



Competitive Tendering Policy

Review Summary

Adopted:	March 2016
Review Cycle:	Bi-Annual
Last Review:	November 2019
Next Review:	November 2021

1. Introduction

- 1.1. This Policy sets out the Framework for ensuring that the Ted Wragg Multi Academy Trust maintains and develops competitive tendering processes and procedures, which meet the requirements of procurement legislation, financial accountability and managing public money.
- 1.2. The Trust is committed to buying practices in order to achieve value for money and to be worthy custodians of public money. The aim is to make efficiencies including savings and spend funds prudently in order to invest in teaching and learning.

2. Legal Framework

- 2.1. This Policy 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 Public Contract Regulations 2015;
 - d. The ESFA Academies Financial Handbook.

3. Extent and Application

This policy 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, governor or staff member, which is undertaking any purchasing or procurement activity on behalf of the Trust.

4. Why is Procurement Important

- 4.1. 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).
- 4.2. 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.
- 4.3. Any non-compliance or breach of this policy can seriously impact upon the legal standing of the public money being spent and the resultant contract that is let and can increase the ability of unsuccessful Suppliers to seek redress through the courts.
- 4.4. 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.

5. Spend Category Management

The Trust operate a category management approach to the procurement of their goods and services. Category Management is a strategic approach which organises procurement resources to focus on specific areas of spends. This enables the Trust to focus their time and conduct in depth market

analysis to fully leverage their procurement decisions on behalf of the whole organisation. The results can be significantly greater than traditional transactional based purchasing methods.

6. Procurement Planning

- 6.1. Before a procurement process is commenced, the following will be considered:
- a. Whether equipment can be loaned or resources shared with any other public body;
 - b. Are there any available collaborative opportunities which will increase the buying power;
 - c. Are there any existing contracts or frameworks in place through the Local Authority or another Purchasing Consortium.

7. Trust Wide Contracts, Approved Lists & Framework Agreements

- 7.1. Trust wide Contracts, Approved Lists or Framework agreements may be mandated for certain categories of spend.
- 7.2. Trust-wide contracts are contracts that have been put in place for across Trust use in relation to commonly and frequently purchased goods, works and services, such as stationery.
- 7.3. An approved list can be set up following a procurement process, for spend below the EU procurement threshold. The Trust may set these up to enable direct purchasing for goods and services where it is deemed more appropriate to use a group of suppliers, rather than a single supplier contract.
- 7.4. Framework agreements are umbrella agreements under which individual contracts can be called-off either through a further competition or direct award, dependent on the terms of the agreement. Call-offs from the framework agreement must be in accordance with the terms laid out in the framework agreement.
- 7.5. Trust-wide contracts, approved lists and framework agreements enable direct purchasing and avoid the administrative costs and time involved in sourcing and purchasing goods and services with individual suppliers. The administrative costs and time taken can negate any savings on goods or services that can sometimes be found cheaper elsewhere.

8. Suppliers

- 8.1. The Trust Contracts & Compliance Officer will approve all suppliers before they are set up in the finance system. This will ensure:
- a. Due diligence is undertaken to ensure their suitability to hold a contract with the Trust
 - b. That a Trust-wide Contract isn't already in place
 - c. That they are coded against the trust procurement coding table to enable spend analysis to be undertaken
- 8.2. Suppliers that have not been active in the finance system for 18 months, will be archived.

9. Estimating the Value of the Procurement

- 9.1. There are various rules that apply when calculating the expected value of a contract.
- 9.2. The calculation of the estimated value of a procurement is based on the total amount payable including any Contract extension options. Account shall be made of the total estimated value for the Trust and not just for an individual school.
- 9.3. The procurement shall not be sub divided, nor should the choice of the method used to calculate the estimated value be made with the intention of avoiding the application of this policy, nor shall it be sub divided. Where a procurement is proposed to be awarded in the form of lots, account shall be taken of the total estimated value of all the lots.
- 9.4. The estimated value of the Procurement for goods and services is calculated by taking:
- a. The value of the total amount payable for the full term of the Contract, including extensions if the contract term is for 48 months or less; or
 - b. The value of the total amount payable for each month multiplied by 48 if the term of the Contract, including extensions, is for more than 48 months, or over an indefinite period.
- 9.5 Or, where there is:
- a. A requirement over a period of time for goods, or services that are for the same type or have similar characteristics and for that purpose a series or Contracts are entered into, or a Contract with renewable terms is being used, the value shall be calculated by taking the spend from the previous 12 months, taking into account any expected changes in the next 12 months.

