

# Procurement Policy

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## 1.0 Policy Statement

- 1.1 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.
- 1.2 The Trust Scheme of Delegation 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 Policy or Scheme of Delegation may result in withdrawal of authority and / or disciplinary actions.
- 1.3 As publicly funded organisations Birmingham Diocesan Multi-Academy Trust (BDMAT) and Schools in accordance with procurement legislation are "Contracting Authorities". Subsequently any procurement activity is regulated by the UK Public Contracts Regulations. In particular, any procurement activity must be carried out in a transparent and non-discriminatory manner.
- 1.4 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 procedures guides which must be followed by Trust and School staff alike, failure to comply with this policy and/or follow the procurement procedures guides could result in a breach of legislation, fines and litigation, claims for damages and loss of reputation.

## 2.0 Purpose of the Procurement Policy

- 2.1 The purpose of this document is to make the Trust Procurement policy clear and signpost staff undertaking procurement activity to appropriate procedural guidance.
- 2.2 This policy should be read in conjunction with the Trust's Finance Policies, with particular reference to:
  - The Scheme of Delegation
  - Financial Probity Policy
  - Appropriate procurement procedure guides
- 2.3 The Trust Procurement Policy is applicable to all purchasing activity regardless of value and should be followed by all staff involved in purchasing whether centrally or School based.
- 2.4 All procurement within the Trust and Schools shall be carried out in such a way to ensure compliance with legal requirements, including 2015 Public Contracts

Regulations, Trust financial regulations and Scheme of Delegations and any other requirements of the Department for Education (DfE) or Education and Skills Funding Agency (ESFA).

- 2.5 This policy is intended to reflect and support the aims of the Trust by working with staff and suppliers to optimise value for money in the procurement of works, goods and services. It aims to balance efficiency against risk factors in achieving value for money whilst promoting compliance and sustainability.
- 2.6 The Head of Finance or their delegated representative will work with Schools by providing professional support in obtaining works, goods and/or services which are best suited to any application in a manner which is compliant with current legislation and best practice. Alternatively, where Schools are making independent purchases the Head of Finance or their delegated representative will provide a framework and procurement guides which School staff must follow.
- 2.7 The Procurement Policy and associated procurement procedure guides and templates will be reviewed at least every two years or whenever required by a change in legislation.
- 2.8 The Trust Procurement Policy does not provide detailed process guidance on procurement or purchasing. This is covered in a range of procurement procedure guides and templates supplemental to this policy document.
- 2.9 There is a duty on all staff who may be involved in any stage of the procurement process to apply the key principles of best practice procurement to achieve appropriate governance, value for money and suitable quality of goods and services to meet the Trust's business needs. To satisfy this requirement, the Trust will provide appropriate procedure guides and templates which must be used.

### **3.0 Agency**

- 3.1 When procuring on behalf of Schools, the Trust's statutory Chief Finance Officer, or their delegated representative is acting as "Agents" in creating binding terms and conditions for the Trust. Wherever a School undertakes any procurement independently then the Headteacher will be acting as an "Agent" of the Trust provided that the procurement is compliant with the Trust's Scheme of Delegation, Finance Policy and Procurement Policy, procedures and guides.

### **4.0 General Principles**

4.1 When purchasing and contracting for goods and services, the Trust and its Schools must always demonstrate compliance with procurement legislation and the proper and effective use of public funds.<sup>1</sup> Purchasing procedures should also ensure that the goods, services and work procured are for the correct quantity and quality, arrive on time and achieve best value. The following general principles must therefore be adhered to:

- **Transparency and Non-Discrimination:** in all purchasing activity 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 competition, favours or disadvantages any contractor, supplier or services provider. All Procurement activities with a value in excess of £40,000 must be advertised on the Trust's website and/or other appropriate forum or be procured through a public sector framework. The Trust CFO or their delegated representative will advise as to the appropriate level of advertising.
- **Probity:** it must be demonstrable that all parties are dealt with in a fair and equitable manner and that there is no private gain, favouritism or corruption involved in any dealing of the Trust and its Schools.
- **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. As well as striving to achieve the best price possible for all purchases, consideration will also be given to other factors such as quality, suitability, availability, reliability of the supplier, terms available, as well as reviewing the supplier's corporate social responsibility

