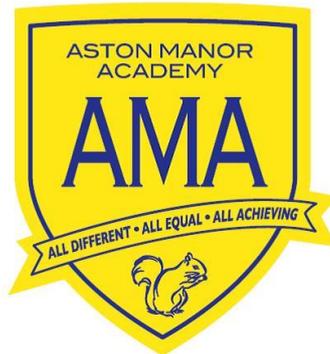


EQUITAS ACADEMIES TRUST



PROCUREMENT POLICY

Review Date: June 2020

To be Reviewed: June 2022

Agreed: F & GP Board

Policy Lead: Chief Operations Officer
(Trust)

Contents

1. Aims	3
2. Legislation and guidance	3
3. Roles and responsibilities	3
4. Principles	4
5. Valuing a contract	5
6. Connected parties	5
7. Purchase thresholds	6
8. Framework agreements	6
9. Purchasing collaboratively	7
10. Tendering Procedures: low and medium value purchases	8
11. Tendering Procedures: high value purchases	8
12. Record keeping	10
13. Exceptions to this policy	10
14. Management of contracts	11
15. Contract variations or extensions	11
16. Monitoring arrangements	12
17. Links with other policies	12

PROCUREMENT POLICY

1. AIMS

1.1 This policy aims to ensure that:

- The academy trust's funds are used only in accordance with the law, its articles of association, its funding agreement and the Academies Financial Handbook
- The trust's funds are used in a way that commands broad public support
- Value for money (economy, efficiency and effectiveness) is achieved
- Trustees fulfil their duties and responsibilities as charitable trustees and company directors

2. LEGISLATION AND GUIDANCE

2.1 The [Academies Financial Handbook](#) states that academy trusts are required to have a Procurement policy, and ensure that European Union (EU) procurement thresholds are observed.

2.2 This policy is based on the Academies Financial Handbook and [Department for Education \(DfE\) guidance on procurement](#).

2.3 This policy also complies with our funding agreement and articles of association.

3. Roles and responsibilities

3.1 Academy trustees

Academy trustees will ensure that:

- Spending decisions represent value for money
- The trust's funds are used in a way that commands broad public support
- Relevant professional advice (such as an external auditor) is used, where appropriate
- Goods or services provided by individuals or organisations connected to the trust are provided at no more than cost
- Nobody connected to the trust, directly or indirectly, uses their connection to the trust for personal gain
- Where any trustee has a pecuniary interest in a procurement decision, they exclude themselves from the process and records (e.g. meeting minutes) show that they had no influence on the decision

3.2 Finance & general purposes committee

Academy trustees delegate procurement responsibilities to the finance committee.

The committee is responsible for reviewing the trust's tendering processes, and for reporting to trustees on tenders.

3.3 Chief financial officer

The Chief Operations Officer (COO) is responsible for:

- Ensuring appropriate financial governance and risk management arrangements are in place
- Preparing and monitoring budgets
- Providing information to the finance committee and academy trustees, as appropriate
- Overseeing and supporting competitive tendering

4. Principles

- 4.1 More attention to the procurement process will be needed for higher value or contentious contracts. Contentious contracts are those that might give rise to criticism of the trust, perhaps because they are with connected parties.
- 4.2 Achieving the best value for money does not always mean choosing the cheapest price. Other factors such as quality, longevity, timing and whether the contract is fit for purpose should be considered. The trust considers the full cost of purchase, including administration time and effort.
- 4.3 It is allowable to purchase from connected parties, but the individual in the trust with the connection should not form part of the decision-making process. The use of framework contracts is recommended.
- 4.4 The trust is always aware that the money being spent is public money and consideration is always given as to whether the purchase is a good use of public money and is seen to be a good use of public money.
- 4.5 Businesses may be fragile and so we make sure we understand our obligations under the contracts that we are entering into and avoid significant payment in advance wherever possible. Care is taken to ensure contract terms are not disadvantageous to the trust. The end of the contract is considered fully before entering into it. Rolling over a single year contract repeatedly is unlikely to provide best value. These contracts should first be recorded and then re-procured for value.
- 4.6 In a tender process all suppliers are treated fairly, given the same information and time limits and no favouritism is shown.

