

# PROCUREMENT POLICY 2022-24

*Potteries Educational Trust*



<b>Policy Family</b>	Finance
<b>Reference</b>	FIN-04
<b>Responsible Manager</b>	Chief Financial Officer
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## Aim

The Potteries Educational Trust (PET) has established a Procurement Policy with the aim to structure the trusts purchasing processes and sourcing strategies to ensure that good and services the Trust acquire are the result of transparent, objective, time and cost-effective decision making.

## Scope

This policy and associated Financial Regulations and Procedures apply to the Potteries Educational Trust, which includes a number of member organisations. Collectively, the member organisations within the trust are referred to as the Trust.

## Policy

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 Trust's Scheme of Delegation outlines who has the designated authority to select contractors and award contracts. Failure to comply with either this Procurement Policy, the Trust Financial Regulations and Procedures or the Scheme of Delegation may result in withdrawal of authority and possible disciplinary action.

As a publically funded organisation, the Trust and its academies are 'Contracting Authorities'. Subsequently any procurement activity is regulated by the UK Public Contracts Regulations and EU procurement law. In particular, any procurement activity has to be carried out in a transparent and non-discriminatory manner.

This policy sets out how the Trust will manage procurement to ensure compliance with relevant legislation. It also provides guidance on the requirements for undertaking a formal tendering process. Further information is contained separately within the Financial Regulations and Procedures. Failure to comply with this policy and/or follow guidance could result in a breach of legislation, fines and loss of reputation.

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## 1. What is procurement?

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.

Procurement or purchasing may be undertaken by academy staff **only** in accordance with the scheme of delegation and thresholds referred to within this policy.

## 2. Purpose of the Procurement Policy

The purpose of this document is to make Trust procurement and purchasing clear and signpost staff undertaking procurement activity to appropriate procedural guidance.

This policy should be read in conjunction with:

- The Trust's Financial Regulations & Procedures
- The Scheme of Delegation
- The latest edition of the Academy Trust Handbook
- Appropriate procurement procedure guides

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 academy based.

All procurement across the Trust's academies shall be carried out in such a way to ensure compliance with legal requirements, including, the 2015 Public Contracts Regulations, EU Procurement legislation, Trust financial regulations and scheme of delegation and any other requirements of the DfE or ESFA.

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.

The Chief Financial Officer will work with academies and other members of the Central Services Team 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 academies are making independent purchases the Chief Financial Officer will provide a framework and procurement guides which academy staff must follow.

The Procurement Policy will be reviewed at least every two years or whenever required by a change in legislation.

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 our business needs.

### 3. General Principals

When purchasing and contracting for goods and services, the Trust and its academies must demonstrate compliance with procurement legislation and the proper and effective use of public funds at all times. Procedures should also ensure that the goods, services and works 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 service provider.
- **Probity**; it must be demonstrable that all parties are dealt with on a fair and equitable basis and that there is no private gain, favouritism 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.
- **General Data Protection Regulations**; all procurement must be in line with GDPR legislation, particularly in relation to data processing and data sharing. Any proposed activity involving data processing and data sharing must be referred to the Trust Data Protection Officer prior to procurement.

### 4. Value for Money/Aggregation

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 obtain 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.

Purchases for goods and services / contracts up to £10,000 will require approval by Academy Business / Finance Managers and/or the Trust Central Services Lead where appropriate

Purchases for goods and services / contracts up to £40,000 will require approval from the Chief Financial Officer and/or academy Principal / Headteacher and should be managed by the Central Services Team. In these cases, early involvement is recommended from academy business / finance teams to ensure expectations are clear and timelines are achievable.

Unless below the threshold of £5,000, (the Trust's limit for obtaining multiple quotations), all procurement of goods, services or consultancy should be acquired by effective competition. Competition promotes efficiency and effectiveness in expenditure. Awarding contracts on the basis of value for money following competition contributes to the competitiveness of supplies.

The Trust has a duty to comply with the requirements of EU Procurement Legislation and Academy Funding Agreements. In order to do so the Central Services team will review all proposed purchases which are over £10,000 in the context of total Trust expenditure before coming to a decision.

The Chief Financial Officer will review Academy budgets and any supporting financial improvement plans and where appropriate will consult with academies on the potential to develop a range of Trust wide or regional contracts in order to comply with the requirements around aggregation, economies of scale and value for money.

