



Tendering and Procurement Policy

Approved by the Trust Board: 28th September 2021

Contents:

Statement of intent

1. Legal framework
2. Small and medium purchases
3. Large purchases
4. Procurement and spending decisions
5. Invoices
6. Risk management
7. Open tender
8. Restricted tender
9. Negotiated tender
10. Preparation for tender
11. Invitation to tender
12. Tender evaluation
13. Tender acceptance
14. Tender opening
15. Tender evaluation
16. Contracts
17. Related party transactions
18. Setting executive pay
19. Monitoring and review

Statement of intent

Derby Diocesan Academy Trust (DDAT) aims to achieve value for money on all its tendering and procurement activities. With that in mind, this policy has been created to establish procedures to ensure all members of staff involved in tendering and procurement are aware of the standards that they are expected to follow.

Preferred suppliers will be used, wherever possible, as the academy has had previous positive interactions with these suppliers. During tendering and procurement processes, the following four key objectives will always be kept in mind:

- **Achieving value for money** – including the cost of goods and services, the quality of goods and services, and administrative costs
- **Ensuring fairness** – ensuring that all parties are treated in a fair and equitable manner
- **Establishing accountability** – taking responsibility for expenditure and the conduct of staff
- **Allowing probity** – ensuring there is no private gain from the academy's financial affairs

1. Legal framework

This policy has due regard to legislation and national guidance including, but not limited to, the following:

- ESFA (2021) 'Academies Trust handbook 2021'
- The Academies Act 2010
- Equality Act 2010
- The Public Contracts Regulations 2015
- DfE (2019) 'Governance handbook'
- ESFA (2019) 'Declare or seek approval for related party transactions: summary guidance'
- HM Treasury (2012) 'Review of the tax arrangements of public sector appointees'

This policy will be implemented in conjunction with the trust's:

- Data Protection Policy
- Finance Manual
- Reserves and Investments Policy

2. Small and medium purchases

Any purchase or service estimates below £25,000 are considered to be 'small' purchases, and any below £50,000 are considered to be 'medium' purchases.

Small purchases, below £25,000, do not require approval from the board of trustees but are required to be approved in line with the procurement limits as defined in section 4.

Quotes and prices are always obtained prior to purchasing.

To avoid legal challenges, the trust:

- Does not open any bids before the deadline.
- Does not open any late bids.
- Treats all bids fairly and equally.
- Keeps confidential, secure and, auditable records.
- Buys from the highest scoring supplier.

Where a relevant approved supplier list exists, approved suppliers are used unless written permission is received from the board of trustees outlining the reasons for using an alternative supplier.

The trust ensures that at least two people assess each bid. When they compare scores, they will:

- Discuss where they've scored differently
- Reach an agreed score

The trust will send a contract, such as a purchase order, to the chosen supplier, including:

- What has been purchased
- Total cost

- Delivery address
- Delivery date and any other important dates
- When the trust will pay the cost

All receipts and invoices are kept in the main office for a period of 18 months after the initial purchase.

The CFO will oversee the processing of each receipt and ensure they are available for inspection where necessary.

Goods are inspected upon delivery. Any items that are either not part of the order, damaged or not fit for purpose will be returned.

3. Large purchases

The trust will seek legal advice before making large purchases.

Any purchase or service estimated to cost over **£50,000** is put to formal tender.

In the case of major building works or construction, the services of an architect are sought before the tendering process is undertaken.

Large purchases under the EU procurement threshold*

** NB Brexit: EU Public Procurement Directives and UK Public Procurement Regulations will continue to apply during the transition period from 31 January 2020 until 31 December 2020.*

When the trust makes purchases with a value under the EU procurement threshold, it will:

- Assess the market.
- Prepare the contract and tender documents.
- Advertise in the right places.
- Consider using an expression of interest to cut the number of bids needed to assess later.
- Send an invitation to tender to people who reply to the advert.
- Fairly assess all the bids received, using the same process.
- Choose the bid that offers the best value for money.
- Award the contract to the highest scoring bidder.

Large purchases over the EU procurement threshold*

When the trust makes purchases with a value over the EU procurement threshold, it will:

- Assess the market.
- Check the relevant frameworks to see if the purchase is available via an alternative route.
- Prepare the contract and invitation to tender.
- Consider whether to use the restricted procedure to reduce the number of bids to assess later, or the open procedure to let anyone bid.
- Advertise a contract notice in the Official Journal of the European Union (OJEU)* using eNotices.
- Make the invitation to tender and all other documents available electronically from the time that the contract notice is published.
- Assess all the bids fairly, using the same process.

- Choose the supplier that offers the best value for money.
- Award the contract to the highest scoring bid supplier.

4. Procurement and spending decisions

Procurement basics

The trust ensures that:

- Spending is for the purpose intended and there is probity in the use of public funds.
- Spending decisions represent value for money.
- Internal delegation levels exist and are applied.
- The tendering policy is in place and applied, and OJEU* procurement thresholds are observed.
- Professional advice is obtained where appropriate.

Procurement limits

The following limits are placed on the procurement process and/or number of bids which are to be obtained before purchasing or confirming a service:

Quotations and tendering	£5,000 to £50,000	Minimum of three quotes to be obtained (unless justifiable reason for less quotes e.g. only supplier providing a certain product, clear demonstrable value in using certain supplier e.g. knowledge of DDAT) by Budget Holder, Finance Manager, Vice Principal/Deputy Head, Principal/Head, Executive Principal / Head
	£50,000 to relevant OJEU* limit	Formal tendering process requiring full Academy Finance Committee approval or CFO.
	Over OJEU* limit	OJEU* advertising required and DDAT Board approval

5. Invoices

All invoices are recorded and stored for future reference, with checks on the following information:

- The mathematical validity
- The purchase ledger
- The goods or services ordered and delivered
- Any difference between the agreed and delivered price
- The authorisation for payment
- The amount paid in VAT
- The total payment made

The DDAT Finance Team creates regular invoice reports which are submitted to the CFO.

6. Risk management

The trust maintains a risk register and manages risks to ensure its effective operation.

The trust's risk management includes contingency and business continuity planning.

The trust is protected from risk by the RPA.

The trust cooperates with risk management auditors and risk managers, implementing any reasonable risk management audit recommendations.

7. Open tender

Open tender is the trust's preferred method of tender due to its open and competitive nature.

All interested suppliers are invited to tender, with the CFO making a recommendation to the CEO and/or Trust Board.

The CEO has the final say in selecting the successful tender.

Advertisements in trade publications will be used to attract bids for tender.

Open tender is used for all goods or services over £50,000.

8. Restricted tender

In this scenario, only specified suppliers chosen by the CFO are invited to bid.

The trust will establish a shortlist of three bids during the restricted tender.

Restricted tender is used in any of the following circumstances:

- There is a need to maintain a balance between the contract value and administrative costs
- The service required is specialised
- The cost of public advertisement outweighs the potential benefits of open tender

9. Negotiated tender

In this scenario, the terms of the contract are negotiated with the supplier.

Negotiated tender is only used in any of the following circumstances:

- Other types of tender have been used and have not found any suitable suppliers
- Very few suppliers are available
- There is an urgent need for a service

Where a negotiated tender is used, the Trust Board will be informed of the value of the contract award and reasons why this method of procurement has been used. The Trust Board may, depending on circumstances, instruct the CFO to conduct a benchmarking exercise and/or proceed with a restricted or open tender process.

10. Preparation for tender

In preparing for a tender, the CFO will consider the following:

- The overall objective of the project
- Any technical skills required to complete the project
- Any after-sales services required
- The form of the contract

11. Invitation to tender

The trust makes all necessary documents available online when the advert has been placed in the OJEU*. These include:

- A covering letter or overview of services/products required
- A timeline
- How to ask questions
- How to submit a bid
- Specifications / Scope of Work
- A list of things the trust requires prices for
- The award criteria
- The level of service required
- Any contract management needs, such as regular meetings or contact
- If needed, an invitation for suppliers to give a demonstration
- The proposed contract drafted as far as possible

12. Tender evaluation

When making purchases, the trust:

- Decides the method of assessing the bids
- Invites bids from at least 3 suppliers
- Assesses all the bids received fairly
- Chooses the supplier that offers the best value for money

When evaluating a tender, the following financial implications are considered:

- Lower costs may not necessarily be the most favourable, for example, when they result in a reduced service
- The price being considered should be the total cost, without extra fees or hidden costs
- Where there is scope for negotiation, the CFO needs to ensure the best possible value for money

When evaluating a tender, the following technical requirements are considered:

- Certificates of conformity
- Conformity of standards

- The qualifications and experience of the supplier
- Descriptions of technical services and facilities
- Quality control procedures
- Details of previously delivered services
- References from previous customers

When considering a tender, the following other requirements are considered:

- Pre-sales demonstrations
- After-sales service
- The financial viability of the supplier

13.Tender acceptance

Invitations to tender always state the date and time the completed tender documents are to be received by the CFO.

Suppliers are required to submit documents in marked brown envelopes clearly stating they are tender documents.

All envelopes are clearly marked upon arrival and securely stored in the main office.

Tender documents received after deadlines are not considered, unless the supplier provides proof of exceptional circumstances.

Informing unsuccessful bidders

The trust will provide a letter including the following information to all unsuccessful bidders at the same time:

- The name of the winning bidder
- The award criteria used
- The scores for the winning bid
- The reasons for the decision, including the characteristics and relative advantages of the successful tender
- When the standstill period ends
- Their scores and feedback

The trust will provide information regarding the cost of the winning bid upon request, provided it does not reveal any commercially sensitive information.

Informing the successful bidder

The trust will provide a letter including the following information when informing the successful bidder that they have won. This must include:

- The award criteria used
- Their scores

- Why the trust thinks their bid is the most economically advantageous
- When the standstill period ends

The trust will use the letter as an invitation to finalise a contract. The letter will make it clear that:

- The trust will only award them the contract if the standstill period passes without a challenge from another supplier
- There are no commitments, and no work should begin, until both sides have signed the contract

14.Tender opening

All offers for tender are opened at the same time, with a minimum of two members of staff present, one of whom is the CFO.

A record is kept of all the suppliers who submitted tenders, along with the amount tendered.

A record is signed by all members of staff who are present at the opening of a new tender.

The record is stored in line with our Data Protection Policy.

15.Tender evaluation

The CFO is responsible for ensuring that none of the members of staff involved in the tender process are subject to conflicts of interest.

Members of staff who are involved in decision making will never accept gifts or hospitality from suppliers.

A full record of the evaluation process will be maintained by the CFO.

16.Contracts

Non-routine tenders or purchases, such as leases, are subject to a contract, which is signed before the work begins or goods are delivered.

All contracts include the following details:

- The scope of the work including accurate specifications
- The timeline and completion date of the work
- Quality control measures
- The agreed fees or charges
- The payment date
- Specifications of the goods or service

Copies of all contracts are securely stored in the central record located in the main office.

You must place a contract award notice in the OJEU* using eNotices within 30 days of awarding the contract.

Challenges from unsuccessful bidders

The trust maintains a standstill period of 10 calendar days between telling notifying the winning bidder and awarding the contract. – if this period ends on a non-working day, this will be extended to the end of the next working day.

During the standstill period, if an unsuccessful bidder challenges the fairness of the contract award decision or process, the trust will contact them and explain the assessment process was conducted fairly and that the trust has maintained good records – legal advice may be sought depending on the nature or seriousness of the challenge.

If an unsuccessful bidder makes a legal challenge, the trust will not finalise the contract, and will seek legal advice before proceeding.

17.Related party transactions

The principles we adhere to

Trustees avoid any conflicts of interest, declare their interest in proposed transactions and arrangements, and do not accept benefits from third parties.

All members, trustees, local governors and senior employees complete the register of interests.

No member, trustee, local governor, employee or related individual will use their connection to the trust for personal gain, including payment under terms that are preferential to those that would be offered to an individual or organisation with no connection to the trust.

Payments to trustees by the trust are only made where permitted by the articles, or by the authority of the Charity Commission, and comply with any relevant agreement with the Secretary of State.

The trust considers their obligations where payments are made to other businesses who employ a trustee, are owned by a trustee or in which the trustee holds a controlling interest.

Where the trust believes a significant advantage exists in paying a trustee for acting as a trustee, the Charity Commission's approval will be obtained prior to payment.

The trust adheres to 'at cost' requirements.

The chair of the board of trustees and the accounting officer ensure their capacity to control and influence does not conflict with related party transaction requirements.

Personal relationships with related parties are managed in a manner that avoids both real and perceived conflicts of interest, promotes integrity and openness and is in accordance with ['The 7 principles of public life'](#).

The trust is aware of relationships with related parties that may attract greater public scrutiny, such as:

- Transactions with individuals in a position of control and influence, including the chair of the board of trustees and the accounting officer.

- Payments to organisations with a profit motive, as opposed to those in the public or voluntary sectors.
- Relationships with external auditors beyond their duty to deliver a statutory audit.

Record keeping

The trust keeps sufficient records, and makes sufficient disclosures in the annual accounts, to show that related party transactions have been made in accordance with accountability and transparency standards.

Approval by the ESFA

The trust will obtain the ESFA's approval for related party transactions that are novel, contentious or repercussive. Transactions involving the chair of the board or the accounting officer will be carefully considered against this requirement.

The trust will obtain the ESFA's prior approval for contracts supplying goods or services by related parties agreed on or after 1 April 2019 where any of the following limits apply:

- The contract exceeds £20,000
- The contract would take the total value of contracts with the related party to beyond £20,000 in the same financial year ending 31 August
- The contract relates to a party already in receipt of contracts exceeding £20,000 individually or cumulatively in the same financial year ending 31 August

For the purposes of reporting to, and approval by, the ESFA, related party transactions do not include salaries and other payments made by the trust to a person under a contract of employment through the trust's payroll.

When seeking approval, the trust will ensure it has the relevant information about the supplier, including the supplier's name, address and company number. The trust will also:

- Confirm the statement which best describes the relationship between the supplier and the trust.
- Confirm that the supplier is listed in the trust's register of interests.
- Confirm that the trust has a statement of assurance from the supplier.
- Confirm that the trust has an open-book agreement with the supplier.
- Provide a short description of the goods or service, details of the proposed cost and the start and end date of any contract or agreement.

Provide evidence of the following:

- How the trust agreed to the related party transaction, e.g. minutes of meetings where it was discussed
- That the trust followed this policy
- That the trust tested the market before making a decision
- How the trust has managed any conflict of interest

The trust will provide a copy of the agreement or proposed contract.

The trust will upload any additional documents the trust feels are relevant as part of its submission.

The trust will ensure the information and documentation listed above has been received before the trust completes the online related party transaction form.

Services that can only be delivered by the diocese, which provide essential functions fundamental to the religious character and ethos of the school, will be declared to the ESFA. Where the conditions above are met, a single upload of evidence relating to the payment or levy for the services will be made.

Register of interests

The trust will document all relevant business and pecuniary interests of members, trustees, local governors and senior employees, including:

- Directorships, partnerships and employments with businesses.
- Trusteeships and governorships at other educational institutions and charities.
- For each interest, the name of the business, the nature of the business, the nature of the interest and the date the interest began.

The register of interests will identify all relevant material interests from close family relationships between the trust's members, trustees or local governors. It will also identify relevant material interests arising from close family relationships between those individuals and employees.

The trust will consider any other interests for inclusion on the register of interests.

The board of trustees will keep the register of interests up-to-date.

The trust will publish on their website the relevant business and pecuniary interests of members, trustees, local governors and accounting officers.

The publication of interests belonging to any other individuals named on the register is at the discretion of the trust.

'At cost' requirements

The trust will not pay more than 'cost' for goods or services provided by the following:

- Any member or trustee of the trust
- Any individual or organisation related to a member or trustee of the trust, namely:
 - A relative of a member or trustee: defined as a close member of the family, or member of the same household, who may be expected to influence, or be influenced by, the person. This includes, but is not limited to, a child, parent, spouse or civil partner.
 - An individual or organisation conducting business in partnership with the member, trustee or a relative of the member or trustee.
 - A company in which a member or the relative of a member (taken separately or together), and/or a trustee or the relative of a trustee (taken separately or together), holds more than

20 percent of the share capital or is entitled to exercise more than 20 percent of the voting power at any general meeting of that company.

- An organisation which is controlled by a member or the relative of a member (acting separately or together), and/or a trustee or the relative of a trustee (acting separately or together) – an organisation is controlled by an individual or organisation if that individual or organisation is able to secure that the affairs of the body are conducted in accordance with the individual's or organisation's wishes.
- Any individual or organisation given the right under the trust's articles of association to appoint a member or trustee of the academy trust, or any body connected to the individual or organisation.
- Any individual or organisation recognised by the Secretary of State as a sponsor of the trust, or any body connected to the individual or organisation.

A body is connected to an individual or organisation if it is controlled by the individual or organisation, controls the organisation, or is under common control with the individual or organisation, namely any of the following:

- Holding a greater than 20 percent capital share or equivalent interest
- Having the equivalent right to control management decisions of the body
- Having the right to appoint or remove a majority of the board or governing board

'At cost' requirements do not apply to the trust's employees unless they are employed by one of the parties outlined above.

'At cost' requirements apply to contracts for goods and services from a related party agreed on or after 7 November 2013.

'At cost' requirements apply to contracts for goods and services from a related party exceeding £2,500, cumulatively, in any one financial year. Where a contract takes the trust's cumulative annual total with the related party beyond £2,500, the element above £2,500 must be at no more than cost.

If any of the parties outlined above are based in, or work from, the trust's premises, the trust will agree an appropriate sum to be paid to the trust for use of the premises, unless the party is conducting work on behalf of the trust.

'At cost' requirements apply to legal advice or audit services when the organisation's partner directly managing the service is a member or trustee of the trust, but not in other cases.

Contributions made by the trust to the diocese for services received associated with securing the trust's religious character and ethos, which only the diocese can provide, are regarded as meeting the 'at cost' requirement.

The trust will ensure that any agreement with an individual or organisation referred to above is procured through an open and fair process and is:

- Supported by a statement of assurance from the individual or organisation to the trust confirming their charges do not exceed the cost of the goods or services.

- On the basis of an open book agreement including a requirement for the supplier to demonstrate clearly, if requested, that their charges do not exceed the cost of supply.

The cost will be the full cost of all the resources used in supplying the goods or services and will not include any profit. Full cost includes:

- All direct costs – the costs of any materials and labour used directly in producing the goods or services.
- Indirect costs – a proportionate and reasonable share of fixed and variable overheads.

Reporting

The trust will report all related party transactions taking place on or after 1 April 2019 to the ESFA in advance of the transaction taking place, using the ESFA's online form.

18. Setting executive pay

The trust ensures that its decisions about levels of executive pay (including salary and any other benefits) follow a robust evidence-based process and are a reasonable and defensible reflection of the individual's role and responsibilities.

No individual is involved in deciding their own remuneration.

The trust discharges its responsibilities effectively, ensuring its approach to pay and benefits is transparent, proportionate and justifiable, including:

- **Process** – the procedure for determining executive pay and benefits, and keeping them proportionate, is agreed by the trust in advance and documented.
- **Independence** – decisions about executive pay and benefits reflect independent and objective scrutiny by the trust, and demonstrate that conflicts of interest are avoided.
- **Robust decision-making** – factors in determining pay and benefits are clear, including whether educational and financial performance considerations, and the degree of challenge in the role, have been considered.
- **Proportionality** – pay and benefits represent good value for money and are defensible relative to the public sector market.
- **Commercial interests** – the trust ensures it is sighted on broader business interests held by senior executives, and is satisfied that any payments made by the trust to executives in relation to such interests do not undermine the transparency requirements for disclosing pay in accordance with the Academies Accounts Direction.
- **Documentation** – the rationale behind the decision-making process, including whether the level of pay and benefits reflects value for money, is recorded and retained.
- A basic presumption that executive pay and benefits should not increase at a faster rate than that of teachers, both annually and in the longer term.

- Understanding that inappropriate pay and benefits can be challenged by the ESFA, particularly in instances of poor financial management of the trust.

The trust is aware of the requirements under the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.

Tax arrangements for senior employees

The trust ensures its senior employees' payroll arrangements fully meet tax obligations.

The trust complies with the HM Treasury's 'Review of the tax arrangements of public sector appointees', which explains that senior managers with significant financial responsibilities should be exclusively on payroll, and are therefore subject to Pay As You Earn (PAYE) with income tax and NI contributions deducted at source.

19. Monitoring and review

This policy is reviewed annually by the CFO and the Chief Operating Officer (COO).

The scheduled review date for this policy is the Summer Term 2022.