5. Valuing the Contract

- 5.1 It is important that contracts are properly assessed for value. The total value of the contract is obtained by making reasonable assumptions on:
- the annual spend*; multiplied by
 - the number of years of the contract*; multiplied by
 - the number of schools in the trust that the contract is being awarded for*
- 5.2 It is not permissible to split the value of the contract in order to appear to be below procurement thresholds. If a contract is for a number of years with the option to extend at the end of that time then the number of years of the contract is the maximum time it could run. A typical example would be for a contract that is 3 years with an option to extend for a further 2; the total number of years that needs to be considered in determining value is then 5 years.
- 5.3 Care must be taken concerning the number of schools entering into a contract. If the trust enters into a contract for all the schools in the trust then the number should be considered to be the total number of schools in the trust together with any schools reasonably expected to join the trust if they would be included in the contract when they join. Even if each school individually signs their own contract, the procurement should be considered to be for all the schools involved in the process.
- 5.4 Similarly, if a group of schools in the trust enter into a contract together (eg: all primary schools) then the number of schools should be the number of primary schools in the trust or reasonably expected to join the trust.
- 5.5 When the trust enters into a framework contract available to all schools in the trust for purchases, then it should take into account a reasonable estimate of the number of schools in the trust together with those likely to join over the length of the contract in order to calculate the cost of the contract. Recoverable VAT is excluded from the assessed value of the contract.

6. Connected parties

- 6.1 The trust has a process in place where all members, trustees, governors and staff must declare their pecuniary interests. This is done annually in the autumn term and individuals must update them through the year should interests change.
- 6.2 The pecuniary interests of members, trustees, and governors are published on the trust website and are kept up to date with all notified changes after every Board meeting. The pecuniary interests of staff are kept locally in each school and in the Central Team. When carrying out a procurement exercise, it is important to check both the trust register of interests and the local register to identify any potential conflicts. Any person with a

pecuniary interest in a supplier or potential supplier must not take part in the procurement process.

- 6.3 Under the Academies Financial Handbook the trust must pay no more than “cost” for goods and services provided to it by a member, trustee or a connected party of a member or trustee. The rules on this are very specific so if a procurement potentially involves a person or organisation declared by a member or trustee as being a pecuniary interest then advice should be sought from the Chief Operations Officer before any procurement decision is made.

7. PURCHASE THRESHOLDS

7.1 De minimis level

Purchase orders do not need to be raised for services or goods with a value up to £1,000. These invoices can be signed off by **department heads**.

7.2 Low to high-value purchase thresholds

Purchase levels are divided into the following:

- Low-value purchase: £1,000 - £9,999
- Medium-value purchase: £10,000 - £49,999
- High-value purchase: over £50,000, but below the EU threshold

7.3 EU procurement threshold

- 7.3.1 If it is estimated that the cost of a contract is above the EU threshold for procurement spending, the trust will follow EU procurement directives and seek legal advice. The current EU threshold for all goods and most services is £181,302
- 7.3.2 A ‘light touch regime’, with a higher threshold of £615,278, applies for some services that are specifically for education provision. We will seek legal advice to determine if any procurement run by the trust qualifies.
- 7.3.3 Once a contract is assessed as being valued above these thresholds then either it can be purchased through a framework that has already been to EU tender, or the OJEU rules must be complied with. The OJEU rules are stringent, including the requirement to advertise the contract in the Official Journal of the European Union (OJEU). If the trust does not follow the regulations for purchases above the EU threshold, suppliers may be able to challenge spending decisions and contracts on the grounds that they have been treated unfairly. This can lead to large fines and compensation payments.
- 7.3.4 When the trust enters into an OJEU process then it will ensure that specialist procurement advice is used to make the purchase, either internally or by the use of external procurement consultants. Therefore, before beginning a procurement over the size of the OJEU limit, advice must be sought from the Chief Operations Officer in order to ensure any subsequent procurement is compliant.

8. FRAMEWORK AGREEMENTS

- 8.1 Framework contracts are those where a number of suppliers have been pre-procured with all the public sector rules complied with. It is therefore possible to purchase directly from frameworks with no further procurement process being necessary, irrespective of the value being procured. This can be very efficient as it saves a significant administration costs as well as ensuring tendered low prices.
- 8.2 There is also often the opportunity to run a mini-competition through a framework which can be much quicker than a full procurement tender. This is where a number of suppliers have been pre-approved by the framework and then compete to fulfil the contract with the contract being awarded to the offer that gives best value for money.
- 8.3 Examples of frameworks that the trust can use include Crown Commercial Services, ESPO, YPO, Crown Commercial Services, EverythingICT, frameworks developed by Local Authorities and others. The trust can also create frameworks for trust schools to purchase from.
- 8.4 Despite frameworks being a very attractive way to procure, it is sensible to make some open market comparisons between what is on offer to ensure value for money, particularly for purchases where the price may fluctuate over time. It is also important to make sure that the framework is set up to allow us to purchase (ie: it applies to academies), the specification and contract terms are suitable for our needs and that we understand the framework mechanism of purchase (how to order, etc) so that we are compliant.
- 8.5 Where possible and appropriate, we will use a framework agreement to contract suppliers. These are arrangements that a contracting authority, such as a public sector buying organisation, makes with suppliers. The benefits of frameworks are that they have already been through a competitive tender process and they have favourable terms and conditions. In addition, the framework provider may offer advice and support.
- 8.6 Depending on the framework we choose, we will either pick the best value supplier from a list or run a mini-competition between listed suppliers. In either case, we will follow the DfE guidance on procurement (see section 2 of this policy) to ensure good practice.

