

# Procurement and Tendering Policy

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## 1. Introduction

- 1.1. As a public body and 'Contracting Authority' for the purposes of the law now governing public procurement in England and Wales (referred to as the '**Public Procurement Rules**' - see detail in paragraph 3.1 below), Fareham Academy must comply with all relevant procurement obligations. The Academy Trust must demonstrate probity and value for money in its purchasing decisions, ensuring quality or fitness for purpose and delivery against price in all purchases of works, equipment, goods and services.
- 1.2. This procurement policy sets out the parameters for decision-making on major items of expenditure, to ensure that the Academy Trust:
- meets the Public Procurement Rules.
  - follows best procurement practice.
  - obtains best value for money for the Academy.
  - can demonstrate transparency and fairness in its purchasing.

## 2. Thresholds and Quotation/Tendering Requirements

- 2.1. The minimum required numbers of tenders or quotations from appropriate contractors for a given estimated value of contract are:

| Threshold   | Requirement  |
|---|--|
| Up to £4,999                                      | No formal requirement but consider best value and transparency requirements<br>Headteacher approval  |
| Above £5,000 (£7,500 for works) and up to £40,000 | Three written quotations<br>Headteacher approval   |
| Above £40,001 and up to £64,999                   | Three formal quotations <ul style="list-style-type: none"><li>• Submitted in writing</li><li>• By a specific date and time</li><li>• Based on a written specification and evaluation criteria</li><li>• To Resources Committee &amp; ratified by FGB</li></ul> |
| Above £65,000 and up to Thresholds                | Four tenders (see the tendering process below)   |
| Over Thresholds (see 3.3 below)                   | Regulated procedure  |

- 2.2. The values are for single items or groups of items. Groups of items must not be disaggregated artificially as this could breach the Public Procurement Rules and sanctions could be imposed.

### 3. Public Procurement Rules

3.1. The EU Procurement Directives were previously implemented into English law through the following regulations:

- The Public Contracts Regulations 2015 (SI 2015/102) (**PCR 2015**)
- The Concession Contracts Regulations 2016 (SI 2016/273) (**CCR 2016**)
- The Utilities Contracts Regulations 2016 (SI 2016/274) (**UCR 2016**)

The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (SI 2020/1319) (**PPAR 2020**) came into force on 31 December 2020. PPAR 2020 amended the regulations listed above, so that they remain relevant after Brexit IP Completion Date (31 December 2020). The aim of the Public Procurement Rules is to ensure that public funds are applied in accordance with principles of fairness and transparency. They also ensure adequate competition with a view to achieving best value.

3.2. The Trade and Cooperation Agreement between the UK and the EU (2020) also provides that all procurement (including unregulated procurement, please see clause 3.3 below) Contracting Authorities must, subject to certain exceptions, treat EU-owned suppliers based in the UK no less favourably than UK-owned suppliers based in the UK.

3.3. The Public Procurement Rules apply when a Contracting Authority (including Fareham Academy) enters into a contract for works, goods or services where the contract value exceeds the Thresholds (listed in 3.6). Where this is the case, a full tender process must be carried out, with advertising in the Find a Tender service (FTS)<sup>1</sup> and following the procedures set out in the Rules.

3.4. For the procurement activity that Fareham Academy is likely to undertake, there are three different types of contract for the purposes of the Public Procurement Rules:

- Works contracts - buildings and civil engineering works.
- Supplies contracts - purchasing goods and supplies.
- Service contracts - advertising, property management services, architectural / surveying, management consultancy services etc.

3.5. If a contract contains both Works and Services elements and is above the Threshold for services but below the Threshold for works, the Academy should consider obtaining specialist independent advice to determine whether a regulated procurement procedure should be followed.

3.6. The **Thresholds** are as follows for January 2020 (these figures are expected to apply until 2022). Those highlighted are likely to be most relevant to the Academy Trust. There are other thresholds for e.g. utilities companies and defence contracts, but these have been omitted below:

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<sup>1</sup> Please note: all legal and policy requirements to advertise on other platforms such as Contracts Finder and Devolved Administration systems such as Public Contracts Scotland, Sell2Wales, eSourcing NI and eTendersNI are unaffected by these changes. However, these notices must not be published before the FTS publication and must not provide additional information

## **PCR 2015**

### Supplies & Services (except subsidised services contracts)

Schedule 1 bodies £122,976

Others £189,330

### Subsidised services contracts

All bodies £189,330

### Works (including subsidised works contracts)

All bodies £4,733,252

### Light Touch Regime for Services (see Schedule 3 of PCR 2015)

All bodies £663,540

### Small lots

Supplies and services £70,778

Works £884,720

## **CCR 2016**

Concession contracts £4,733,252

3.7. The Thresholds are changed every two calendar years (except for that applicable to social and other specific services) with the first review anticipated in August 2021.

3.8. There are also general principles of equal treatment, fairness, transparency, non-discrimination and proportionality which apply to all tendering activities of contracting authorities, above Threshold or otherwise. The Academy Trust, in accordance with the delegation of powers, should have regard to these principles when awarding any contract.

## **4. Quote Procedures**

4.1. Obtaining quotes is a less formal process than inviting written tenders. The Academy Trust will request quotes from appropriate contractors who will either provide a written or oral quote depending on the price category (see above). The general EU principles should be considered when requesting quotes.

4.2. Where an oral or written quote is obtained, the following procedures must be followed:

4.2.1. All parties invited to submit a quote must be given the same information and a reasonable time in which to respond.

