



WADE DEACON
TRUST

A COMMITMENT TO EXCELLENCE

COMPETITIVE TENDERING POLICY

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Link: Mr S Robertson

A GREAT
PLACE
**TO BE A
PART OF**

1. INTRODUCTION

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

2. DEFINITION

- 2.1. For the purpose of this document:
 - 2.1.1. Members, Trustees/Directors, Governors and Senior Employees are referred to as Trustees;
 - 2.1.2. The Wade Deacon Trust is referred to as The Trust and includes all the schools within the Trust;
 - 2.1.3. Students refers to all students being educated or on site at any one of the schools within the Wade Deacon Trust.

3. LEGAL FRAMEWORK

- 3.1. This Policy takes its legal framework from the following legislation and statutory guidance:
 - 3.1.1. The Trust's Model Funding Agreement;
 - 3.1.2. The Trust's Articles of Association;
 - 3.1.3. The Procurement Act 2023
 - 3.1.4. The EFA Academies Trust Handbook.

4. EXTENT AND APPLICATION

- 4.1. This policy applies to all spending on goods, services and works for and on behalf of the Trust, including ad-hoc one-off requirements and will be applied by any Trustee, Governor or staff member, which is undertaking any purchasing or procurement activity on behalf of the Trust.

5. WHY IS PROCUREMENT IMPORTANT?

- 5.1. The Trust spends public money, therefore it must ensure that the money is spent in a way that is fair, open and represents good value for money (VFM).
- 5.2. Poor procurement decisions and a failure to comply with procurement legislation could result in legal challenges from suppliers, contracts being cancelled and financial penalties, which can be costly, time-consuming and impact on the Trust's reputation.
- 5.3. Any non-compliance or breach of this policy can seriously impact upon the legal standing of the public money being spent and the resultant contract that is let and can increase the ability of unsuccessful Suppliers to seek redress through the courts.
- 5.4. The benefits of effective procurement practices include:
 - 5.4.1. Financial savings that can then be re-invested in priorities;
 - 5.4.2. Goods or services purchased are fit for purpose;
 - 5.4.3. Suppliers deliver (and continue to deliver) as agreed;
 - 5.4.4. Legal and financial obligations are complied with.

6. PROCUREMENT PLANNING

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

7. ESTIMATING THE VALUE OF THE PROCUREMENT

- 7.1. The calculation of the estimated value of a procurement is based on the total amount payable including any Contract extension options. Account shall be made of the total estimated value for the Trust and not just for an individual school.
- 7.2. The procurement shall not be sub divided, nor should the choice of the method used to calculate the estimated value be made with the intention of avoiding the application of this policy, nor shall it be sub divided. Where a procurement is proposed to be awarded in the form of lots, account shall be taken of the total estimated value of all the lots.
- 7.3. The estimated value of the Procurement for goods and services is calculated by taking:
 - 7.3.1. The value of the total amount payable for the full term of the Contract, including extensions and is for 48 months or less; or
 - 7.3.2. The value of the total amount payable for each month multiplied by 48 if the term of the Contract, including extensions, is for more than 48 months, or over an indefinite period.

Or, where there is

- 7.3.3. A requirement over a period of time for goods, or services that are for the same type or have similar characteristics and for that purpose a series or Contracts are entered into, or a Contract with renewable terms is being used, the value shall be calculated by taking the spend from the previous 12 months, taking into account any expected changes in the next 12 months;
- 7.3.4. The estimated value of the procurement for works shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the Contractor and are necessary for executing the works.

8. PROCUREMENT ACT 2023 SPEND THRESHOLD

- 8.1. Where an estimated value of a procurement is equal to or exceeds the Procurement Act 2023 spend threshold values, then the Public Procurement Regulations 2015 and The Procurement Act 2023 apply to the procurement process. However there are exceptions whereby the Public Procurement Regulations 2015 also apply to certain aspects to a procurement which has been estimated at below the Procurement Act 2023 spend thresholds.
- 8.2. The Procurement Act 2023 stipulate that the following applies to below Procurement Act 2023 spend threshold procurement processes:
 - 8.2.1. Restricted Procedure is not permitted;

- 8.2.2. Selection Criteria used to assess the meeting of minimum standards or Criteria must be relevant to the subject matter of the procurement and proportionate;
- 8.2.3. Selection Criteria used to assess the meeting of minimum standards or Criteria must be in accordance with guidance issued by the Cabinet Office.

