

<b>Staffordshire University Academies Trust</b>		<b>Trust Policy Document</b>			
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## **SUAT Procurement and Tendering Policy**

### **Introduction**

The Staffordshire University Academies Trust (SUAT) Procurement and Tendering Policy aims to:

- Protect the Trustees, Local Academy Councils and staff of the Academies, when making decisions on buying goods and services;
- Ensure that Trustees, Local Academy Councils and staff of the Academies can demonstrate that procurement has been undertaken in a clear and open manner, using absolute probity in spending public money;
- Demonstrate that SUAT has proper protection and controls in place for ensuring that its Academies provide value for money when buying goods and services;
- To consider, in sourcing, the best environmental option so that products and services that are purchased provide the most benefit or least damage to the environment, at acceptable long and short term costs;
- To ensure adherence with the Scheme of Delegation;
- To comply with public sector purchasing requirements and regulations;
- To comply with all legislative requirements including those of the Health and Safety at Work act 1974, Regulations issued by the Health and Safety Executive and other relevant safety legislation;
- To ensure the Trust has appropriate arrangements for specialist professional services including legal services, internal and external audit, health and safety and tax advice;
- To consider that purchasing decisions provide an opportunity for the Trust and Academies to have a positive economic and social impact on our local communities;
- Support staff to optimise the use of resources to provide maximum benefit to our pupils / students and communities and maintain integrity through purchasing practices.

Those employees making purchases to obtain supplies, services and equipment must do so in accordance with the Scheme of Delegation and at the lowest possible cost consistent with quality and delivery requirements and in accordance with sound business practice.

Factors to be considered in determining whether value for money is being obtained must, where appropriate, include:

- Purchase costs
- Fitness for purpose
- Meeting the needs of staff and students with diverse needs
- Firmness of price (e.g. fixed or otherwise)
- Foreign exchange risks and costs
- Imports and taxation
- Terms of payment
- Length of warranty or period of free maintenance
- Running costs (e.g. spares, consumable items, fuel, water, electricity)
- The cost of any required building or services alterations
- The likely sale or scrap value or other disposal charges

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Due care will be taken in the specification of requirements so that consideration is given to environmental issues in terms of materials used, power consumption, optimum space utilisation, all at acceptable costs in the long and short term.

When applying this policy, account **must** be taken of the SUAT Financial Regulations / Handbook, the SUAT Conflicts of Interest and Connected Parties Policy, the Academies Handbook, the annual disclosures of pecuniary / business interests, and guidance surrounding the acceptance or non-acceptance of business gifts and hospitality. For any purchases which have the potential to involve connected parties, business gifts or hospitality, the Finance Director must first be consulted. Consideration should also be given to the confidentiality of information received in the course of duty, should be true and fair. Whilst bearing in mind the advantages of maintaining a continuing relationship with a supplier, any arrangement which might prevent, in the long term, effective operation of fair competition should be avoided.

Please contact the Central Finance Team, CFO or Operations Director for any further advice and support required in relation to this policy.

### Thresholds

There are two methods of sourcing: by quotation and tender. For all purchases of goods and services, regardless of the value, we should always strive to demonstrate Value for Money.

The DfE defines purchases below £10,000 as low value and purchases between £10,000 and £40,000 as medium value purchases. Purchases over £40,000 are considered as high value purchases. SUAT has reflected this within its procurement protocols and as such, the minimum required numbers of tenders or quotations from appropriate contractors for a given estimated value of contract are detailed as:

- Below £5,000, one written quotation or online evidence, which has been printed or saved electronically and dated. It is best practice for more than one quote to be obtained in order to compare costs and demonstrate value for money.
- £5,000 up to £40,000, three written quotations, which are printed or saved electronically and dated.
- £40,001 and above, tendering will be undertaken via consultation with the Trust Central Team.

The values are for single items or groups of items, which must not be disaggregated artificially. The sterling equivalents of EU thresholds (**inclusive of VAT**) are as follows, from 1<sup>st</sup> January 2022:

Works	£5,336,937
Services / supplies	£213,477
Light touch regime services*	£663,540

*\*The Light Touch Regime applies to 'social and other specific services' including health, education, catering, postal services and legal services. The light-touch regime (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition, set out in Schedule 3 of the Public Contracts Regulations 2015 (Annex A).*

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## Quotations and Tendering

Where quotations have been sought, it is essential that documentation is retained to provide evidence for auditing purposes that due weight has been given to considerations of economy, efficiency and effectiveness, together with fitness for purpose including any relevant equality considerations.