4.2.2. The minimum number of quotes must be obtained, more parties should be invited to submit a quote until the minimum number is received or a reasonable number have been contacted and declined to submit.

4.2.3. When deciding to accept a quote, the best value for money quote should be accepted in the first instance. If the best value is offered by a quote other than the lowest price, reasons should be recorded.

4.2.4. Where an oral quote is received, confirmation of that quote should be given in writing, stating the terms on which the quote is accepted. This may be in the form of an order form or purchase order where appropriate.

## **5. Tendering Procedures**

5.1. Tendering is a formal procedure in which suppliers are invited to submit a sealed bid to a purchaser. Each bid is then evaluated against specified criteria. This section sets out established good practice for tendering which should be followed for any formal tendering exercise.

### **5.2. Tendering Procedures Where Value Under the Threshold:**

5.3. All purchases with a value greater than £40,000 must be put out to formal tender. The following procedures must be followed in such circumstances:

5.3.1. A specification will be prepared, authorised by the chair of the relevant committee and Headteacher and sent to at least four suppliers. It is anticipated that for any major building works of a value greater than £50,000 the services of an architect would be engaged to deal with the handling of specifications and selection of potential tenderers. If the contract is for a highly specialised or technical product or service the Academy should consider obtaining specialist independent advice to assist with the preparation of the specification.

5.3.2. The opportunity to be invited to tender will be advertised in local newspapers and trade journals if appropriate. Advertisement should be carefully considered for larger value contracts. Any advertisement should specify sufficient information for a supplier to assess whether it would wish to tender and a contact point for expressing an interest.

5.3.3. Invitations to tender will be sent to all parties selected to tender or, where advertised, all parties expressing an interest. Invitations to tender will include:

- a) an introduction/background to the project or requirement
- b) the scope and objectives of the project or requirement
- c) any technical requirements including the specification
- d) implementation details for the project, including timescales, timing constraints (e.g. to be outside the school day, during holiday periods etc)
- e) the terms and conditions of the tender and
- f) the form and date and time of response to the academy, or in the case of building works, to the architect or quantity surveyor

5.3.4. All replies, if to the Academy, should be addressed to the Executive Assistant in a plain sealed envelope marked 'Tender' to reach her by a specified time on a specified

date. All replies must be kept sealed until that date and passed to the chair of the relevant committee.

5.3.5. All tenders will be opened at the same time and details of the contractor, quotation and any other details recorded at the time of opening.

5.3.6. No contractor will be allowed to amend the tender after the time fixed for receipt except in the following limited circumstances:

- to rectify an obvious mistake, or
- to clarify an ambiguity

5.3.7. When permitting such amendment the Executive Assistant should consider the fairness of doing so and equal treatment of contractors.

5.3.8. The Executive Assistant will open a separate correspondence file for each tender which will contain copies of all correspondence or other relevant information.

5.3.9. For purchases up to £40,000, provided the expenditure is included in the budget, the decision as to which tender to accept will be taken by the Headteacher, in consultation with the Executive Assistant and the chair of Resources Committee.

5.3.10. For purchases exceeding £40,000, provided the expenditure has been budgeted for, a decision will be recommended by the Resources committee. The decision will need to be ratified by the trust board.

5.3.11. Where expenditure is not included in the budget or anticipated expenditure exceeds the budget allocation, the decision as to which tender to accept will be taken by the Resources committee, in line with their terms of reference and then ratified by the trust board; and

5.3.12. The reasons for accepting a particular tender must be documented, especially if it is decided to accept other than the lowest priced tender. All decisions must be reported to the trust board.

#### **5.4. Tendering Procedures Where Value Over the Threshold**

5.5. If the contract exceeds the Thresholds, further specialist independent advice will be obtained. There are procedural requirements before a tendering procedure can begin such as deciding the correct regulated procedure to use, preparing documentation and agreeing evaluation criteria. There are also formalities and timescales which must be adhered to during a regulated procedure with potential sanctions for failure to comply.

5.6. The Academy should be aware a tendering process could take 3-6 months or in certain circumstances longer and should plan ahead accordingly.

### **6. Acceptance of Tender (below Threshold)**

6.1. The following points will be considered when deciding which tender to accept (as appropriate, giving consideration to the type of contract being awarded):

6.1.1. The overall price and the individual items or services which make up that price.

- 6.1.2. Whether there are any 'hidden' costs; that is additional costs which the Academy will have to incur to obtain a satisfactory product.
  - 6.1.3. The qualifications and experience of the supplier, including membership of professional associations.
  - 6.1.4. Compliance with the technical requirements and specification provided by the Academy.
  - 6.1.5. Whether it is possible to obtain certificates of quantity.
  - 6.1.6. Other quality guarantees or environmental considerations.
  - 6.1.7. The supplier's own quality control procedure; pre sales demonstrations, after sales service and, for building works, an appropriate defects period and insurance guarantees.
  - 6.1.8. The financial status of the supplier.
  - 6.1.9. References from other establishments.
  - 6.1.10. Understanding & compliance with Health & safety, Construction, Design and Management (CDM) regulations and Child Protection issues related to working on an Academy site
- 6.2. In the case of building works, where the tendering process is being carried out by the architect or quantity surveyor, they will be responsible for checking the documents of the tenders before making a recommendation to the Academy.
  - 6.3. Once a tender is accepted an order or contract should be issued immediately to the supplier in the normal way.
  - 6.4. The successful contractor should be informed that the Academy is a NON SMOKING site.
  - 6.5. The Schools' Funding Agreement and current guidelines contained in the Academies Financial Handbook should be considered when applying this policy.