



Competitive Tendering & Procurement Policy

Date Published	1st June 2016
Version	3
Last Approved Date	20th June 2018
Review Cycle	1 Year
Next Review Date	June 2019

“Learning together; to be the best we can be”

1. Context

1.1. Nexus Multi Academy Trust must achieve the best value for money from any and all activity we commission and services or goods we procure. This means purchases need to be the correct quality, quantity and completed within the appropriate timeframe offering the best value possible. Purchases should follow the general principles of:

1.1.1. **Probity** - it must be clear that there is no private gain in any of the Trust's contractual relationships;

1.1.2. **Accountability** - the Chief Executive Officer is accountable for Trust expenditure and the conduct of its affairs;

1.1.3. **Fairness** - all those dealt with by Nexus are done so in a fair and equitable way;

1.1.4. **Value for money** - covering cost of goods or services, quality of good or services and administrative cost (including time) of procurement.

2. Scope

2.1 This policy relates to all academies and settings across Nexus MAT and supersedes any local policies and procedures that have been in use prior to the academy conversion. Where required, an individual Nexus MAT academy – in agreement with the Trust Chief Executive Officer - may publish a supplementary policy guidance document or procedure in line with this policy, to ensure that any idiosyncrasies associated with that specific academy are covered in their local policy library.

3. Legal Framework

3.1 The UK will exit the EU on 29th March 2019. EU competition law is enshrined in EU treaties, which the UK will no longer be bound by post-Brexit. However, the Competition Act 1998 mirrors, at a domestic level, the key prohibitions on anti-competitive behaviour contained in EU treaties. The EU Withdrawal Bill 2017-2019 will convert existing EU law into domestic law, seeking to ensure legal continuity post 29th March 2019.

3.2 Several EU Directives that relate to competition and procurement have already been incorporated into UK law. Brexit will therefore have little immediate effect on the competition rules and the current rules will remain in place for the time being and should continue to be adhered to. These could be changed in due course post Brexit and the Chief Finance Officer will continue to review the legal framework on behalf of the Trust.

4. Routine Purchasing

- 4.1. Headteachers will know finalised budgets - at the latest - by the beginning of the academic year. It is their responsibility to manage the budget and to ensure that the funds available are not overspent.
- 4.2. A quote or price must always be obtained before any order is placed. Individual academies or the wider Trust may create approved supplier lists for some types of purchases, with the oversight of the Chief Finance Officer. If a relevant approved supplier list exists, Headteachers and/or other budget holders must obtain agreement of the Chief Finance Officer for purchases from alternative suppliers.
- 4.3. All requisitions from budget holders must be made using the agreed purchasing systems of the Trust, in line with the Trust financial delegated powers and finance manual.
- 4.4. The budget holder must make appropriate arrangements for the delivery of goods to their academy site. On receipt the budget holder must undertake a detailed check of the goods received against the goods received note (GRN) and make a record of any discrepancies between the goods delivered and the GRN. Discrepancies should be discussed with the supplier of the goods without delay and the Trust Chief Finance Officer should be informed.
- 4.5. If any goods are rejected or returned to the supplier because they are not as ordered or are of sub-standard quality, the Trust's Chief Finance Officer should be notified. A record of all goods returned to suppliers should be kept by each academy business manager.
- 4.6. All invoices should be sent to the Academy Business Manager. All invoices need to be authorised by the relevant individual on the relevant system before

payment procedures are initiated. Orders are authorised in line with the Trust's Delegated Financial Powers Manual.

- 4.7. Invoice receipt will be recorded by the Academy Business Manager or one of the business administration team.
- 4.8. Before submitting for payment the budget holder must make a detailed check against the order and the GRN.
- 4.9. If a budget holder is pursuing a query with a supplier the Chief Finance Officer must be informed of the query and periodically kept up to date with progress.

