



## Procurement Policy

# The Enquire Learning Trust

*Believe, Persevere, Achieve*

## Contents

1. Policy Statement	4
2. General Principals	6
3. Value for Money/Aggregation	7
4. Financial Authority to Commit Expenditure	8
5. Purchasing Thresholds	9
6. Dispensations	10
7. Raising Orders	11
8. Purchasing Cards	12
9. Contracting New Systems and Services	12
10. Payment and Payment Terms	13
11. Aggregation	13
12. Tenders	14
13. Standards of Business Conduct	14
14. Reporting Requirements	14
15. Contracts Register	15
16. Equal Treatment of Suppliers	15
17. The Bribery Act 2010	15
18. Acceptance of Gifts or Hospitality	15
19. Freedom of Information	15
20. Information Security	16
21. Leases	16
22. Health and Safety	16
23. Separation of Duties	17

24. Travel and Accommodation	17
25. Disposal of Redundant Equipment	17
26. Monitoring and Audit	17
27. Procurement Process	18

### Version History

Date	Author	Version	Comment
Dec 2018			Policy approved by Trustees
July 19	JY		

## 1. Policy Statement

It is the Trust's policy to ensure that any spend of Public money regardless of value is carried out in a transparent and non-discriminatory way and in compliance with the Public Contracts Regulations and Bribery Act.

The Trust Scheme of Delegation outlines who has authority to select contractors and award contracts and/or raise orders. Failure to comply with either this Procurement Policy, the Trust Financial regulations or Scheme of Delegation may result in withdrawal of authority and disciplinary action.

As a publically funded organisation, the Trust and its academies are 'Contracting Authorities'. Subsequently any procurement activity is regulated by the UK Public Contracts Regulations and EU procurement law. In particular, any procurement activity has to be carried out in a transparent and non-discriminatory manner.

This policy sets out how the Trust will manage procurement to ensure compliance with relevant legislation. It does not provide guidance on how to procure via the tender process as this is conducted by the Trust. Failure to comply with this policy and/or follow guidance could result in a breach of legislation, fines and litigation, claims for damages and loss of reputation.

### What is Procurement?

1.1 Procurement is the process whereby goods, services and works are acquired. The procurement process spans a life cycle from identification of need and resources, through selection of suppliers, purchasing, contract management and disposal. Purchasing is the transactional process of buying the goods/services and is just one part of procurement.

1.2 Procurement or purchasing may be undertaken by academy staff **only** in accordance with the scheme of delegation and thresholds referred to in this policy.

## Purpose of the Procurement Policy

The purpose of this document is to make Trust procurement and purchasing clear and signpost staff undertaking procurement activity to appropriate procedural guidance.

This policy should be read in conjunction with:

- The Trust's Finance Policy
- The Scheme of Delegation
- The Academies Financial Handbook
- Appropriate procurement procedure guides
- The Trust's Information Governance Policy

The Trust Procurement Policy is applicable to all purchasing activity regardless of value and should be followed by all staff involved in purchasing whether centrally or academy based.

All procurement within the Trust and academies shall be carried out in such a way to ensure compliance with legal requirements, including, the 2015 Public Contracts Regulations, EU Procurement legislation, Trust financial regulations and scheme of delegation and any other requirements of the DfE or ESFA.

This policy is intended to reflect and support the aims of the Trust by working with staff and suppliers to optimise value for money in the procurement of works, goods and services. It aims to balance efficiency against risk factors in achieving value for money whilst promoting compliance and sustainability.

The Director of Business and Operations and Chief Finance Officer will work with academies and other members of the Central Team by providing professional support in obtaining works, goods and/or services which are best suited to any application in a manner which is compliant with current legislation and best practice. Alternatively where academies are making independent purchases the Chief Finance Officer will provide a framework and procurement guides which academy staff must follow.

The Procurement Policy and associated procurement procedure guides/templates will be reviewed at least every two years or whenever required by a change in legislation.

There is a duty on all staff who may be involved in any stage of the procurement process to apply the key principles of best practice procurement to achieve appropriate governance, value for money and suitable quality of goods and services to meet our business needs.

