



**Transforming
Futures**
TRUST

Procurement and Competitive Tendering Policy

Policy Information	
Policy Owner	Chief Operating Officer
Issue Version	2.1
Approving Committee	Finance & Audit Committee
Adopted Date	February 2023
Review Cycle	Annual
Last Review Date	February 2023
Next Review Date	February 2024

Adoption of the Policy

This Policy has been adopted and reviewed by the Trustees of Transforming Futures Trust.

Signed:
(Chair of Trust)

Date: 21st February 2023



Version Control Amendments

Version No	Date	Summary of Changes
02	June 2021	Insert Section 7 – Reserve Below Threshold Procurements and remove references to EU spend threshold and change to spend threshold.
03	Jan 2023	Update to National procurement advice and cross check with other relevant approved policies

1. Introduction

This Policy sets out the framework for ensuring that Transforming Futures Trust adopts competitive tendering processes and appropriate purchasing procedures, which meet the requirements of procurement legislation, financial accountability and appropriate management of public money.

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 to spend funds prudently with approval.

In summary, the Trust will always make its buying decisions in accordance to the following principles

- a. To seek Value for Money.
- b. Probity.
- c. Accountability.

2. Legal Framework

This Policy takes its legal framework from the following legislation and statutory guidance:

- a. The Trust's Funding Agreement.
- b. The Trust's Articles of Association.
- c. The Public Contract Regulations 2015.
- d. The EFSA Academy Trust Handbook – updated annually.
- e. PPN Notice 11/20 – Reserving Below Threshold Procurements

3. Extent and Application

This policy applies to all spending on goods, services and works for and on behalf of the Trust, including ad-hoc one-off requirements.

This policy will be applied by any Trustee or staff member, who is undertaking any purchasing or procurement activity on behalf of the Trust.

4. Why is Procurement Important

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.

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 awarded. It can also increase the opportunity of unsuccessful suppliers to seek redress through the legal system.

The benefits of effective procurement practices include:

- a. Financial savings that can then be re-invested.
- b. Goods or services purchased are fit for purpose.
- c. Suppliers deliver (and continue to deliver) as agreed.
- d. Compliance with legal and financial obligations for the use of public money including financial audit.

5. Spend Category Management

The Trust operates a category management approach to the procurement of goods and services.

Category Management is a strategic approach which organises procurement resources to focus on specific areas of spends. This enables the Trust to focus their time and conduct in-depth market analysis to fully leverage their procurement decisions on behalf of the whole organisation. The result of which can be significantly greater than traditional transactional based purchasing methods.

6. Procurement Planning

Before a procurement process is commenced, the following will be considered:

- a. Whether equipment can be loaned, or resources shared with any other public body or across the Trust.
- b. The use of collaborative opportunities which will increase the buying power.
- c. The use of any existing contracts or frameworks in place through a Purchasing Consortium.

7. Reserving Below Threshold Procurements

The UK's exit from the EU means we can exercise additional freedoms in relation to contract spend on goods, services and works contracts with a value below the applicable thresholds.

In line with these new freedoms, the following options will now be considered for the procurement of below threshold contracts:

- Reserve the procurement by supplier location - this means being able to run a competition and specify that only suppliers located in a geographical area can bid. This could be UK-wide to support domestic supply chains and promote resilience and capacity, or where appropriate, by county (metropolitan or non-metropolitan) to tackle economic inequality and

support local recruitment, training, skills and investment. Inscope Organisations should not define by nations of the UK (i.e. England, Scotland, Wales, Northern Ireland) and where a county reservation is to be applied, only a single county may be reserved. Supplier location should be described by reference to where the supplier is based or established and has substantive business operations and not by location of corporate ownership. AND

- Reserve the procurement for Small and Medium sized Enterprises (SMEs) / Voluntary, Community and Social Enterprises (VCSEs) - this means being able to run a competition and specify that only SMEs and VCSEs can bid

These options will be considered on a case-by-case basis. In reserving procurements, the Trust will:

- ensure value for money.
- assess the sector / market.
- identify and manage associated risks, including fraud and corruption.
- ensure a budget is available and approved at an appropriate level(s);
- use suitable model contracts.
- develop simple and proportionate KPI and data reporting mechanisms;
- undertake supplier due diligence checks.
- ensure final approval is obtained at an appropriate level(s);
- keep suitable records of commercial decisions.
- publish transparency notices on Contracts Finder as appropriate in a timely manner.

8. Trust Wide Contracts, Approved Lists & Framework Agreements

Trust wide contracts, Approved Lists or Framework Agreements may be mandated for certain categories of spend.

Trust wide contracts are put in place for across Trust use in relation to commonly and frequently purchased goods, works and services. Examples may include catering, cleaning and curriculum supplies.

An approved list can be setup following an appropriate procurement process, for spending below the spend threshold. The Trust may set these up to enable direct purchasing of goods and services where it is deemed more appropriate to use a group of suppliers, rather than a single supplier contract.

Framework agreements are umbrella agreements under which individual contracts can be called-off either through a further competition or direct award, dependent on the terms of the agreement. Call-offs from the framework agreement must be in accordance with the terms laid out in the framework agreement.

