



Special Partnership Trust

PROCUREMENT AND TENDERING POLICY

Date Last Reviewed: September 2023

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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 and non-discriminatory way and in compliance with the Public Contracts Regulations and Bribery Act. The academy, through its policies and processes, can 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'. Subsequently any procurement activity is regulated by the UK Public contracts regulations and EU procurement law. In particular, any procurement activity must be carried out in a transparent and non-discriminatory manner.

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 the spending will be used the purpose as intended. The decisions will represent value for money. The internal delegation levels exist and will be 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 be undertaken in a manner which artificially narrows the competition, favours or disadvantages of any contractor, supplier, or service provider. All Procurement activities with a value more than £50,000 must be advertised on the Trusts website or other appropriate forum. The CFO will advise as to 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 utilize Contracts Finder if we are unable to secure tenders through our website, inviting suppliers directly, or if we wish to advertise more broadly to target 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.

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.

Public Contract Regulations 2015

As a member of the EU the United Kingdom and consequently as a public body, the Trust and academies are subject to the Public Contract Regulations 2015 (PCR 2015). The purpose of European Procurement Directives, covering Supplies, Works, and Services, is to encourage and stimulate an open marketplace for public procurement throughout the EU.

PCR 2015 sets out the legal framework for public procurement. They apply when public authorities and utilities seek to acquire supplies, services or works. They set out procedures which must be followed before awarding a contract when its value exceeds set thresholds.

All UK contracting authorities, irrespective of the source of funding for a particular purchase, must comply with PCR 2015. Because of the importance of getting a good quality specification it is essential to plan early as procurement procedures are lengthy and employees with an order or contract expenditure with lifecycle costs approaching the public sector tender threshold must consult with the CFO as early as possible to avoid any delays. Post-Brexit, the UK procurement thresholds are governed by the World Trade Organisation’s (WTO) Agreement on Government Procurement (GPA). These thresholds were amended in January 2022 and are now inclusive of VAT, which was not the case with previous thresholds.

The current procurement thresholds for the UK are (VAT inclusive):

Supply, Service and Design contracts	Works contracts	Social and other specific services (as set out in Schedule 3 of the Public Contracts Regulations 2015 Annex A)
£213,477	£5,336,937	£663,540



EU and UK authorities are becoming increasingly concerned at breaches of the Directives by contracting authorities including Multi Academy Trusts. Breaches of European Procurement Directives may incur other penalties from the European Commission, HM Treasury or the ESFA, employees should therefore notify the CFO of anticipated high value expenditure at their earliest opportunity.

Even when a tender process is not subject to the PCR 2015 (for example because the estimated value of a contract falls below the relevant threshold), EU Treaty Based principles of non-discrimination, equal treatment, transparency, mutual recognition, and proportionality apply. Some degree of advertising, which is appropriate to the scale of the contract, is necessary to demonstrate transparency. This is in line with the UK objective of achieving value for money in all public 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 - £213,477 (VAT inclusive) –invite a minimum of three (3) tenders following advertisement unless an appropriate framework may be used.
- Over £213,477 (VAT inclusive) EU compliant tender procedure or use of EU compliant framework

Where the CFO/Finance Manager is managing a procurement process on behalf of an Academy or the Trust, orders will not be raised without approval from the budget holder in accordance with the scheme of delegation.

Occasionally there may be a recommendation to award a contract to or place an order with an organisation which has not submitted the lowest priced bid. If this is the case because the scheme has been evaluated using the Most Economically Advantageous method (MEAT) then this is acceptable without further action, provided that the evaluation scores are recorded and retained on file. However, if this is for any other reason approval must be sought before confirming award or raising an order in accordance with the scheme of delegation.

For tenders expected to exceed PCR 2015 thresholds, advertisements must also be placed in the Find a Tender website and must follow PCR 2015 procurement requirements with regard to be given to the timescale for such tenders.

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 the seeking of tenders and subsequent contract award could cause significant operational difficulties and where any potential savings would be outweighed by those operational issues (which along with a VFM analysis must be documented) and only for use in circumstances to be approved in accordance with the scheme of authorization, under the specific advice of the CFO in terms of compliance with the UK legislation and 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 Trust CEO/CFO, and sent to at least three suppliers. It is anticipated that for any major building works of a value greater than £5,000 the services of an architects would be engaged to deal with the handling of 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.

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