



*The Diocese of Ely*

**ACT** Multi  
Academy  
Trust  
**Agapé, Courage**  
**Thankfulness**

# **Purchasing, Procurement & Competitive Tendering Policy**

**Summary:**

This document sets out the Trust's financial regulations. These financial regulations are subordinate to the Trust's articles of association and to any restrictions contained within the Trust's funding agreement with the DfE and with the Academies Financial Handbook.

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|---|--|--|---------------------------------------|
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## 1. Introduction

ACT Multi Academy Trust (the Trust) was created under the provisions of the Academies Act 2010, as amended by the Education Act 2011 on the 31<sup>st</sup> August 2023. Its structure of governance is constituted under the articles of association. The Trust is an exempt charity by virtue of the Charities Act 2011.

The Funding Agreement between the Department for Education (DfE) and the Trust sets out the terms and conditions on which grant is made. The Trust Board is responsible for ensuring that the conditions of grant are met. As part of this process the Trust is required to have in place appropriate arrangements for sound governance, financial management, securing value for money and accounting, and for using public funds for the purposes for which they were intended by Parliament.

This document sets out the Trust's financial regulations. These financial regulations are subordinate to the Trust's articles of association and to any restrictions contained within the Trust's funding agreement with the DfE and with the Academies Financial Handbook. In particular, where the Education Skills and Funding Agency (ESFA) has concerns about financial management and/or governance in an academy trust (including a multi-academy trust or constituent schools within a multi academy trust) it may issue a Financial Notice to Improve (FNtI). The trust must comply with all the terms of an FNtI. If a FNtI is issued to the Trust, then all of the delegated authorities and other freedoms in the funding agreement are revoked and in turn the delegated authorities and freedoms in this document.

The purpose of these financial regulations is to provide control over the totality of the Trust's resources and provide management with assurances that the resources are being properly applied for the achievement of the Trust's aims and objectives on a sustainable basis, including:

- Maintaining financial sustainability.
- Achieving value for money.
- Fulfilling its responsibility for the provision of effective financial controls over the use of public funds.
- Ensuring that the Trust complies with all relevant legislation.
- Safeguarding the assets of the Trust.

Compliance with the financial regulations is compulsory for all individuals connected with or employed by the Trust. A member of staff who fails to comply with the financial regulations may be subject to disciplinary action under the Trust's disciplinary procedures. It is the responsibility of Executive Leaders and Headteachers to ensure all staff under their management are made aware of the existence and content of the Trust's financial regulations and understand how to operate within them.

The Finance Audit and Risk (FAR) Committee of the Trust Board is responsible for maintaining continuous review of the Financial Regulations, through the CFO, and advising the Trust Board of any additions or changes necessary.

In exceptional circumstances, the Chief Executive Officer (CEO) may authorise a departure from the detailed requirements of the approved financial procedures and scheme of delegation, such departure will be reported to the Trust Board at the earliest opportunity.

## 2. Organisation

### Accountability framework

The Trust has defined responsibilities for each person involved in the administration of Trust Finances to avoid the duplication or omission of functions and to provide a framework of accountability for members, trustees, and staff.

### The Members

The Members of the Trust comprise of:

- The signatories to the Memorandum (founding members).
- Members appointed by existing Members.

An employee of the Trust will not also be a Member.

The Members are responsible for appointing/ and removing (in certain circumstances) the Trustees of the Trust. Members can amend the articles and may do so to support stronger governance arrangements (subject to any restrictions in the articles or in the Trust's funding agreement or charity law).

The Members are responsible for appointing the Trust's external (financial statements and regularity) auditor, and they have a right to receive the annual report and financial statements.

The Members have the power to change the name of the company and, ultimately, wind up the Trust.

The Members are responsible for holding an Annual General Meeting (AGM) at a time and place appointed by Trustees, further (extraordinary) general meetings may be called by the Trustees or Members. The members will maintain an 'eyes on and hands off' role to avoid compromising the Trust Board discretion.