## **5.0 What is Procurement?**

5.1 Procurement is the process whereby goods, services and works are acquired. The procurement process spans a life cycle from identification of need and resources, through selection of suppliers, purchasing, contract management and disposal. Purchasing is the transactional process of buying the goods/services and is just one part of Procurement.

## **6.0 Value for Money/Aggregation**

- 6.1 Value for money is the optimum combination of whole life cost and quality (or fitness for purpose) to meet the user's requirement. This is rarely possible with the lowest price alone. To ensure that all purchases obtains optimum Value for Money, a range of procurement procedure guides and templates outlining the steps to be taken for varying levels of procurement are available. All purchases must be made in accordance with these guides, except in exceptional circumstances where a dispensation may be granted.
- 6.2 Purchases over £40,000 must be managed by the CEO or their delegated representative and in these cases early involvement is recommended to ensure expectations are clear and timelines are achievable.
- 6.3 All School purchases in excess of £40,000 (excluding VAT) will require approval from the CEO or their delegated representative to confirm the process and budget before an order can be raised.
- 6.4 Purchases over £100,000 must be approved by the full Board of Directors. In these cases, early involvement with the CFO is recommended to ensure expectations are clear and timelines are achievable.
- 6.5 Unless below the threshold for obtaining multiple quotations or tenders, all procurement of goods, works, services or consultancy should be acquired by effective competition. This should include adequate publication of the contract opportunity on the Trust's website and/or other appropriate forum, unless there are convincing and justifiable reasons this is not practical. Awarding contracts on the basis of value for money following competition contributes to the competitiveness of supplies.
- 6.6 The Trust has a duty to comply with the requirements of UK Procurement Legislation and Academy Funding Agreements. In order to do so the CFO or their delegated representative will review all proposed purchases over £40,000 in the context of total Trust expenditure to come a decision whether the potential requirement to aggregate is complementary or contrary to the requirement to show value for money.
- 6.7 In support of the paragraph above, the CFO or their delegated representative will review School procurement plans and where appropriate will consult with Schools on the potential to develop a range of Trust wide contracts in order to comply with the requirements around aggregation and value for money.

## **7.0 Financial Authority to Commit Expenditure**

- 7.1 Any process which involves committing the Trust or a school to expenditure must be approved in accordance with the Procurement Thresholds outlined below.
- 7.2 Any member of staff placing a purchase order on behalf of the Trust or a school must be sure that they have the correct level of authority to do so in accordance with the Scheme of Delegation and where required must obtain approval from a more senior member of staff with a higher approval limit if necessary.
- 7.3 The Trust operates a system of devolved financial authority under which Headteachers are responsible for planning purchasing decisions. In accordance with this Procurement Policy for lower value purchases, the Head of Finance or their delegated representative will provide technical and professional support.
- 7.4 Where the value of purchases exceeds £40,000 the CEO or their delegated representative will manage the process on behalf of a school. In these cases, a school is still responsible for specifying requirements, evaluation criteria and committing funding.
- 7.5 The below table sets out BDMAT's delegated expenditure limits.

Value	Authorisation
£0 - £2,500	Budget Manager/Departmental Manager
£0 - £10,000	Headteacher or Head of Department
£10,001 - £40,000	Chief Finance Officer
£40,001 - £100,000	Chief Executive Officer
£100,000	Board of Directors

- 7.6 No member of staff may approve purchases unless they have been given authority to do so.
- 7.7 No employee is authorised to commit the Trust or a School to expenditure without first ensuring that there is adequate budget provision.
- 7.8 Schemes of work should not be artificially broken down into smaller orders to phase the issue of purchase orders and thereby circumvent either authorisation levels or the requirement to obtain further quotes/tenders.