Any tendering process undertaken will include the evaluation criteria and appropriate weighting in respect of the award. Documentation shall be retained to provide evidence for auditing purposes in compliance with the Retention and Records Management Policy. The evaluation of offers should consider price, quality, delivery, all relevant costs relating to installation, operation, service, performance, disposal, compliance with specification including any relevant equality considerations and adherence to Trust policies and procedures.

The Trust and Academies will endeavour to utilise Public Sector Buying Organisations and Frameworks where it is deemed suitable to do so and the where goods and services required are available via a framework agreement. Where a Framework permits, the Trust and Academies may undertake a procurement by Direct Award to a supplier on the Framework provided that there is a clear specification of requirements and that direct award criteria on the Framework can be met. Procurement using direct award routes will follow the requirements of the Scheme of Delegation.

SUAT recognises that, although a number of suppliers will be approached to price for works / services / supplies / contracts, not all suppliers will submit a price / tender either by providing a nil return or declining to price / tender. In circumstances such as this, a proportionate approach will be taken and the Academies / Trust will undertake their best endeavours to source additional prices to support a best value for money approach to procurement. Should this pose a risk to the delivery of the works / services / supplies / contracts, for example, because it is time bound, the CFO / Operations Manager must be contacted.

Where an order is placed with a supplier which is likely to take some time (e.g. a number of months) to fulfil, it is advisable to institute formal and regular checks on the progress of the supplier to completion of the order. All correspondence should be retained particularly if financial penalties have been agreed for late delivery.

All goods must be inspected on receipt. Delivery notes must be retained and signed and dated as evidence of checking the goods upon arrival prior to their being used. When goods are being rejected, notice should be taken of time limits for advice to suppliers of rejection. If the communication is initially by telephone, it must always be confirmed in writing. Rejected goods should always be placed in an area where there is no possibility of usage or loss. Suppliers of rejected goods should always collect and re-supply at their own cost.

## Single Sourcing

Single sourcing is defined as where there is only one supplier capable of supplying against a defined requirement; this should be avoided wherever possible. In some cases, the broadening of specifications or the adoption of new specifications may result in more suppliers being able to satisfy a requirement.

Where use of a single source is inevitable, care should be taken to ensure the best value for money is being achieved by checking the supplier's price list and terms and conditions. Special negotiations should be conducted with the supplier in consultation with the Central Team. Approval for Single Tender Action shall be in accordance with the Scheme of Delegation.

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## Contract values

Contract values are determined in the following way:

- If the contract is to buy a single item, which is not related to buying other items, the value of the contract is the price, or estimated price of the item, including all related fees. You must not break up a single contract into smaller contracts to avoid contract value thresholds.
- If the contract is to buy a related group of items, the value of the contract is the total price, or estimated total price, of all the items in the group. For example, this will apply if the contract is for a quantity of textbooks, computer equipment or for building repairs or a building project and the various items are priced separately, but you are buying them to be used together. It is beneficial to package contracts to take advantage of economies of scale when getting quotations or tenders.
- If the contract is for specific services, the value of the contract is the price, or estimated price, of the services.
- If the contract is for a fixed term with an option to extend, the value of the contract is the total price over the whole life of the contract, i.e. the initial term plus the extension period.
- If the contract is for goods or services to be provided by lease or hire, the value of the contract is the capitalised value of the goods or services to be provided. The capitalised sum may be calculated by multiplying the regular payment that would be made to the lease or hire company by the minimum number of payments that would have to be made under the contract. For example, when reviewing photocopier leases the contract value will be the amount paid each month over the total number of years of the contract.
- If the contract is a framework agreement, (also known as call-off agreement) the value of the contract is the expected total value of goods or services that will be taken under that contract, during the life of the contract. 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 you place an order for the supply. An example of this is where an Academy has a contract with an oil fuel supplier.
- The value of a contract does not include VAT unless the VAT cannot be reclaimed.

Academies should be mindful in calculating the value of goods and services that this is not on an individual Academy basis but “collaborative purchasing” i.e. the value of the contract is the total price of all the academies within the Trust over the whole life of the contract. The above thresholds apply not only to single Academy purchases, but also to purchases across the Trust as a whole, whereby Academies are purchasing items and services with the same or similar specifications within the same time frame. Consultation should be made with the Finance Director or the Operations Manager to ensure that purchases do not exceed the relevant thresholds, or where the Academy has any ambiguity in relation to their purchases.

**SUAT academies are not permitted to enter into finance leases.** All service, rental and maintenance agreements for equipment shall be submitted to the central finance team in advance

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of the agreement being signed. An assessment will be undertaken and documented to establish the type of lease that is involved in the potential purchase. Only once it has been confirmed by the central finance team that terms and conditions are acceptable, the appropriate party should sign the contract in accordance with the Scheme of Delegation.