9. Purchasing collaboratively

- 9.1 We wish to encourage collaborative purchasing on a trust basis, which may lead to economies of scale. The trust may also procure collaboratively with other trusts. When purchasing collaboratively it is necessary to ensure that:
- There is commitment from the schools involved at the start of the process to a collaborative procurement
 - The lead person driving the procurement is identified
 - Contract valuation is carried out correctly
 - The specification is agreed on behalf of all parties

- Decisions on awarding the contract are clear and made according to the scheme of delegation
- Consideration is given on what to do if the best value contract is not the best value for each individual participant in the procurement

10. TENDERING PROCEDURE: LOW AND MEDIUM-VALUE PURCHASES

10.1 When making low or medium-value purchases without a framework agreement, the trust will use the process outlined below.

- a. **Create a specification** – a specification document will set out what suppliers need to understand what we are looking to buy, including the quality, quantity and delivery date
- b. **Compare suppliers** – a comparison of different suppliers, including their reputation, will help the trust develop a shortlist of at least 3 suppliers we want to approach for a written quote
- c. **Assess quotes** – an award criteria will be developed to assess suppliers' quotes. Criteria may include:
 - How well the supplier meets our specification
 - The whole-life cost of the contract, which may include:
 - The sale price of the goods, works or services
 - VAT
 - Delivery charges
 - Maintenance costs
 - Running costs
 - The cost of removing and disposing of an item or service once we no longer need it
 - Whether there will be price increases or decreases over the life of the contract
 - Value for money

Each aspect of the criteria will be scored on a scale of 1 to 5, with 5 being the highest score. A record of how the quotes are evaluated will be kept.

The Chief Operations Officer will evaluate quotes with support from the Headteacher.

When we contact suppliers, we will send them:

- The specification
 - Deadlines for quotes and when decisions will be made
 - Instructions for how to ask clarification questions about the specification
- d. Place an order – when the best value quote is identified, we will send the supplier a purchase order, which includes details of the:
 - Goods, works or services we are purchasing
 - Price
 - Delivery address
 - Delivery deadline and any other important dates
 - Payment schedule

11. TENDERING PROCEDURE: HIGH-VALUE PURCHASES

- 11.1 The trust will make high-value purchases without a framework only in rare circumstances and only with legal support. When this does happen, we will use the process below.
- a. Create a specification (see section 6)
 - b. Assess the market – we will prepare for the tendering process by developing our knowledge of the market. We will find out how many suppliers are available and the best way to advertise our contract to a range of suppliers
 - c. Check the school's position in relation to EU procurement thresholds (see section 4)
 - d. Develop a service level agreement (SLA) – an SLA sets out the standards of service expected from a supplier. Some suppliers may have their own SLAs, which the trust will consider using on a case-by-case basis
 - e. Develop a contract – a contract will include terms and conditions, a contract management plan and an exit strategy
 - f. Reduce the number of bids – to reduce the number of bids the trust needs to evaluate, we will either use an expression of interest process to gauge interest in the contract or a pre-qualification questionnaire
 - g. Establish how we will assess quotes – we will set out criteria that will allow us to evaluate which of the suppliers' bids best meets the requirements in our specification, and is the most economically advantageous tender that best combines cost and quality
 - h. Create a timeline for the tender process – this will include the dates of the clarification period, the deadline for submitting tenders and the date we expect to award the contract
 - i. Prepare an invitation to tender – this will include:
 - A covering letter with a timeline for the process
 - Instructions on how suppliers can ask clarification questions and submit their tender
 - The specification
 - A pricing schedule
 - Any SLA requirements
 - The contract's terms and conditions
 - Contract management requirements (see 'develop a contract' above)
 - Award criteria, including the scoring system and any weightings
 - If appropriate, an invitation for suppliers to give a practical demonstration of their goods, works or services
 - j. Advertise the contract – the contract will be advertised where suppliers are likely to look, such as:
 - The Official Journal of the European Union (OJEU) – this is a requirement if the contract is over the EU procurement threshold
 - The government's Contracts Finder service
 - Local or national newspapers
 - Education publications or websites
 - Trade magazines
 - k. Run the tender process and provide clarifications

