Procurement Policy

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Together, pursuing life in all its fullness

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1. Introduction

1.1. The Trust is committed to procurement practices that achieve value for money, and to be worthy custodians of public money. The following sets out the framework for ensuring that the Trust maintains and develops compliant procurement processes and procedures, which meet the requirements of procurement legislation and financial accountability.

1.2. The Trust takes its legal framework from the following legislation and statutory guidance:

a. The Trust's Funding Agreement.

b. The Trust's Articles of Association.

c. The Procurement Act 2023

d. The Academies Trust Handbook.

2. Extent and Application

2.1. This guidance 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, or staff member, who is undertaking any purchasing or procurement activity on behalf of the Trust.

3. Why is this Important?

3.1. 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). 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.

3.2. Any non-compliance or breach of this guidance can seriously impact upon the legal standing of the public money being spent and the resultant contract that is let which can increase the ability of unsuccessful suppliers to seek redress through the courts.

3.3. 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.

4. Contracts Register

4.1. The Trust designated procurement lead shall maintain a Contracts Register for the Trust to:

a. Ensure an accurate picture of tendering and contracts across the Trust.

b. Demonstrate greater accountability & transparency regarding contracting activity.

c. Enable a full understanding of liabilities and compliance with procurement rules.

d. Identify which contracts need to be re-let and to program work.

e. Support understanding areas where efficiency gains may be sought.

f. Identify where contracts are not in place and should be.

5.

5.1. The Trust seeks to aggregate spend and develop procurement expertise in key areas of spend where this delivers value for money. The Trust will develop a category management approach to the procurement of goods and services. Category Management is a strategic approach which organises procurement resources to focus on specific areas of spend. This enables the Trust to focus time and conduct in-depth market analysis to fully leverage procurement decisions on behalf of the whole organisation. The results can be significantly greater than traditional transactional based purchasing methods.

6. Establishing the Value of the Purchase or Contract

6.1. Under Section 4 and Schedule 3 of the Procurement Act 2023, contracting authorities are required to estimate the value of a contract to determine whether it falls above or below the relevant procurement threshold. This estimation is critical for ensuring compliance with the appropriate procurement procedures.

6.2. The estimated value of a contract must be calculated as the maximum amount the Trust could expect to pay under the contract.

6.3. The Trust must not artificially split or disaggregate contracts to avoid procurement obligations. If multiple contracts could reasonably be combined, their values must be aggregated unless there is a clear and documented justification for treating them separately.

6.4. If the value of a contract cannot be reasonably estimated (e.g. due to unknown duration), the Trust must treat the contract as above the relevant threshold, thereby applying the full procurement rules.

6.5. For framework agreements, the estimated value must include the total value of all contracts that may be awarded under the framework. If the framework is part of an

open framework scheme, the value must include all frameworks that could be awarded under that scheme.

6.6. Concession contracts must be valued based on the maximum amount the supplier could expect to receive under the contract. Goods, services, or works provided by the Trust.

7. Procurement Act 2023 Spend Thresholds

7.1. Spend Thresholds for establishing if the Procurement Act 2023 (PA 2023) applies to a purchase, are reviewed annually and released January each year. Note that VAT is included in contract estimates.

7.2. Refer to the procurement officer seeking support with establishing if the value of your purchase or contract may be near or over the PA 2023 spend thresholds. Purchasing near or over the spend threshold must be procured in accordance with the PA 2023.

Contract Type	Threshold from January 2024 (inc. VAT)	Threshold from January 2026 (inc. VAT)
Public Works	£5,372,689	£5,193,000
Supplies & Services*	£214,904	£207,720
Light Touch Regime Services	£663,540	£663,540

8. Purchasing and contract spends threshold requirements.

8.1. For financial definitions on limits refer to the Scheme of Delegation on the Trust website.

8.2. Estimated value of the purchase is the total value of the contract (including extensions) e.g. if £5K per year for three years it is £15K if an option to extend for a further two years (max of 5) the total is £25K

8.3. Once the estimated value of the purchase or contract spend has been established, refer to the appropriate spend threshold in the table below which identifies the actions and approval process to be followed.

8.4. All procurement should comply with the procedures and delegations set out below.

8.5. Values are exclusive of VAT

Level of delegation	Purchasing Process to follow	Purchasing Approval Process	Contract management.	Termination process.
Level 1	Obtain one quotation. Good practice is to obtain more than one quotation. Check that a Trust wide Contract is not already in place.	Raise PO in the Finance System Budget Holder must: • Ensure that a Trust-wide Contract is not already in place. Ensure PO value/details match purchase	The Approved Purchase Order is classified as the Contract.	No restriction on who can terminate the contract.
Level 2	Procurement officer to be informed and to support the process. Obtain three written quotations to ensure best value or the use of an appropriate framework.	Raise PO in the Finance System Academy Business Partner / Business manager/ Finance business partner must: • Ensure quotations are stored electronically. • Ensure that a Trust-wide Contract is not already in place. • Ensure PO value/details match purchase.	The Approved Purchase Order is classified as the Contract where a contract is not available. If a Contract is available: Signed Contract must be in place. Contract signed by: Academy – headteacher	Academy Business Partners / Business Manager at Harris monitor contract end dates and submit notice for termination. Procurement officer supports when required. Contract register updated on termination.