### The Trustees

The Trustees (who are also directors of ACT Multi Academy Trust for the purposes of company law) are responsible for the strategic oversight of management and administration of the Trust but delegates management responsibilities through the Scheme of Delegation. The Trustees must understand their statutory duties as company directors set out in the Companies Act 2006. These comprise the duties to:

- Act within their powers.
- Promote the success of the company.
- Exercise independent judgement.
- Exercise reasonable care, skill and diligence.
- Avoid conflict of interest.
- Not to accept benefits from third parties.
- Declare interest in proposed transactions or arrangements.

The Trustees will take full responsibility for the financial affairs and efficient use of resources to

maximise outcomes for pupils. The Trustees and its committees will meet regularly enough to discharge their responsibilities.

The main financial responsibilities are to:

- Appoint the Chief Executive Officer (CEO) and hold him/her to account for the performance of the Trust. This role will formally include the designation of the Accounting Officer for the Trust.
- Appoint to the designation of Chief Finance Officer (CFO) in conjunction with the Chief Executive Officer.
- Appoint to the designation of company secretary/clerk to the board in conjunction with the Chief Executive Officer and who is someone other than a member of the Trust Board.
- Develop policy and strategic plans including target setting.
- Agree policies for the sound management and administration of the Trust.
- Allocate the Trust's financial, human and other resources.
- Ensure decisions about levels of executive pay follow a robust evidence-based process and are published in accordance with paragraph 2.32 of the Academies Financial Handbook.
- Producing a Scheme of Delegation for the management of the Trust.
- Ensuring compliance with legal requirements.
- Ensuring sound management of the Trust's finances and resources.
- Ensure adequate insurance cover in compliance with legal obligations.
- Setting the Trust's standards of conduct and values.
- Establishing and maintaining a transparent system of prudent and effective internal controls.
- Accounting to parents/carers and other stakeholders for the performance of the Trust.
- approving arrangements for independent check of internal controls.
- Avoid any conflicts which may influence their duties as Trustees of the Trust.
- Prepare the annual report and accounts in accordance with relevant Company Law, Statement of Recommended Practice, and DfE guidance for presentation to members at their AGM.
- Comply with obligations to make annual returns to Companies House and the Principal Regulator within the specified deadlines.
- To approve the annual budgets proposed by the CEO.
- To establish an Audit and Risk Committee receive reports from External/Internal Audit including those relating to the effectiveness of financial controls and management.

### **Trust Board – Audit and Risk as part of the Finance Audit and Risk (FAR) Committee**

The Finance Audit and Risk (FAR) Committee is a sub-committee of the Trust Board which is independent (i.e., does not include the CEO), advisory, and reports to the Trust Board. It has the right of access to obtain all information it considers necessary and to consult directly with the internal and external auditors.

It must also satisfy itself that satisfactory arrangements are in place to promote economy, efficiency, and effectiveness. It also has a role in reviewing the Trust's systems of internal control and risk management.

## **Trust Board – Finance and General Purposes Committee form as part of the FAR committee**

The Finance and General Purposes Committee is a sub-committee of the Trust Board which will undertake detailed monitoring of the Trust's financial position and financial control systems including:

- To examine annual estimates and accounts (including the accounting policies upon which they are based) and make recommendations to the Trust Board prior to their approval.
- To ensure that short-term budgets are in line with agreed longer-term plans and that they are followed.
- To consider any other matters relevant to the financial duties of the Trust Board and make recommendations accordingly.
- To ensure that the Trust Board has adequate information to enable it to discharge its financial responsibilities.

### **The Chief Executive Officer (CEO) (Accounting Officer)**

The CEO is designated by the funding agreement as the Trust's Accounting Officer and is personally responsible to the Trust Board and Secretary of State for ensuring that the financial administration of the Trust's affairs is in accordance with the Funding Agreement and/or Articles of Association.

This responsibility cannot be delegated and should be carried out by an employee of the Trust unless the ESFA has approved otherwise due to exceptional circumstances. Particular responsibilities include:

- Ensuring regularity and propriety.
- Ensuring prudent and economical administration.
- Avoiding waste and extravagance.
- Securing Value for Money through the efficient, effective and economical use of available resources.
- The day-to-day organisation, staffing and management of the central Trust.

In this capacity the CEO must advise the Trust Board if, at any time, any action or policy under consideration by them appears to be incompatible with the Funding Agreement and/or Articles of Association.

