



Tendering Policy

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1. Aims

This policy aims to ensure that:

- The College's funds are used only in accordance with statutory requirements, its articles of association, its funding agreement and any future College's financial management handbook.
- Value for money (economy, efficiency and effectiveness) is achieved.
- Fairness – ensuring all parties are treated in a fair and equitable manner
- Accountability – taking responsibility for expenditure and the conduct of staff
- Integrity – ensuring transparency and ensuring all relevant processes are recorded
- Probity – ensuring there is no private gain from the college's financial affairs
- Governors fulfil their duties and responsibilities.

2. Legal Framework

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

- Equality Act 2010
- The Public Contracts Regulations (PCR) 2015
- Data Protection Act 2018
- The UK General Data Protection Regulation (UK GDPR)
- DfE (2020) 'Governance handbook'
- The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021

This policy also operates in conjunction with:

- Business Continuity Policy ?
- Data Protection Policy
- Financial Regulations
- Reserves Policy
- Conflicts of Interest
- Treasury Policy
- Anti-fraud and corruption Policy

3. Delegation

- Procurement is delegated to the operational leadership of the college. Budget Holders have delegated spend authority within the boundaries of their departmental budget allocation and must comply with procurement policy guidelines for obtaining quotes and tenders.
- There are certain classes of transactions where decision-making is never delegated, and this includes transactions that are novel, contentious or repercussive.
- The concept of a novel, contentious or repercussive transactions may be new to college staff, and it would not be practical to set out an exhaustive list of examples.
- Novel transactions are those of which the college has no experience or are outside its range of normal business.
- Contentious transactions are those that might cause criticism of the college by Parliament, the public or the media.
- Repercussive transactions are those that may have wider financial implications for the sector, or which appear to create a precedent.
- There is no financial threshold in relation to novel, contentious or repercussive financial arrangements; all such transactions require approval, regardless of value. Furthermore, the College should assess these matters objectively: if a transaction could reasonably be considered novel, contentious or repercussive, then it must be treated as such.

4. Modern Slavery Risk PPN 02/023

With effect from April 23 in line with PPN 02/23 - Tackling Modern Slavery in Government Supply Chains, the College will ensure due diligence in respect of modern slavery risks and ensure these are factored in to both new and existing procurement activity and contracts. At the selection stage of new procurement activity (particularly those designated as high risk such as cotton, PPE and polysilicon) information should be provided by the supplier.

5. Roles and responsibilities

5.1 College Governors

The governing body has overall responsibility for overseeing the financial performance and financial health of the college and in ensuring effective controls are in place to manage available resources and ensure regularity, propriety, and value for money.

Governors will ensure that:

- Spending decisions represent value for money
- Relevant professional advice (such as an external auditor) is used, where appropriate
- Goods or services provided by individuals or organisations connected to the College are provided at no more than cost
- Nobody connected to the College, directly or indirectly, uses their connection to the College for personal gain
- Where any governor has a pecuniary interest in a procurement decision, they exclude themselves from the process and records (e.g. meeting minutes) show that they had no influence on the decision

5.2 Finance and Resources Committee and Audit Committee

The Finance and Resources Committee is responsible for reviewing the College's tendering processes, and for reporting to the full governing body on tenders.

The Audit Committee shall determine any additional or alternative procedures applicable to the appointment of audit services.

5.3 VP (Finance, Resources & Systems)

The VP (Finance, Resources & Systems) is responsible for:

- Ensuring appropriate financial governance and risk management arrangements are in place
- Preparing and monitoring budgets
- Providing information to the F&R committee
- Overseeing and supporting competitive tendering

6. Thresholds:

College tendering procedures, contained in this document, are applicable to:

- Procurement of services and buildings and other purchases more than £40,000, and
- The retendering of audit services, which will be retendered at least every 5 years
- See college procurement policy for purchasing thresholds below £40,000

6.1 UK Public Contract Regulations PPN 10/21

Contract threshold levels wef January 2022. VAT is inclusive for the purposes of applying the following thresholds:

	Central Government Bodies	Others *
Supplies & Services (except subsidised service contracts)	£138,760	£213,477
Subsidised Service Contracts*	£213,477	£213,477
Works – All bodies*	£5,336,937	£5,336,937
Utilities – supplies & services*	£426,955	£426,955

7. Indemnities, Letters of Comfort and Guarantees

The framework for financial management set out in the government guidance on managing public money (MPM) explains that the College may take on liabilities by:

- Providing indemnities
- Writing a letter or statement of comfort, and
- Issuing specific guarantees

Such contingent liabilities mean that future spend may arise if certain conditions are met, or certain events happen. In such instances DfE approval may be required. It is important that the College understands the overall financial framework MPM and comprehends that certain classes of transaction may require additional controls. Section 3.6 of the financial regulations outlines what each of these areas are.

