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Leeds Diocesan Learning Trust (LDLT)

Company Number 13687278

Procurement and Tender Policy

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Vision Statement

Serving and celebrating our unique schools and communities, we will love, live and learn together. Valuing our pupils, staff, governors and team as people of God, we will deliver transformational learning and the flourishing of all.

Other Related Policies

- Finance Policy
- Effectively Managing Related Parties Policy
- Risk Management
- Scheme of Delegation

1. Aim

Leeds Diocesan Learning Trust (LDLT) has established a Procurement and Tender Policy with the aim to structure the trusts purchasing processes and sourcing strategies to ensure that goods and services the Trust acquire are the result of transparent and cost-effective decision making.

2. Scope

This policy and associated Financial Regulations and Procedures apply to Leeds Diocesan Learning Trust.

3. Policy

It is the Trust's policy to ensure that any spend of public money regardless of value is carried out in a transparent and non-discriminatory way and in compliance with the Public Contracts Regulations and Bribery Act.

The Trust's Scheme of Delegation outlines who has the designated authority to select contractors and award contracts and/or raise orders. Failure to comply with either this procurement and tender policy, the trust's finance policy or the scheme of delegation may result in withdrawal of authority and possible disciplinary action.

As a publicly funded organisation, the trust and its academies are 'Contracting Authorities'. Subsequently any procurement activity is regulated by the UK Public Contracts Regulations and EU procurement law. Procurement activity must be carried out in a transparent and non-discriminatory manner.

This policy sets out how the trust will manage procurement to ensure compliance with relevant legislation. It also provides guidance on the requirements for undertaking a formal tendering process. Failure to comply with this policy and/or follow guidance could result in a breach of legislation, fines and loss of reputation.

4. Procurement

Procurement is the process whereby goods, services and works are acquired. The procurement process spans a life cycle from identification of need and resources, through selection of suppliers, purchasing, contract management and disposal. Purchasing is the transactional process of buying the goods/services and is just one part of procurement.

Procurement or purchasing may be undertaken by academy staff only in accordance with the

scheme of delegation and thresholds referred to within this policy.

5. Purpose

The purpose of this document is to make Trust procurement and purchasing clear and signpost staff undertaking procurement activity to appropriate procedural guidance.

The Trust Procurement and Tender Policy is applicable to all purchasing activity regardless of value and should be followed by all staff involved in purchasing whether centrally or academy based.

All procurement across the trust's academies shall be carried out in such a way to ensure compliance with legal requirements, including, the 2015 Public Contracts Regulations, EU Procurement legislation, Trust financial regulations and scheme of delegation and any other requirements of the DfE or ESFA.

This policy is intended to reflect and support the aims of the trust by working with staff and suppliers to optimise value for money in the procurement of works, goods and services. It aims to balance efficiency against risk factors in achieving value for money whilst promoting compliance and sustainability.

The Chief Financial Officer will work with academies and other members of the central team by providing professional support in obtaining works, goods and/or services which are best suited to any application in a manner which is compliant with current legislation and best practice. Alternatively, where academies are making independent purchases, the Chief Financial Officer will provide a framework and procurement guides which academy staff must follow.

The Procurement Policy will be reviewed annually, or whenever required by a change in legislation.

There is a duty on all staff who may be involved in any stage of the procurement process to apply the key principles of best practice procurement to achieve appropriate governance, Value for Money and suitable quality of goods and services to meet our business needs.