9. SELECTING THE PROCUREMENT PROCESS

9.1. The procurement process selected must be in accordance with the table below:

Procurement Process

- 9.1.1. **£0 to £10,000** - Principals or authorised deputies to arrange directly. One quotation (email/written should be obtained and documentation held on file. Good practice to seek most favourable prices and terms by obtaining more than one quotation.
- 9.1.2. **£10,001 to £15,000** - Offer the opportunity to at least three Suppliers via formal written quotations. Documentation must be held on file. Decisions can be authorised at a local level.
- 9.1.3. **£15,001 to £50,000** - Offer the opportunity to at least three Suppliers via formal written quotations. Documentation must be held on file. Such expenditure to be reported to the Trust Compliance Committee at the next available meeting however approval is not required to be sought for these items as long as the principal of value for money in selecting the supplier has been followed.
- 9.1.4. **£50,001 to Procurement Act 2023 spend threshold** – Invitation to Tender sent out to at least three appropriate suppliers (where possible). Documentation must be held on file. Expenditure to be authorised by the Trust Compliance Committee.
- 9.1.5. **Procurement Act 2023 spend threshold and Above** - Advertised - invitation to Tender. Procurement process to be run in accordance with the “Find a Tender” e-procurement system. Documentation must be held on file. Expenditure to be authorised by the Trust Compliance Committee.

10. TYPES OF TENDER

10.1. Open Tender

10.1.1. Open tender is the trust's preferred method of tender due to its open and competitive nature. Open tender is used for all goods or services over £15,000.

10.1.2. The budget holder must discuss and agree with the Finance Director how best to advertise for suppliers e.g. general press, trade journals or to identify all potential suppliers and contact directly if practical.

10.2. Restricted Tender

10.2.1. Where a restricted tender is used, only specified suppliers are invited to bid. The trust establishes a shortlist of four bids during the restricted tender.

10.2.2. Restricted tender is used in any of the following circumstances:

- There is a need to maintain a balance between the contract value and administrative costs
- A large number of suppliers would come forward or because the nature of the goods are such that only specific suppliers can be expected to supply the Academy's requirements
- The cost of public advertisement outweighs the potential benefits of open tender

10.3. Negotiated Tender

10.3.1. Where a negotiated tender is used, the terms of the contract are negotiated with the supplier. Negotiated tender is only used in any of the following circumstances:

- Other types of tender have been used and have not found any suitable suppliers
- Very few suppliers are available
- There is an urgent need for a service
- Additional deliveries by the existing supplier are justified.

10.4. Procurement via Framework Agreements

10.4.1. Framework contracts are those where a number of suppliers have been vetted with all public sector rules complied with. Due to this it is possible to purchase directly from a framework without the need to complete a further procurement exercise, irrespective of the value being procured. In appropriate circumstances, this can be an efficient way of procuring goods and services as it reduces administration costs on the procurement as well as potentially securing value for money through pre-tendered low prices.

10.4.2. A framework agreement (or call-off agreement) is one where the terms of supply are fixed but it does not involve the supply of goods or services until an order is placed for the supply.

10.4.3. If appropriate, in accordance with the Academies Financial Handbook and DfE policy, Wade Deacon Trust may choose not to run its own procurement processes, and instead use an existing framework arrangement.

10.4.4. There are several organisations that offer a wide variety of framework agreements, these include:

- Crown Commercial Services (CCS)
- Crescent Purchasing Consortium (CPC)
- Eastern Shires Purchasing Organisation (ESPO)
- Yorkshire Purchasing Organisation (YPO)
- Fusion 21

10.4.5. Throughout the process of each procurement exercise, it is important to ensure that:

- Wade Deacon 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
- The framework's guidance must be adhered to, particularly about how orders should be placed. This will either generally permit (1) direct awards of contracts to a supplier and/or (b) mini competitions between all suppliers with capacity to deliver the requirement on the framework.

11. PLANNING THE PROCUREMENT

11.1. In order to avoid any distortion of competition and ensure equal treatment of Suppliers, the Trust is legally required to take all appropriate measures to effectively identify, remedy and prevent any conflicts of interest that may arise during the course of a procurement process.

- 11.2. The Trust must not disclose information which has been provided by a Supplier and designated as being confidential by that Supplier, this includes but is not limited to technical or trade secrets and the confidential aspects of Tenders unless it is required to do so under the Freedom of Information Act.
- 11.3. Where a procurement procedure requires the sharing of confidential information with Suppliers, such as details relating to the transfer of staff, this must not be disclosed unless the Supplier has signed and submitted an appropriate Confidentiality Agreement.
- 11.4. TUPE Regulations may apply when a service Contract is transferred from one external Supplier to another or where staff are being outsourced. Under both TUPE and Public Contract Regulations there is a requirement for the Trust to share anonymous information relating to the staff who may be eligible to transfer.

12. PREPARING THE TENDER DOCUMENTS

- 12.1. Appropriate tender documentation must be used for advertised opportunities. These documents must include as a minimum:
 - 12.1.1. Suitable instructions for the Applicants;
 - 12.1.2. A specification of your requirements;
 - 12.1.3. Procurement Information and Evaluation Criteria;
 - 12.1.4. Pricing requirements;
 - 12.1.5. Tender submission requirements;
 - 12.1.6. Contract Terms and Conditions.
- 12.2. Value for money is not always about the lowest price. It's about getting the right balance between quality and cost. Consideration will be given on how these will be measured when setting the evaluation criteria.
- 12.3. Contracts must be awarded on the basis of the evaluation criteria laid out within the Tender documents. Selection and Award Criteria must be treated separately and all criteria, sub-criteria and weightings must be clearly detailed within the Tender documents, which consists of the following:
 - 12.3.1. Selection Criteria
 - 12.3.1.1. Mandatory Exclusions;
 - 12.3.1.2. Discretionary Exclusions;
 - 12.3.1.3. Economic and Financial Standing;

- 12.3.1.4. Technical and Professional Ability;
- 12.3.1.5. Insurance;
- 12.3.1.6. Compliance with Equality Legislation;
- 12.3.1.7. Environmental Management;
- 12.3.1.8. Health and Safety.