## **5. Financial Authority to Commit Expenditure**

Any process which involves committing the Trust or an academy to expenditure must be approved in accordance with the scheme of delegation.

Any member of staff placing a purchase order on behalf of the Trust or an Academy 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.

The Trust operates a system of devolved financial authority under which Principals/Headteachers are responsible for the decision making process and planning of certain purchasing decisions within their respective academies. In accordance with this Procurement Policy for purchases below £10,000 the Chief Financial Officer may provide technical and professional support if requested. In these cases, an academy is still responsible for specifying requirements, evaluation criteria and committing funding.

No member of staff may approve purchases unless they have been given authority within the scheme of delegation to do so.

No employee is authorised to commit the Trust or an academy to expenditure without first ensuring that there is adequate budget provision.

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.

More detail on the financial approval limits can be obtained from the Trust's Financial Regulations and Procedures and the scheme of delegation.

## **6. Purchasing Thresholds**

There are four types of threshold governing the procurement for the Trust and its 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 cost of procurement.

- Below £5,000 – ensure that purchase is in line with and demonstrates Best Value
- £5,000 - £39,999 – three written quotations from suitable suppliers/contractors
- £40,000-£213,477 - all items will require three competitive tenders, unless granted a formal waiver in exceptional circumstances by the Trust Board. An invite to a minimum of three organisations following advertisement unless an appropriate framework may be used

- Over £213,477 – An EU compliant tender procedure or use of EU compliant framework for goods and services

Where the Trust's Central Services Team are managing a procurement process on behalf of any or all of the academies, orders will not be raised without approval from the budget holders in accordance with the financial regulations and 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 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.

## **7. Dispensations**

In limited circumstances a dispensation from the requirement to obtain alternative quotes may be granted. This may include the authority to require 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.

All dispensations require prior approval from the Chief Executive Officer or Chief Financial Officer before progressing and must not result in a breach of procurement legislation or be contrary to the Trust Scheme of Delegation.

All dispensation requests, whether approved or rejected will be reported to the Finance & Resources and / or Audit Committee. Staff may be called upon to provide written justification and/or attend the committee meeting to explain the reasons for requesting a dispensation.

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 Public Contract Regulations or the relevant OJEU thresholds.

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

- Unforeseen emergency requirement
- The goods or services are only available from one / two sources 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 delegation,

under the specific advice of the Operations Director in terms of compliance with the EU and UK legislation and subject to approval by the Chief Executive and subsequently reported to the Finance Board.

## **8. Raising Orders**

Following the raising of a requisition, official orders must be raised for all goods, works, services and consultancy required by the Trust or an academy using the Access Education Financial System, unless specifically exempted. The purchasing process must contain adequate controls to ensure that:

- Official orders are raised in respect of all goods, services and works required by the Trust, its' academies and any subsidiary companies, except for those specifically exempted.
- Only goods, services and works required by the Trust, its' academies and subsidiary companies are actually 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 as outlined in section 6.
- Orders for goods, services and works are placed with the most appropriate suppliers in terms of cost, 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.

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

- Rent or business rates
- Utility / Energy costs
- Ongoing works and services executed under a pre-approved contract
- Petty cash purchases
- Purchasing catering supplies

No orders shall be placed, or contracts altered or extended, with the intention of avoiding the relevant thresholds applicable within the Financial Regulations. 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 Academy Finance Team / Central Services Team as appropriate.

## **9. Purchasing Cards**

The Potteries Educational Trust recognises the benefits of using commercial purchasing cards as an alternative means of paying for goods and services. The advantages include reduced paperwork, reduced administration time and costs, opportunities to make on line purchases and seek discounts from suppliers on the basis that they receive immediate payment.

Commercial purchasing cards are particularly suitable for high volume, low value purchases, booking off site visits and for site staff to order building materials etc.

