

Pope Francis Multi Academy Trust

TENDERING & PROCUREMENT POLICY AND PROCEDURE

Presented & Approved by Trust Board	Thursday 13th May 2021
Signed by Chair of Trust Board	
Name of Chair of Trust Board	Fr Michael Fitzsimons
Date	Thursday 13th May 2021
Version	1
Date of Review	May 2023

Important notice:

This policy has been created in line with current legislation and regulations; however, it is important to be aware that the government is currently reviewing the public procurement regime following Brexit. The next review of thresholds will be implemented by January 2022 via amendments to the public procurement regulations. We will update this policy to ensure compliance with the regulations once any changes are confirmed – schools should also ensure that they adhere to all relevant regulations and are following the latest government guidance, including [procurement policy notes](#), and seek legal or professional advice where necessary.

This policy has been adapted from a model policy supplied by the Department for Education.

Statement of intent

Pope Francis Multi Academy Trust aims to achieve value for money on all its tendering and procurement activities by ensuring that a competitive tendering policy, compliant with the rules and thresholds in the Public Contracts Regulations 2015, is consistently applied. With that in mind, this policy has been created to establish procedures to ensure all members of staff involved in tendering and procurement are aware of the standards that they are expected to follow.

Preferred suppliers will be used, wherever possible, as the Archdiocese, the Trust and schools have had previous positive interactions with these suppliers. During tendering and procurement processes, the following four key objectives will always be kept in mind:

- **Achieving value for money** – including the cost of goods and services, the quality of goods and services, and administrative costs
- **Ensuring fairness** – ensuring that all parties are treated in a fair and equitable manner
- **Establishing accountability** – taking responsibility for expenditure and the conduct of staff
- **Allowing probity** – ensuring there is no private gain from the academy's financial affairs

Legal Framework

This policy has due regard to legislation and national guidance including, but not limited to, the following:

ESFA (2020) 'Academies financial handbook 2020'
The Academies Act 2010
Equality Act 2010
The Public Contracts Regulations 2015
DfE (2020) 'Governance handbook'
ESFA (2019) 'Declare or seek approval for related party transactions: summary guidance'
HM Treasury (2012) 'Review of the tax arrangements of public sector appointees'

This policy is implemented in conjunction with the trust's:

Data Protection Policy
Finance Policy
Reserves Policy
Investments Policy

1. Small and medium purchases

- Any purchase or service estimates below £10,000 are considered to be ‘small’ purchases, and any below £50,000 are considered to be ‘medium’ purchases.
- Small purchases, below £10,000 do not require approval from the board of trustees.
- Quotes and prices are always obtained prior to purchasing.
- To avoid legal challenges, the trust:
 - Does not open any bids before the deadline.
 - Does not open any late bids.
 - Treats all bids fairly and equally.
 - Keeps confidential, secure and, auditable records.
 - Buys from the highest scoring supplier.
- Where a relevant approved supplier list exists, approved suppliers are used unless written permission is received from the board of directors outlining the reasons for using an alternative supplier.
- The trust ensures that at least two people assess each bid. When they compare scores, they:
 - Discuss where they have scored differently.
 - Reach an agreed score.
- The School Business Manager is responsible for overseeing the arrangements for the delivery of goods and checking items upon delivery.
- The trust sends a contract, such as a purchase order, to the chosen supplier, including:
 - What has been purchased.
 - The total cost.
 - The delivery address
 - The delivery date and any other important dates
 - When the trust will pay the cost
- All receipts and invoices are kept in the School Finance Office for a period of 18 months after the initial purchase.
- The School Business Manager processes each receipt and ensures they are available for inspection where necessary.
- Goods are inspected upon delivery. Any items that are either not part of the order, damaged or not fit for purpose are returned.
- When goods are returned, the School Business Manager records:
 - The name and product code of the item.
 - The cost of the item.
 - If damaged, photographic proof.
 - Details of the item.
 - The reason for rejection.
- A record of goods rejected and delivered is kept in the school finance office.

2. Large purchases

- The trust seeks legal advice before making large purchases.
- Any purchase or service estimated to cost over £50,000 is put to formal tender.
- In the case of major building works or construction, the services of an architect are sought before the tendering process is undertaken.

Large purchases under the Government Procurement Agreement (GPA) procurement threshold

When the trust makes purchases with a value under the GPA procurement threshold, it:

- Assesses the market.
- Prepares the contract and tender documents.
- Advertises in the right places.
- Considers using an expression of interest to cut the number of bids needed to assess later.
- Sends an invitation to tender to people who reply to the advert.
- Fairly assesses all the bids received, using the same process.
- Chooses the bid that offers the best value for money.
- Awards the contract to the highest scoring bidder.

