

## Appendix 2



# Procurement Policy

The Children's Endeavour Trust comprises of:

Abbot's Hall Community Primary School  
Bosmere Community Primary School  
Broke Hall Community Primary School  
Chilton Community Primary School  
Combs Ford Primary School  
Freeman Community Primary School  
Springfield Junior School  
Whitehouse Community Primary School

### Document Control

<i>Version</i>	<i>Date</i>	<i>Author</i>	<i>Comments</i>
<i>Issue 1</i>	<b>1st Mar '19</b>	<b>CFO</b>	<i>Part of Finance Policy</i>
<i>Issue 2</i>	<b>March 2023</b>	<b>Finance Manager</b>	<i>Separate policy, Revisions to tendering regulations</i>

**Owner:** CEO

**Approver:** Finance and Audit Committee

**Statutory Policy:** Yes

**Review Cycle:** Annual

**Approval date:** 14<sup>th</sup> March 2023

## Background

The purpose of this policy and associated procedures is to ensure that The Children's Endeavour Trust develops and maintains systems of financial control which conform to the requirements both of propriety and of good financial management. It is essential that these systems operate properly to meet the requirements of the Trust's Funding Agreement with the Department for Education (DfE).

The policy covers all aspects of purchasing and the placement of contracts by the Trust and its schools.

The Trust wants to achieve the best value for money from all its purchases. This means getting what is needed in the correct quality, quantity and time at the best price possible. A large proportion of the purchases will be paid for with public funds and therefore there is a need to maintain the integrity of these funds by following the general principles of:

- **Probity**, it must be demonstrable that there is no corruption or private gain involved in the contractual relationships of the Trust or its schools
- **Accountability**, the Trust is publicly accountable for its expenditure and the conduct of its affairs
- **Fairness**, that all those dealt with by the school are dealt with on a fair and equitable basis
- **Value for Money**, the Trust shall aim for
- **Economy**, minimizing the cost having regard to appropriate quality
- **Efficiency**, an appropriate relationship between outputs and
- **Effectiveness**, the achievement of the intended outputs

This policy relates to the Trust, all of the Trust's schools and the Teaching School Alliance. Adherence to the principles and procedures contained in this policy is mandatory for all staff.

This policy is designed to be consistent with:

- **ESFA AcademyTrust Handbook**
- **Trust Articles of Association/Constitution**
- **Master and Supplemental Funding Agreements**
- **HM Treasury's "Regularity, Propriety and Value for Money"**.
- **DFE Guidance including "Effective Buying for you School"**
- **the Public Contracts Regulations 2015 (the Regulations) and government Procurement Policy Notes (PPN's). The Government's Procurement Policy Notes (PPN) are actual policies that highlight the new changes to public procurement from when the UK exited the EU. The latest four that highlight new changes to public procurement in light of Brexit are notes 10/20, 11/20, 01/21 and 02/21. Under our Funding Agreements and as a charity, the Trust's board of Trustees have 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 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 requirements as set out in this policy.

- UK Modern Slavery Act 2015
- Public Contracts Regulations 2015
- Concession Contracts Regulations 2016
- Utilities Contracts Regulations 2016
- Bribery Act 2010

- The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021

This policy is to be read in conjunction with the Trust Finance Policy.

## **Routine Purchasing**

In order to select the most appropriate procurement process, the whole-life value of the contract should be calculated. This should include initial purchase and implementation costs, and ongoing maintenance and support costs throughout the life of the contract (see how to value your procurement).

Routine purchases with a whole-life cost up to the tender limit (see separate *Record of Financial Responsibility*) can be requested by designated budget holders and are authorised as per the *Scheme of Delegation*, according to the value of the order being placed.

A quote or price must always be obtained before any order is placed. The Business/Office Managers have a list of regularly used suppliers; however, if the purchaser considers that better value for money can be obtained by ordering from a supplier not regularly used by the Trust then this must be discussed and agreed with the CFO.