12.3.2. Award Criteria

- 12.3.2.1. Pricing requirements;
- 12.3.2.2. Technical Questions/Method Statements;
- 12.3.2.3. Presentations;
- 12.3.2.4. Interviews;
- 12.3.2.5. Site Visits.

13. UNDERTAKING THE PROCUREMENT PROCESS

13.1. All procurement processes over the Procurement Act 2023 spend threshold must be advertised appropriately through the UK Government "Find a Tender" e-procurement system. For example Trust website, newspapers or journals. The length of notice must be appropriate and proportionate to the nature and complexity of the Contract to allow sufficient time for Suppliers to submit a suitable and compliant Tender.

The Trust reserves the right to outsource this process if it deems that this is good value for money.

13.2. For above the Procurement Act 2023 spend threshold procurements, all Tender documents must be offered unrestricted and with full direct access via the UK governments "Find a Tender" e-procurement system. There are exceptions regarding Procurement Documents which are confidential in nature. Email is not a suitable electronic means as this does not offer direct access and requires the Supplier to request information.

- 13.3. All procurement processes over the Procurement Act 2023 spend threshold must be conducted in a manner which enables all communication and information exchange to be provided by electronic means to ensure the process is conducted in a fair and transparent manner. Where communication is via email, the anonymity of all Suppliers must be maintained.
- 13.4. Tenders must be submitted in accordance with the requirements set out in the Tender documents.

14. TENDER EVALUATION

- 14.1. All Tender submissions received must be evaluated in accordance with the pre-determined evaluation Criteria, set out in the invitation to tender documents issued. Criteria, sub criteria, weightings and the attributed breakdown must not be changed from what was published in the tender documents and must be applied consistently for all tender submissions.
- 14.2. Tender evaluation processes must be recorded on a suitable evaluation matrix. All criteria, sub criteria and scoring must be detailed for each tender submission to enable a complete assessment of what scores are attributed to each criteria set. Reasons for scores allocated must be recorded which provides an appropriate justification and is used to complete the tender outcome letter.
- 14.3. An evaluation process for every compliant tender received must be fully completed. It must not be stopped part way through because it has been assessed that they won't be successful. Suppliers are entitled to a full assessment of the submission, which must be provided in their tender outcome letter and available to facilitate a de brief if requested.

15. APPROVAL TO AWARD THE TENDER

- 15.1. Where tenders are required, the decision to approve the tender award to the highest scoring supplier must be taken and the recommendation submitted to the Trust Compliance Committee on a Request for Decision Form. For all other Tenders, the award should be notified to the Trust Compliance Committee. Due to the timing of meetings during the year the approval can be sought by email (if appropriate) from the Committee in order that it does not unnecessarily delay the process.
- 15.2. All successful and unsuccessful Suppliers must be notified of the tender award decision at the same time via a suitable tender award decision letter, including where a decision is not to award.

16. CONTRACTS

- 16.1. Crown Commercial Services Model Terms and Conditions can be used for procurements below Procurement Act 2023 spend threshold. Legal advice will be sought for appropriate contract terms and conditions for Procurement Act 2023 spend threshold and above procurements. Suppliers own terms and conditions must not be utilised.
- 16.2. Prior to issuing a contract Staff must obtain from the Supplier evidence of compliance with any Contractual requirements, such as insurances, disclosure and barring service checks and policies and procedures.
- 16.3. Where a procurement process was undertaken, the Contract terms and conditions must be those that were issued within the Tender documents.
- 16.4. Every contract which does not exceed £10,000 in value must be signed by the Principal.
- 16.5. A supplier shall not be allowed to commence performing the contract prior to the formal contract documents being signed. In the case of Framework Agreements a supplier shall not be permitted to participate in any call-off from the Framework until such time as their agreement has been duly signed.

17. CONTRACT MANAGEMENT

- 17.1. Each Academy must maintain a register of contracts using the "Every" software management tool.
- 17.2. Contracts awarded must be monitored and managed throughout the contract term to ensure delivery of the contracted goods, services or works in accordance with the contract requirements and performance standards.
- 17.3. Contract monitoring and management arrangements must be proportionate to complexity, value and risk associated with the contract.

18. MONITORING AND ENFORCEMENT

- 18.1. The Trust's Audit & Compliance Committee will undertake continuous monitoring of its activities to ensure that this policy is applied and value for money is being achieved.