## Externally Funded Projects

Where funding for purchases is through an external source, the terms associated with this funding must be adhered to. Care should be taken to ensure that we meet the requirements in seeking the appropriate competition to avoid future disputes and potential claw back of funds, and internal policies and procedures should also be consulted.

## Procedures

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

1. A specification and tender documents will be prepared, authorised in accordance with the scheme of delegation and sent to the relevant number of suppliers. It is anticipated that for structural, mechanical and electrical, building and other such works, the services of an architect, or any suitably qualified and experienced property surveyor, would be engaged to deal with the handling of specifications and suitability to tender.
2. Where appropriate, the suppliers invited to tender should be drawn from an approved list, a framework agreement **or** from those agreed with the architect where a building project is required. Otherwise, invitations to submit tenders will be advertised via the appropriate channels, which may include Find a Tender Service, Contracts Finder, Trade Journals. Tender documents shall include:
  - An invitation to tender;
  - An introduction/background to the project / service / works;
  - The scope and objectives of the project / service / works;
  - Key performance indicators;
  - A specification;
  - Any technical requirements and restrictions regarding the project / service / works;
  - Implementation details for the project / service / works;
  - A capability assessment / mandatory questions;
  - A pre-qualification questionnaire, where necessary;
  - Mandatory questions (or a capability assessment) which demonstrate the tenderer's capability to fulfil the contract requirements and specification;
  - Quality questions, designed to demonstrate the contractor's quality of service / delivery;

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- A tender timetable;
  - The terms and conditions of the tender; and
  - The form and date of response to the Academy, or in the case of building works, to the architect or surveyor.
3. Every ITT shall indicate that the Trust and Academies do not bind themselves to accept or nominate the lowest tender.
  4. No tender will be considered unless delivered via the method described in the conditions within the ITT.
  5. All replies should be addressed to the CFO / Operations Director by secure email, marked 'Tender Submission Reference XXXXXXXX' to reach him/her by a specified date and time. If a procurement portal is being used, tenderers will submit via the portal instead. All replies must be kept sealed and unopened until after the closing date and time but can be saved to electronic files and retained until the time in which they can be opened.
  6. All tenders will be opened at the same time and details of the contractor/supplier, quotations and any other details are recorded at the time of opening.
  7. No contractor will be allowed to amend the tender after the time fixed for receipt, unless the Trust requires clarification on the content of the tender, and the tenderer can only provide this through amending the tender response. The Trust is not permitted to disclose tender response information to other suppliers.
  8. The Operations Manager/Finance Director will open a separate correspondence file for each tender which will contain copies of all correspondence or other relevant information.
  9. For purchases up to £40,000, provided the expenditure is included in the budget, the decision as to which quote to accept will be taken in accordance with the Scheme of Delegation.
  10. Purchases exceeding £40,000, will be approved in accordance with the Scheme of Delegation. The decision will need to be ratified by the Trust Board.
  11. Where expenditure is not included in the budget or anticipated expenditure exceeds the budget allocation, the decision as to tender acceptance will be taken by the Risk, Audit and Resources Committee, in line with their terms of reference and then ratified by the Full Trust Board.
  12. The reasons for accepting a particular tender must be documented, especially if it is decided to accept other than the lowest tender. All decisions must be reported to the Trust Board.

Where the estimated value of any contract for the supply or sale of goods and services or works exceeds £25,000 but does not exceed £213,477 including VAT (goods and services) or £5,336,937 including VAT (works), a formal tender process should be carried out by the Trust and the requirement should be publicly advertised on Contracts Finder in accordance with CCS and DfE guidance. Find a Tender service replaced Tenders Electronic Daily (TED) in the UK public procurement process; Find a Tender service can be used to search for high-value opportunities or awarded contracts, typically over £138,760 including VAT.



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## Acceptance of Tender / Quotations

The following points will be considered when deciding which tender or quotation to accept:

1. The overall price and the individual items or services which make up that price.
2. Whether there are any 'hidden' costs; that is additional costs which SUAT will have to incur to obtain a satisfactory product / service / works.
3. Whether there is scope for negotiation, while being fair to all tenderers, only for purchases up to the value of £40,000.
4. How the tender meets the quality / evaluation criteria, which shall be scored accordingly to the tender instructions.
5. The qualifications and experience of the supplier, including membership of professional associations.
6. Compliance with the technical requirements laid down by SUAT/the Academies.
7. Whether it is possible to obtain certificates of quantity.
8. The supplier's own quality control procedure; presales demonstrations, after sales service and, for building works, a designated defects period and insurance guarantees.
9. The financial status of the supplier.
10. References from other establishments.
11. Understanding and compliance with Health & Safety, CDM regulations, safeguarding requirements, ethics, social value, sustainability, environmental management, modern slavery, supply chain assurance, cyber security and data protection standards, and any other requirements which may be required for working / delivering services / providing products for schools.

