

# THE DIOCESE OF SHEFFIELD ACADEMIES TRUST



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TRUST

## TENDERING AND PROCUREMENT POLICY 2022-23

Approved by: DSAT Trust Board

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## 1. Statement of Intent

The Diocese of Sheffield Academies Trust aims to achieve value for money on all its tendering and procurement activities by ensuring that a competitive procurement and tender policy, is compliant with the rules and thresholds in the Public Contracts Regulations 2015, and is consistently applied. The Trust will ensure it is able to show that public funds have been used as intended by Parliament. With this in mind, this policy has been created to establish procedures to ensure all member of staff involved in tendering and procurement are aware of the standards that they are expected to follow.

During tendering and procurement processes, the 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 Trust Handbook
- Value for money (economy, efficiency and effectiveness) is achieved
- Trustees fulfil their duties and responsibilities as charitable trustees and company directors
- Conflicts of interest are managed adequately and appropriately
- The Trust has open and transparent procurement procedures

This policy includes procedure for open tenders. This approach allows anyone to submit a tender to supply goods or services required, and offers an equal opportunity to any organisation to submit a tender.

## 2. Legislation and Guidance

The [Academies Trust Handbook](#) states that academy trusts are required to have a competitive tendering policy, and ensure that the Public Contracts Regulations (PCR) procurement thresholds are observed.

This policy is based on:

- Academies Trust Handbook
- [Department for Education \(DfE\) guidance on buying procedures and procurement law](#)
- [The Public Contracts Regulations 2015](#)

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

The Trust is obliged to comply any DfE guidance including "Effective Buying for your School", the Public Contracts Regulations 2015 (the Regulations) and government Procurement Policy Notes (PPN's). The Government's Procurement Policy Notes (PPN) are actual policies that highlight the new changes to public procurement from when the UK exited the EU. The latest four that highlight new changes to public procurement in light of Brexit are notes 10/20, 11/20, 01/21 and 02/21. Under our Funding Agreements and as a charity, the Trust's board of Trustees have specific obligations to ensure value for money.

It is important to note that the Trust is the sole legal entity which can enter into contracts for itself and any Academies. The Academies themselves are not separate legal entities and any contracts awarded by individual Academies will be binding on the Trust. All spend is recorded by the Trust to comply with DfE requirements as set out in this Policy.

This Policy is mandatory and applies to everybody in the Trust and at Academies who are responsible for purchasing, whether as an employee or contractor.

Planning - The procurement process should be considered before any purchase is made. Not all purchasing will require a competitive procurement process and more detailed rules apply for higher value contracts.

Leasing - There are specific rules under the Academy Trust Handbook in relation to borrowing, some types of leasing arrangements and novel/contentious transactions which require Secretary of State consent. Leases are outside of the scope of this Policy and you should seek guidance from the Trust's CFO and Head of Business and Operations. Trusts should seek advice from their professional adviser and/or external auditor if they are in doubt over whether a lease involves borrowing.

Equality - All suppliers in a competition should be treated in a way which ensures equality of treatment, non-discrimination and transparency, for example:

- All bidders must be given the same information at the same time, and no bidder should be treated more favourably than another; and
- There must be clear and transparent timescales, requirements, specifications and deadlines to comply with any competition.

Sustainable and ethical procurement – sustainability in supply chain management generally refers to continuous accountability for risk and negative impact caused by a range of actions along the supply chain. Sustainability efforts are also aimed at enhancing fairness and positive benefits for suppliers, workers, customers, end-users and any other stakeholders.

- Sustainable procurement takes a wider view and incorporates the net benefits for both the Trust and the wider world. It considers the impact of environmental, economic and social factors along with price and quality. This is important in terms of how the Trust conducts its relationship with suppliers, including contract negotiation especially when sourcing globally with unfamiliar work cultures. The Trust has a duty to lookout for signs of unacceptable practices in the supply chain such as fraud, corruption, modern-day slavery (see below), human trafficking and wider issues such as child labour.
- Ethical supply chain management is recognised by the Trust as important due to the changing nature of the business environment. Ethical issues have gained particular importance following publication of cases of unethical business practices and poor working conditions in developing countries. Public awareness on the issues of child labour is increasing pressure on all organisations to take care of the worker welfare at home and across entire supply chains.