Large purchases over the GPA procurement threshold

When the trust makes purchases with a value over the GPA procurement threshold, it:

- Assesses the market.
- Checks the relevant frameworks to see if the purchase is available via an alternative route.
- Prepares the contract and invitation to tender.
- Considers whether to use the restricted procedure to reduce the number of bids to assess later, or the open procedure to let anyone bid.
- If your school advertised a contract in the Official Journal of the European Union (OJEU) on or before 31 December 2020, the process should continue to be updated and concluded on there; EU rules will apply to the contract until its conclusion.
- Advertises a contract notice using the e-notification service Find a Tender (FTS).
- Makes the invitation to tender and all other documents available electronically from the time that the contract notice is published.
- Assesses all the bids fairly, using the same process.
- Chooses the supplier that offers the best value for money.
- Awards the contract to the highest scoring bid supplier.

3. Procurement and spending decisions

Procurement basics

The trust ensures that:

- Spending is for the purpose intended and there is probity in the use of public funds.
- Spending decisions represent value for money.
- Internal delegation levels exist and are applied.
- The tendering policy is in place and applied, and GPA procurement thresholds are observed.
- Professional advice is obtained where appropriate.

Procurement limits

The following limits are placed on the number of bids which are to be obtained before purchasing or confirming a service, these are detailed in the Finance Policy;

Number of quotes/bids/tenders	Order Value
One quote or Budget holders to ensure best value achieved	Less than £1,000
Two quotes	£1,000 – £9,999
Three quotes	£10,000 – £172,000
Government regulations apply	Over £172,000

4. Invoices

All invoices are recorded and stored for future reference, with checks on the following information:

- The mathematical validity
- The purchase ledger
- The goods or services ordered and delivered
- Any difference between the agreed and delivered price
- The authorisation for payment
- The amount paid in VAT
- The total payment made

The School Business Manager creates monthly invoice reports which are submitted to the Headteacher.

5. Risk management

- The trust maintains a risk register and manages risks to ensure its effective operation.
- The board of trustees retains ultimate responsibility for risk management, including ultimate oversight of the risk register, drawing on advice from the finance, audit and risk committee.
- The board of trustees reviews the risk register annually.
- The trust's risk management includes contingency and business continuity planning.
- The trust is protected from risk by the RPA.
- The trust cooperates with risk management auditors and risk managers, implementing any reasonable risk management audit recommendations.

6. Open tender

- Open tender is the trust's preferred method of tender due to its open and competitive nature.
- All interested suppliers are invited to tender, with the CFO making a recommendation to the CEO.
- The CEO has the final say in selecting the successful tender.
- Advertisements in trade publications will be used to attract bids for tender.
- Open tender is used for all goods or services under £10,000.

7. Restricted tender

- In this scenario, only specified suppliers chosen by the CFO are invited to bid.
- The trust establishes a shortlist of three bids during the restricted tender.
- Restricted tender is used in any of the following circumstances:
 - There is a need to maintain a balance between the contract value and administrative costs
 - The service required is specialised
 - The cost of public advertisement outweighs the potential benefits of open tender

8. Negotiated tender

- In this scenario, the terms of the contract are negotiated with the supplier.
- Negotiated tender is only used in any of the following circumstances:
 - Other types of tender have been used and have not found any suitable suppliers
 - Very few suppliers are available
 - There is an urgent need for a service

9. Preparation for tender

In preparing for a tender, the CFO considers the following:

- The overall objective of the project
- Any technical skills required to complete the project
- Any after-sales services required
- The form of the contract

10. Invitation to tender

The trust makes all necessary documents available online on the trust website when the advert has been placed in the FTS.

These include:

- A covering letter
- A timeline

- How to ask questions
- How to submit a bid
- Specifications
- A list of things the trust requires prices for
- The award criteria
- The level of service required
- Any contract management needs, such as regular meetings or contact
- If needed, an invitation for suppliers to give a demonstration
- The standard selection questionnaire
- The proposed contract drafted as far as possible

11. Tender evaluation

When making purchases, the trust:

- Decides the method of assessing the bids.
- Gets bids from at least three suppliers.
- Assesses all the bids received fairly.
- Chooses the supplier that offers the best value for money.