## 8.0 Purchasing Thresholds

- 8.1 There are two types of threshold governing the procurement for the Trust and Schools. 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 costs of the procurement.
- 8.2 The various transactional thresholds and procurement processes required are covered in detail in the associated procurement process guides and templates, which must be followed. They are outlined briefly below:

### Purchasing Thresholds

Value	Rules
£0 - £5,000 (Low Value)	A minimum of one written quotation from suitable supplier/contractor.
£5,001 - £40,000 (Medium Value)	Obtain three written quotations from suitable suppliers/contractors.
Over £40,000 (High Value)	Advertise on Trust website and/or contracts finder website and/or another appropriate forum or use an appropriate framework (to be managed by the CFO)  Invite a minimum of three tenders following advertisement.
Over UK Public Sector Procurement Threshold (Appendix A)	Business case and full tender process to be managed by the CFO.

- 8.3 Where the CFO or their delegated representative are managing a procurement process on behalf of a School, orders will not be raised without approval from the budget holder in accordance with the Scheme of Delegation.
- 8.4 Occasionally a contract may be awarded to an organisation which has not submitted the lowest priced bid. This should only be where the tender has been

evaluated using the Most Economically Advantageous method (MEAT). The evaluation scores must be retained on file to evidence the decision. If a contract is to be awarded for any reason other than MEAT approval must be sought from the CFO before confirming award or raising an order in accordance with the Scheme of Delegation.

- 8.5 Any contracts that may be awarded to companies who the Members, Directors or staff have declared as a related party must be notified to the CFO at the earliest opportunity and approval will be required from the DFE. The CFO will obtain DFE approval.

## **9.0 Dispensations**

- 9.1 In limited circumstances a dispensation from the requirement to obtain alternative quotes may be granted. This may include authority to solicit a single quotation, to award a contract or place an order without having obtained the requisite number of tenders or quotations or to directly award a contract.

- 9.2 All dispensations from schools require prior approval from the CFO before progressing and must not result in a breach or procurement legislation or be contrary to the Trust Scheme of Delegation.

- 9.3 Full details of the circumstances and reason where a dispensation may be granted are included below:

- Dispensations from the requirement for competitive quotations/tenders must not be used to avoid competition, or for administrative convenience, or to award fresh/further work to a supplier originally appointed through a competitive procedure.
- All dispensations will be subject to obtaining and documenting appropriate evidence for single quotation/tender action; obtaining authorisation for such action in accordance with the approved scheme of delegation and never breaching current UK Public Sector Procurement thresholds (Appendix 1).

- 9.4 Dispensations may be granted for the following reasons:

- Unforeseen emergency requirement.
- The goods or services are only available from one source and/or the Trust's requirements cannot reasonably be met by another source

- An extension is required to a current contract in order to allow sufficient time to complete a competitive tendering exercise (failure to have planned the re-procurement is not sufficient justification).
- 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 VFM analysis must be documented).

9.5 The CFO may directly award certain contracts without the need to conduct a competitive process, provided that all such instances are compliant with UK Public Contract Regulations and the circumstances are subsequently reported to the Finance and Resources Committee with a record of the justification for the direct awarding being retained for three years.

9.6 The CFO or their delegated representative may develop a schedule of dispensations for specific areas which School staff may use under certain circumstances; further information will be included in the Procurement Procedure Guides.

9.7 A record of the reason(s) for the seeking and granting/declining of dispensations will be kept for at least three years.