The Trust is committed to ensuring sustainability in its contracts and may include relevant sustainability and ethical criteria in contracts where applicable. You should check with the Head of Business and Operations if you are unsure.

Modern-day slavery - the Trust is required to comply with the UK Modern Slavery Act 2015. Service providers should provide positive confirmation that to the best of their knowledge

slavery and human trafficking is not occurring in their own institution or in any of their supply chain.

Legality - the Trust is committed to the fair and effective application of laws and regulations throughout its supply chain. There is a positive duty on the Trust to report and refer any and all reasonably founded suspicions of illegal activity (for example, attempts at corruption, evidence of anti-competitive or cartel-like activity, breaches of employment or environment law, breaches of data protection regulations (GDPR)).

This policy is consistent with the Trusts policy to support, protect and where possible preserve the anonymity of 'whistleblowers', inside or outside of our organisation, who act in good faith, even if their suspicions should subsequently prove to be unfounded. The Trust will give full co-operation to legitimate authorities investigating such claims. That specifically includes the duty to ensure that any conceivably relevant documentation is preserved and made available, even if such documents could be construed adversely to the interests of the Trust. Please refer to the Trust Whistleblowing policy for additional guidance.

### **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 legal or 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 position or 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, Risk and Audit Committee**

Academy trustees delegate competitive tendering responsibilities to Head of Business and Operations and these are brought to the Finance, Risk and Audit Committee for ratification

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

### **3.3 Head of Business & Operations/Chief Financial Officer**

The Head of Business and Operations is responsible for:

- Ensuring appropriate financial governance and risk management arrangements are in place
- Overseeing and supporting competitive tendering

The chief financial officer (CFO) is responsible for:

- Preparing and monitoring budgets
- Providing information to the finance committee and academy trustees, as appropriate

## **4. Using a Framework Agreement**

Where possible, the Trust will use a framework agreement to purchase goods, works or services. Each framework agreement has:

- Details of the products and services available
- An agreed pricing structure
- Details of the suppliers
- Instructions on how to buy
- An agreed set of terms and conditions

When using a framework agreement, the Trust has two options:

- Select a supplier direct from a framework agreement
- Run a mini-competition

The framework agreement will state whether the Trust can select a preferred supplier itself or if a mini-competition must be run. If the Trust can select a supplier itself, the framework agreement will set out the rules for doing so which the Trust will follow.

When running a mini-competition, the Trust will:

- Comply with the terms of the framework agreement
- Decide how it will assess bids, following any rules the framework has
- Decide the level of service required
- Decide if it wants to run an expression of interest process
- Send an invitation to tender to all suppliers who can provide what the Trust needs
- Fairly access all bids received
- Choose the supplier that offers the best value for money
- Award the contract to the winning supplier

## 5. Purchasing Thresholds

### Procurement Thresholds

The following thresholds are in place in relation to how goods, works or services can be procured:

Order Value	Process Required
Under £5,000 (Low)	A fixed quote or price must always be obtained before any order is placed. Each budget holder must consider value for money. Delegated authority to the Head/Exec Head.
£5,000 to £24,999 (Medium)	At least three written quotes from suppliers. Written details of quotations obtained should be prepared by the Head/Exec Head and submitted to the Head of Business and Operations and CEO for approval and to comply with audit.
£25,000 to £40,000 (Medium)	Consider a framework agreement or at least three written quotes from suppliers. Written details of quotations obtained should be prepared by the Head/Exec Head and submitted to the Head of Business and Operations and CEO for approval and to comply with audit.
Over £40,000 but below the PCR Procurement Threshold (High Value)	All goods or services ordered with a value of £40,000, or a series of contracts which in total exceed £40,000 a framework agreement or a formal tendering process should be applied
Over the PCR Procurement threshold of £213,477 (High Value)	If it is estimated that the cost of a contract is above the PCR threshold for procurement spending, the Trust will seek legal advice to ensure it runs a PCR compliant buying process.  A 'light touch regime' with a threshold of £663, 540 applies for some services that are specifically for education. We will seek legal advice to determine if any procurement run by the Trust qualifies.

## 6. Framework Agreements

Where possible, DSAT 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.

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 to ensure good practice. The reasons for the choice of framework, and for the choice of supplier, will be clearly recorded.