Trust-wide contracts, approved lists and framework agreements enable direct purchasing and avoid the administrative costs and time involved in sourcing and purchasing goods and services with individual suppliers. The administrative costs and time taken can negate any savings on goods or services that can sometimes be found cheaper elsewhere.

9. Suppliers

The Trust's Finance Team will approve all suppliers before they are set up in the finance system. This will ensure:

- a. Due diligence is undertaken to ensure their suitability to hold a contract with the Trust.
- b. That a Trust-wide contract isn't already in place.
- c. That they are coded against the Trust's financial system to enable purchase order approval, goods received, invoicing, payment and spend analysis to be undertaken.

Suppliers that have not been active in the finance system for a rolling 12 months, will be archived.

10. Estimating the Value of the Procurement

The calculation of the estimated value of a procurement is based on the total amount payable including any contract extension options. Consideration of the total estimated value should be for the Trust and not just for an individual school. Advice should be sought from the Trust's Finance Department to determine the correct estimated value of a procurement.

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.

The estimated value of the Procurement for goods and services is calculated by taking:

- a. The value of the total amount payable for the full term of the contract, including extensions and is for 48 months or less; or
- b. 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

- c. 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;
- d. 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.

11. Spend Threshold

Where an estimated value of a procurement is equal to or exceeds the spend threshold values, then the Public Procurement Regulations 2015 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 spend thresholds.

From 1st January 2022 contract values should be calculated inclusive of VAT which will need to be taken into account when calculating the value of procurement exercises. In effect these changes have reduced the thresholds, capturing more contracts under the regime.

The financial threshold changes are summarised below. Schools, academies, multi-academy trusts, colleges, universities are classified as 'sub central contracting authorities' in respect of the threshold for Public Supply and Services (as highlighted in the grid).

PUBLIC CONTRACTS REGULATIONS 2015

Contract Type	Current Threshold	From 1 January 2022
Public Works Contract	£4,733,252	£5,336,937
Supplies and Services (Central Government)	£122,976	£138,760
Supplies and Services (Sub-Central Contracting Authorities)	£189,330.00	£213,477
'Light Touch Regime' Services	£663,540	£663,540

CONCESSION CONTRACTS REGULATIONS 2016

Contract Type	Current Threshold	From 1 January 2022
Concession Contract (Works or Services)	£4,733,252	£5,336,937

The Public Contract Regulations stipulate that the following applies to below spend threshold procurement processes:

- a. Restricted Procedure is not permitted.
- b. Selection Criteria used to assess the meeting of minimum standards or Criteria must be relevant to the subject matter of the procurement and proportionate.
- c. Selection Criteria used to assess the meeting of minimum standards or Criteria must be in accordance with guidance issued by the Cabinet Office.

12. Selecting the Procurement Process

The procurement process selected must be in accordance with the table below, advice must be sought from the Trust's Finance Department in determining the estimated value of the procurement and to confirm the approval process.

Goods/Works/Services Estimated Value of the Procurement – net value	Procurement Process	Approval process
£0 to £5,000	<p>Obtain one written quotation.</p> <p>To ensure best value, good practice is to obtain more than quote.</p> <p>Documentation to be held on file.</p>	<p>Orders to the value of £1,000 to be approved by department representative and/or budget holder identified and submitted through PS Purchasing.</p> <p>Orders between £1,001 and £5,000 to be approved by senior manager and/or Head teacher identified and submitted through PS Purchasing.</p> <p>Orders over £5,000 to be approved by CEO through PS Purchasing.</p>
£5,001 to £15,000	<p>Request three written quotations.</p> <p>Documentation to be held on file.</p>	<p>Orders over £5,000 to be approved by CEO through PS Purchasing.</p> <p>Finance Department to arrange contract directly with chosen supplier. CEO to sign the contract.</p>
£15,001 to £50,000	<p>Request three written quotations.</p> <p>Documentation to be held on file.</p>	<p>Orders over £15,000 to be approved by CEO through PS Purchasing.</p> <p>Trust F&A Committee to provide approval to award</p> <p>Finance Department to arrange contract directly with chosen supplier. CEO to sign the contract.</p>
£50,001 to procurement spend threshold	<p>Offer the opportunity to at least <u>three</u> Suppliers via formal tender process.</p> <p>Documentation must be held on file.</p>	<p>Finance Department to arrange directly with supplier to provide approval to proceed with the contract process.</p> <p>Trust F&A Committee to provide approval to award the tender and delegate</p>

Goods/Works/Services Estimated Value of the Procurement – net value	Procurement Process	Approval process
		authority to CEO and CFO or COO to sign the contract.
Spend Threshold and Above	Advertised invitation to Tender. Procurement process to be run in accordance with the Public Contract Regulations 2015. Documentation must be held on file.	Finance Department to arrange directly with supplier to provide approval to proceed with the process. Trust Board to provide approval to award the tender and delegate authority to CEO and CFO or COO to sign the contract.

13. Planning the Procurement

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.

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 any confidential aspects of tenders unless it is required to do so under the Freedom of Information Act.

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 prior to any such disclosure being made.