8. Framework agreements

Where possible, the college will use a framework agreement to contract suppliers. These are arrangements that a contracting authority, such as a public sector buying organisation, makes with suppliers. The benefits of frameworks are that they have already been through a competitive tender process and they have favourable terms and conditions. In addition, the framework provider may offer advice and support.

Depending on the framework we choose, we will either pick the best value supplier from a list or run a mini-competition between listed suppliers. In either case, we will follow the DfE guidance on procurement to ensure good practice. The reasons for the choice of framework, and for the choice of supplier, will be clearly recorded.

When running a mini-competition, the college will:

- Comply with the terms of the framework agreement.
- Decide how it will assess bids, following any rules the framework has.
- Decide the level of service required.
- Decide if it wants to run an expression of interest process.
- Send an invitation to tender to all suppliers who can provide what the college needs.
- Fairly assess all bids received.
- Choose the supplier that offers the best value for money.
- Award the contract to the winning supplier.

9. Tendering procedure

- a. Create a specification – a specification document will set out what suppliers need to understand what we are looking to buy, including the quality, quantity and delivery date
- b. Compare suppliers – a comparison of different suppliers, including their reputation, will help the College develop a shortlist of at least 3 suppliers we want to approach for a written quote
- c. When we contact suppliers, we will send them:
 - The specification
 - Deadlines for quotes and when decisions will be made
 - Instructions for how to ask clarification questions about the specification
- d. An award criterion will be developed to assess suppliers' quotes. Criteria may include:
 - How well the supplier meets our specification
 - The whole-life cost of the contract, which may include: - The sale price of the goods, works or services - VAT - Delivery charges - Maintenance costs - Running costs - The cost of removing and disposing of an item or service once we no longer need it
 - Whether there will be price increases or decreases over the life of the contractValue for money
- e. The appointed college employee will evaluate quotes with support from the VP (Finance, Resources & Systems
- f. Each aspect of the criteria will be scored on a scale of 1 to 5, with 5 being the highest score. A record of how the quotes is evaluated will be kept
- g. Tender response/evaluations will be prepared and circulated to the Tender Committee prior to formal consideration
- h. Formal consideration of tender applications will be undertaken by a Tender Committee. This Committee will be formed in accordance with the Governing Body's terms of reference for the Tender and Contracts Panel and shall be convened on an ad hoc basis by the Clerk to Governors as required
- i. Contractor decided and rationale minuted by Tender Committee
- j. Notify suppliers and award the contract
 - Notification of Intent (Alcatel) will trigger a 10-day standstill period
- k. Place an order – when the best value quote is identified, we will send the supplier a purchase order, which includes details of the:
 - Goods, works or services being procured

- Price
- Delivery address
- Delivery deadline and any other important dates
- Payment schedule

10. Tendering procedure: without a framework

When making purchases without a framework agreement, the College will use the process outlined below. The College will make purchases without a framework only in rare circumstances and with appropriate professional support.

- a. Create specification
- b. Assess the market – the college will prepare for the tendering process by developing our knowledge of the market. We will find out how many suppliers are available and the best way to advertise our contract to a range of suppliers
- c. Check the college's position in relation to EU procurement thresholds
- d. Develop a service level agreement (SLA) – an SLA sets out the standards of service expected from a supplier. Some suppliers may have their own SLAs, which the College will consider using on a case-by-case basis
- e. Develop a contract – a contract will include terms and conditions, a contract management plan and an exit strategy
- f. Create a timeline for the tender process – this will include the dates of the clarification period, the deadline for submitting tenders and the date we expect to award the contract
- g. Prepare an invitation to tender – this will include:
 - A covering letter with a timeline for the process
 - Instructions on how suppliers can ask clarification questions and submit their tender
 - The specification
 - A pricing schedule
- h. Any SLA requirements
 - The contract's terms and conditions
 - Contract management requirements (see 'develop a contract' above)
 - Award criteria, including the scoring system and any weightings
 - If appropriate, an invitation for suppliers to give a practical demonstration of their goods, works or services
- i. Advertise the contract – the contract will be advertised where suppliers are likely to look, such as:
 - The Official Journal of the European Union (OJEU) – this is a requirement if the contract is over the EU procurement threshold
 - The government's Contracts Finder service
 - Local or national newspapers
 - Education publications or websites
 - Trade magazines
 - College website
- j. Run the tender process and provide clarifications
 - Posted tenders should be sealed with the envelope marked TENDER and the words 'Private and Confidential'.
 - Emailed tenders should be emailed specifically to the named college