In accordance with the Academy Trust Handbook and DfE policy, wherever possible, the Trust should avoid running its own procurement processes and instead use an existing framework arrangement.

Examples of existing procurement frameworks include those set up by Crown Commercial Services, Eastern Shires Purchasing Organisation, Crescent Purchasing Consortium, Schools Buying Club and Yorkshire Purchasing Organisation and cover a wide range of areas.

The benefits of frameworks are that they have already been through a competitive tender process, appropriate legal and regulatory checks have been undertaken, and they have favorable terms and conditions. In addition, the framework provider may offer advice and support.

From time to time, the Trust may also set up its own framework agreements which can be used by all schools. Such frameworks will be notified to schools from time to time. In each case, it is important that:

- The Trust is entitled to call off from the arrangement. You should check in each case;
- The specification and the contract terms are suitable for your particular needs. The terms and conditions from frameworks are generally set in advance and cannot be changed beyond the mechanism set out in the framework; and
- You must follow the framework's guidance, particularly about how orders should be placed

The Head of Business and Operations and the CEO have delegated authority to choose whether to use a framework agreement and which framework to use.

### **“Light touch Service”**

Certain services contracts (including education and training services and catering and school meal services) are subject to a slightly different (more light touch) regime.

Above the relevant threshold, which is higher for “light touch” services, certain obligations apply but these are less prescribed than for other types of services. Beyond those



requirements, the Trust is free to determine the procedures applicable to award, but these must be sufficient to ensure transparency and equal treatment. Time limits should be reasonable and proportionate. In practice, this may mean sometimes deciding to comply with the full prescribed process as if they did apply

## **7. Valuing Contracts**

The value of a contract will be determined by calculating the estimated whole-life value of the goods, works or services, including any related fees.

For fixed term contracts with an option to extend the term, the value of the contract will be the price of the fixed term plus the potential extension period.

We will not divide a single contract into smaller contracts to bypass the purchase thresholds.

## **8. Evaluating Tenders**

Tenders will be evaluated against the criteria and weighting outlined in the tender document. This criteria will include:

- Cost
- Quality
- Delivery
- Performance
- Risk

We may specify additional criteria based on the type of tender, as outlined in the tender document.

## **9. Conflicts of Interest**

We will report all contracts and other agreements with related parties to the Education and Skills Funding Agency (ESFA) in advance of the contract or agreement commencing.

Related parties include persons and entities with control or significant influence over the academy trust, and members of the same group (e.g. parent and subsidiary companies, key management personnel and close family members). This description is not comprehensive. See section 33 of [Financial Reporting Standard 102](#).

The trust will obtain the ESFA's prior approval for contracts and other agreements for the supply of goods or services to the trust by a related party where any of the following limits arise:

- A contract or other agreement over £20,000
- A contract or other agreement of any value that would mean the cumulative value of contracts and other agreements with the related party exceeds, or continues to exceed, £20,000 in the same financial year ending 31 August

The Academy Trust Handbook puts strict obligations on the Trust to ensure that conflicts of interest in procurement are managed. It must be clear that there is no private gain in the Trust's contractual relationships

- Any interest which may affect the outcome of a procurement process must be declared. This includes all Members, Trustees, governors as well as members of the Academy's senior leadership team, finance team and budget holders.
- All Members, Trustees, Governors, members of the Academy's senior leadership team, finance team and all budget holders must complete the register of business interests and keep this updated at least once per year. You should speak to the Trust's Clerk if you are unsure.
- There are rules in the Academy Trust Handbook in relation to payments to individuals/organisations which are 'related' or 'connected' to a member or trustee. In any such case the CFO must be informed before such expenditure is incurred. Any transactions with related parties must be reported for scrutiny as per the Academy Trust Handbook.
- A record of all such declared conflicts of interest must be sent to the CFO without delay who will determine what if any action can be taken to seek to remedy any such conflict of interest.
- No gifts or hospitality should be accepted by any service provider as an inducement to award a contract to that supplier. This may be an offence under the provisions of the Bribery Act 2010. You must inform the CFO immediately on becoming aware of any such gifts or hospitality. Staff must make themselves aware of the Trust's gifts and hospitality policy and ensure it is complied with at all times

## 10. Tendering Procedure: Low and Medium-Value Purchases

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 about 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

The CEO will evaluate quotes with support from the Head of Business and Operations