	Check that a Trust wide Contract is not already in place. Quotations must be electronically stored for audit purposes.		TLT – department head Contract stored electronically on the Contracts Register with end date and notice period.	
Level 3	Procurement officer to be informed and to support the process. Advertise the Invitation to Quote on the Trust template publicly via the Trust website or the use of a Framework. Check that a Trust wide Contract is not already in place. Quotations must be electronically stored for audit purposes.	Procurement Outcome to be approved by Business and Finance Committee by submitting a significant spend request form. Raise PO in the Finance System	Signed Contract should be in place. The Approved Purchase Order is classified as the Contract where a contract is not available. Contract signed in line with SoDA Contract stored electronically on the Contracts Register with end date and notice period.	Contract Termination Request referred to the CFO or Head of Operations and Compliance for Review and Approval. Procurement Officer to undertake the Process. Contract Register Updated
£100,001 – PA 2023 Threshold	Procurement officer to deliver the process. Either a formal procurement process to be followed in accordance with process laid out in this policy (section 11) or the use of a framework. Check that a Trust wide Contract is not already in place. Procurement documents electronically stored for audit purposes.	Procurement Outcome to be approved by Business and Finance Committee by submitting a significant spend request form. Raise PO in the finance system.	Signed Contract must be in place. Contract signed by TLT Contract stored electronically on the Contracts Register with end date and notice period.	Contract Termination Request referred to the CFO or Head of Operations and Compliance for Review and Approval. Procurement Officer to undertake the Process. Contract Register Updated
PA 2023 Spend Threshold & Above	Procurement process to be run in accordance with the PA 2023 including the use of a Framework Agreement approved by the DfE Check that a Trust wide Contract is not already in place.	Procurement Outcome to be approved by Business and Finance Committee by submitting a Tender Evaluation Report. Procurement Outcome reported to full Board for information. Raise PO in the finance system.	Signed Contract must be in place. Contract signed by CEO Contract stored electronically on the Contracts Register with end date and notice period.	Contract Termination Request referred to the CFO or Head of Operations and Compliance for Review and Approval. Procurement Officer to undertake the Process.

	Procurement documents electronically stored for audit purposes.			Contract Register Updated

9. Formal Procurement Planning

9.1 Before a formal procurement process is commenced, the following will be considered:

a. Whether there are any available collaborative opportunities which will increase the buying power.

b. Whether there are any suitable existing contracts or frameworks in place.

9.2. 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.

9.3. 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 the Trust is required to do so under the Freedom of Information Act.

9.4. Where a procurement procedure requires the sharing of confidential information with Suppliers, e.g., details relating to the transfer of staff, this must not be disclosed unless the supplier has signed and submitted an appropriate Confidentiality Agreement.

9.5. 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.

10. Formal Procurement Route to Market

10.1. The most suitable procurement route to market must be selected, which takes into consideration the complexities of the requirements, estimated value of the contract, whether PA 2023 applies and any associated timescales. This may be through an existing Framework or Agreement, or through running your own tender process.

10.2. Where contracts have been set up to enable it, additional or remedial works will be commissioned from the Supplier who has the servicing contract in place. This work will not be guaranteed. The Trust will periodically test best value by seeking alternative quotes.

11. Formal Procurement Tender Document Suite

11.1 Appropriate tender documentation must be used when running a formal procurement process. 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 is about striking the right balance between quality and price. Consideration will be given on how these will be measured when setting the evaluation criteria.

11.3. Contracts must be awarded based on 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.

11.4. For tender processes conducted via a Framework the tender documents must be formulated in accordance with the Framework. Where a framework is used it must be one approved by the DfE.

11.5. For tender processes above the PA 2023 spend threshold procurements, the tender documents must be formulated in accordance with the Procurement Act 2023.

12.

12.1. If the estimated value of a procurement is below the relevant public procurement threshold; the Trust may use a standing list of approved contractors or suppliers ("Approved List"). The Approved List will be established to ensure that all suppliers are selected based on objective, transparent, and non-discriminatory criteria.

12.2. Inclusion on the Approved List will not guarantee any volume of work and the process to select the suppliers from the list will follow objective criteria that was shared with the suppliers when the Approved List was established.