When evaluating a tender, the following financial implications are considered:

- Lower costs may not necessarily be the most favourable, e.g. when they result in a reduced service
- The price being considered should be the total cost, without extra fees or hidden costs
- Where there is scope for negotiation, the CFO needs to ensure the best possible value for money

When evaluating a tender, the following technical requirements are considered:

- Certificates of conformity
- Conformity of standards
- The qualifications and experience of the supplier
- Descriptions of technical services and facilities
- Quality control procedures
- Details of previously delivered services
- References from previous customers

When considering a tender, the following other requirements are considered:

- Pre-sales demonstrations
- After-sales service
- The financial viability of the supplier

12. Tender acceptance

- Invitations to tender always state the date and time the completed tender documents are to be received by the CFO.
- Suppliers are required to submit documents in marked brown envelopes clearly stating they are tender documents.
- All envelopes are clearly marked upon arrival and securely stored in the school finance office.
- Tender documents received after deadlines are not considered, unless the supplier provides proof of exceptional circumstances.

Informing unsuccessful bidders

The trust provides a letter including the following information to all unsuccessful bidders at the same time:

The name of the winning bidder

The award criteria used

The scores for the winning bid

The reasons for the decision, including the characteristics and relative advantages of the successful tender

When the standstill period ends

Their scores and feedback

The trust provides information regarding the cost of the winning bid upon request, provided it does not reveal any commercially sensitive information.

Informing the successful bidder

The trust provides a letter including the following information when informing the successful bidder that they have won. This must include:

The award criteria used.

Their scores.

Why the trust thinks their bid is the most economically advantageous.

When the standstill period ends.

The trust uses the letter as an invitation to finalise a contract. The letter makes it clear that:

The trust will only award them the contract if the standstill period passes without a challenge from another supplier.

There are no commitments, and no work should begin, until both sides have signed the contract.

13. Tender opening

- All offers for tender are opened at the same time, with a minimum of two members of staff present, one of whom is the CFO.
- A record is kept of all the suppliers who submitted tenders, along with the amount tendered.
- A record is signed by all members of staff who are present at the opening of a new tender.
- The record is stored in line with the Records Management Policy.

14. Staff involvement in evaluating offers for tender and quotes

- The CFO is responsible for ensuring that none of the members of staff involved in the tender process are subject to conflicts of interest.
- Members of staff who are involved in decision making never accept gifts or hospitality from suppliers.
- A full record of the evaluation process is maintained by the CFO.

15. Contracts

Non-routine tenders or purchases, such as leases, are subject to a contract, which is signed before the work begins or goods are delivered.

All contracts include the following details:

- The scope of the work including accurate specifications
- The timeline and completion date of the work
- Quality control measures
- The agreed fees or charges
- The payment date
- Specifications of the goods or service

Copies of all contracts are securely stored in the central record located in the school finance office.

The trust ensures it places a contract award notice in the FTS within 30 days of awarding the contract.

Challenges from unsuccessful bidders

The trust maintains a standstill period of 10 calendar days between notifying the winning bidder and awarding the contract.

If this period ends on a non-working day, this is extended to the end of the next working day.

During the standstill period, if an unsuccessful bidder challenges the fairness of the contract award decision or process, the trust contacts them and explains the assessment process was conducted fairly and that the trust has maintained good records – legal advice may be sought depending on the nature or seriousness of the challenge.

If an unsuccessful bidder makes a legal challenge, the trust will not finalise the contract, and seeks legal advice before proceeding.

16. Related party transactions

The principles we adhere to

- Trustees avoid any conflicts of interest, declare their interest in proposed transactions and arrangements, and do not accept benefits from third parties.
- All members, trustees, local governors and senior employees complete the register of interests.
- No member, trustee, local governor, employee or related individual will use their connection to the trust for personal gain, including payment under terms that are preferential to those that would be offered to an individual or organisation with no connection to the trust.
- Payments to trustees by the trust are only made where permitted by its articles of association, or by the authority of the Charity Commission, and comply with any relevant agreement with the Secretary of State.
- The trust considers its obligations where payments are made to other businesses who employ a trustee, are owned by a trustee or in which the trustee holds a controlling interest.
- Where the trust believes a significant advantage exists in paying a trustee for acting as a trustee, the Charity Commission's approval will be obtained prior to payment.
- The trust adheres to 'at cost' requirements.
- The chair of the board of trustees and the accounting officer ensure their capacity to control and influence does not conflict with related party transaction requirements.
- Personal relationships with related parties are managed in a manner that avoids both real and perceived conflicts of interest, promotes integrity and openness and is in accordance with 'The Seven Principles of Public Life'.
- The trust is aware of relationships with related parties that may attract greater public scrutiny, such as:
 - Transactions with individuals in a position of control and influence, including the chair of the board of trustees and the accounting officer.
 - Payments to organisations with a profit motive, as opposed to those in the public or voluntary sectors.

