PROCUREMENT AND TENDERING POLICY

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Procurement & Tendering Policy
Policy Statement

It is the Trust's policy to ensure that any spend of public money, regardless of value, is carried out in a transparent, fair and non-discriminatory way and in compliance with the applicable UK public procurement regime, including the Public Contracts Regulations 2015 where they remain relevant, the Procurement Act 2023 and associated regulations, and the Bribery Act 2010. The academy, through its policies and processes, must be able to show that public funds have been used as intended by Parliament.

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

As a publicly funded organisation, The Special Partnership Trust is a contracting authority. Procurement activity is regulated by applicable UK public procurement law, including the Public Contracts Regulations 2015 where they remain relevant, the Procurement Act 2023 and associated regulations as they come into force, and the Bribery Act 2010. Procurement must be carried out in a transparent, proportionate and non-discriminatory manner, with due regard to value for money and the proper use of public funds.

This policy sets out how the Trust will manage its procurement to ensure compliance with relevant legislation, it does not provide guidance on how to procure, this is covered in a range of technical procurement procedure guides which must be followed by Trust and Academy staff alike, failure to comply with this policy and/or follow the procurement procedure guides could result in a breach of legislation, fines and litigation, claims for damages and loss of reputation.

General Principles

The academy will ensure that spending is used for its intended purpose, that decisions represent value for money, and that internal delegation levels are applied throughout the procurement process, including tendering. Professional advice will be sought where appropriate.

When purchasing and contracting goods and services, the Trust must always demonstrate compliance with procurement legislation and the proper and effective use of public funds. Purchasing procedures should also ensure that the goods,

services and works procured are of the correct quantity and quality, arrive on time and achieve the best value. The following general principles must therefore be adhered to:

Transparency and non-discrimination: in all purchasing activities, the Trust must ensure that all contractors, suppliers and service providers are treated equally and without discrimination, and must act in a transparent and proportionate manner. Procurement procedures must not artificially narrow competition or favour or disadvantage any contractor, supplier or service provider. All procurement activities with a value above £50,000 must be advertised on the Trust's website or another appropriate forum. The CFO will advise on the appropriate level of advertising. Based on current guidelines, maintained schools, academies and sixth form colleges are exempt from having to advertise via Contracts Finder. The Trust may decide to use Contracts Finder if it is unable to secure tenders through its website, by inviting suppliers directly, or if it wishes to advertise more broadly to reach a larger number of suppliers.

Probity, it must be demonstrable that all parties are dealt with on a fair and equitable basis and that there is no private gain, favoritism or corruption involved in any dealings of the Trust.

Accountability, the Trust is publicly accountable for its expenditure and for the conduct of its affairs.

Conflicts of interest must be identified, declared and managed throughout the procurement process. Any person involved in preparing specifications, evaluating quotations or tenders, approving awards or managing supplier relationships must declare any actual, potential or perceived conflict in accordance with the Trust's relevant policies and procedures.
For procurements within the Procurement Act 2023 regime, conflicts must be assessed and kept under review at key stages of the process, including before documents are issued, during evaluation and before contract award. The Trust must take reasonable steps to identify, mitigate and record conflicts and must not allow a conflicted person to improperly influence the procurement.

Value for Money, the achievement of value for money underpins the appropriate use of all public funds, therefore, as well as striving to achieve the best price possible for all purchases, consideration should also be given to other factors such as quality, suitability, availability, reliability of the supplier, terms available etc.

UK Public Procurement Regime

As a public body, the Trust and its academies are subject to the UK public procurement regime. The Public Contracts Regulations 2015 continue to provide the legal framework for many existing and transitional procurements, while the Procurement Act 2023 and associated regulations introduce a revised regime for covered procurements from their commencement. Staff must consider which regime applies before starting a procurement process.
Before starting any procurement, staff must determine whether the purchase is below threshold, a covered procurement under the Procurement Act 2023, or a procurement governed by transitional Public Contracts Regulations 2015 arrangements. Where there is any uncertainty, the CFO must be consulted before the procurement route is confirmed.

The Public Contracts Regulations 2015 continue to apply to procurements and contracts that fall within applicable transitional arrangements. For procurements commenced under the Procurement Act 2023, the Trust must apply the relevant statutory rules for covered procurement, including the requirements on procedure selection, supplier participation, award criteria, notices, exclusions, contract management and permitted modifications.