The CEO (accounting officer) must complete and sign a statement on regularity, propriety and compliance each year and submit this to the ESFA with the audited accounts. The CEO (accounting officer) must also demonstrate how the Trust has secured value for money via the governance statement in the audited accounts.

The CEO (accounting officer) must take personal responsibility for assuring the Trust Board that there is compliance with the funding agreement and Academies Financial Hand Book, and advise the Trust Board in writing if any action it is considering is incompatible with the articles, funding agreement or handbook and in circumstances where the Board cannot justify their action the CEO (accounting officer) will notify the ESFA immediately in writing.

The CEO must share all communications from the ESFA starting 'Dear Accounting Officer' with the Trust Board and other senior leaders.



## The Chief Financial Officer (CFO)

The Trust Board must appoint to the designation of Chief Finance Officer (CFO) to whom the detailed financial procedures are delegated. The CFO designation should be assigned to an employee of the Trust unless the ESFA has approved otherwise due to exceptional circumstances. The CFO designate and their finance staff must be appropriately qualified and/or experienced. The CFO will play both a technical and leadership role including ensuring:

- The preparation of medium term/annual capital and revenue budgets and financial plans.
- The preparation of monthly management accounts, management information, monitoring and control of expenditure against budgets and all financial operations for consideration by the CEO and Chair of the Trust.
- The preparation of the Trust's annual accounts and other financial statements which the Trust is required to submit to the DfE/ESFA or other authorities.
- The maintenance of satisfactory financial systems.
- Professional advice on all matters relating to financial policies and procedures.
- Day to day liaison with internal and external auditors in order to achieve efficient processes.
- Day to day liaison with the Trust's bankers in relation to the Trust's bank accounts including authority to open/close accounts.

## Company Secretary

The Trust Board must appoint to the designation of Company Secretary to the Board who has the requisite knowledge and experience to discharge the functions of secretary of the company. The Company Secretary to the Board will be responsible for maintaining up to date records and filings on Companies House and advising the Board on matters to ensure that it works in compliance with the appropriate legal and regulatory framework, and understands the potential consequences of non-compliance.

## 3. Purchasing

The Trust must demonstrate the proper and effective use of public funds. The main requirements are:

- **Probity** – to demonstrate that all parties dealing with the Trust are dealt with on a fair and equitable basis and that there is no private gain, favouritism or corruption involved in any of the dealings of the Trust;
- **Accountability** – the Trust is publicly accountable for its expenditure and for the conduct of its affairs; and
- **Value for money** – the achievement of value for money underpins the appropriate use of public funds.

The Trust will not use the Trust's funds to purchase alcohol for consumption, except where it is to be used in religious services.

Budget holders (such as subject leaders/department heads) will be informed of the budget available to them at least one month before the start of the academic year. It is the responsibility of the budget holder to manage their budget and to ensure that

funds available are not overspent. Budget holders will be able to directly obtain live expenditure details at any time via the financial system web portal, or receive a detailed print via their School Support/Office Manager. Budget holders are encouraged to keep their own records of orders placed but not paid for.

### **Requisitions up to £5,000 (inclusive)**

For primaries, requisitions for goods must fully detail the items required, a price where known or quote if obtained, the nominal code/cost centre, be signed as authorised by the headteacher and forwarded to the school administration team. There is no requirement for paper requisitions for regular items of expenditure which can be input directly on to the finance system as a purchase order for electronic approval by the headteacher. **It is the responsibility of the administration teams to place orders with suppliers through the Trust financial system. Orders should not be placed directly with suppliers by email or telephone by any other members of staff.**

**In the case of any academy running a deficit budget all decisions will need to be approved by the CFO/CEO.**

Order Frequency – Bi-weekly orders are only permitted for the following suppliers; Amazon and any urgent purchases outside of this order window must be approved by the Central Finance Team.

All staff will, where available, access the list of preferred suppliers from the ESFA listed Public Sector Buying Organisations. These suppliers will have already been subject to a procurement process to ensure value for money is obtained.

### **Requisitions of over £5,000 but less than or equal to £30,000**

Requisitions between £5,000 and £30,000 will be submitted by headteacher where at least three written quotations have been obtained and the lowest quote has been selected. The CEO/CFO will evaluate and approve where appropriate as long as it falls within the financial budget of the school/academy for that year and/or a relevant business case is presented. The requisition number and supporting documentation must be emailed to the central finance team for audit purposes.