## 2. General Principles

When purchasing and contracting for goods and services, the Trust and its academies must demonstrate compliance with procurement legislation and the proper and effective use of public funds at all times. Procedures should also ensure that the goods, services and works procured are for the correct quantity and quality, arrive on time and achieve best value. The following general principles must therefore be adhered to:

- Transparency and Non Discrimination, in all purchasing activity the Trust must ensure that all contractors, suppliers and service providers are treated equally and without discrimination and must act in a transparent and proportionate manner. Procurement procedures must not be undertaken in a manner which artificially narrows competition, favours or disadvantages any contractor, supplier or service provider.
- Probity; it must be demonstrable that all parties are dealt with on a fair and equitable basis and that there is no private gain, favouritism or corruption involved in any dealings of the Trust.
- Accountability; the Trust is publicly accountable for its expenditure and for the conduct of its affairs.
- Value for Money; the achievement of value for money underpins the appropriate use of all public funds, therefore as well as striving to achieve the best price possible for all purchases, consideration should also be given to other factors such as quality, suitability, availability, reliability of the supplier, terms available etc.
- General Data Protection Regulations; all procurement must be in line with guidance set out in the Information Governance Policy, particularly in relation to data processing and data sharing. Any proposed activity involving data processing and data sharing must be referred to the Trust Data Protection Officer via a Data Protection Impact Assessment prior to procurement.

### 3. Value for Money/Aggregation

Value for money is the optimum combination of whole life cost and quality (or fitness for purpose) to meet the user's requirement. This is rarely possible with the lowest price alone. To ensure that all purchases obtain optimum value for money, a range of procurement procedure guides and templates outlining the steps to be taken for varying levels of procurement are available. All purchases must be made in accordance with these guides, except in exceptional circumstances where a dispensation may be granted.

Purchases over £20,000 will require pre-approval from the Director of Business and Operations and Chief Finance Officer. In these cases early involvement is recommended to ensure expectations are clear and timelines are achievable.

Unless below the threshold for obtaining multiple quotations or tenders all procurement of goods, works, services or consultancy should be acquired by effective competition. Competition promotes efficiency and effectiveness in expenditure. Awarding contracts on the basis of value for money following competition contributes to the competitiveness of supplies.

The Trust has a duty to comply with the requirements of EU Procurement Legislation and Academy Funding Agreements. In order to do so the Central Team will review all proposed purchases over £10,000 in the context of total Trust expenditure to come to a decision whether the potential requirement to aggregate is complementary or contrary to the requirement to show value for money.

The Director of Business and Operations and Chief Finance Officer will review academy budgets and improvement plans and where appropriate will consult with academies on the potential to develop a range of Trust wide or regional contracts in order to comply with the requirements around aggregation and value for money.

#### 4. Financial Authority to Commit Expenditure

Any process which involves committing the Trust or an academy to expenditure must be approved in accordance with the Scheme of Delegation. The Scheme of Delegation confirms who has the authority and to what financial level.

Any member of staff placing a purchase order on behalf of the Trust or an Academy must be sure that they have the correct level of authority to do so in accordance with the Scheme of Delegation and where required must obtain approval from a more senior member of staff with a higher approval limit if necessary.

The Trust operates a system of devolved financial authority under which principals are responsible for the decision making process and planning of certain purchasing decisions. In accordance with this Procurement Policy for purchases below £10,000 the Chief Finance Officer may provide technical and professional support if requested. However, where the value of purchases exceed £50,000 the Director of Business and Operations will manage the process on behalf of an academy. In these cases an academy is still responsible for specifying requirements, evaluation criteria and committing funding.

No member of staff may approve purchases unless they have been given authority within the scheme of delegation to do so.

No employee is authorised to commit the Trust or an academy to expenditure without first ensuring that there is adequate budget provision.

Schemes of work should not be artificially broken down into smaller orders to phase the issue of purchase orders and thereby circumvent either authorisation levels or the requirement to obtain further quotes/tenders.



## 5. Purchasing Thresholds

There are two types of threshold governing the procurement for the Trust and academies. Firstly authority to commit expenditure, which is covered in the scheme of delegation and secondly the procurement process which is governed by the anticipated lifecycle cost of the procurement.

- Below £2500 – ensure that purchase is in line with Best Value
- £2500 - £49,999 – three written quotations from suitable suppliers/contractors
- Any expenditure over £49,999 be advertised on the Trust's e-tendering portal
- £50000 - £181302 – advertise on contracts finder website and invite a minimum of three tenders following advertisement unless an appropriate framework may be used
- Over £181302 EU compliant tender procedure or use of EU compliant framework

Where the Central Procurement Team are managing a procurement process on behalf of an academy, orders will not be raised without approval from the budget holder in accordance with the scheme of delegation.

Occasionally there may be a recommendation to award a contract to or place an order with an organisation which has not submitted the lowest priced bid. If this is the case because the scheme has been evaluated using the Most Economically Advantageous Method (MEAT) then this is acceptable without further action, provided that the evaluation scores are recorded and retained on file. However, if this is for any other reason approval must be sought before confirming award or raising an order in accordance with the Scheme of Delegation.