## **10. Contracting New Systems and Services**

When the need for a new system and/or service is identified, either by an academy or centrally, the following must apply:

- A clearly defined rationale for commissioning a new system or service is shared with the Academy Business / Finance Manager and where financial approval limits apply the Chief Financial Officer and Principal / Headteacher – includes proposal, estimated cost, benefit and desired outcomes.
- If the new system or service involves the sharing, processing or storage of data then a Data Protection Impact Assessment is completed and submitted to the Trust's Data Protection Officer (DPO).
- This information will be submitted by the DPO for approval by the Finance and Resources or Audit and Risk Committee.
- If the decision is to proceed with the procurement, the Central Services Team will conduct the process in line with this policy and scheme of delegation.
- As part of due diligence, a Request for Quotation will be available to prospective bidders setting out the specification, timeline, evaluation criteria and conditions of the award. The Request for Quotation also includes a requirement for bidders to submit policies and procedures relating to Data Protection and Health and Safety, method statements on data security, data sharing and data processing, and a Freedom of Information Disclosure Notice.
- Any contract that involves the sharing and/or processing of data will only be let on the receipt of a Data Sharing and/or Data Processing Agreement.

Any agreement, contract or lease with a supplier must be authorised by either the Academy Business / Finance Manager, Principal / Headteacher, Chief Financial Officer or the Chief Executive Officer based on their respective approval limits as per the scheme of delegation. This does not include general orders for goods and services.

All large ICT purchases must involve the ICT Manager for the relevant academy and where in line with Trust approval limits seek guidance and approval from the Central Services Team.

## **11. Payment and Payment Terms**

Unless a commercial purchasing card has been used to make a payment, all invoices from suppliers should be entered on to the Access Education Finance system once approved and then paid by BACS. In limited circumstances cheque payments may be used.

The Trusts standard payment terms are 30 days following receipt of invoice, unless alternative arrangements have been agreed at the purchase order stage.

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 an academy to use the framework and where required an appropriate agreement has been approved by the Chief Financial Officer.

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 relevant budget manager.

## **12. Aggregation**

EU 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.

As the Trust's academies are responsible for managing their own budgets and certain purchasing independently, you must seek advice and support of the Chief Financial Officer on the procurement of goods and services which may exceed £10,000 in order to avoid aggregation of expenditure across the Trust.

The Chief Financial Officer will monitor expenditure on goods and services centrally to ensure that aggregation within a twelve-month cycle is avoided or a central procurement process is initiated.

In appropriate circumstances the Chief Financial Officer or other members of the Central Services Team may identify opportunities to establish trust wide contracts on behalf of the academies.

## **13. Tenders**

Any expenditure over £40,000 must be subject to tendering in accordance with the Trust's scheme of delegation and if the anticipated value is over the current threshold of £213,477 then also in accordance with EU procurement legislation.

All tendering exercises must be reviewed by the Chief Financial Officer prior to agreement given the financial approval limits in place.

Tendering procedures may take up to six months depending on lifecycle cost and compliance with legislation, failure to programme sufficient time for procurement will not be a reason to grant a dispensation.

All current and future tenders are advertised using either the Trust website, an invited process where specialist services require this or alternative more appropriate means if necessary or legally required. It is the responsibility of the Central Services Team to authorise the undertaking of tenders for Goods, Services and Works on behalf of the Trust and the academies.

Any post tender bid clarification from suppliers will be led by the Central Services Team.

## **14. Reporting Requirements**

For contracts above £40,000 (excluding VAT) the decision and criteria should be reported to the Finance and Resources and/or Audit and Risk Committee.

For all contracts in excess of £40,000 (excluding VAT) a report / recommendation paper shall be prepared for trustees, highlighting any relevant issues and recommending a decision.

All contracts whose value is over £40,000 (excluding VAT) must be authorised by the Chief Executive Officer. In cases where, due to the timing of the trust board or Finance and Resources Committee meetings, this would not be practicable and any undue delay would cause significant operational



issues, the Chief Executive Officer acting jointly with the Chair or Vice Chair of the Board of Trustees may accept a tender in excess of £40,000 but this must be reported to the next meeting of the Trust Finance and Resources Committee.

The Central Services Team is required to complete a tender report for all tenders in accordance with EU procurement legislation.

### **15. Contracts Database**

The Central Services Team will maintain a contracts database detailing procurement activity, which records documentation including contract price, goods / service provider name, duration and end date of contract and where appropriate the procurement process followed.