In the case of building works, where the tendering process is being supported by the architect or surveyor, they will be responsible for checking the documents of the lowest tender before making a recommendation to the Academy/Trust.

## Contracts

Once a tender is accepted an order should be issued immediately to the supplier in the normal way. Every contract shall be evidenced by a written acceptance of a written offer. Resulting contracts shall:

- Specify the work of services to be undertaken and/or the goods to be purchased or sold; and
- State the price to be paid by the Trust / Academies with a statement of discounts or other deductions; and

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- State the time or times in which the contract is to be performed or the duration of the contract; and
- Be based, wherever practicable, upon a definite specification which shall be included in the contract.

Contract conditions should include:

- The contractor shall not, without consent of the Trust, in writing, transfer, assign or sub-let either directly or indirectly the contract or any part or parts thereof.
- Every contract in relation to which a specification or code of practice issued by the British Standards Institution is applicable shall require as a minimum that goods and materials used in its execution and all the workmanship shall be in accordance with that specification or code of practice.
- The Trust may cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation, if the contractor has offered or given or agreed to give to any officer of the Trust any gift or consideration of any kind as an inducement or reward for placing the contract with the contractor.
- Every contractor shall provide to the satisfaction of the Trust such indemnities and such insurances as the Trust may require.
- All obligations and responsibilities placed upon the contractor in relation to the execution of works or services or the supply of goods or materials concerned either directly or indirectly or by reason of the Health and Safety at Work Act, 1974 or any other enactment relating to the contract in question and any regulations, orders, directions, rules or the like made under that Act or other enactment shall be observed and performed by the contractor.
- No increase in the amount payable by the Trust or will be permitted except as specifically provided for in the contract in question, without approval in accordance with the Scheme of Delegation.

The successful contractor should be informed that SUAT Academies are NON SMOKING sites.

## Exemptions

Directors may grant an exception to this policy for contracts under £40,000 using the waiver form. The Chair of the Trust Board may grant the same exception using a Chair of the Board Power to Act form. This must be taken to the Trust Board for approval and appropriately recorded before any contract is entered into. Academies / the Trust must not continually waive the same contract as this may break procurement law. Lack of time caused by poor forward planning is not an appropriate reason for Directors granting a waiver.

**Academies / the Trust does not have to tender if there is an unexpected emergency involving danger to life or health or serious damage to property, if the goods, work or services are needed more urgently than would be possible if the tender or quotation procedure were followed.**

Academies / the Trust does not have to tender if, for technical reasons, the goods, contract, work or services can be bought from only one provider, however, this must be justified and the Academy / Trust must provide written evidence that various providers were contacted and subsequently declined for technical purposes, and this must be subject to written agreement by the Accounting Officer / Trust Board via a Tender Waiver Form.



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### Prepayment

The Trust's Policy is to discourage any prepayment to suppliers prior to receipt and verification of goods. Should this not be possible, formal checks must be carried out by the Central Team on the credit status of the supplier at the requesting department's expense. Approval of the transaction will only be given when the status report is satisfactory.

### Cyber Security

Any supplier who undertakes information processing on behalf of the Trust must possess Cyber Essentials, ISO 27001 or similar approved certification where the Trust has this requirement for the data that is being processed.

### Equality

An Equality Impact Assessment should be undertaken to identify any potential inequality arising from the use of the goods or services to be sourced. Potential inequalities identified through this assessment should be addressed through the requirements detailed in the specification.

The Trust remains responsible for meeting our statutory equality duty and complying with legislation even where functions (activities, services etc.) are carried out entirely, or in part, by external suppliers. Therefore, we expect everyone working on our behalf to practice equal opportunities and be able to demonstrate that they take all reasonably practicable steps to ensure equality of access and equal treatment in employment and service delivery for all.

Businesses that are awarded contracts by the Trust and Academies will be expected to comply with all current equality legislation, practice equalities in employment and service delivery and ensure that we meet the requirements of the Public Sector Equality Duty by proactively working with us.

### Further Information and Guidance

<https://www.gov.uk/guidance/buying-procedures-and-procurement-law-for-schools>  
<https://www.crowncommercial.gov.uk/information-for-buyers-and-suppliers/>