## 6. Dispensations

In limited circumstances a dispensation from the requirement to obtain alternative quotes may be granted. This may include authority to solicit a single quotation, to award a contract or place an order without having obtained the requisite number of tenders or quotations or to directly award a contract.

All dispensations require prior approval from the Business and Operations Director before progressing and must not result in a breach of procurement legislation or be contrary to the Trust Scheme of Delegation.

All dispensation requests, whether approved or rejected will be reported to the Finance, Risk and Audit Committee. Staff may be called upon to attend the committee meeting to explain the reasons for requesting a dispensation.

Dispensations from the requirement for competitive quotations / tenders must not be used to avoid competition, or for administrative convenience, or to award fresh / further work to a supplier originally appointed through a competitive procedure.

All dispensations will be subject to obtaining and documenting appropriate evidence for single quotation / tender action, obtaining authorisation for such action in accordance with the approved Scheme of Delegation and never breaching current Public Contract Regulations or the relevant OJEU thresholds.

Subject to approval as outlined in the Trust Scheme of Delegation, dispensations may be granted for the following reasons:

- Unforeseen emergency requirement
- The goods or services are only available from one source and there is no possibility of the Trust's requirements being met in any other way
- An extension is required to a current contract in order to allow sufficient time to complete a competitive tendering exercise (but failure to have planned the re-procurement would not be justification for a single tender)
- Where the seeking of tenders and subsequent contract award could cause significant operational difficulties and where any potential savings would be outweighed by those operational issues (which along with a VFM analysis must be documented) and only for use in circumstances to be approved in accordance with the scheme of delegation, under the specific advice of the Operations Director in terms of compliance with the EU and UK legislation and subject to approval by the Chief Executive and subsequently reported to the Finance Board.

## 7. Raising Orders

Following the raising of a requisition, official orders must be raised for all goods, works, services and/or consultancy required by the Trust or an Academy using the Sage 200 system, unless specifically exempted. The procurement procedure guidance documents the purchasing process and must contain adequate controls to ensure that:

- Official orders are raised in respect of all goods, services and works required by the Trust, its' academies and subsidiary companies, except for those specifically exempted.
- Only goods, services and works required by the Trust, its' academies and subsidiary companies are actually ordered.
- Competitive quotations or tenders are obtained for all orders where the value of goods, services or works, individually or for a series of contracts, would exceed the relevant financial thresholds.
- Orders for goods, services and works are placed with the most appropriate suppliers in terms of cost, quality and delivery.
- Goods, services and works received are in accordance with those ordered.
- Payments are made only in respect of invoices authorised in accordance with the approved Scheme of Delegation and the Trust's funds are adequately safeguarded.
- All payments are accounted for properly, promptly and in full.
- Relevant, timely and accurate management information on non-pay expenditure is produced and utilised.
- Adequate physical and logical security is in place.

Specific exemptions to the requirement to raise an official purchase order are limited:

- Rent or business rates
- Utility costs
- Works and services executed under a contract
- Purchasing catering supplies (food and drink only)

No orders shall be placed, or contracts altered or extended, with the intention of avoiding the relevant thresholds applicable within these Financial Regulations. In the event that the terms of any purchase order or contract have to be amended, an official variation order must be approved in accordance with the Scheme of Delegation and issued by the Academy Finance Team/Central Procurement Team as appropriate.

## 8. Purchasing Cards

The Trust recognises the benefits of purchasing cards as an alternative means of paying for goods and services. The advantages include reduced paperwork, reduced administration time and costs, opportunity to make on line purchases and seek discounts from suppliers on the basis that they receive immediate payment.

Purchasing cards are particularly suitable for high volume, low value purchases, booking off site visits and for site staff to order building materials etc.

Full details governing the distribution and use of purchasing cards is subject to the Purchasing Card Policy and associated procedures.