6. General Principles

When purchasing and contracting for goods and services, the trust and its academies must demonstrate compliance with procurement legislation and the proper and effective use of public funds at all times. Procedures should also ensure that the goods, services and works procured are for the correct quantity and quality, arrive on time and achieve best value. The following general principles must therefore be adhered to:

- **Transparency and Non-Discrimination**, in all purchasing activity the trust must ensure that all contractors, suppliers and service providers are treated equally and without discrimination and must act in a transparent and proportionate manner. Procurement procedures must not be undertaken in a manner which artificially narrows competition, favours or disadvantages any contractor, supplier or service provider.
- **Probity**; it must be demonstrable that all parties are dealt with on a fair and equitable basis and that there is no private gain, favouritism or corruption involved in any dealings of the trust.
- **Accountability**: the trust is publicly accountable for its expenditure and for the conduct of its affairs.
- **Value for Money**; the achievement of value for money underpins the appropriate use of

all public funds, therefore as well as striving to achieve the best price possible for all purchases, consideration should also be given to other factors such as quality suitability, availability, reliability of the supplier, terms available etc.

- General Data Protection Regulations: all procurement must be in line with GDPR legislation, particularly in relation to data processing and data sharing. Any proposed activity involving data processing and data sharing must be referred to the trust Data Protection Officer prior to procurement.

7. Value for Money

Value for money is the optimum combination of whole life cost and quality (or fitness for purpose) to meet the user's requirement. This is rarely possible with the lowest price alone. To ensure that all purchases obtain optimum Value for Money, a range of procurement procedure guides and templates outlining the steps to be taken for varying levels of procurement are available. All purchases must be made in accordance with these guides, except in exceptional circumstances where a dispensation may be granted.

Purchases for goods and services up to £10,000 will require approval by the Headteacher, the Chief Executive Officer or the Chief Financial Officer.

Purchases for goods and services over £10,000 will require dual approval from the Finance and Resource Committee, the Headteacher, the CEO, the CFO, the LAC or the Board of Directors.

Purchases for goods and services over £25,000 will require dual approval from the Finance and Resource Committee, the CEO, the CFO, or the Board of Directors.

Purchases for goods and services over £75,000 will require approval from the Trust Board. In these cases, early communication between the School and Chief Financial Officer is recommended to ensure expectations are clear and timelines are achievable.

Unless below the threshold of £10,000, (the trust's limit for obtaining multiple quotations), all procurement of goods, services or consultancy should be acquired by effective competition. Competition promotes efficiency and effectiveness in expenditure. Awarding contracts based on value for money following competition contributes to the competitiveness of supplies.

The Trust recommends using National frameworks to find competitive pricing and compare with supplier estimates and quotes.

The Chief Financial Officer will review budgets and any supporting financial improvement plans and where appropriate will consult with academies on the potential to develop a range of Trust wide or regional contracts in order to comply with the requirements around aggregation, economies of scale and value for money.

8. Authority for Expenditure

Any process which involves committing the trust or an academy to expenditure must be approved in accordance with the scheme of delegation.

Any member of staff placing a purchase order on behalf of the trust, or an academy must be sure that they have the correct level of authority to do so in accordance with the scheme of delegation and where required must obtain approval from a more senior member of staff with a higher approval limit if necessary.

The Trust operates a system of devolved financial authority under which Headteachers are responsible for the decision-making process and planning of certain purchasing decisions

within their respective academies. In accordance with this policy for purchases below £10,000 the Chief Financial Officer may provide technical and professional support if requested. In these cases, an academy is still responsible for specifying requirements, evaluation criteria and committing funding.

No member of staff may approve purchases unless they have been given authority within the scheme of delegation to do so.

No employee is authorised to commit the trust or an academy to expenditure without first ensuring that there is adequate budget provision.

Schemes of work should not be artificially broken down into smaller orders to phase the issue of purchase orders and thereby circumvent either authorisation levels or the requirement to obtain further quotes/tenders.

More detail on the financial approval limits can be obtained from the trust's scheme of delegation.

9. Purchasing Thresholds

There are three types of thresholds governing the procurement for the trust and its academies. Firstly, authority to commit expenditure, which is covered in the scheme of delegation and secondly the procurement process which is governed by the anticipated cost of procurement.

- Below £10,000 – ensure that purchase is in line with and demonstrates Best Value
- £10,000 - £75,000 – minimum of three written quotes
- Above £75,000 – a formal tendering process must be followed

A competitive quotes form (appendix 1) should be completed and kept on record for all purchases above £10,000. Where the trust's central team are managing a procurement process on behalf of any or all of the academies, orders will not be raised without approval from the budget holders in accordance with the financial regulations and scheme of delegation.