### **16. Equal Treatment of Suppliers**

One of the key principles of procurement legislation is that all suppliers are treated equally in any competitive process regardless of value. They should have the same availability of access to specifications, plans, Trust staff time, facilities etc.

Evaluation criteria should be decided in advance and made available in full to suppliers via the Pre Tender Questionnaire to show they will be treated fairly.

All bidders are entitled to be informed at the end of a process and notified of the successful bidder.

Any discussions and or correspondence prior to the conclusion of procurements 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. The Bribery Act 2010**

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. For more detail on bribery, please see the separate Trust Anti-Bribery and Fraud Policy.

### **18. Acceptance of Gifts or Hospitality**

The Trust policy is generally not to accept any form of gift or hospitality from suppliers over £25 in value and if so, to have this recorded on a central register collated and held by the Central Services Team. For more detailed policy information, please see the separate PET Gifts and Hospitality Policy.

### **19. Freedom of Information**

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

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.

## **20. Information Security**

All procurement and purchasing that requires a supplier or third party to access to the Trust or Academy information systems as part of the service they provide must be referred to the Data Protection Officer via a Data Protection Impact Assessment at the requisition stage.

Academies commissioning maintenance and support contracts where access is required must ensure that prior the contracts are referred to the Data Protection Officer for approval.

## **21. Leases**

The Trust cannot enter into a finance lease as this is classed as a form of borrowing and in contravention of the requirements of the Academies Financial Handbook.

All operating leases must be referred to the Chief Financial Officer, and subsequently authorised by either the Chief Financial Officer or the Chief Executive Officer subject to financial approval limits prior to entering agreement.

## **22. Health and Safety**

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

Where building or maintenance works is planned, suitable risk assessments and/or method statements must be in place and if required academy change approval must be sought

All services, supply and works procured by the Trust must comply with the relevant UK and European health and safety legislation in force at the time the items are procured.

Where required by legislation, products (including used or refurbished products) must comply with the relevant UK and European Laws on the design, supply and operation of products.

## **23. Separation of Duties**

There are a number of processes in purchasing goods and services etc. There must be adequate separation of duties to ensure that the process of ordering goods, services and works, checking receipt/completion and authorising payment is not the responsibility of one person. In some smaller academies this may be difficult; however, in all cases the appropriate guidance must be followed.

Where the Central Services Team are undertaking tendering exercises, either on behalf of an academy or for the Trust, the receipt and custody of tenders prior to opening must be separated from the specification, selection and evaluation. Contract awards subject to tendering will be subject to approval of the procurement procedure undertaken and in accordance with the scheme of delegation.

## **24. Travel and Accommodation**

All procurement related travel, subsistence and accommodation should be purchased in accordance with the Travel, Subsistence and Expenses Policy and the cost claimed back through the staff expenses procedure.

## 25. Disposal of Redundant Equipment

Wherever possible where equipment is no longer required by an Academy or the Trust, alternative internal uses should be sought, however where this is not possible or there is no interest then it is permissible to dispose of by sale to suppliers or the general public.

In all cases where disposal is proposed this must be carried out with the approval of the Chief Financial Officer and for the disposal of IT equipment, the relevant academy ICT Manager and/or appropriate Central Services Lead.

Any proposed disposal/sale must comply with the current Waste Electrical and Electronic Equipment (WEEE) Regulations.

## 26. Monitoring and Audit

The Trust and its academies 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.

### Implementation

Implementation of this policy will be the responsibility of the Chief Executive Officer, who will act on behalf of the Trust in all procurement matters.

### Communication

This Policy will be circulated to appropriate staff within the Trust and is available on the Potteries Educational Trust website.

### Monitoring

The responsible manager named on the front of this policy is responsible for ensuring that this document is kept up to date and revised as appropriate, seeking management and/or trustee approval in advance of the review date so that a new version can be communicated to staff and stakeholders in a timely fashion.

### Associated Information and Guidance

The Policy will also be amended in line with governmental guidance

See the following link:

OJEU Tendering

<https://www.ojeu.eu/Directives.aspx>

Procurement Thresholds – From 6<sup>th</sup> December 2021

[Procurement Policy Note 10/21 – Thresholds and Inclusion of VAT - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/Procurement_Policy_Note_10_21_-_Thresholds_and_Inclusion_of_VAT_-_GOV.UK.pdf)