangement
- The specification and the contract terms are suitable for your particular needs. The terms and conditions frameworks are set in advance and cannot be changed beyond the mechanism set out in the framework; and
- You follow the framework's guidance, particularly about how orders are placed.

### **Making the purchase**

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

16. If your contract is of a value which exceeds the Upper Threshold, the EU Rules will apply please see section 33.

### **Valuing your contract**

17. 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 Regulations.

18. The contract value is based on the total value of the spend which is subject to the procurement. All schools' needs should be combined into one procurement if they are the same or similar.

19. If you don't know what your exact spend is going to be over the life of the contract, you should take an average spend and multiply it by the duration of the contract.

### **Commercial Cards**

20. Trust credit cards should only be used for low value, one-off spend which cannot be procured through an alternative means. Credit cards are not a suitable method to procure repeat items or higher value goods.

21. Full receipts must be submitted in respect of any credit card purchase.

22. Please refer to the Commercial Card Policy for details about credit card usage.

### **Low value transactions**

23. For all transactions with a total value of less than £3,000 exclusive of VAT, competitive quotes are not needed but a written quotation from the supplier (s) should be obtained before a purchase order is raised.

### **Medium value transactions**

24. Transactions between the value of £3,000 and £20,000 should have 3 written quotations before the purchase order is raised. You must provide a specification in advance which must include as a minimum:

For lowest price only:

- A description of the requirement
- The quantity needed
- Timescale for the provision or completion; and
- The deadline for submission of the quotation

Price and quality:

- A statement from the school or Trust setting out what it wants to achieve from the purchase
- The evaluation criteria which will be used to evaluate the quotes received, including the disclosure of the criteria, sub criteria and weightings that will be applied to select the best bidder(s). This is a complex area and you should check with the Trust Finance Manager if you are unsure:
  - A description of the equipment
  - The quantity needed; and
  - The timescale for provision or completion
  - The deadline for submission of the quotation

25. Transactions valued at less than £6,000 exclusive of VAT may be agreed by Headteachers.

26. Transactions valued at more than £6,000 but less than £15,000 exclusive of VAT must be authorised by the Trust Finance Manager.

### **Higher Value Transactions**

27. Any transactions valued at more than £15,000 but less than £50,000 exclusive of VAT must be agreed by the CEO and the process of obtaining quotations must be followed as per the Medium Value Transactions.

**Any works over £20,000 (either as a value of the contract or single items) are subject to the Trust's Tendering Process.**

28. Any transaction valued over £50,000 must be agreed by the Finance and Audit Committee; the school business manager or Headteacher of a school must produce a business case for approval by the Committee.

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29. An expression of interest must be placed to seek interest from all interested bidders. This can be reviewed on a case-by-case basis, but this could, for example, be advertised on the Trust or school's website. Relevant trade journals and newspapers could also be considered.

30. Bidders must be allowed a suitable time to respond to advertisements. This should be clearly set out together with any submission requirements.

31. Bidders requesting more information should be sent a tender pack. This should contain information about the requirements and needs, together with the information required from the bidders. This will need to be bespoke in each case but could include as an 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 applied to select the best bidder (s). This is a complex area and you should check with your Trust Finance Manager if you are unsure
- A draft contract

### **Upper Value Transactions**

32. The Regulation must be followed whenever the total value of the contract exceeds the Upper Value threshold. Purchases over £181,302\* are to be dealt with in accordance with OJEU (\* This amount changes each year). This is a complex process and legal or additional specialist financial support should be sought to assist in this process.

33. Certain services are known as Part B services and the most common of these are:

- Catering services
- Legal services
- Personnel placement and supply services
- Investigation and security services
- Education and the vocational education services
- Health and social services
- Recreational, cultural and sporting services

34. Part B services should be treated as High Value transactions with one important distinction: if the subject matter of what is being purchased is likely to be of interest to suppliers based elsewhere in the European Union, then it should be advertised more widely to reflect this.