10. EU Spend Threshold

- 10.1. Where an estimated value of a procurement is equal to or exceeds the EU spend threshold values, then the Public Procurement Regulations 2015 apply to the procurement process. However there are exceptions whereby the Public Procurement Regulations 2015 also apply to certain aspects to a procurement which has been estimated at below the EU spend thresholds.
- 10.2. The Public Contract Regulations stipulate that the following applies to below EU spend threshold procurement processes:
- a. Restricted Procedure is not permitted;
 - b. Selection Criteria used to assess the meeting of minimum standards or Criteria must be relevant to the subject matter of the procurement and proportionate;
 - c. Selection Criteria used to assess the meeting of minimum standards or Criteria must be in accordance with guidance issued by the Cabinet Office.

11. Selecting the Procurement Process

11.1. The procurement process selected must be in accordance with the table below, advice must be sought from the Trust Contracts and Compliance Officer in determining the estimated value of the procurement:

Value	Comment
Below £1k (routine purchasing)	Subject to consideration (one-time versus recurrent need), medium-term sustainability, link to development plan objectives.
£1,000 to £9,999	Headteacher, member of the Executive Team or authorised deputies to arrange directly. Two (preferably three) quotations (email/written) should be obtained and documentation held on file.
£10,000 - £49,999	Offer the opportunity to at least three suppliers via formal written quotations. Documentation must be held on file. Such expenditure to be reported to the Executive Team. A formal contract must be in place before commencement and signed by a member of the Executive Team.
Over £50,000	<p>All expenditure over this value requires the approval of the Trust's AFR committee. In matters of extreme urgency where delay would not be in the best interests of the Trust, the Chair of the Trust or AFR can take chair's action with ratification at the next meeting.</p> <p>Three competitive tenders required against full specification and usually price / quality evaluation unless this is unnecessary. All procurement activity must be conducted with the advice and support of the central procurement team. Expenditure to be authorised by the Trust Audit, Finance and Resources Committee. A formal contract must be in place before supply commences and signed by the Executive Team.</p>
EU Threshold and above	Advertised invitation to tender. Procurement process to be run in accordance with the Public Contract Regulations 2015 and conducted by the central procurement team. Documentation must be held on file. Expenditure authorised by the Trust Audit, Finance and Resources Committee. A formal contract must be in place before supply commences and signed by the Executive Team.

12. PFI Schools

12.1. Procurement for PFI schools in some instances, in accordance with the project agreement, is undertaken by the FM provider. This will be for building maintenance, remodelling and improvements.

12.2. In this instance quotations will be obtained from their pre-approved suppliers list. Part of the approval process for this supplier list is to demonstrate value for money.

13. Planning the Procurement

- 13.1. 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.
- 13.2. 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 it is required to do so under the Freedom of Information Act.
- 13.3. Where a procurement procedure requires the sharing of confidential information with Suppliers, such as details relating to the transfer of staff, this must not be disclosed unless the Supplier has signed and submitted an appropriate Confidentiality Agreement.
- 13.4. 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.

14. Preparing the Tender Documents

- 14.1. Appropriate tender documentation must be used for opportunities over £50k. 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.
- 14.2. Value for money is not always about the lowest price. It's about getting the right balance between quality and cost. Consideration will be given on how these will be measured when setting the evaluation criteria.
- 14.3. Contracts must be awarded on the basis of 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, which consists of the following:
 - a. **Selection Criteria**
 - i. Mandatory Exclusions;
 - ii. Discretionary Exclusions;
 - iii. Economic and Financial Standing;
 - iv. Technical and Professional Ability;
 - v. Insurance;
 - vi. Compliance with Equality Legislation;

- vii. Environmental Management;
- viii. Health and Safety.

b. Award Criteria

- i. Pricing requirements;
- ii. Technical Questions/Method Statements;
- iii. Presentations;
- iv. Interviews;
- v. Site Visits.

15. Undertaking the Procurement Process

- 15.1. For above EU spend threshold procurements, all Tender documents must be offered unrestricted and with full direct access via an Electronic Tendering System or on the Trust Website, from the date the OJEU notice is published. There are exceptions regarding Procurement Documents which are confidential in nature. Email is not a suitable electronic means as this does not offer direct access and requires the Supplier to request information.
- 15.2. All procurement processes must be conducted in a manner which enables all communication and information exchange to be provided by electronic means to ensure the process is conducted in a fair and transparent manner, ideally using an Electronic Tendering System. Where communication is via email, the anonymity of all Suppliers must be maintained.
- 15.3. For above EU spend threshold procurements, the process must be conducted using an Electronic Tendering System.
- 15.4. Tenders must be submitted in accordance with the requirements set out in the Tender documents. All Tenders over the EU spend threshold must be submitted in a way that enables them to be opened at the same time after the closing time and date for submission.