Occasionally there may be a recommendation to award a contract to or place an order with an organisation which has not submitted the lowest priced bid. If this is the case because the scheme has been evaluated using the Most Economically Advantageous method then this is acceptable without further action, provided that the evaluation scores are recorded, and a valid reason being retained on file. However, if this is for any other reason approval must be sought before confirming award or raising an order in accordance with the scheme of delegation.

10. Dispensations

In limited circumstances a dispensation from the requirement to obtain alternative quotes may be granted. This may include the authority to require a single quotation, to award a contract or place an order without having obtained the requisite number of tenders or quotations or to directly award a contract.

All dispensations require prior approval from the Chief Executive Officer or Chief Financial Officer before progressing and must not result in a breach of procurement legislation or be contrary to the trust Scheme of Delegation.

All dispensation requests, whether approved or rejected will be reported to the Finance and

Resource Committee. Staff may be called upon to provide written justification and/or attend the committee meeting to explain the reasons for requesting a dispensation.

Dispensations from the requirement for competitive quotations / tenders must not be used to avoid competition, or for administrative convenience, or to award fresh / further work to a supplier originally appointed through a competitive procedure.

All dispensations will be subject to obtaining and documenting appropriate evidence for single quotation / tender action, obtaining authorisation for such action in accordance with the approved Scheme of Delegation and never breaching current Public Contract Regulations.

Subject to approval as outlined in the trust scheme of delegation, dispensations may be granted for the following reasons:

- Unforeseen emergency requirement
- The goods or services are only available from one / two sources and there is no possibility of the trust's requirements being met in any other way
- An extension is required to a current contract in order to allow sufficient time to complete a competitive tendering exercise (but failure to have planned the procurement would not be justification for a single tender)
- Where the seeking of tenders and subsequent contract award could cause significant operational difficulties and where any potential savings would be outweighed by those operational issues (which along with a VFM analysis must be documented) and only for use in circumstances to be approved in accordance with the scheme of delegation, under the specific advice of the CFO in terms of compliance with UK legislation and subject to approval by the Chief Executive and subsequently reported to the Finance Committee.

11. Contracts

When the need for a new system and/or service is identified, either by an academy or centrally, the following must apply:

- A clearly defined rationale for commissioning a new system or service is shared with the Headteacher and where financial approval limits apply the Chief Financial Officer and Headteacher – including proposal, estimated cost, benefit and desired outcomes.
- If the new system or service involves the sharing, processing or storage of data then a Data Protection Impact Assessment is completed and submitted to the Trust's Data Protection Officer (DPO).
- This information will be submitted by the DPO for approval by the Finance and Resources Committee.
- If the decision is to proceed with the procurement, the central team will conduct the process in line with this policy and scheme of delegation.
- Any contract that involves the sharing and/or processing of data will only be let on the receipt of a Data Sharing and/or Data Processing Agreement.

Any agreement, contract or lease with a supplier must be authorised by either the Headteacher, Chief Financial Officer or the Chief Executive Officer based on their respective approval limits as per the scheme of delegation. This does not include general orders for goods and services.

12. Aggregation

Legislation sets out how and when multiple orders and contract values for the same type of work should be added together for the purposes of deciding what procurement process is applicable.

As the trust's academies are responsible for managing their own budgets and certain purchasing independently, you must seek advice and support of the Chief Financial Officer on the procurement of goods and services which may exceed £10,000 in order to avoid aggregation of expenditure across the Trust.

In appropriate circumstances the Chief Financial Officer or other members of the central team may identify opportunities to establish trust wide contracts on behalf of the academies.

13. Tenders

Any expenditure over £75,000 must be subject to tendering in accordance with the Trust's scheme of delegation.

All tendering exercises must be reviewed by the Trust Board given the financial approval limits in place.