35. This should be done by placing an advert in the Official Journal of the European Union. If this option is used, make it clear the advert is voluntary as the contract will otherwise be caught by the full extent of the Regulations

36. There are other types of contracts, in addition to those in Part B services, that are not caught in full by the Regulations. A common example is the right to operate leisure facilities (where the profit is being collected directly by the provider). The same procedure as outlined for Part B services should be applied for concessions.

37. A contract award notice must be sent to the OJEU within 48 calendar days of the award of the contract.

38. The key points to remember are:

An advertisement will need to be sent to the OJEU to notify the EU market of the contract opportunity. Other adverts (for example, on the Trust website) must not appear before the OJEU notice and must be consistent with it;

There are legal minimum timescales to allow bidders to request information about a procurement process and to complete each stage. It is important that these timescales are followed;

Bidders are entitled to understand all of the evaluation criteria, sub criteria and weightings to be used in the procurement process. Once any such criteria are set, they should not be changed;

Bidders are entitled to certain information when they are excluded from the process;

A minimum cooling-off period of 10 calendar days (if the notification is electronic) or 15 calendar days (if by other means) must be left between notifying all bidders of the outcome of procurement and entering into the contract ("mandatory standstill period"). Certain information about the procurement must be provided with the notification to bidders and you should liaise with the Trust Finance Manager to ensure compliance with this important requirement; and

A contract award notice must be sent to the OJEU within 4 calendar days of the award of the contract

### **Tendering Process**

39. Any works over £20,000 (either as a value of the contract or single items) are subject to the Trust's Tendering Process

Provided in hard copy or via an email; and;

In the case of hard copies must bear no external markings to identify the tenderer.

40. The Trust or school must keep tenders secure until the time specified for all tenders to be opened. Email tenders should be stored in a secure electronic file.

### **Tender Evaluation**

41. For all procurements, an assessment of the mix of price factors and non-price factors may be taken into account. The evaluation approach requires the use of evaluation criteria which:

Are pre-determined and listed in the invitation to tender;

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Are strictly followed at all stages throughout the process;

Include price;

Are relevant and proportionate to the subject matter of the contract;

Are capable of objective assessment;

Are weighted in accordance with the relative importance and weighting of the tenders; and

Avoid discrimination on the basis of the bidders' nationality or other discrimination measure.

42. Where the approach as set out above is used, any contract must be awarded to the bidder who achieves the highest score.

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44. The evaluation approach requires the use of evaluation criteria which:

Are predetermined and listed in the invitation to tender;

Are strictly followed throughout the process

#### **Contract Award**

45. For all contracts, the outcome must be recorded in writing and the Trust Finance Manager must be notified of the outcome of the procurement

46. A contract must only be signed by an authorised individual as per the Trust's approval limits.

#### **Audit Trail**

47. For all purchases, a clear audit trail should be kept. The level of detail required will increase with the value of the procurement. For all purchases where the lowest cost is not adopted the reason for this must be documented. The written record should include, for example:

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 assessed and discussed;

Who was responsible for the evaluation of the tenders, and details of evaluation, if applicable;

Who was responsible for receiving and checking the goods and services and for authorising and making payment. Note that in all cases the person responsible for the decision to procure must not be the same person authorising the payment;

Details of the purchase itself, for example, what was purchased, from whom and for what price.

### **Dealing with Conflicts of Interest**

48. Any interest which may affect the outcome of a procurement process must be declared. This includes all Governors and Trustees as well as authorised members of staff.

49. A record of such declared interests must be sent to the Trust Finance Manager who will determine what, if any, action can be taken to remedy such conflict of interest.

50. No gifts or hospitality should be accepted by the Trust from any service provider as an inducement to award a contract to that supplier. This may be an offence under the provisions of the Bribery Act 2010. This includes free IT equipment. You must inform the Trust Finance Manager immediately if you become aware of such gifts or hospitality.

### **Further information**

51. You should always check with the Trust Finance Manager if you are unsure about any aspects of the procurement process.

52. This Policy will be reviewed annually by the Trust. Any changes will be communicated to all staff at the Trust and the schools.

### **Policy Review**

53. This Policy will be monitored as part of the Trust's internal review processes and reviewed as required by any changes in legislature.