12.3. The use of the Approved List is subject to ensuring value for money is achieved and ongoing compliance with relevant legislation, including the Procurement Act 2023 and this policy.

13. Purchases covered by the Procurement Act 2023(PA 2023)

13.1 The procurement process must be conducted in accordance with the PA 2023 and the Procurement Regulations 2024, using a tendering portal. Procurement Guidance can be found at Procurement Act 2023 - Guidance documents - GOV.UK

13.2 When carrying out a procurement covered by the PA 2023, the Trust must have regard to the procurement objectives as laid out in Section 12 of the PA 2023 which are:

a. delivering value for money.

b. maximising public benefit.

c. sharing information for the purpose of allowing suppliers and others to understand the authority's procurement policies and decisions.

d. acting, and being seen to act, with integrity.

13.3 In carrying out a covered procurement, the Trust must treat suppliers the same unless a difference between the suppliers justifies different treatment. If the Trust considers that different treatment is justified in a particular case, the Trust must take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage.

13.4 In carrying out a covered procurement, a contracting authority must—

a. have regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and

b. consider whether such barriers can be removed or reduced.

14. National Procurement Policy Statement

14.1 The NPPS places a statutory obligation on contracting authorities to have regard to its policy priorities and determine how procurements can contribute to the delivery of these wider policy objectives. This means that a contracting authority must consider whether the procurement can contribute to achieving one or more of the policy objectives stated in the NPPS in a manner that is appropriate, proportionate and relevant; and take steps to address this where possible. This could include, for example, changes to the way the procurement is structured, or the process is carried out, the specification of the goods, services or works to be purchased, or the award criteria which will determine the most advantageous tender.

14.2 While contracting authorities have a duty to consider whether and how to address the policies, there is no absolute obligation to do so. There may be cases where the priorities are irrelevant to a specific procurement, or it would be disproportionate to introduce measures to address them.

15. Identifying Conflicts of Interest

15.1 Section 81(1) of the Act provides that the Trust must take all reasonable steps to identify, and keep under review, in relation to procurement, any conflicts of interest, or potential conflicts of interest. The Trust must also be aware of their obligations in relation to perceived conflicts of interest. Section 81(4) defines an 'interest' as including a personal, professional or financial interest that may be direct or indirect.

15.2 A 'conflict of interest' arises where there is an actual conflict of interest. For example, where a person assessing tenders in a procurement owns shares in a supplier that has submitted a tender. A 'potential conflict of interest' exists where a conflict of interest will arise in future if certain circumstances occur. For example, the spouse of someone who will be assessing tenders is the CEO of a business that is in the process of acquiring ownership of another company, and that company has recently submitted a tender.

15.3 Section 83(1) provides that a conflicts assessment must be prepared before publishing a tender. A conflicts assessment is a record to be kept by the contracting authority which must include (as required by section 83(3)) details of the conflicts or potential conflicts of interest identified and any steps taken, or to be taken, to mitigate them.

15.4 Section 83(4) requires that if a perceived conflict of interest exists, the Trust must also include in the conflicts assessment details of any steps that the contracting authority has taken or will take to demonstrate that a conflict or potential conflict does not exist. As set out at paragraph 4, a perceived conflict of interest is where there are circumstances which the Trust considers are likely to cause a reasonable person to wrongly believe there to be a conflict or potential conflict of interest.

15.5 When publishing the tender notice the Trust must confirm that it has been prepared and revised in accordance with section 83. This does not mean that the actual conflicts assessment must be published, just confirmation that it has been prepared and revised.

16. Competitive Tendering Procedures

16.1 Before awarding a contract under section 19 of the PA 2023 the Trust must carry out a competitive tendering procedure in accordance with a tender notice and any associated tender documents. The tendering procedures are:

a. a single stage tendering procedure without a restriction on who can submit tenders (an "open procedure"), or

b. such other competitive tendering procedure as the contracting authority considers appropriate for the purpose of awarding the public contract (a "competitive flexible procedure").

16.2 The Trust must ensure that the procedure is a proportionate means of awarding the contract, having regard to the nature, complexity and cost.

17. Time Periods

17.1 The PA 2023 specifies certain minimum time limits, which the Trust must comply with during a competitive tendering procedure. The Act also sets out the considerations that apply in setting time periods more generally.

17.2 As well as ensuring that suppliers have reasonable time to prepare, for example, for the submission of tenders, the minimum time limits set out in the PA 2023 ensure compliance with the UK's international obligations on public procurement.

18. Central Digital Platform

18.1 The online system referenced in the Procurement Act 2023 and named in the Procurement Regulations 2024 as the central digital platform is available at https://www.find-tender.service.gov.uk/

18.2 The Trust is required to obtain confirmation of registration and submission of core supplier information on the platform from suppliers who wish to participate in a covered procurement.