For orders of a value higher than the three-quote threshold, but below the tender limit (see separate *Record of Financial Responsibility*), multiple quotes (normally at least three) must be obtained and a justification must be provided where the lowest priced quote is not selected. Exceptions to this rule may apply if there are less than three companies capable of providing the required goods or services.

All orders must be made in writing using an official order requisition form, (stocks of which are held in the Finance Office), or via the online Ordering Portal once this facility is available. Paper orders must bear the signature of the member of staff requesting the order; they will be countersigned by their line manager as required and must be forwarded to the Finance Office where they will be checked to ensure adequate budgetary provision exists before the order is processed. Online orders follow the approval workflow defined within the system, which is similar in principle to the paper approach.

## **Service contracts**

Where possible the Trust will negotiate service contracts for the whole Trust, in order to achieve economies of scale and best value.

If a school wishes to enter into any service contract, the Headteacher must obtain confirmation from the Chief Finance Officer that no alternative contract is in place elsewhere in the Trust.

All service contracts with a duration in excess of 1 year or a value in excess of a defined monetary threshold (see *Record of Financial Responsibility* & valuing your procurement) must be authorised by the Chief Executive Officer (see *Scheme of Delegation*).

Written quotations should be obtained by the purchase originator or budget holder, and should be sent to finance to be retained centrally.

New contracts likely to cost in excess of the tendering limit (see *Record of Financial Responsibility*) are subject to the competitive tendering process laid in section below, and require Trust Board level authorisation (see *Scheme of Delegation*).

Annual renewal of existing contracts which fall within the scope of previously approved multi-year quotes or tenders are not subject to the same limits and process. They may be paid directly under the authorisation gained previously. However, existing single-year contracts should not be renewed automatically with an existing supplier without giving due consideration to potential alternative provision and best value for money.

## Valuing Procurement

It is important that any procurement is properly assessed for value. Contracts should not be divided into smaller contract to avoid 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. Where possible, all schools' needs should be combined into one procurement if they are the same or similar.

If the exact spend cannot be determined over the life of the contract, the 'reasonably foreseeable' spend should be calculated taking an average annual spend and multiply by the estimated duration of the contract (including any known extensions or options to renew).

For regular service contracts which are intended to be renewed, the value is either:

1. The total actual value of the successive contracts over the last 12 months adjusted to take account of likely changes in quantity over the following 12 months or
2. The total estimated value of the successive contracts over the 12 months from the first delivery.

If the service contract has a fixed-term of less than or equal to 48 months, the value should be adjusted for the estimated total value for the full term. If the service contract has no fixed-term or a term greater than 48 months, the value is calculated by multiplying the estimated amount it is expected will be paid each month by 48.

For the purpose of calculating contract values, all amounts should be taken as gross amounts including VAT.

## Low Value Transactions (£0 - £4,999)

Competitive quotes are not needed but Value for Money checks must be undertaken before a purchase order can be issued. Terms and conditions should be read carefully before signing (if applicable). All orders **MUST** be approved by an authorised member of staff and within the limits contained within the financial scheme of delegation. Confirmation must always be obtained that there is sufficient budget remaining to enable the transaction to proceed and there will not be any detriment on potential future expenditure. **From time-to-time the central finance team will communicate a 'preferred supplier' for low value transactions. Preferred supplier status will be based on a range of factors including provision of reliable, consistent service and delivery of low-cost, good-value products.** Budget holders should consult with the central finance team to check, before ordering, if a relevant supplier exists in the Trust's finance system. If not, the budget holder is responsible for identifying an appropriate supplier and setting them up in accordance with the Trust purchasing processes.