5. Thresholds for authorising

- 5.1. **Orders below £500** can be made without formal quotes being obtained IF the cost reflects value for money against other comparable goods and services.
- 5.2. **Orders up to £5,000** or a series of contracts with an overall value of this amount require up to two quotes from different suppliers. Headteachers have delegated power to authorise any expenditure up to £5,000.
- 5.3. **Orders over £5,000 but less than £20,000** or a series of contracts with an overall value of this amount require at least three written quotations should be obtained for all orders between £5,000 and £20,000. Written confirmation of oral quotes must be obtained before a purchase commitment is made. Confirmations by email and/or fax are acceptable. Academy Business Managers should retain quote details for audit purposes. The Chief Executive Officer has delegated power to authorise any expenditure up to £20,000.
- 5.4. **Orders over £20,000 but less than £50,000** or for a series of contracts which in total exceed £20,000 must be subject to formal tendering procedures, with the Local Governing Body (LGB) responsible for awarding a contract or determining the best value purchase. The Chief Executive Officer must agree to any expenditure exceeding £20,000 before LGBs undertake formal tendering procedures.
- 5.5. Purchases over **£50,000** or for a series of contracts which in total exceed £50,000 must be subject to formal tendering procedures, with the Trust Board responsible for awarding a contract or determining the best value purchase. The

Chief Executive Officer must agree to any expenditure exceeding £50,000 before the Trust Board is asked to undertake formal tendering procedures. Any purchase or series of contracts with an overall value of **£100,000** or more may fall under EU procurement rules (see section 3) which require advertising in the Official Journal of the European Union.

- 5.6. Goods and Services can be bought via pre-existing, EU compliant Framework Agreements/Contracts (ensuring the specific process applicable to the Framework Agreement/Contract is followed), including collective consortia arrangements, without running a full Tender process as detailed above. It is the responsibility of Nexus Multi Academy Trust to ensure that any identified pre-existing Framework Agreement/Contract is fully EU compliant, and the appropriate method (e.g. mini-competition) to procure within the Framework Agreement/Contract is adhered to.
- 5.7. Credit Card usage should follow the above process and, additionally wherever practicable, pre-approval should be obtained.

6. Forms of Tender

- 6.1. There are three forms of tender: open, restricted and negotiated. The circumstances in which each should be used are described below. Before entering into any tendering process this should be discussed with and agreed by the Chief Finance Officer.
- 6.2. **Open Tender.** This is where all interested/identified suppliers are invited to tender. The Headteacher and/or budget holder must discuss and agree with the Chief Finance Officer on where to advertise e.g. general press, trade journals or to identify all potential suppliers and contact directly if practical. This is the preferred method of tendering, as it is most conducive to competition and avoidance of corruption. However, officers need to take into account the cost of procurement for both Academies and suppliers, and may not therefore be the most proportionate process in all cases.
- 6.3. **Restricted Tender.** This is where suppliers are specifically invited to tender. Restricted tenders may be appropriate in the following circumstances:
- 6.3.1. There is a need to maintain a balance between the contract value and administrative costs;

6.3.2. A large number of suppliers might come forward or the nature of the goods is such that only specific suppliers can be expected to meet the requirements; OR

6.3.3. The costs of publicity and advertising are likely to outweigh the potential benefits of open tendering.

6.4. **Negotiated Tender.** The terms of the contract may be negotiated with one or more chosen suppliers. This may be appropriate in the following circumstances:

6.4.1. The above methods have resulted in either no or unacceptable tenders;

6.4.2. Only one or very few suppliers are available;

6.4.3. Urgency exists; OR

6.4.4. Additional deliveries by the existing supplier are justified.

7. Preparation for Tender

7.1. Full consideration should be given to:

7.1.1. The objective of the project;

7.1.2. Overall requirements;

7.1.3. Technical skills required to meet the tendering criteria;

7.1.4. After sales service requirements; and

7.1.5. Form of contract.

7.2. It may be useful after all requirements have been established to rank requirements (e.g. mandatory, desirable and additional) and award marks to suppliers on fulfilment of these requirements to help reach an overall decision.