## 9. Contracting New Systems and Services

When the need for a new system and/or service is identified, either by an academy or centrally, the following must apply:

- A DPIA must be completed for all new systems and services and shared with the CFO and DPO for approval.
- For any new system over £1500 a clearly defined business case for commissioning a new system or service is to be shared with the CFO and the development lead, this is to include a proposal, estimated cost, benefit and desired outcomes
- If the new system or service involves the sharing, processing or storage of data then a Data Protection Impact Assessment is completed and submitted to the Trust's Data Protection Officer and Director of Business and Operations.
- This information will be reviewed by the Information Governance Strategy Group for a recommendation. All recommendations from the Information Governance Strategy Group will be sanctioned by the Finance, Risk and Audit Committee.
- If the decision is to proceed with the procurement, the Central Team will conduct the process in line with this policy and Scheme of Delegation.
- As part of due diligence, a Request for Quotation will be available to prospective bidders setting out the specification, timeline, evaluation criteria and conditions of the award. The Request for Quotation also includes a requirement for bidders to submit policies and procedures relating to Data Protection and Health and Safety, method statements on data security, data sharing and data processing, and a Freedom of Information Disclosure Notice.
- Any contract that involves the sharing and/or processing of data will only be let on the receipt of a Data Sharing and/or Data Processing Agreement.

Any agreement, contract or lease with a supplier must be authorised by either the Chief Executive Officer, Director of Business and Operations or the Chief Finance Officer. This does not include general orders for goods and services.

All IT purchases **must** involve the Director of Information and Technology.

A signature on an agreement or contract, or even an email response indicates that the Trust or Academy accepts the suppliers Terms and Conditions which may not be favourable and/or in line with this policy.

## 10. Payment and Payment Terms

Unless a Purchasing card has been used to make a payment, all invoices from suppliers should be entered on to the Sage 200 finance system once approved and then paid by BACS. All other forms of payment are excluded.

The Trusts standard payment terms are 30 days following receipt of a correct invoice, unless alternative arrangements have been agreed at purchase order stage.

Where purchases are made using established frameworks, the payment and other terms and conditions are likely to be those of the framework. Before purchasing from any framework, it should be confirmed that it is permissible for the Trust or an Academy to use the framework and where required an appropriate access agreement has been approved by the Director of Business and Operations Director or Chief Finance Officer.

Payment should only be made on receipt of goods. Where services are being procured then payment for work in progress or agreed interim stages may be appropriate in accordance with the approved guidance and subject to sign off from the Operations Director.

## 11. Aggregation

EU legislation sets out how and when multiple orders and contract values for the same type of work should be added together for the purposes of deciding what procurement process is applicable.

As academies manage their own budgets and certain purchasing independently, you must seek advice and support of the Chief Finance Officer on the procurement of goods and services in order to avoid aggregation of expenditure across the Trust.

The Chief Finance Officer will monitor expenditure on goods and services centrally to ensure that aggregation within a twelve month cycle is avoided or a central procurement process is initiated.

In appropriate circumstances the Director of Business and Operations and/or Chief Finance Officer may identify opportunities to establish regional or corporate contracts on behalf of academies.

## 12. Tenders

Any expenditure over £50000 must be subject to tendering in accordance with the Trust Finance Policy and UK Public Contracts Regulations 2015 and if the anticipated value is over the current threshold then also in accordance with EU procurement legislation.

All tendering must be undertaken by the Central Team.

The procurement team will select and manage the most appropriate procurement process in accordance with the anticipated value, any potential aggregation and Trust tendering guidelines which are compliant with current procurement legislation and General Data Protection Regulations.

Tendering procedures may take up to six months depending on lifecycle cost and compliance with legislation, failure to programme sufficient time for procurement will not be a reason to grant a dispensation.

All current and future tenders are advertised using the Trust website or alternative more appropriate means if necessary or legally required. It is the responsibility of the Central Team to carry out tenders for Goods, Services and Works on behalf of the Trust and Academies.

Any post tender bid clarification with suppliers will be led by the Central Team.

Any communication with the suppliers involved in the tender process will be facilitated by the Central Team.

## 13. Standards of Business Conduct

In limited circumstances, with the approval of the Chief Executive Officer, the Director of Business and Operations may directly award certain contracts without the need to conduct a competitive process, provided that all such instances are compliant with EU and UK procurement legislation and the circumstances are subsequently reported to the Finance, Risk and Audit Committee or Trust Board with a record of the justification for the direct award.

## 14. Reporting Requirements

For contracts above £20000 (excluding VAT) the decision and criteria should be reported to the Finance, Risk and Audit Committee.

For all contracts in excess of £20000 (excluding VAT) a report shall be prepared for the Board of Trustees, highlighting the relevant issues and recommending a decision.

All contracts whose value is over £20000 (excluding VAT) must be authorised by the Board of Trustees. In cases where, due to the timing of the Board meetings, this would not be practicable and any undue delay would cause significant operational issues, the Chief Executive Officer acting jointly with the Chair or Vice Chair of the Board of Trustees may accept a tender in excess of £20000 but this must be reported to the next meeting of the Board of Trustees.