## **Medium Value Transactions – (£5,000 - £49,999)**

For Medium Value Transactions, the rationale for the purchase should be discussed with the CFO/Finance Manager. A written business case may be required via email to the central finance team & CEO/CFO. The e-mail rationale or business case must include as a minimum:

- The estimated impact on pupil outcomes where it is a curriculum spend with reference to the School Development Plan
- Where the expense relates to administration costs evidence that the Trust/school is required to incur such costs and attempts to minimise the expenditure has been considered
- Confirmation there is sufficient budget remaining to enable the transaction to proceed and there will not be any detriment on potential future expenditure

At least three written quotations must be obtained before a purchase order is approved by the central finance team and issued to the supplier. You must provide a specification of the purchase in advance via a Best Value Form which will be approved in line with the scheme of delegation. The Best Value Form must include:

- a description of the requirement
- the quantity needed • the timescale for the provision or completion and
- the deadline for submission of the quotation.

Should less than 3 quotations be returned, evidence of Value for Money (VfM) must be provided before acceptance. The contract will be awarded to the supplier that provides the best overall value in terms of price, service and quality of work/goods.

## **High Value Transactions (£50,000+)**

Prior to undertaking any High Value transaction, a consultation with the CFO/FM must occur and a business case will be completed and presented to the CEO/Trust Board. This must include:

1. The estimated impact on pupil outcomes where it is a curriculum spend, with reference to the School Development Plan.
2. Where the expense relates to administration costs evidence that the school is required to incur such costs and attempts to minimise the expenditure has been considered.
3. Confirmation the expense was included as part of the budget prepared at the start of the academic year and that there is sufficient budget remaining to enable the transaction to proceed and there will not be any detriment on potential future expenditure.
4. Notes on discussions held with the CFO to confirm the purchase of the goods or services will not result in any cash flow issues.

The Trust will evaluate if a Trust wide contract is required and will seek expressions of interest from interested bidders, generally utilising a government approved procurement framework. The decision about where to advertise must be taken on a case-by-case basis and should be proportionate and reasonable. The appropriate advertising medium depends on the likely level of interest in the procurement. The more interest that there is likely to be and the greater the value of the contract, the wider the coverage must be.

Bidders must be allowed suitable time to respond to the advertisement. This should be clearly set out together with any submission requirements. Bidders requesting more information should be sent a tender pack. This should contain the information about the requirement and needs, together with the information required from 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).
- a draft set of terms and conditions.

## **Competitive Tendering (Over the WTO GPA Threshold)**

### **Compliance (Find a Tender)**

Post Brexit OJEU/TED was replaced with Find a Tender the new UK e-notification service where notices for new procurements must now be published ensuring the process is open to the public procurement market and to ensure competition for goods and services. The rules apply to purchases by public bodies (including schools / School Trusts) which are above set monetary thresholds (see separate *Record of Financial Responsibilities*).

Where the Regulations apply, contracts must be advertised on Find a Tender Service which has detailed rules that must be followed. Where a contract for supply of goods, services or works across the whole Trust and over multiple years (where multi-year contracts are taken out) will exceed the current WTO GPA threshold, tenders legally need to be posted on Find a Tender. This switch is the most notable and important, immediate effect of Brexit on public procurement. The Cabinet Office introduced FTS in the first of two PPNs (08/20) setting out the changes to the procurement process. Further changes are expected in 2023.

## **Use of Purchasing Consortia and Frameworks**

Where possible, a framework agreement should be used for purchases with a whole-life value in excess of the tender limit specified in the Record of Financial Responsibility and Scheme of Delegation.

A framework agreement is an arrangement that a 'contracting authority' (e.g. a local authority or a public sector buying organisation) makes with suppliers of goods, works or services, and sets the terms under which a purchase can be made. The frameworks ensure suppliers have already been through a competitive tender process, appropriate legal and regulatory checks have been undertaken, and they have favourable terms and conditions. In addition, the framework provider may offer advice and support.