All UK contracting authorities, irrespective of the source of funding for a particular purchase, must comply with the applicable procurement legislation. Because a clear specification is essential and procurement procedures can be lengthy, employees responsible for an order or contract with estimated lifecycle costs approaching the relevant public sector threshold must consult the CFO as early as possible to avoid delay and ensure the correct process is followed. Post-Brexit, UK procurement thresholds are set in accordance with the World Trade Organisation's Agreement on Government Procurement and are expressed inclusive of VAT.

Current public procurement thresholds must be checked at the start of each procurement using the latest Cabinet Office, Find a Tender or Department for Education guidance. Thresholds must be calculated using the estimated whole-life value of the contract, including VAT and any extension options. Fixed threshold figures in this policy are indicative only and must not be relied on without checking the current published thresholds.

UK authorities, HM Treasury and the DFE continue to scrutinise compliance by contracting authorities, including multi-academy trusts. Breaches of procurement legislation may result in legal challenge, financial penalties, funding consequences, claims for damages and reputational harm. Employees should therefore notify the CFO of anticipated high-value expenditure at the earliest opportunity.
DFE
Even when a tender process is not subject to the full statutory procurement regime because the estimated value falls below the relevant threshold, the Trust must still act transparently, proportionately and fairly, and must avoid discrimination or artificial narrowing of competition. The level of advertising and competition should be appropriate to the scale, complexity and risk of the contract, and should support the Trust's objective of achieving value for money in all public procurement.
For covered procurements, the Trust must have regard to the Procurement Act 2023 objectives, including delivering value for money, maximising public benefit, sharing information so that suppliers and others can understand the Trust's procurement policies and decisions, and acting with integrity. The Trust must also have regard to barriers faced by small and medium-sized enterprises and consider whether those barriers can be reduced where appropriate.
Where required by law, the Trust must publish procurement notices on the appropriate central digital platform, including Find a Tender. This may include notices relating to planned procurement, tender opportunities, transparency before direct award, contract award, contract details, contract changes and contract termination. The CFO will advise on the applicable notice requirements for each procurement.

Purchasing Thresholds

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

The various transactional thresholds and procurement process required is covered in detail in the associated procurement process guides which must be followed, however they are outlined briefly below:

Category B Academies:

- Proof of value is required for any purchase over £500, (up to £2,999).
- £3,000 - £49,999 – obtain three written quotations from suitable suppliers/contractors.
- Any expenditure over £50,000 be advertised either on the Trust's website or

another platform and to be managed by the CFO/Finance Manager. (NB: For spending over £50,000 where the lowest quote is not the one chosen/accepted – the reasons/justification will be reported to the Resources, Estate and Audit Committee).

Purchasing undertaken by the CFO/Finance Manager:

- Proof of value is required for any purchase over £500 (up to £2,999).
- £3,000 - £49,999– three written quotations from suitable suppliers/contractors
- Any expenditure over £50,000 be advertised either on the Trust's website or another platform. (NB: For spending over £50,000 where the lowest quote is not the one chosen/accepted – the reasons/justification will be reported to the Resources, Estate and Audit Committee).
- £50,000 - the current public procurement threshold for the relevant contract type (VAT inclusive) – invite a minimum of three tenders following advertisement unless an appropriate framework may be used.
- Over the current public procurement threshold for the relevant contract type (VAT inclusive), the Trust must follow the applicable statutory procurement procedure or use a compliant framework where permitted.

Where the CFO or Finance Manager manages a procurement process on behalf of an Academy or the Trust, orders must not be raised until the budget holder has approved the purchase in accordance with the Scheme of Delegation.
A written audit trail must be retained for each procurement in accordance with the Trust's retention requirements. Records should include the specification, approvals, quotation or tender invitations, evaluation criteria, submissions received, evaluation notes, conflict declarations, award decision, contract documentation and any approved dispensation.

Occasionally there may be a recommendation to award a contract to, or place an order with, an organisation that has not submitted the lowest-priced bid. If this is because the procurement has been evaluated using stated criteria to identify the most advantageous tender, and the evaluation scores are recorded and retained on file, no further action is required. If the recommendation is for any other reason, approval must be sought before confirming the award or raising an order in accordance with the Scheme of Delegation.
Before awarding a contract, the Trust must consider whether any supplier exclusion or debarment grounds apply and must retain evidence of the checks completed.
Award decisions must be based on the published evaluation criteria and the tender that best satisfies those criteria, rather than price alone.