Tendering procedures may take up to six months depending on lifecycle cost and compliance with legislation, failure to programme sufficient time for procurement will not be a reason to grant a dispensation.

All current and future tenders are advertised using either the trust website, an invited process where specialist services require this or alternative more appropriate means if necessary or legally required.

It is the responsibility of the central team to authorise the undertaking of tenders for goods, services and works on behalf of the Trust and the academies.

Any post tender bid clarification from suppliers will be led by the central team.

13.1. Types of tenders

There are three forms of tender procedure: open, restricted and negotiated and the circumstances in which each procedure should be used are described below.

- Open Tender: This is where all potential suppliers are invited to tender. The budget holder must discuss and agree with the CFO how best to advertise for suppliers 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 the propriety of public funds.
- Restricted Tender: This is where suppliers are specifically invited to tender. Restricted tenders are appropriate where:
 - there is a need to maintain a balance between the contract value and administrative costs,
 - a large number of suppliers would come forward or because the nature of the goods are such that only specific suppliers can be expected to supply the academy's requirements,
 - the costs of publicity and advertising are likely to outweigh the potential benefits of open tendering.
- Negotiated Tender: The terms of the contract may be negotiated with one or more chosen suppliers. This is appropriate in specific circumstances:

- o the above methods have resulted in either no or unacceptable tenders,
- o only one or very few suppliers are available,
- o extreme urgency exists,
- o additional deliveries by the existing supplier are justified.

13.2. Preparation for tender

Full consideration should be given to:

- objective of project
- overall requirements
- technical skills required
- after sales service requirements
- form of contract.

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.

13.3. Invitation to tender

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.

An invitation to tender should include the following:

- introduction/background to the project;
- scope and objectives of the project;
- technical requirements;
- implementation of the project;
- terms and conditions of tender and
- form of response.

Aspects to Consider

13.4. Financial

- 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.
- Care should be taken to ensure that the tender price is the total price and that there are no hidden or extra costs.
- Is there scope for negotiation?

13.5. Technical/Suitability

- Qualifications of the contractor
- Relevant experience of the contractor
- Descriptions of technical and service facilities
- Certificates of quality/conformity with standards

- Quality control procedures
- Details of previous sales and references from past customers.

13.6. Other Considerations

- Pre-sale demonstrations
- After sales service
- Financial status of supplier. Suppliers in financial difficulty may have problems completing contracts and in the provision of after sales service. It may be appropriate to have an accountant or similarly qualified person examine audited accounts etc.

13.7. Tender Evaluation

The evaluation process should involve at least two people. Those involved should disclose all interests, business and otherwise, that might impact upon their objectivity. If there is a potential conflict of interest, then that person must withdraw from the tendering process.

Those involved in making a decision must take care not to accept gifts or hospitality from potential suppliers that could compromise or be seen to compromise their independence.

Full records should be kept of all criteria used for evaluation and for contracts over £75,000 a report should be prepared for the Board highlighting the relevant issues and recommending a decision.

Where required by the conditions attached to a specific grant from the DFE, the department's approval must be obtained before the acceptance of a tender.

Award contract to highest score based on the evaluation criteria. All parties should then be informed of the decision.

13.8. Tender Acceptance

The invitation to tender should state the date and time by which the completed tender document should be received by the academy. 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.

13.9. Tender Opening Procedures

All tenders submitted should be opened at the same time and the tender details should be recorded. Two persons should be present for the opening of tenders as follows:

- For contracts up to £75,000 - two of the CEO, the CFO or the Headteacher;
- For contracts over £75,000 - two of the CFO, CEO, Chair of Finance and Resources Committee.

A separate record should be established to record the names of the firms submitting tenders and the amount tendered. This record must be signed by both people present at the tender opening.

13.10. Informing Unsuccessful Bidders

LDLT provides a letter including the evaluation criteria and scoring for the bidder to all unsuccessful bidders at the same time.