Each framework will have guidelines that must be followed to select a supplier and place an order, and it will require the Trust to either:

Make a direct selection, i.e., choose the best-value option for the requirements from a list of suppliers

Run a mini-competition, i.e., ask all suppliers on the framework to send a bid (or 'tender') for the requirements

Use of such organisations has the following benefits:

- **Price** – economies of scale provided by the consortium should result in competitive prices from suppliers
- **Speed** – by using an established framework, suppliers are familiar with tender documents and specs and are able to respond and submit their tender responses in reduced time.
- **Reduced administration** – The consortium will normally offer downloadable tender documents for things like specification, scoring, contracts etc which provide an excellent starting point for further tailoring, significantly reducing the work of defining and initiating the tender process.
- **Proven suppliers** – all suppliers that are party to a given framework have already been assessed and scored on previous tender exercises and meet a minimum scoring threshold
- **Legal compliance** – many consortia can administer the tender in a compliant manner, providing assurance to the Trust Board that they are meeting their legal obligations in this regard where contracts exceed the legal thresholds.

## Forms of Tender

There are three forms of tender procedure: open, restricted and negotiated **and advice as to the procedure to be used will be sought from Consortia's.**

**Open Tender:** This is where all potential suppliers are invited to tender. The budget holder must discuss and agree with the Finance Director 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 is such that only specific suppliers can be expected to supply the Trust's requirements, The costs of publicity and advertising are likely to outweigh the potential benefits of open tendering. See also advice below on the use of Purchasing Consortia.

**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, Additional deliveries by the existing suppliers are justified.

The chosen tendering method must be agreed in advance with the Headteachers and the Finance & Audit Committee.

## **Preparation for Tender**

When preparing a specification for a tender process, full consideration will be given to:

- Objective of project
- Overall requirements
- Technical skills required
- After sales service requirements
- Form of contract
- Social Values

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 issued by the Trust or its schools will include the following:

- introduction/background to the project
- scope and objectives of the project
- technical requirements
- implementation of the project
- explanation of how the tenders will be evaluated
- terms and conditions

## **Criteria for selection**

The criteria should be defined in advance of placing the tender and potential suppliers should be made aware of the criteria that will be used. The scoring matrix should define the relative weighting of the different criteria that are being used. Relevant criteria are likely to fall into one of the following categories:

### **Financial:**

- 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.
- Care should be taken to ensure that the tender price is the total price and that there are no hidden or extra costs.
- Is there scope for negotiation?

### **Technical/Suitability:**

- Qualifications of the contractor
- Relevant experience of the contractor
- Descriptions of technical and service facilities
- Certificates of quality/conformity with standards
- Quality control procedures
- Details of previous sales and references from past customers.

### **Other Considerations:**

- Pre sales demonstrations
- After sales service



- 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.
- **Social values of the supplier is in line with the Trusts Social Values**

## **Tender submissions:**

The invitation to tender will state the date and time by which the completed tender document should be received by the Trust. Tenders will be submitted in plain envelopes clearly marked to indicate they contain tender documents. The envelopes will be time and date stamped on receipt and stored in the Trust Finance Office prior to tender opening. Tenders received after the submission deadline should not normally be accepted.

All tenders submitted should be opened at the same time and the tender details should be recorded in the presence of at least one member of the Trust and the CFO, or the nominated owner of the tender process where the tender has been delegated to third party.

A separate record should be established to record:

- the nature of the goods or materials to be supplied or the works or services to be provided
- the name of each supplier or subcontractor quoting/tendering
- the date and time of receipt of each quotation/tender
- the date and time of opening of the quotations/tenders
- the amount of each quotation/tender
- evaluation criteria and results
- the name of all persons present at the opening of the quotations/tenders

## **Tender evaluation and decision making**

The evaluation process should involve at least two people. Those involved should disclose all interests, business and otherwise, that might affect their objectivity. If there be a potential conflict of interest, then the person concerned 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 report should be prepared for the Finance & Audit Committee highlighting the relevant issues and recommending a decision.

Each supplier should be scored against each of the defined criteria as objectively as possible based on their response (and any subsequent demonstrations that form part of the tender process). The scoring result sheets should be kept and stored with the tender records.

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 scores most highly when assessed against the evaluation criteria. All parties should then be informed of the decision.