For tenders expected to exceed the applicable statutory procurement threshold, advertisements must be placed on Find a Tender where required and the procurement must follow the applicable legal requirements, including the relevant procedural rules and minimum timescales.

Dispensations

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

- Unforeseen emergency requirement
- The goods or services are only available from one source and there is no possibility of the Trust's requirements being met in any other way
- An extension is required to a current contract in order to allow sufficient time to complete a competitive tendering exercise (but failure to have planned the re-procurement would not be justification for a single tender)
- Where seeking tenders and awarding a contract through a competitive process would cause significant operational difficulties, and where any potential savings would be outweighed by those operational issues, the reasons and value-for-money analysis must be documented. This dispensation may only be used in circumstances approved in accordance with the Scheme of Authorisation, under the specific advice of the CFO on compliance with UK legislation, subject to approval by the Chief Executive Officer, and subsequently reported to the Resources and Estates Committee.

Procurement Procedure

1. A specification will be prepared, authorised by the chair of the relevant committee and the Trust CEO and CFO, and sent to at least three suppliers. For any major building works with a value greater than £5,000, it is anticipated that the services of an architect will be engaged to deal with specifications and suitability to tender.

2. Where appropriate, the suppliers invited to tender should be drawn from an approved list or from those agreed with the architect. Otherwise, invitations to submit tenders will be advertised in local newspapers and trade journals if appropriate. The invitations to tender will include:

   (a) an introduction/background to the project.

   (b) the scope and objectives of the project.

   (c) any technical requirements.

(d) implementation details for the project.

(e) the terms and conditions of the tender; and

(f) the form and date of response to the academy, or in the case of building works, to the architect or quantity surveyor.

3. All replies should be addressed to the Trust CFO in a plain sealed envelope marked 'Tender' to reach him/her by a specified date. All replies must be kept sealed until that date and passed to the chair of the relevant committee.

4. All tenders will be opened at the same time and details of the contractor, quotation and any other details recorded at the time of opening,

5. No contractor will be allowed to amend the tender after the time fixed for receipt.

6. The CFO will open a separate correspondence file for each tender which will contain copies of all correspondence or other relevant information.

7. For purchases up to £50,000, provided the expenditure is included in the budget, the decision as to which tender to accept will be taken by the CEO, in consultation with the CFO and the chair of The Resources and Estates Committee.

8. For purchases exceeding £50,000, provided the expenditure has been budgeted for, a decision will be recommended by The Resources & Estates Committee. The decision will need to be ratified by the full board of Trustees.

9. Where expenditure is not included in the budget or anticipated expenditure exceeds the budget allocation, the decision as to which tender to accept will be taken by the finance sub-committee, in line with their terms of reference and then ratified by the full board of Trustees; and

10. The reasons for accepting a particular tender must be documented, especially if it is decided to accept other than the lowest tender. All decisions must be reported to the full board of Trustees.

Acceptance of tenders

The following points will be considered when deciding which tender to accept:

1. The overall price and the individual items or services which make up that price.

2. Whether there are any 'hidden 'costs; that is additional costs which the academy will have to incur to obtain a satisfactory product.

3. Whether there is scope for negotiation, while being fair to all tenderers, and considering whether procurement legislation permits for this under the process used for the tender.

4. The qualifications and experience of the supplier, including membership of professional associations.

5. Compliance with the technical requirements laid down by the school.

6. Whether it is possible to obtain certificates of quantity.

7. The supplier's own quality control procedure; presales demonstrations, after sales service and, for building works, a six-month defects period and insurance guarantees.

8. The financial status of the supplier.

9. References from other establishments.

10. Understanding & compliance with Health & safety, CDM regulations and Child Protection issues related to working on a school site

In the case of building works, where the tendering process is being carried out by the architect or quantity surveyor, they will be responsible for checking the documents of the lowest tender before making a recommendation to the academy.

Once a tender is accepted an order should be issued immediately to the supplier in the normal way.
For contracts awarded under the Procurement Act 2023, the Trust must comply with applicable contract management obligations, including keeping appropriate records, monitoring supplier performance, managing any contract changes within the permitted legal grounds, and publishing any required contract management or termination notices.

This Policy will be reviewed by the Chair of The Resources & Estates Committee on an annual cycle and must be signed by the Chair of Trustees and CEO.

Please also refer to:

- GDPR policy
- Finance Policy
- Gifts & hospitality Advice and Guidance