The Central Team is required to complete a tender report for all tenders in accordance with EU procurement legislation.

## **15. Contracts Register**

The Central Team will maintain a contracts register detailing all procurement activity undertaken, which records all related documentation, details of the successful bidder, price, duration of contract and the procurement process followed.

## **16. Equal Treatment of Suppliers**

One of the key principles of procurement legislation is that all suppliers are treated equally in any competitive process regardless of value. They should have the same availability of access to specifications, plans, Trust staff time, facilities etc.

Evaluation criteria should be decided in advance and made available in full to suppliers via the Pre Tender Questionnaire to show they will be treated fairly.

All bidders are entitled to be debriefed at the end of a process and informed of the successful bidder.

Any discussions and or correspondence prior to the conclusion of procurements should be on a “without commitment” basis and this phrase should be clearly stated on any such correspondence. The contract offer or purchase order should be the only point at which commitment is made.

## **17. The Bribery Act 2010**

All staff should also be aware of The Bribery Act 2010, which came into force in April 2011. The Trust, its employees and contractors/bidders are all covered by the Act.

## **18. Acceptance of Gifts or Hospitality**

The Trust policy is generally not to accept any form of gift or hospitality from suppliers and/or to record any offers or acceptance on a central register.

## **19. Freedom of Information**

The Freedom of Information Act 2000 gives the public and potential suppliers the right to request certain information regarding Academy and Trust purchasing. All such requests should be handled in accordance with the Trust policy.

As part of the process for providing quotations and tenders the Trust requires all bidders to identify confidential information which they would not want the Trust to disclose in response to a freedom of information request.

## 20. Information Security

All procurement and purchasing that requires a supplier or third party to access to the Trust or Academy information systems as part of the service they provide must be referred to the Director of Information and Technology and Data Protection Officer via a Data Protection Impact Assessment at the requisition stage.

Academies commissioning maintenance and support contracts where access is required must ensure that prior the contracts are referred to the Director of Information and Technology and Data Protection Officer for signature.

In the event of the contract being transferred or terminated appropriate provisions must be in place to ensure the continued security to information and systems. Suppliers and third parties will be asked where appropriate to demonstrate their compliance with the policies.

## 21. Leases

The Trust cannot enter into a finance lease as this is classed as a form of borrowing and in contravention of the requirements of the Academies Financial Handbook.

All operating leases must be referred to the appropriate Trust Director ie the Director of Information and Technology in relation to IT procurement, and authorised by the Chief Executive Officer or the Director of Business and Operations.

## 22. Health and Safety

When procuring any goods, services or works employees must ensure that checks are made to confirm that suppliers are suitably experienced and qualified to undertake the work required.

Where building or maintenance works is planned, suitable risk assessments and/or method statements must be in place and if required Academy change approval must be sought

All services, supply and works procured by the Trust must comply with the relevant UK and European health and safety legislation in force at the time the items are procured.

Where required by legislation, products (including used or refurbished products) must comply with the relevant UK and European Laws on the design, supply and operation of products.



### **23. Separation of Duties**

There are a number of processes in purchasing goods and services etc. There must be adequate separation of duties to ensure that the process of ordering goods, services and works, checking receipt/completion and authorising payment is not the responsibility of one person. In some smaller academies this may be difficult; however in all cases the appropriate guidance must be followed.

Where the Central Team undertake tendering exercises, either on behalf of an Academy or for the Trust, the receipt and custody of tenders prior to opening must be separated from the specification, selection and evaluation. Contract awards subject to tendering will be subject to approval of the procurement procedure undertaken and in accordance with the scheme of delegation.

### **24. Travel and Accommodation**

All travel and accommodation should be purchased in accordance with the Trust Expenses Policy and the cost claimed back through the staff expenses procedure.

### **25. Disposal of Redundant Equipment**

Wherever possible where equipment is no longer required by an Academy or the Trust, alternative internal uses should be sought, however where this is not possible or there is no interest then it is permissible to dispose of by sale to suppliers or the general public.

In all cases where disposal is proposed this must be carried out with the approval of either the Director of Business and Operations or Chief Finance Officer and for the disposal of IT equipment, the Director of Information and Technology.

Any proposed disposal/sale must comply with the current Waste Electrical and Electronic Equipment (WEEE) Regulations, via the trust preferred supplier.

### **26. Monitoring and Audit**

The Trust and Academies are subject to scrutiny by internal and external auditors as well as the EFA and other government departments/organisations. It is the responsibility of everyone involved in the purchasing process to ensure that they comply with current policies, procedures, guidance and legislation.

## 27. Procurement Process