## **10 Raising Orders**

10.1 Following the raising of a requisition, which must be approved in accordance with the Scheme of Delegation, official orders must be raised for all goods, works, services and/or consultancy required by the Trust or a School using the Trust's financial operating system, unless specifically exempted. The procurement procedures guidance documents and templates in the purchasing process contain adequate controls to ensure that:

- Official orders are raised in respect of all goods, services and works required by the Trust and its Schools, except for those specifically exempted.
- Only goods, services and works required by the Trust and its Schools are ordered.
- Competitive quotations or tenders are obtained for all orders where the value of goods, services or works, individually or for a series of contracts, would exceed the relevant financial thresholds.
- Orders for goods, services and works are placed with the most appropriate suppliers in terms of costs, quality and delivery.
- Goods, services and works received are in accordance with those ordered.

- Payments are made only in respect of invoices authorised in accordance with the approved scheme of delegation and the Trust's funds are adequately safeguarded.
- All payments are accounted for properly, promptly and in full.
- Relevant, timely and accurate management information on non-pay expenditure is produced and utilised.
- Adequate physical and logical security is in place.

10.2 Specific exemptions to the requirement to raise an official purchase order are limited to:

- Rent or business rates
- Utility costs
- Works and services executed under a contract
- Purchasing card transactions
- Purchasing catering supplies (food and drink only)

10.3 Details outlining the number of non-order invoices paid on the Trust's financial operating system will be reported to the Finance and Resources Committee on an annual basis. Headteachers may be required to provide explanations for any non-compliance, particularly where this is repetitive.

10.4 In accordance with the Trust's Financial Probity Policy before raising any order, checks must be carried out to ensure that no one who has declared an interest in relation to the purchase or the supplier/service provider has been involved in the selection process.

10.5 No orders shall be placed, or contracts altered or extended, with the intention of avoiding the relevant thresholds applicable within the Trust's Procurement Policy and Scheme of Delegation. In the event that the terms of any purchase order or contract have to be amended, an official variation order must be approved in accordance with the Scheme of Delegation and issued by the CFO or their delegated representative.

## **11.0 Credit Cards**

11.1 The Trust recognises the benefits of credit cards as an alternative means of paying for goods and services. The advantages include reducing paperwork, reduced administration time and costs, the opportunity to make online purchases and seek discounts from suppliers on the basis that they receive immediate payment.

11.2 Credit cards are particularly suitable for low value purchases, booking off site visits and for site staff to order building materials.

11.3 Full details governing the distribution and use of credit cards is subject to the Credit Card Policy and associated procedures.

## **12.0 Supplier Management**

12.1 Purchase orders and payments should only be raised/made to suppliers which have passed Trust vetting procedures and have been added to the Trust's financial operating system.

12.2 New suppliers may only be added to the Trust's financial operating system following completion of a new supplier form and the requisite vetting procedures.

12.3 All existing suppliers will be reviewed on a three-year cycle in accordance with the Trust guidance on vetting suppliers.

12.4 All staff who raise purchase orders for work must satisfy themselves that contractors have appropriate DBS clearance before raising an order for work. The Trust's guidance for the safeguarding of pupils whilst contractors are on site must be followed at all times.

12.5 When procuring any goods, services or works, schools must ensure that checks are made to confirm that the suppliers are suitably experienced and qualified to undertake the work required.

## **13.0 Competition**

13.1 Subject to the thresholds in section 6, competition should be proportionate to the level of expenditure, complexity and risk. To minimise procurement costs for the Trust and suppliers, avoid doubt and ensure compliance with legislation Trust policies are written using recognised best practice and procedures documents and templates have been provided.

13.2 Care should be taken to specify accurately the goods/services required in a way which is unambiguous, offers equality, removes barriers to participation by small and medium size enterprises (SMEs), and self-employed people without discriminating against others.

13.3 Any minimum standards should be proportionate to the contract and not discriminatory other than where legally required.

- 13.4 All requests for quotation must be made using the appropriate templates and in accordance with the guidance most relevant to the estimated value of expenditure.
- 13.5 When estimating the value of a contract, unless it is a one-off cost, the actual costs of the works, goods or services must be for the whole life costs and include any on-going costs. If the whole life is unknown, then four years should be the baseline. Once the whole life costs have been estimated the appropriate procurement procedure should be followed.
- 13.6 All procurement over £40,000 must be reviewed and/or carried out by the CFO or their delegated representative in accordance with relevant UK legislation by either undertaking a compliant tender process or by using an established, relevant and accessible compliant framework.