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

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 10)
- 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 the PCR procurement thresholds** (see section 4)
- d. **Develop a contract** – a contract will include terms and conditions, service levels expected, a contract management plan and an exit strategy
- e. **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
- f. **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
- g. **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
- h. **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
  - 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
- i. **Advertise the contract** – the contract will be advertised where suppliers are likely to look, such as:
  - The Find a Tender service – this is a requirement if the contract is over the PCR procurement threshold
  - The government's Contracts Finder service
  - Local or national newspapers
  - Education publications or websites
  - Trade magazines
- j. **Run the tender process and provide clarifications**

- k. 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
- l. Notify suppliers and award the contract**
- m. Finalise the contract** (and advertise the award, if the contract was advertised in Contracts Finder or the Find a Tender service)
- n. 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.

### **Rules on opening Tenders**

- Every quotation for a Medium Value, High Value or Upper Threshold procurement may be provided in hard copy or via email.
- The Trust or school must keep tenders secure until the time specified for all tenders to be opened.
- All tenders submitted should be opened at the same time and the tender details should be recorded. A minimum of three persons should be present for the opening of tenders.
- A separate record should be established to record the names of the firms submitting tenders and the amount tendered. This record must be signed by all those present at the tender opening.
- All tender documentation should be scanned and recorded for future reference.

Records will be kept securely, only for as long as necessary and in line with data protection law, our privacy notices and records management policy/record retention schedule.

## 12. Audit Trail

The Trust's Accounting Officer must include a DfE value for money statement within the annual statutory accounts. A clear audit trail should be kept for all purchases. The level of detail required will increase with the value of the procurement. The written record should include:

- a. who was responsible for making the decision to procure, and details of their decision-making process;
- b. minutes of any meetings at which the procurement was discussed (if applicable);
- c. who was responsible for evaluation of tenders, and details of the evaluation (if applicable);
- d. details of the dialogue or negotiation stage, and the selection process (if applicable);
- e. details of the purchase itself, for example, what was purchased, from whom and for what price;
- f. who was responsible for receiving and checking the goods or services and for authorising and making payment.

For Upper Threshold procurements (except for framework agreement call offs) a written report should be kept as the procurement is undertaken. As a minimum, this should include:

- a. the name and address of the Trust, the subject-matter and value of the contract;
- b. where relevant, details as to how bidders have been shortlisted or selected to tender, including: the successful and unsuccessful bidder names; the reasons for the deselection/selection and whether any tender was found to be abnormally low;
- c. the name of the successful tenderer and the reasons why its tender was selected;
- d. the share (if any) of the contract or framework agreement which the successful tenderer intends to subcontract to third parties, and the names of the main contractor's subcontractors (if any);
- e. the justification for using a particular procurement procedure (where needed);

- f. where applicable, the reasons why the Trust decided not to award a contract;
- g. where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders; and,
- h. where applicable, if conflicts of interests were detected and the subsequent measures taken.

The Trust maintains a risk register and manages risk 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 by implementing any reasonable risk management audit recommendations.

### **13. Exemptions to this Policy**

This policy must be followed in all but exceptional circumstances. Non-compliance may lead to disciplinary procedures.

In such exceptional circumstances the Trust Executive team may request aspects of the policy are waived. Exceptional circumstances include, but are not limited to:

- Disaster recovery and a reasonable period of time prior to operating normally
- Use of specialists. On occasion it may be preferable to contract a specific supplier given their technical expertise, specific prior experience working with the Trust and/or monopoly of a particular supply
- Time constraints. If an issue emerges that requires a rapid response that could not be met if adhering to standard procurement rules

Any exemptions should only be relied upon with express consent from the CEO and Head of Business and Operations. Exceptions and waivers are not permitted if the procurement exceeds Upper Limit thresholds.

#### **14. Reference to Other Policies/Documents**

- DSAT Whistleblowing Policy
- DSAT Gifts and Hospitality Policy
- DSAT Risk Register
- Financial Procedures Manual
- Declaration of Business & Pecuniary Interests
- Finance, Risk and Audit Terms of Reference

#### **15. Monitoring Arrangements**

The CEO/Head of Business and Operations is responsible for the implementation of this policy.

This policy will be reviewed and approved by the board of trustees every year and when PCR procurement thresholds change.