- l. Evaluate tender responses – at least 2 people will independently score and evaluate each bid, and then compare notes after completing their evaluations; records of decision making and moderation decisions will be kept
- m. Notify suppliers and award the contract
- n. Finalise the contract including post contract negotiation in line with OJEU legislation (and advertise the award, if the contract was advertised in Contracts Finder or the OJEU)
- o. Abandoning the tender process – on very rare occasions we may need to halt the tender process. Should this occur, we will notify suppliers who are preparing their bids as soon as possible

12. Record Keeping

12.1 For all purchases, a clear audit trail should be kept. The level of detail required will increase with the value of the procurement. The written record must include:

- details of the purchase itself, for example, what was purchased, from whom and the assessed value of the contract
- information on the framework used for purchasing and why it was suitable for this contract; or copies of the quotations or tenders submitted
- how the supplier complies with data protection (GDPR) requirements and agreements on any data sharing
- who was responsible for evaluation of tenders, and details of the evaluation scoring, if applicable
- tender and response from successful supplier
- who was responsible for making the decision to procure, and details of their decision-making process
- where the lowest cost is not adopted the reason for this must be documented
- full minutes of any Board meeting at which the procurement was discussed and/or approved
- where the contract is for more than one year, the appropriate approval and a copy of the contract signed by the Executive Director
- a record of the order, of receipt and checking the goods or services and of authorising payment

12.2 The trust holds a central contracts register in order to monitor all contracts for compliance and to determine where there is an opportunity to merge contracts to achieve better value for money across the trust. All contracts over 1 year and single year contracts that are renewable (including Service Level Agreements (SLAs)) should be entered onto this register. Information required:

- A description of the contract and what it is for
- The name of the supplier
- The date the contract was entered into and the date the contract expires
- The value of the contract
- A scanned copy of the contract

13. Exceptions to this Policy

13.1 Occasionally it is necessary to procure without following this policy. This may be done with the authorisation of the Executive Director for procurements up to £50,000 and with the authorisation of the F&GP over this amount. Authorisation will only be given on very rare occasions and such authorisations will be reported to the next meeting of the Board of Directors. Potential reasons for an exceptional procurement are:

- In an emergency to resolve an issue that has a Health & Safety or other consequence where a proper procurement process would take too long.
- Where there is only a single supplier of the goods or services and this can be demonstrated.
- Where no suitable suppliers have come forward through the tender process it may be acceptable to negotiate a contract with a suitable alternative supplier.

14. Management of Contracts

14.1 For ongoing contracts (particularly services contracts), it's important to hold regular contract management meetings to:

- make sure both parties involved in the contract understand their responsibilities and fulfil them as effectively as possible
- check progress against contract requirements and deal with any issues preventing those requirements from happening

14.2 It should be agreed as soon as possible after awarding the contract who should attend these meetings and what the agenda items are likely to be. In the meetings following may be discussed:

- progress against the contract's requirements
- the service-level agreement (the standards of service agreed with the supplier)
- any key performance indicators (how the performance of that service is measured)
- identifying areas of concern as early as possible and what the supplier will do about them
- discussing necessary changes
- how to manage planned maintenance
- possible upgrades or improvements to the product or service
- unforeseen problems and what to do about them
- exit from the contract if not fulfilling requirements

14.3 Any actions and timescales agreed with the supplier should be noted and circulated promptly after the meeting. If the supplier isn't doing enough to address poor performance, the matter may need to be escalated according to the contract terms and conditions.

15. Contract Variations or Extensions

15.1 Any changes to a contract should be made using a variation agreement. Such variations must be agreed with the supplier. The most common variation is to extend the contract. The contracts register details the date when each contract comes to an end. Preparation to let a new contract should be made in good time as the procurement process can be lengthy. Contracts may be extended if necessary. If the original contract is under the EU threshold the contract can be extended by up to 50% of its original length. If over the EU threshold then ideally a new procurement process must be entered into. The contract can be extended for a short period of time to enable the new procurement to be completed.

16. MONITORING ARRANGEMENTS

16.1 The Finance & General Purposes committee is responsible for the implementation of this policy.

16.2 This policy will be reviewed and approved by the board of trustees every 2 years and when EU procurement thresholds change.

17. LINKS WITH OTHER POLICIES

17.1 This Procurement policy is linked to the following policies:

- Accounting policies
- Investment policy

Date of next review: June 2022

Approved by Wadim Wesolek, Chair F&GP Committee at the meeting on Monday 15th June 2020