8. Invitation to Tender

8.1. If a restricted tender is to be used then an invitation to tender must be issued. If an open tender is used an invitation to tender may be issued in response to an initial enquiry.

8.2. An invitation to tender may include the following:

8.2.1. Introduction/background to the project;

8.2.2. Scope and objectives of the project;

- 8.2.3. Technical requirements;
- 8.2.4. Implementation of the project;
- 8.2.5. Terms and conditions of tender; and
- 8.2.6. Form of response.

9. Aspects to consider when evaluating the tender

9.1. Financial

- 9.1.1. Like should be compared with like and if a lower price means a reduced service or lower quality this must be borne in mind when reaching a decision.
- 9.1.2. Care should be taken to ensure that the tender price generates the total price/cost from providers and that there are no hidden or extra costs.
- 9.1.3. If there is scope for negotiation, the Trust should always aim to achieve best value for money.

9.2. Technical/Suitability

When assessing the suitability of providers, the following criterion should be considered:

- 9.2.1 Qualifications of the contractor;
- 9.2.2 Relevant experience of the contractor;
- 9.2.3 Descriptions of technical and service facilities;
- 9.2.4 Certificates of quality/conformity with standards;
- 9.2.5 Quality control procedures; and
- 9.2.6 Details of previous sales and references from past customers.

9.3. Other Considerations

Other considerations that a tendering evaluation process can include are as follows:

- 9.3.1 Pre-sales demonstrations;
- 9.3.2 After sales service; and

- 9.3.3 Financial status of supplier i.e. is the supplier in financial difficulty and therefore may have problems completing contracts and in the provision of after sales service.
- 9.3.4 It may be appropriate to have the Chief Finance Officer or Deputy Chief Finance Officer examine audited accounts etc. Evidence of which can be fed to the tender panel for consideration.

10 . Formal Tender Acceptance Procedures

- 10.3 The invitation to tender should state the date and time by which the completed tender document should be received by the Trust.
- 10.4 Tenders should be submitted in plain envelopes clearly marked to indicate they contain tender documents. The envelopes should be time and date stamped on receipt and stored in a secure place prior to tender opening. Tenders received after the submission deadline should not normally be accepted unless there are exceptional circumstances.

11 . Formal Tender Opening Procedures

- 11.3 All tenders submitted should be opened at the same time. At least two people should be present for the opening of tenders, normally the Chief Executive Officer or Headteacher and Chair of the relevant governance board.
- 11.4 A record should be kept of the names of the firms submitting tenders and the amount tendered. This record must be signed by the people present at the tender opening.

12 . Tendering Evaluation Procedures

- 12.3 The evaluation process should involve at least three people with no conflicts of interest in the tender.
- 12.4 Those involved in making a decision must not accept gifts or hospitality from potential suppliers that could compromise or appear to compromise their independence. Any gifts or hospitality should always be declared in the Nexus Business and Pecuniary Interest register, administered by the Clerk.

- 12.5 Full records should be kept of each tender evaluation and a report should be prepared for the relevant Governance Board highlighting the issues and recommending a decision.
- 12.6 Where required by the conditions attached to a specific grant, the grantor's approval must be obtained before acceptance of a tender.

13 . Contracts

- 13.3 Any non-routine tenders or purchases, such as leases, are subject to a contract between the academy/Trust and the supplier which is to be signed before the contracted work begins or the delivery of goods.
- 13.4 The contract(s) should clearly set out (as applicable):
- The scope of work with detailed and accurate specifications;
 - The timeline and completion date of the work(s);
 - Dates for completion of works;
 - Quality controls on work(s);
 - The agreed fees/charges and payment date(s);
 - Specification of the goods to be delivered (as applicable).
- 13.5 The signing of a contract and/or lease should be treated like the placing of an order and the signing of a cheque.