18.3 The central digital platform will enable:

a. the Trust and suppliers to register and receive a unique identifier.

b. the Trust to publish notices and other information as required under PA 2023 for covered and below-threshold procurements.

c. suppliers to submit and store certain core organisational information as required by the regulations to participate in a covered procurement. This information will only be available to those contracting authorities that a supplier chooses to share it with; it cannot be freely accessed.

d. anyone to view the notices and access related public procurement data.

19. Setting & Publishing KPIs

19.1 Before entering into a contract with an estimated value of more than £5 million, section 52(1) generally requires that the Trust must set at least three KPIs in respect of the contract.

19.2 The obligation to set at least three KPIs does not apply if the Trust considers that the supplier's performance could not appropriately be assessed by reference to KPIs. This might include, for example, where the contract is for a one-off delivery of or off-the-shelf goods.

20. Contract Terms and Conditions

20.1 Suitable terms and conditions will be used for procurements below the PA 2023 Spend Thresholds. Legal advice will be sought for appropriate contract terms and conditions for procurement processes above the PA 2023 spend threshold.

20.2 Prior to issuing a contract, staff must obtain from the Supplier evidence of compliance with any contractual requirements, e.g., insurances, disclosure and barring service checks and policies and procedures.

20.3 Where a procurement process was undertaken, the contract terms and conditions must be those that were issued within the Tender documents.

20.4 A supplier shall not be allowed to commence performing the contract prior to the formal contract documents being signed. With reference to Framework Agreements, a supplier shall not be permitted to participate in any call-off until such a time that their agreement has been duly signed.

21. Contract Modifications

21.1 Following the award of a contract, changes (referred to as modifications in the PA 2023) may need to be made to that contract to ensure it can be successfully fulfilled, as demands and circumstances change throughout its lifetime. The PA 2023 gives contracting authorities legal certainty when making modifications, setting out ten grounds in total on which contracts may be modified during their term, provided the relevant requirements are met and a contract modification notice is published.

21.2 If a modification cannot be justified on at least one of the grounds, the modification is not permitted, and a new procurement must be carried out if the Trust wishes to implement the subject-matter of the modification.

22. Contract Termination

22.1 The Trust is required to publish a contract termination notice for a covered procurement. Whilst there are many reasons why a contract may come to an end, the Act provides, at section 80(3), that 'termination' for the purpose of the publication of a contract termination notice encompasses all of the circumstances in which a contract may come to an end and sets out the following non-exhaustive list:

a. discharge: including for example, where the contract obligations / deliverables are fulfilled, payments made and any disputes settled, by mutual agreement or contract frustration.

b. expiry: where the contract has reached its end date (which may include periods of extension).

c. termination by a party: where one party exercises a contractual or implied right to terminate the contract.

d. rescission: where the contract ends, and the parties restored to the position they were in before the contract was entered into; or

e. set aside by court order: where the contract is declared to be invalid by legal judgement.

23. Exemption from the Application of the Procurement & Contract Spend Threshold Requirements

23.1 An application can only be made for requirements under the spend threshold for the PA 2023.

23.2 An application can be made for an exemption from this procurement and spend threshold requirements by submitting a request using the dispensation form to the CFO and Head of Operations and Compliance. For spend over £40K, permission will then be sought from the Business and finance committee (BFC). The exemption will only be applied in the following circumstances:

a. Urgent Requirement
The procurement is urgently required, and any delay would result in significant loss, injury, or damage. The urgency must arise from unforeseeable events beyond the Trust's control and not attributable to poor planning or oversight.

b. Specialist Nature of Spend
The goods, services, or works are of such a specialist nature that inviting competitive tenders would not yield any meaningful advantage or value for money.

c. Sole Supplier or Statutory Pricing
There is no effective competition due to one or more of the following:

i. The item is patented or proprietary and only available from a single supplier.

ii. Pricing is fixed under statutory authority or regulation.

iii. The supplier is uniquely qualified or accredited to deliver the required service.

d. Continuity of Service or Integration Needs

Where continuity with an existing supplier is essential to ensure compatibility, integration, or uninterrupted service delivery, and a change would result in disproportionate cost or operational risk.

23.3 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 guidance must not be applied for retrospectively.

c. Exemptions from this guidance must not be applied for where spend will exceed the relevant PA 2023 Spend Threshold.

24. Review

24.1 This Policy has been adopted by the Trustees of the Audit and Risk Committee (ARC).

25. Links with Other Policies

25.1 The links with other policies include:

a. Financial Regulations Policy.

b. Related party transactions

c. Anti-fraud and bribery