#### **14.0 Contract Agreement/Terms and Conditions**

- 14.1 All procurement should be carried out using the Trust's terms and conditions as outlined in the various procurement procedure guides and templates. There may be certain exceptions to this where the use of an established framework or access to specific software requires it. In any case any departure from Trust terms and conditions must be approved by the CFO before agreement is made.
- 14.2 Any agreement, contract or lease with a supplier which requires a signature by a member of Trust or School staff (not including general orders for goods and services) should be forwarded to the CFO or their delegated representative for review prior to signature.
- 14.3 Following the identification of the most favourable offer for the Trust, or its schools, whether by best value, quotation or tender, consistent with the thresholds identified above, the contract may only be awarded by those officers to whom the Trust Board has delegated such authority within the approved Scheme of Delegation. The required authority to accept other than the lowest quotation or tender is also included within the Scheme of Delegation.

#### **15.0 Payment and Payment Terms**

- 15.1 Unless a credit card has been used to make a payment, all invoices from suppliers should be entered on the Trust's financial operating system once approved and then paid by BACS.

- 15.2 The Trust's standard payment terms are 30 days following receipt of a correct invoice, unless alternative arrangements have been agreed at purchase order stage, for example orders placed by schools shortly before the summer break
- 15.3 Where purchases are made using established frameworks, the payment and other terms and conditions are likely to be those of the framework. Before purchasing from any framework, it should be confirmed that it is permissible for the Trust or a School to use the framework and where required an appropriate access agreement has been approved by the CFO.
- 15.4 Payment should only be made on receipt of goods. Where services are being procured then payment for work in progress or agreed interim stages may be appropriate in accordance with the approved guidance and subject to sign off from the CFO or their delegated representative.

## **16.0 Aggregation**

- 16.1 UK legislation sets out how and when multiple orders and contract values for the same type of work should be added together for the purposes of deciding what procurement process is applicable.
- 16.3 The Trust must consider aggregation when expenditure across goods or services of a similar nature aggregated across the Trust reaches procurement thresholds specified in the UK Public Contracts Regulations. To ensure that the Trust is compliant with the requirements, a procurement plan will be required for the Trust and Schools outlining all procurement activities within a twelve (12) month cycle. This will enable the CFO or their delegated representative to identify where activity such as contracts being rolled over a proposed and take appropriate action to re-procure on behalf of the Trust.
- 16.4 Should a School or the Trust identify that specific expenditure is reaching or has exceeded the current UK procurement threshold action will be taken to re-procure the goods/services in a compliant manner as a matter of urgency. The CFO or their delegated representative will review termly reports to ensure that this is the case.
- 16.5 In appropriate circumstances the CFO or their delegated representative may identify opportunities to establish locality or corporate contracts on behalf of Schools. Schools will be invited to participate, however in such cases the CFO or their delegated representative will work on the basis that this expenditure does aggregate and procure accordingly.

## **17.0 Tenders**

- 17.1 Any expenditure over £40,000 must be subject to a competitive process in accordance UK Public Contract Regulations.
- 17.2 All tendering where the anticipated lifecycle costs are in excess of £40,000 must be undertaken by CFO or their delegated representative.
- 17.3 The CFO or their delegated representative will select and manage the most appropriate procurement process in accordance with the anticipated value, any potential aggregation and Trust tendering guidelines which are compliant with current procurement legislation. This may include the use of frameworks or bespoke tenders.
- 17.4 Tendering procedures may take up to six months depending on lifecycle costs and compliance with legislation. Failure to programme sufficient time for procurement is not a reason to grant a dispensation.
- 17.5 All current and future tenders are advertised using the Trust website and/or another appropriate forum if necessary or legally required. It is the responsibility of the CFO or their delegated representative to carry out tenders for goods, services and works on behalf of the Trust and Schools.
- 17.6 Evaluation criteria should be decided in advance and made available in full to suppliers to show they will be treated fairly.
- 17.7 Any post tender bid clarification with suppliers will be led by the CFO or their delegated representative.
- 17.8 Any communication with the suppliers involved in the tender process will be facilitated by the CFO or their delegated representative.
- 17.9 Any discussions and or correspondence prior to the conclusion of procurement should be on a “without commitment” basis and this phrase should be clearly stated on any such correspondence. The contract offer or purchase order should be the only point at which commitment is made.
- 17.10 All bidders are entitled to be debriefed at the end of the process and informed of the winning bidder.