16. Tender Evaluation

- 16.1. All Tender submissions received must be evaluated in accordance with the pre-determined evaluation Criteria, set out in the invitation to tender documents issued. Criteria, sub criteria, weightings and the attributed breakdown must not be changed from what was published in the tender documents and must be applied consistently for all tender submissions.
- 16.2. Tender evaluation processes must be recorded on a suitable evaluation matrix. All criteria, sub criteria and scoring must be detailed for each tender submission to enable a complete assessment of what scores are attributed to each criteria set. Reasons for scores allocated must be recorded which provides an appropriate justification and is used to complete the tender outcome letter.

- 16.3. An evaluation process for every compliant tender received must be fully completed. It must not be stopped part way through because it has been assessed that they won't be successful. Suppliers are entitled to a full assessment of the submission, which must be provided in their tender outcome letter and available to facilitate a de brief if requested.

17. Approval to Award the Tender

- 17.1. For tenders over £50k, the decision to approve the tender award to the highest scoring supplier must be taken and the recommendation submitted to the Trust Audit, finance and resources committee.. Where approval isn't given no contract award can be made.
- 17.2. All successful and unsuccessful Suppliers must be notified of the tender award decision at the same time via a suitable tender award decision letter, including where a decision is not to award.

18. Contracts

- 18.1. Suitable industry model Terms and Conditions will be used for procurements below EU Spend Thresholds. Legal advice will be sought for appropriate contract terms and conditions for EU spend threshold and above procurements. Suppliers own terms and conditions must not be utilised for contracts over £50,000 unless approved as suitable by the Director of Operations
- 18.2. Prior to issuing a contract Staff must obtain from the Supplier evidence of compliance with any Contractual requirements, such as insurances, disclosure and barring service checks and policies and procedures.
- 18.3. Where a procurement process was undertaken, the Contract terms and conditions must be those that were issued within the Tender documents.
- 18.4. Every contract must only be signed by a member of the Executive Leadership Team.
- 18.5. Every contract which exceeds £50,000 in value must be signed by a member of the Executive Leadership Team and reported to the Trust Audit, finance and resources committee.
- 18.6. A supplier shall not be allowed to commence performing the contract prior to the formal contract documents being signed. In the case of Framework Agreements a supplier shall not be permitted to participate in any call-off from the Framework until such time as their agreement has been duly signed.

19. Contract Management

- 19.1. The Trust must maintain a register of contracts.
- 19.2. Contracts awarded must be monitored and managed throughout the contract term to ensure delivery of the contracted goods, services or works in accordance with the contract requirements and performance standards.

- 19.3. Contract monitoring and management arrangements must be proportionate to complexity, value and risk associated with the contract.

20. Monitoring and Enforcement

- 20.1. The Trust's Audit, finance and resources committee will undertake continuous monitoring of its activities to ensure that this policy is applied and value for money is being achieved.

21. Exemption from the Application of this Policy

- 21.1. An application can be made for an exemption from this policy by submitting a Decision Request Form to the Trust Audit, finance and resources committee. The exemption will only be applied in the following circumstances:
- a. The spend is urgently required and delay would cause loss, injury or damage, The urgency must be brought about by events that were unforeseeable by and not attributable to the Trust and which will result in loss or damage to the Trust if the suspension or exemption is not allowed; and / or
 - b. The spend is of such a special nature that no advantage would be gained by inviting competitive tenders; or
 - c. There is no effective competition because payment is fixed under statutory authority or the item is a patented or proprietary article or is available from only one source.
- 21.2. The following must be considered before applying for an exemption:
- d. Lack of planning and / or internal process delays will not constitute special, exceptional or emergency circumstances;
 - e. Exemptions from this policy must not be applied for retrospectively;
 - f. Exemptions from this policy must not be applied for where spend will exceed the relevant EU Spend Threshold.

22. Policy Circulation

- 22.1. This Policy will be published on the Trust's website and included in the Trust's Policy Monitoring Schedule
- 22.2. This Policy will be circulated to every Trustee, Local Governor and Senior Employee.
- 22.3. The Trustees are responsible for overseeing, reviewing and organising the revision of the Competitive Tendering Policy.

Adoption of the Policy

This Policy has been adopted by the Trustees of the Ted Wragg Multi Academy Trust.

Signed _____

(Chair of Trust)

Date _____