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 information relating to the staff who may be eligible to transfer.

14. Purchasing – Purchase Orders

When purchasing goods and services, the Trust's purchase ordering process must be followed as outlined in the Financial Regulations.

15. Preparing the Tender Documents

Appropriate tender documentation must be used for advertised opportunities. These documents must include as a minimum:

- a. Suitable instructions for the Applicants.
- b. A specification of requirements.
- c. Procurement Information and Evaluation Criteria.
- d. Pricing requirements.
- e. Tender submission requirements.
- f. Contract Terms and Conditions.

Value for money is not always about the lowest price. It's about getting the right balance between quality, cost, service and delivery. Consideration will be given on how these will be measured when setting the evaluation criteria.

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:

- a. Selection Criteria
 - i. Mandatory Exclusions.
 - ii. Discretionary Exclusions.
 - iii. Economic and Financial Standing.
 - iv. Technical and Professional Ability.
 - v. Insurance.
 - vi. Compliance with Equality Legislation.
 - vii. Environmental Management.
 - viii. Health and Safety.
- b. Award Criteria
 - i. Pricing requirements.
 - ii. Technical Questions/Method Statements.
 - iii. Presentations.
 - iv. Interviews.
 - v. Site Visits.

16. Undertaking the Procurement Process

All procurement processes over £50,000 and up to the spend threshold must be advertised appropriately by a form of public notice and published for at least ten working days. 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.

All procurement processes over £50,000 will 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, ideally using an Electronic Tendering System. Details of how to submit documentation will be made available in the tender documentation.

17. Tender Evaluation

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 will not be changed from what was published in the tender documents and will be applied consistently for all tender submissions.

Tender evaluation processes will be recorded on a suitable evaluation matrix. All criteria, sub criteria and scoring will be detailed for each tender submission to enable a complete assessment of what scores are attributed to each criteria set. Reasons for scores allocated will be recorded which provides an appropriate justification and used to complete the tender outcome letter.

An evaluation process for every compliant tender received will be fully completed. It will not be stopped part way through because it has been assessed that they aren't going to be successful. Suppliers are entitled to a full assessment of the submission, which will be provided in their tender outcome letter and available to facilitate a de-brief if requested.

18. Approval to Award the Tender

For tenders over £50,000, the decision to approve the tender award to the highest scoring supplier must be taken and the recommendation to proceed submitted to the Trust Finance and Audit Committee. Where approval from the committee isn't given, no contract award can be made.

All successful and unsuccessful suppliers will 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.

19. Contracts

Suitable Terms and Conditions will be used for all procurement contracts. Legal advice will be sought for appropriate contract terms and conditions. Suppliers own terms and conditions will require approval.

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.

Where a procurement process was undertaken, the contract terms and conditions must be those that were issued within the tender documents.

Every contract which exceeds £50,000 in value must be signed by a member of the Executive Leadership Team and reported to the Trust's Finance and Audit Committee.

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.

20. Contract Management

The Trust will maintain a register of contracts.

Contracts awarded will 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.

Contract monitoring and management arrangements will be proportionate to complexity, value and risk associated with the contract.

21. Monitoring and Enforcement

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

22. Exemption from the Application of this Policy

An application can be made for an exemption from this policy by submitting a Decision Request Form to the Trust's Finance and Audit Committee. The exemption will only be applied in the following circumstances:

- a. The spend is urgently required and delay would cause loss, injury or damage, The urgency must be brought about by events that were unforeseeable by and not attributable to the Trust and which will result in loss or damage to the Trust if the suspension or exemption is not allowed; and / or
- b. The spend is of such a special nature that no advantage would be gained by inviting competitive tenders; or
- c. There is no effective competition because payment is fixed under statutory authority or the item is a patented or proprietary article or is available from only one source.

The following must be considered before applying for an exemption:

- a. Lack of planning and / or internal process delays will not constitute special, exceptional or emergency circumstances;
- b. Exemptions from this policy must not be applied for retrospectively;
- c. Exemptions from this policy must not be applied for where spend will exceed the relevant Spend Threshold.

Appendix 1 – Procurement and Competitive Tendering Policy



Application for an Exemption from the Trust Procurement & Competitive Tendering Policy

Request Ref	
Title	
Description	
Spend Value	
Exemption Reason (confirm which reason is being applied by deleting the other 2 reasons)	<p>a. The spend is urgently required and delay would cause loss, injury or damage, The urgency must be brought about by events that were unforeseeable by and not attributable to the Trust and which will result in loss or damage to the Trust if the suspension or exemption is not allowed; and / or</p> <p>b. The spend is of such a special nature that no advantage would be gained by inviting competitive tenders; or</p> <p>c. There is no effective competition because payment is fixed under statutory authority or the item is a patented or proprietary article or is available from only one source.</p>
Other Notes Any other background reason as to why the exemption is being requested	

Approved by the Finance & Audit Committee

This Exemption Application has been approved by the Finance & Audit Committee.

Signed

A handwritten signature in black ink, appearing to read "G. Oliver".

Date 21st February 2023

(Chair of Finance & Audit Committee)

If not approved – reason why:

