



PROSPER TOGETHER MULTI ACADEMY TRUST

PROCUREMENT AND COMPETITIVE TENDERING POLICY

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PREPARED BY
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1. Introduction

- 1.1 This policy sets out the principal guidelines detailing the Prosper Together Multi Academy Trust's (the Trust) approach to procurement and the management of contracts, streamlining its approach to the purchase of goods, works and services and entering into of contracts to provides goods and/or services to third party providers.
- 1.2 This policy has been written in accordance with the statutory and regulatory requirements of the Academy Trust Handbook (ATH), the Funding Agreement with the Department for Education (DfE), DfE guidance and the Public Contracts Regulations 2015 (amended 2020) (the Regulations).

2. Definitions

- 2.1 Supply: includes buying, leasing, hiring or any form of credit arrangement.
- 2.2 Quotation/Competitive Quotation: a written offer for supply without needing to use the formal procedures of tendering.
- 2.3 Tendering: a formal procedure for obtaining written offers (tenders) for supply. Under this policy there are two tendering procedures - the full and the shortened procedure.
- 2.4 Pecuniary Interest: where a member, trustee, member of staff or Local Governing Body (LGB) member has an interest in a person or business that could benefit from a procurement process.
- 2.5 Contract: a legally binding agreement between two or more people or organisations.

3. Responsibilities

- 3.1 The Trustees oversee this policy, delegating responsibility to the Finance, Audit and Risk Committee (FARC), Chief Executive Officer (CEO), Chief Operations and Finance Officer (COFO), Head Teachers, School Leadership Teams and other staff as appropriate in accordance with the Scheme of Delegation.
- 3.2 This policy applies to any contract for services, supplies or works, which results in payment for said items being made to or by the Trust.
- 3.3 Every procurement exercise or contract entered into should deliver value for money to the Trust ensuring the purchase is considered to be good use of public money, or the Goods/Services provided are done so at an educational, commercial and/or economical advantage to the Trust. Achieving value for money is not always accepting or offering the lowest price, other factors such as, quality, timing and whether the contract is fit for purpose should also be considered.
- 3.4 Consideration as to the procurement method and the estimated value of contract, should be made before any purchase is agreed. The ATH should be consulted in relation to some types of leasing arrangements and novel/contentious transactions as special rules apply to some of these transactions, which require Secretary of State consent. Where appropriate, advice and guidance is also available from the Trust Central team.
- 3.5 Care will be taken to ensure that a contract is not disadvantageous to the Trust. Care and consideration will be given to all procurement exercises, ensuring where possible that significant payment in advance is avoided for goods or services.

3.6 Repeatedly rolling over a single year contract, is unlikely to allow best value to be achieved. Any contracts procured on this basis should be reviewed and where appropriate re-procured.

3.7 Any bidder in a competition should be treated in a way which ensures equality of treatment, non-discrimination and transparency, for example:

- All Bidders must be given the same information at the same time, and no Bidder should be treated more favourably than another; and
- There must be clear and transparent timescales, requirements, specifications and deadlines to comply with any competition.

4. Budget expenditure and tender approval

4.1 The Trust has a Scheme of Financial Delegation (SOFD) that clearly sets out the levels of delegated authority and the maximum threshold value of the contract(s).

4.2 For higher value supplies and contracts (as set out below), prior approval must be sought from the COFO or CEO and, where required, from the FAR Committee/Trust Board.

5. Procedures

5.1 Wherever practical, for purchases above £10,000 checks should be made with other Academies and the contract team, to find out whether the same purchase is required in the Trust. Where appropriate, a joint procurement exercise should be considered to secure aggregated benefits and best value for money.

5.2 When addressing any procurement need it is essential to consider how the purchase is to be sourced, including:

- The estimated level of spend.
- The anticipated aggregated level of spend (whole life).
- The procurement threshold and number of quotes required.
- If a formal tender exercise required.
- If an existing procurement framework agreement be used (eg. Government or Local Authority).
- If there is an existing contract or resource within the Trust.
- If a Government Procurement Agreement (GPA) compliant procurement process is required (Find a Tender Service).

5.3 Where existing procurement framework agreements are in place, particularly for upper Threshold Contracts, then this should be considered the preferable method of procurement.

5.4 When starting a procurement exercise, it is important to have a clear technical scope and specification of the goods, works and/or services, together with the quantity, maximum cost and delivery / completion requirements.

5.5 Please see Appendix A for a guide to carrying out a tender and what information will be required at each stage of the process.

6. Contract Values

6.1 Contract values must be decided as follows:

- If the contract is to purchase a single item, which is not related to purchasing other items, the value of the contract is the price, or estimated price of the item, including all related fees. A single contract **must not** be broken down into smaller contracts to avoid contract value thresholds.
- 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. This can be worked out by multiplying the regular payment to the lease or hire company by the minimum number of payments to be made under the contract. Note, the Trust must not enter into finance leases without the prior written agreement of the Secretary of State for Education.
- 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 taken under that contract during the life of the contract.
- If the contract is for the supply of goods or services to others by the Trust, then due consideration and diligence should be considered. To ensure the contract being entered into supports a Trust strategic priority. The result of the contract delivery should remain educationally, commercially and/or economically advantageous to the Trust throughout the life of the agreement.
- If the contract is entered into by the Trust through 'collaborative purchasing' the value of the contract is the total price across the Trust over the whole life of the contract.

6.2 The value of a contract does not include VAT unless VAT cannot be reclaimed.

7. Purchasing Thresholds

7.1 Procurement thresholds for buying decisions are set in line with the Local Authority guidelines on formation of the Trust and may be reviewed annually. The DfE recommends the use of national procurement frameworks for high value goods and services.

7.2 The Trust approved purchasing thresholds:

Purchasing Threshold	Value (exc. VAT)	Quotes and Tenders
Low	£0 - £9,999	Evidence of price, demonstrate value for money where possible. Competitive quotations advisable but not mandated.
Medium	£10,000 - £59,999	Written competitive quotations from at least 3 suppliers. Official purchase order, contract or Service Level Agreement should be in place. Authorisation required in accordance with Scheme of Delegation.
High	£60,000 +	Written Competitive Tenders from at least 3 suppliers, (where practicable) a recognised procurement framework agreement should be considered for use. Contract on standard or bespoke form of contract. Authorisation required in accordance with Scheme of Delegation.
UK Public	£177,898+ (£213,477 inc.vat)	Competitive Tenders in compliance with the Public Contracts Regulations required for supplies and services contracts. Contract must be signed by Chair of Trustees or Chair of FARC.

8. Low level transactions (Goods and services from £0 - £9,999)

8.1 The process of how the Trust obtains goods, works or services should be documented, this should include:

- Evidence of price and how value for money is demonstrated.
- Method of choosing the supplier or contractor
- Details of staff authorised to accept quotes.

8.2 It is possible to show that value for money has been achieved by comparing prices across several suppliers using catalogues or the internet. For more significant purchases, it is possible to demonstrate value for money by getting alternative quotations. There may be occasions when it is beneficial to use the tendering procedure or a procurement framework for some contracts below £60,000 if this is likely to provide best value for money.

8.3 Where possible the requirements of Medium level transactions (see 8.2 below) should be met.

8.4 Documented evidence can be posted onto the finance system, subject to storage limits, and/or include reports to LGB, COFO/CEO or Trustees, in accordance with the Scheme of delegation.

9. Medium level transactions (Goods and services from £0 - £59,999)

9.1 The process of how the Trust obtains goods, works or services with a contract value below £60,000 must be documented, this documented evidence should include:

- A minimum number of 3 quotations to be gathered (where above £9,999).
- The method to be used for inviting quotations.
- The method for choosing suppliers or contractors.
- Details of the staff authorised to accept quotes.

9.2 Documented evidence can be posted onto the finance system, subject to storage limits and/or include reports to LGB, COFO/CEO or Trustees, in accordance with the Scheme of delegation.

9.3 Where the purchase is expected to be of a complex nature or unbudgeted a report should be submitted to the relevant person/s, in accordance with authorisation levels.

10. High value transactions (goods/services between £60,000 and the current EU Procurement threshold and works up to the current EU threshold)

10.1 Prior to undertaking any High Value transaction, a business case for the purchase must be produced and documented, unless it is a statutory or funding agreement requirement, or falls within the scope of a Commercial Transfer Agreement.

10.2 The business case will be considered by a member of the Executive Team or delegated person and must include as minimum:

- Description.
- Rationale and identification of the need.
- Technical scope and specification of the requirement.
- Assessment of value for money.
- Procurement Strategy.

10.3 Bidders requesting information regarding any procurement exercise must be sent a tender pack. This should contain the information about the requirement and needs, together with the information required from bidders. This will need to be bespoke in each case but could include, for example:

- details of pricing;
- details of method statements;
- details of product characteristics;
- the evaluation criteria which will be used to evaluate the tenders received, including disclosure of the criteria, sub criteria and weightings that will be applied to select the best Bidder(s). This can be complex, seek relevant and appropriate guidance, advice and support from the finance, procurement and contracts team.
- a draft set of contractual terms and conditions.

10.4 It is expected that a minimum of four suppliers/contractors would be approached to submit tenders for procurements of this value.

10.5 Once the Procurement framework exercise/tender process has been completed, Tenders must be opened in accordance with the Tender Opening Form (Appendix C) and any approval for the procurement made via the Procurement Authorisation form (Appendix D).

11. Transactions above current United Kingdom Procurement Thresholds

11.1 UK Procurement Thresholds indicate at what minimum value, a contract for goods, works or services must be advertised.

11.2 It is mandatory for public sector contracting authorities to adhere to these regulations. However, it is important that suppliers are also aware of advertising thresholds.

11.3 The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 replaced the European Public Contracts Directive (2014/24/EU). The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 apply to public authorities including, amongst others, government departments, local authorities, NHS Authorities and Academy Trusts.

11.4 Details of the thresholds, applying from 1st January 2023 are given below. Thresholds are inclusive of VAT.

THE PUBLIC PROCUREMENT THRESHOLDS REGULATIONS 2021

	Supply, Services and Design Contracts	Works Contracts	Social and other specific services
Central Government	£138,760 (inc VAT)	£5,336,937 (inc VAT)	£663,540 (inc VAT)
Other Contracting Authorities (Multi Academy Trusts)	£213,477 (inc VAT)	£5,336,937 (inc VAT)	£663,540 (inc VAT)
Small Lots	£70,778 (inc VAT)	£884,720 (inc VAT)	n/a

11.5 Certain education services may fall within the 'Light Touch Regime' which fall within the Social and other specific services threshold.

11.6 Upper threshold procurements should be managed and coordinated by a member of the Central Executive Team.

- 11.7 Prior to undertaking any upper threshold transaction, a business case must be completed for the purchase. The COFO or Director of Operations will review the business case and will notify the Academy on the decision to procure and the most appropriate way to make the purchase.
- 11.8 This document does not set out the detailed process which must be followed whenever the total value of the contract exceeds the Upper Threshold.
- 11.9 It is expected that a minimum of four suppliers/contractors would be approached to submit tenders for procurements estimated to be above the UK/EU procurement threshold or where possible an appropriate Procurement Framework Agreement utilised, with proposals submitted by multiple bidders.
- 11.10 Once the Procurement/tender process has been completed, Tenders must be opened in accordance with the tender Opening Form (Appendix C) and any approval for the procurement must be made via the Procurement Authorisation form (Appendix D).

12. Procurement via Framework Agreements

- 12.1 Framework contracts are those where a number of suppliers have been pre-procured with all public sector rules complied with. Due to this it is possible to purchase directly from a framework without the need to complete a further procurement exercise, irrespective of the value being procured. In appropriate circumstances, this can be an efficient way of procuring goods and services as it reduces administration costs on the procurement as well as potentially securing value for money through pre-tendered low prices.
- 12.2 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 an order is placed for the supply.
- 12.3 If appropriate, in accordance with the ATH and DfE policy, the Trust may choose not to run its own procurement processes, and instead use an existing framework arrangement.
- 12.4 There are several organisations that offer a wide variety of framework agreements, these include (but are not limited to):
- Crown Commercial Services (CCS)
 - Crescent Purchasing Consortium (CPC)
 - Eastern Shires Purchasing Organisation (ESPO)
 - Yorkshire Purchasing Organisation (YPO)
- 12.5 The Trust may also access Local Authority framework arrangements or set up its own framework agreements which can be used trust wide. Such frameworks will be notified to Academies as appropriate.
- 12.6 Throughout the process of each procurement exercise, it is important to ensure that:
- The Trust is entitled to call off from the arrangement.
 - The specification and the contract terms are suitable for the Trust/Academy's particular needs. The terms and conditions from frameworks are generally set in advance and cannot be changed beyond the mechanism set out in the framework; and
 - The framework's guidance must be adhered to, particularly about how orders should be placed. This will either generally permit direct awards of contracts to a supplier

and/or mini competitions between all suppliers with capacity to deliver the requirement on the framework.

- Costs for use of the procurement framework should be considered in advance of using or committing to the use of a framework.

12.7 If the contract is of a value which exceeds the Upper Threshold, the Regulations will apply and you must follow the procedure set out in section 11 of this document.

12.8 When procuring via a framework a report to the relevant authorising officer/committee should be completed where a purchase/project is of a complex nature, exceeds an estimated contract value of £60,000 or the purchase has not been budgeted for, prior to proceeding with the procurement process.

13. Lease Agreements

13.1 Where the procurement involves the Trust entering into any sort of lease, a Lease Authorisation form should be completed and authorised

14. TUPE

14.1 Some contracts will involve provision of services to the Trust where members of staff are employed by a contractor to specifically support the Trust and/or its Academies. Examples of these contracts include Catering and Cleaning services. Due to this, these employees may have employment rights when these contracts are renegotiated.

14.2 Any consideration of tendering these contracts should be done in consultation with the Central Team and advice sought on the TUPE (Transfer of Undertaking Protection of Employment) transfer process. Any procurement exercise that involves TUPE is likely to prolong the period of the procurement due to the complexity and nature of it.

15. Tender opening procedures and rules

15.1 The procedures will differ when opening bidders proposals during procurement exercises. If it is estimated that the procurement value is likely to be below £60,000. The bidders quotes/return documentation may be opened at any point and the contents assessed. Bidders, contractors and suppliers may submit their quotations for values under by hard copy, email or via the procurement portal.

15.2 If the procurement value is estimated to exceed £59,999, the Procurement/tender process should be followed.

15.3 Where the value exceeds £59,999, only tenders, or use of an appropriate procurement framework agreement lot will be accepted and can be submitted via the following methods:

- Hard copy (unidentifiable or provided)
- Central Team email address
- Via a procurement portal (if applicable)

15.4 An appointed officer from the Trust of which the purchase relates to, must ensure to keep any tenders received, secure and unopened, until the specified tender opening meeting. Any tenders received via the Central Team email address or procurement portal should remain unopened and must not be downloaded until the Procurement/Tender opening meeting.

15.5 If a formal Procurement Framework/tender exercise is required and sealed submissions are received, a formal tender opening meeting should be called to ensure all potential suppliers are treated fairly.

16. Audit and Record Keeping

15.1. For all purchases, regardless of the contract length or procurement type or method and clear audit trail should be kept. The level of detail required for this audit trail will depend on the value of the purchase and will increase proportionately. The details within the written record should include:

- Details of the purchase, for example what was purchased, who the supplier was and the cost of item or value of contract.
- Information on the procurement method used and copies of the quotations or tenders submitted attached.
- If appropriate, how the supplier complies with the data Protection Act 2018, with particular regard for the General Data Protection Regulation (GDPR).
- Minutes of any meeting where the procurement was discussed (if applicable).
- Who was responsible for evaluating the tenders, along with any details of the evaluation scoring (if applicable).
- Who was responsible in deciding to procure, and rationale behind the reason to procure.
- Where the lowest cost is not the driver behind the successful bidder, reasons for this must be documented.
- Where the procurement is for a lease agreement, evidence that the agreement has been authorised at the correct level must be documented.

17. Exemptions (Exceptions to the Rules)

17.1 There are instances where a tender process has already been carried out on behalf of public/education sector. It is not necessary to get alternative quotations or carry out a tender procedure for these contracts, although it is still important to ensure the Trust is achieving value for money: instances where this may apply are:

- Central/Local Government or Public Sector Buying organisations have setup a framework agreement.
- Local Authority Framework or Approved Contractor List agreed.

17.2 Where the Trust had previously carried out a procurement exercise (e.g. a contract for 3 years) and the Trust wishes to continue using the supplier by means of a contract extension, there are circumstances where a Quotation/Tender Waiver may not be required.

17.3 Where a contract is part of the Commercial Transfer Agreement and is updated to reflect revised details.

17.4 Where a contract is extended, revised or increased in value and subsequently exceeds a Threshold it may not be necessary or practicable to get alternative quotations or carry out a new tender procedure for these contracts. It is still important to ensure the Trust is achieving value for money and this should not be continually used as a method of avoiding procurement processes.

17.5 For all levels of new procurement, this policy must be followed in all but exceptional circumstances as agreed by the CEO.

17.6 If the exceptional circumstances described in this section apply, the CEO has the delegated authority to decide not to quote or tender.

17.7 If the CEO uses the powers described in this section the Chair of FARC will be informed at the next Finance Committee meeting with the key contract information documented.

17.8 Trustees may grant an exception to these regulations. Under normal circumstances, this must be taken to a FARC meeting for approval and appropriately recorded, before any contract may be entered into.

17.9 However, it is acknowledged that this may cause unnecessary delay for some projects (e.g. where an order needs to be placed quickly so work can be completed during a school holiday). Under these circumstances, the decision can be made by the Chair of FARC, and reported to the next Committee. However, the Trust must not continually waive the same contract as this may break UK law. Lack of time caused by poor forward planning is not an appropriate reason for granting a waiver.

17.10 It is not necessary to quote or 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.

17.11 It is not necessary to quote or tender if you can achieve value for money by buying used vehicles, equipment or materials. However, there may be hidden costs in purchasing used goods and the decision to do so must take account of these.

17.12 It is not necessary to quote or tender if for technical reasons, the goods, work or services can be bought from only one provider. This must be justified – the Trust must be able to demonstrate that it has tried various providers. This should be justified and approved by the relevant authorising officer.

17.13 Some other types of arrangements fall outside of the procurement rules, such as employment contracts. This may also include some types of Special Education Needs provision. For any clarifications contact the Central team.

17.14 Any exemptions should only be relied upon with express written consent from the CEO, the FARC or the Board of Trustees.

17.15 In summary, the scheme of financial delegation for exemptions is set out in the table below:

Purchasing Threshold	Value (exc. VAT)	Prepared by and reviewed	Authorised by Exemption
Medium	£10,000 - £59,999	Prepared by the proposer and reviewed by a member of the Executive Team as appropriate.	COFO /CEO
High	£60,000 +	Prepared by the proposer and reviewed by a member of the Executive Team as appropriate together with the CFO.	£60,000 - £99,999 FAR Committee on recommendation from the CEO
			>£100,000 – Board of Trustees on recommendation from the CEO / FARC

18. Related Party Transactions (Business and Pecuniary Interests)

- 18.1 The Trust adheres to the requirements of the ATH regarding business and pecuniary interests, refer to the Related Party Transaction section of the Trust's Financial Policy.
- 18.2 Any interest which may affect the outcome of a procurement process must be declared.
- 18.3 All Trustees, LGB members and staff must declare business and pecuniary interests.
- 18.4 Under the ATH the Trust must not pay any more than 'cost' for goods and services provided to it by a member, trustee or connected party of a member or trustee. Rules on this are very specific and if any doubts exist over a connection to a member or trustee then this must be referred to the COFO prior to any procurement decision being made.
- 18.5 There are rules in the ATH in relation to payments to individuals/organisations which are connected to a Member or Trustee. In any such case the CEO and COFO must be informed before any such payments are made.
- 18.6 No gifts or hospitality should be accepted by any service provider as an inducement to award a contract to that supplier. This may be an offence under the provisions of the Bribery Act 2010, this includes free IT equipment. Inform a member of the Central Executive and/or Head Teacher immediately on becoming aware of any such gifts or hospitality.

19. Contracts entered into by the Trust to deliver goods or services

- 19.1 The Trust may negotiate and enter into contracts for the supply of goods or services by the Trust and/or its employees. These goods or services should be offered with consideration to the organisation and the operational impact the delivery of the service would have on the Trust.
- 19.2 Where goods or services are offered, appropriate costs and revenue income should be considered in the terms and conditions of delivery. Proposals around fees and the impact of any agreement on the Trust should be reviewed and approved by the Central Executive Team in advance of any agreement being made.
- 19.3 Where it is proposed to enter into an agreement for the sale of any goods or the offering of services by the Trust the impact of delivery should be considered in relation to the strategic, educational, commercial and financial value.
- 19.4 Where an agreement and contract is proposed to be entered into, the proposal will be reviewed by the Executive team for consideration and formal approval.

20. Management of Contracts

- 20.1 Following the procurement of, or the entering into of, any service contract it is vital to ensure the contract is appropriately and effectively managed, the method for doing so will be dependent on the size and complexity of the contract.
- 20.2 It is important to hold regular contract management meetings to:
- Ensure all parties understand their role and responsibilities within the contract and to fulfil them effectively.
 - Ensure progress is made within the contract on a day to day management basis and against any agreed KPIs. Ensuring any issues preventing these being met are discussed and resolved.

- Ensure that notice of termination or the requirement to re-negotiate is given on all contracts in plenty of time. Most contracts have a minimum notice period of three months. Ensure to have served written notice as per the terms and conditions of the contract to ensure an auto-renewal of the contract on a rolling basis is not enforceable.

20.3 Contract variations and extensions – best practice dictates that all contracts should be re-negotiated or put to the market at the end of each term. However, in certain circumstances it may be appropriate to extend an existing contract.

20.4 Any contract variation or extension should be agreed by the Trust and the supplier by mutual consent. If the original contract is under the UK Public threshold the contract may be extended by a maximum of 2 years, or in the case of existing multi-year deals, 67% of the original contract length (where a multi-year contract was procured) without the need for tendering. If the contract value is expected to be over the UK threshold, then a new procurement exercise should be entered into. To enable the new procurement to be completed, it is possible to allow short extensions to the existing contract to accommodate the procurement exercise.

20.5 In line with the provisions set out in section 17, situations where it may be appropriate to extend an existing contract without going to market would be where the Trust had previously carried out a procurement exercise to procure goods or services and wishes to continue beyond the end date of the current term. This option will be afforded, provided the service continues to offer value for money, satisfactory service levels have been maintained throughout the contract and the price offered for the new/extended term does not increase by more than inflation.