Where the lowest quote is not selected it requires consideration for value for money and formal approval by the CEO (Accounting Officer).

The Headteacher is responsible for ensuring that adequate budgetary provision exists prior to the order being placed and input onto the Trust's financial system.

**It is the responsibility of the administration teams to place orders with suppliers through the Trust financial system. Orders should not be placed directly with suppliers by email or telephone by any other members of staff.**

### **Requisitions over £30,000 but less than EU procurement thresholds**

All goods/services with a value over £30,000 or for a series of contracts which in total exceed £30,000 are **not authorised to be ordered unless** they have been subject to formal tendering

procedures. Purchases over certain levels may fall under EU procurement rules and require advertising in the Official Journal of the European Union (OJEU) unless they are accessed through a Public Sector framework where this process has already been undertaken.

All procurement processes for requisitions over £30,000 will be led by the CFO unless the CEO authorises for another executive leader to undertake this process.

For Tenders above £50,000 the FAR Committee will seek approval from the Trust Board.

The ICT Support contract tendered through EU procurement allows for hardware to be provided from the appointed contractor subject to them demonstrating value for money against ESFA listed Public Sector Buying Organisations or other suppliers in a tender process.

The use of Government Frameworks will be permitted as an alternative to full tender processes.

Where educational visits are arranged to types of 'learning outside the classroom providers' – i.e. museums, galleries, farms, nature reserves, adventure centres to overseas expeditions. It is accepted that the priority in these circumstances is good quality educational provision and effective risk management. Tender processes will not be required in these instances.

### **Framework agreements**

Where the Trust regularly contracts for individually small but frequent contracts for services such as maintenance, redecoration, electrical rewiring and the like, the Trust will use a list of approved suppliers.

The process whereby suppliers would get onto the approved list would include a list of criteria which must be documented and approved (including financial standing, appropriate standard of works, insurance arrangements and review of Health and Safety and risk assessments).

Each supplier would be reviewed on an annual basis to confirm continued compliance with all requirements. Inclusion on the list would still go through normal delegated authorities, and any works undertaken would be reviewed for value for money as well as competence.

Jobs which are below the tender threshold would be awarded to the most suitable supplier on the list for the job required. This would make the process of awarding small works more efficient while still ensuring that all relevant checks are undertaken.

Works which are over the tender threshold would still be procured via those arrangements.

### **Forms of tender**

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 supplier's 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 school's requirements.
- the costs of publicity and advertising are likely to outweigh the potential benefits of open tendering.
- there is a lack of time to go through an open tender procedure.

### **Negotiated tender:**

The terms of the contract may be negotiated with one or more chosen suppliers. This is appropriate in specific circumstances and where the above methods have resulted in either no or unacceptable tenders:

- only one or very few suppliers are available.
- extreme urgency exists.
- additional deliveries by the existing supplier are justified.

### **Preparation for tender**

Full consideration should be given to:

- Objectives of the 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.

### **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

- Form of response.

## Aspects to consider

### 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 the tender price is the total price and that there are no hidden or extra costs.
- Scope for negotiation.

### 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.

### Other consideration

- Pre-sales 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.

### Tender acceptance procedures

The invitation to tender should state the date and time by which the completed tender document should be received by the Trust/school. Tenders should normally be submitted in plain envelopes clearly marked to indicate they contain tender documents. The Trust however, may also use the Trust dedicated email box for Tenders where emails will not be opened prior to the tender opening date. The envelopes should be time and date stamped on receipt and securely stored in the Trust/school prior to tender opening. Tenders received after the submission deadline should not normally be considered.

### Tender opening procedures

All tenders submitted should be opened at the same time and the tender details should be recorded. Please contact the CFO for further information about how the process should be undertaken and who should be present for the opening of the tenders.

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

## Tender evaluation procedures

The evaluation process should involve at least two appropriate 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 deciding must take care not to accept gifts or hospitality from potential suppliers that could compromise or be seen to compromise their independence.

The approval of tenders will be in accordance with the Scheme of Financial Delegation.

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

The accepted tender should be the one that is economically most advantageous to the Trust/School. All parties should then be informed of the decision.