Informing successful Bidders

LDLT provides a letter including the evaluation criteria and scoring for the bidder to the successful bid. The letter will confirm intention to finalise a contract.

- LDLT will only award contract if standstill period passes without challenge from another supplier
- There are no commitments, and no work should commence until contract is signed

14. Reporting Requirements

For all contracts in excess of £75,000 (excluding VAT) a report / recommendation paper shall be prepared for trustees, highlighting the relevant issues and recommending a decision. This contract must be authorised by the Chief Executive Officer and the Board. In cases where no immediate Board meeting is scheduled, approval must be sought in writing from the Trustees.

The central team are required to complete a tender report for all tenders.

15. Equal Treatment of Suppliers

One of the key principles of procurement legislation is that all suppliers are treated equally in any competitive process regardless of value. They should have the same availability of access to specifications, plans, trust staff time, facilities etc.

All bidders are entitled to be informed at the end of a process and notified of the successful bidder.

Any discussions and or correspondence prior to the conclusion of procurements should be on a “without commitment” basis and this phrase should be clearly stated on any such correspondence. The contract offer or purchase order should be the only point at which commitment is made.

16. The Bribery Act

All staff should also be aware of the Bribery Act 2010, which came into force in April 2011. The trust, its employees and contractors/bidders are all covered by the Act. For more detail on bribery, please see the separate trust Anti- Fraud Policy.

17. Freedom of Information

The Freedom of Information Act 2000 gives the public and potential suppliers the right to request certain information regarding academy and trust purchasing. All such requests should be handled in accordance with the trust policy.

As part of the process for providing quotations and tenders the trust requires all bidders to identify confidential information which they would not want the trust to disclose in response to a freedom of information request.

18. Information Security

All procurement and purchasing that requires a supplier or third party to access to the trust or academy information systems as part of the service they provide must be referred to the Data Protection Officer via a Data Protection Impact Assessment at the requisition stage.

Academies commissioning maintenance and support contracts where access is required must ensure that prior the contracts are referred to the Data Protection Officer for approval.

19. Leases

The Trust cannot enter into a finance lease as this is classed as a form of borrowing and in contravention of the requirements of the Academies Trust Handbook.

All operating leases must be referred to the Chief Financial Officer, and subsequently authorised by either the Chief Financial Officer or the Chief Executive Officer subject to financial approval limits prior to entering agreement.

20. Health and Safety

When procuring any goods, services or works, employees must ensure that checks are made to confirm that suppliers are suitably experienced and qualified to undertake the work required.

Where building or maintenance works is planned, suitable risk assessments and/or method statements must be in place and if required academy change approval must be sought.

All services, supply and works procured by the Trust must comply with the relevant UK health and safety legislation in force at the time the items are procured.

Where required by legislation, products (including used or refurbished products) must comply with the relevant UK Laws on the design, supply and operation of products.

21. Separation of Duties

There are a number of processes in purchasing goods and services etc. There must be adequate separation of duties to ensure that the process of ordering goods, services and works, checking receipt/completion and authorising payment is not the responsibility of one person.

Where the central team are undertaking tendering exercises, either on behalf of an academy or for the Trust, the receipt and custody of tenders prior to opening must be separated from the specification, selection and evaluation. Contract awards subject to tendering will be subject to approval of the procurement procedure undertaken and in accordance with the scheme of delegation.

22. Monitoring and Audit

The Trust and its academies are subject to scrutiny by internal and external auditors as well as the ESFA and other government departments/organisations. It is the responsibility of everyone involved in the purchasing process to ensure that they comply with current policies, procedures, guidance and legislation.

Appendix 1

Competitive Quotes Form

Name of School:	
Goods/services purchasing:	
Budget assigned:	
Quote 1	
Quote 2	
Quote 3	
Which supplier is best value for money? If not lowest value, state reasons why best value.	
Is the supplier a related party? If yes, please ensure the CFO has been notified.	
Approved by:	
Approved by: (If dual authorisation required)	
Date	
Purchase order number:	