## **18.0 Reporting Requirements**

18.1 For contracts between £40,000 and £100,000 (excluding VAT) the decision and criteria should be reported to the Finance and Resources Committee.

18.2 For contracts in excess of £100,000 (excluding VAT) the decision and criteria should be reported to the Trust Board.

### **19.0 Contracts Register**

19.1 The CFO or their delegated representative will maintain a contract register detailing all procurement activity undertaken, with a value over £40,000, which records all related documentation, details of the winning bidder, price, duration of the contract and the procurement process followed.

### **20.0 The Bribery Act 2010**

20.1 All staff should also be aware of The Bribery Act 2010, which came into force in April 2011. The Trust, its employees and contractors/bidders are all covered by the Act. To meet our obligations under the Act, the Trust has a Finance Probity Policy and all employees involved in procurement should be familiar with the policy.

### **21.0 Acceptance of Gifts or Hospitality**

21.1 The Trust's policy is not to accept any form of gift or hospitality from suppliers: full details are included in the Financial Probity Policy.

### **22.0 Confidentiality (FOI)**

22.1 The Freedom of Information Act 2000 gives the public and potential suppliers the right to request certain information regarding School and Trust policy purchasing. All such requests should be handled in accordance with the Trust policy.

22.2 As part of the process for providing quotations and tenders, the Trust requires all bidders to identify confidential information which they would not want the Trust to disclose in response to a freedom of information request.

### **23.0 Information Security**

- 23.1 All suppliers or third parties that require access to the Trust or School information systems as part of the service they provide must comply with data protection legislation and safeguarding policies.
- 23.2 Staff responsible for agreeing maintenance and support contracts where access is required must ensure that prior to the contracts being signed that suppliers/third parties meet the data protection legislation and safeguarding policies.
- 23.3 In the event of the contract being transferred or terminated, appropriate provision must be in place to ensure the continued security of information and systems. Suppliers/third parties will be asked, where appropriate to demonstrate their compliance with the policies.

#### **24.0 Leases**

- 24.1 BDMAT will not enter into any finance lease as this would be contravention of the requirements of the Academies Trust Handbook.
- 24.2 BDMAT may enter into operating leases; however, this is subject to the approval of the CFO. Approval will be obtained from the ESFA for any leases for a period of 7 years or more.

#### **25.0 Payment in Advance**

- 25.1 With the exception of some software licenses, payment should not be made in advance of receipt of goods, services, works or consultancy. If a supplier requests payment in advance this should be discussed with an approval sought from the CFO or their delegated representative.

#### **26.0 Retention of Documents**

- 26.1 All documentation and communication (including emails) should be retained for a minimum of five (5) years after the end of the contract and be referenced with a Unique Reference Number. This will enable easy location of all electronic records relating to a purchase for audit purposes.
- 26.2 Where the procurement is undertaken on behalf of the school by the CFO or their delegated representative, all documentation in relation to the procurement process will be retained centrally.

#### **27.0 Monitoring and Audit**

- 27.1 The Trust and schools are subject to scrutiny by internal and external auditors as well as the ESFA and other government departments/organisations. It is the responsibility of everyone involved in the purchasing process to ensure that they comply with current policies, procedures, guidance and legislation.