- Relationships with external auditors beyond their duty to deliver a statutory audit.

Record keeping

The trust keeps sufficient records, and makes sufficient disclosures in the annual accounts, to show that related party transactions have been made in accordance with accountability and transparency standards.

Approval by the ESFA

The trust obtains the ESFA's approval for related party transactions that are novel, contentious or repercussive. Transactions involving the chair of the board or the accounting officer are carefully considered against this requirement.

The trust obtains the ESFA's prior approval for contracts supplying goods or services by related parties agreed on or after 1 April 2019 where any of the following limits apply:

- The contract exceeds £20,000

- The contract would take the total value of contracts with the related party to beyond £20,000 in the same financial year ending 31 August

- The contract relates to a party already in receipt of contracts exceeding £20,000 individually or cumulatively in the same financial year ending 31 August

For the purposes of reporting to, and approval by, the ESFA, related party transactions do not include salaries and other payments made by the trust to a person under a contract of employment through the trust's payroll.

When seeking approval, the trust ensures it has the relevant information about the supplier, including the supplier's name, address and company number. The trust also:

- Confirms the statement which best describes the relationship between the supplier and the trust.

- Confirms that the supplier is listed in the trust's register of interests.

- Confirms that the trust has a statement of assurance from the supplier.

- Confirms that the trust has an open-book agreement with the supplier.

- Provides a short description of the goods or service, details of the proposed cost and the start and end date of any contract or agreement.

In addition, the trust provides evidence of the following:

- How the trust agreed to the related party transaction, e.g. minutes of meetings where it was discussed

- That the trust followed this policy

- That the trust tested the market before making a decision

- How the trust has managed any conflicts of interest

The trust provides a copy of the agreement or proposed contract.

The trust uploads any additional documents the trust feels are relevant as part of its submission.

The trust ensures the information and documentation listed has been received before the trust completes the online related party transaction form.

Services that can only be delivered by the diocese, which provide essential functions fundamental to the religious character and ethos of the school, are declared to the ESFA. Where the above conditions are met, a single upload of evidence relating to the payment or levy for the services is made.

Register of interests

The trust documents all relevant business and pecuniary interests of members, trustees, local governors and senior employees, including:

- Directorships, partnerships and employments with businesses.

- Trusteeships and governorships at other educational institutions and charities.

- For each interest, the name of the business, the nature of the business, the nature of the interest and the date the interest began.

The register of interests identifies all relevant material interests from close family relationships between the trust's members, trustees or local governors. It also identifies relevant material interests arising from close family relationships between those individuals and employees.

The trust considers any other interests for inclusion on the register of interests – if there is any doubt about whether an interest should be registered, it is registered.

The board of trustees keeps the register of interests up-to-date.

The trust publishes on its website the relevant business and pecuniary interests of members, trustees, local governors and accounting officers.

The publication of interests belonging to any other individuals named on the register is at the discretion of the trust.

'At cost' requirements

The trust will not pay more than 'cost' for goods or services provided by the following:

- Any member or trustee of the trust

- Any individual or organisation related to a member or trustee of the trust, namely:

- A relative of a member or trustee: defined as a close member of the family, or member of the same household, who may be expected to influence, or be influenced by, the person. This includes, but is not limited to, a child, parent, spouse or civil partner.

- An individual or organisation conducting business in partnership with the member, trustee or a relative of the member or trustee.
 - A company in which a member or the relative of a member (taken separately or together), and/or a trustee or the relative of a trustee (taken separately or together), holds more than 20 percent of the share capital or is entitled to exercise more than 20 percent of the voting power at any general meeting of that company.
 - An organisation which is controlled by a member or the relative of a member (acting separately or together), and/or a trustee or the relative of a trustee (acting separately or together) – an organisation is controlled by an individual or organisation if that individual or organisation is able to secure that the affairs of the body are conducted in accordance with the individual’s or organisation’s wishes.
- Any individual or organisation given the right under the trust’s articles of association to appoint a member or trustee of the academy trust, or any body connected to the individual or organisation.
- Any individual or organisation recognised by the Secretary of State as a sponsor of the trust, or any body connected to the individual or organisation.

A body is connected to an individual or organisation if it is controlled by the individual or organisation, controls the organisation, or is under common control with the individual or organisation, namely any of the following:

- Holding a greater than 20 percent capital share or equivalent interest
- Having the equivalent right to control management decisions of the body
- Having the right to appoint or remove a majority of the board or governing board

‘At cost’ requirements do not apply to the trust’s employees unless they are employed by one of the parties outlined above.

‘At cost’ requirements apply to contracts for goods and services from a related party agreed on or after 7 November 2013.

‘At cost’ requirements apply to contracts for goods and services from a related party exceeding £2,500, cumulatively, in any one financial year. Where a contract takes the trust’s cumulative annual total with the related party beyond £2,500, the element above £2,500 must be at no more than cost.

If any of the parties outlined above are based in, or work from, the trust’s premises, the trust will agree an appropriate sum to be paid to the trust for use of the premises, unless the party is conducting work on behalf of the trust.

‘At cost’ requirements apply to legal advice or audit services when the organisation’s partner directly managing the service is a member or trustee of the trust, but not in other cases.

Contributions made by the trust to the diocese for services received associated with securing the trust's religious character and ethos, which only the diocese can provide, are regarded as meeting the 'at cost' requirement.

The trust will ensure that any agreement with an individual or organisation is procured through an open and fair process and is:

Supported by a statement of assurance from the individual or organisation to the trust confirming their charges do not exceed the cost of the goods or services.

On the basis of an open book agreement including a requirement for the supplier to demonstrate clearly, if requested, that their charges do not exceed the cost of supply.

The cost will be the full cost of all the resources used in supplying the goods or services and will not include any profit. Full cost includes:

- All direct costs – the costs of any materials and labour used directly in producing the goods or services.
- Indirect costs – a proportionate and reasonable share of fixed and variable overheads.

Reporting

The trust reports all related party transactions taking place on or after 1 April 2019 to the ESFA in advance of the transaction taking place, using the ESFA's online form.

17. Setting executive pay

The trust ensures that its decisions about levels of executive pay, including salary and any other benefits, follow a robust evidence-based process and are a reasonable and defensible reflection of the individual's role and responsibilities.

No individual is involved in deciding their own remuneration.

The trust discharges its responsibilities effectively, ensuring its approach to pay and benefits is transparent, proportionate and justifiable, including:

Process – the procedure for determining executive pay and benefits, and keeping them proportionate, is agreed by the trust in advance and documented.

Independence – decisions about executive pay and benefits reflect independent and objective scrutiny by the trust, and demonstrate that conflicts of interest are avoided.

Robust decision-making – factors in determining pay and benefits are clear, including whether educational and financial performance considerations, and the degree of challenge in the role, have been considered.

Proportionality – pay and benefits represent good value for money and are defensible relative to the public sector market.

Commercial interests – the trust ensures it is sighted on broader business interests held by senior executives, and is satisfied that any payments made by the trust to executives in relation to such interests do not undermine the transparency requirements for disclosing pay in accordance with the Academies Accounts Direction.

Documentation – the rationale behind the decision-making process, including whether the level of pay and benefits reflects value for money, is recorded and retained.

A basic presumption that executive pay and benefits should not increase at a faster rate than that of teachers, both annually and in the longer term.

Understanding that inappropriate pay and benefits can be challenged by the ESFA, particularly in instances of poor financial management of the trust.

The trust publishes on its website, in a separate readily accessible form, the number of employees whose benefits exceeded £100,000, in £10,000 bandings, as an extract from the disclosure in its financial statements for the previous year ending 31 August – benefits include salary, other taxable benefits and termination payments, but not pension costs.

Where employees are trustees, their salary and other benefits are disclosed in £5,000 bandings in the trust's financial statements.

[Trusts with 250 or more employees] The trust publishes information on its website pertaining to the gender pay gap within the trust, once the trust employs in excess of 250 employees.

Tax arrangements for senior employees

The trust ensures its senior employees' payroll arrangements fully meet tax obligations.

The trust complies with the HM Treasury's 'Review of the tax arrangements of public sector appointees', which explains that senior managers with significant financial responsibilities should be exclusively on payroll, and are therefore subject to Pay As You Earn (PAYE) with income tax and national insurance contributions deducted at source.

18. Monitoring and review

This policy is reviewed every two years by the CFO and the CEO or as a result of changes to legislation and the Academies Financial Handbook.

All changes to this policy are communicated with the relevant stakeholders.