appointee clearly marked TENDER and 'Private and Confidential' or submitted via relevant portal

k. Receipt of Tenders

The deadline for receipt of completed tender and tender requirements i.e., tender reference, specification and format

l. Tender Opening

- Tenders shall be opened in the presence of the Vice Principal (Finance, Resources & Systems), the Clerk to Governors and one other official of the College (wherever possible a Manager connected with the project or with relevant experience).
- They shall be opened in order of receipt and their contents noted.
- The meeting should be minuted and the minutes signed as a true record by those present.
- Tenders submitted using digital systems or third-party agents will be opened in accordance with the specific tender guidance

m. Evaluate tender responses – the VP (Finance, Resources & Systems) and at least one other official of the College will independently score and evaluate each bid, completing their evaluations and recording

n. Evaluation criteria will allow us to evaluate which of the suppliers' bids best meets the requirements in our specification, and is the most economically advantageous tender that best combines cost and quality.

o. Tender response/evaluation paper will be prepared and circulated to the Tender Committee prior to formal consideration

p. Formal consideration of tender applications will be undertaken by a Tender Committee. This Committee will be formed in accordance with the Governing Body's terms of reference for the Tender and Contracts Panel and shall be convened on an ad hoc basis by the Clerk to Governors as required.

q. Contractor decided and rationale minuted by Tender Committee

r. Notify suppliers and award the contract

- Notification of Intent (Alcatel) will trigger a 10-day standstill period

s. Finalise the contract (and advertise the award, if the contract was advertised in Contracts Finder or the OJEU)

t. Abandoning the tender process – on very rare occasions we may need to halt the tender process. Should this occur, we will notify suppliers who are preparing their bids as soon as possible

11. Tender evaluation

When making high-value purchases using a full tender process or mini-competition process, the college will:

- Decide the method of assessing the bids.
- Ensure they have received offers to tender from at least three suppliers.
- Assesses all bids received fairly and according to the specification.
- Chooses the supplier that offers the best value for money.

When evaluating a tender, the following financial implications will be considered:

- Lower costs may not necessarily be the most favourable, e.g., 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 SBM needs to ensure the best possible value for money.

When evaluating a tender, the following technical requirements will be 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.
- Reference from previous customers.

When considering a tender, the following other requirements will be considered:

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

A record will be kept of all the suppliers who submitted tenders, along with the amount tendered. Where the college is inviting suppliers from a framework to bid, it will follow the terms of the framework agreement when evaluating and accepting tenders

12. Tender acceptance

Invitations to tender will always state the date and time the completed tender documents are to be received by the college. Suppliers will be required to submit documents electronically clearly stating they are tender documents. All emails should be clearly marked with the tender reference in the subject heading and held until official opening. Tender documents received after deadlines will not be considered, unless the supplier provides proof of exceptional circumstances.

Informing unsuccessful bidders

The college will email all unsuccessful bidders, including the following information:

- 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 college will provide information regarding the cost of the winning bid upon request,

providing it does not reveal any commercially sensitive information.

Informing the successful bidder

The college will email the successful bidder, the following information:

- The award criteria used.
- Their scores.
- Why the college thinks their bid is the most economically advantageous.
- When the standstill period ends.

The college will use the email confirmation as an invitation to finalise a contract. The email will outline that:

- The college will only award the supplier 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.

13. Procurement and spending decisions

The college will ensure 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 applied, and PCR procurement rules and thresholds are observed.
- Professional advice is obtained where appropriate.

14. Tender waiver procedure

If the requirement to obtain a competitive tender or quote is requested to be waived, the single tender/quotation waiver should be completed. This should be approved by the Vice Principal (Finance, Resources & Systems); one Assistant Principal and the Chair of the Finance and Resources Committee.

15. Contracts

The college will seek legal advice before entering a contract and ensure that it has a contract management plan in place. Non-routine tenders or purchases, such as leases, are subject to a contract, which is signed before the work begins or goods are delivered. Arrangements will be made with the supplier to finalise the management and payment arrangements, clarify key performance indicators, and agree how they will work together. All contracts will include the following details:

- A detailed description of the goods, works or services the school has agreed to buy, linked to the specification.
- A pricing schedule – what will be paid when.
- Terms and conditions.
- The level of service you want – this may include service level agreements (SLA) and/ or 'key performance indicators' (KPIs).

- Any contract management arrangements such as regular meetings or contact.
- If necessary, an 'implementation plan' saying who is responsible for what – for example, if buying ICT equipment, who will do the cabling and install it.
- What happens at the end of the contract.
- The written specification, as an appendix to the contract.
- The timeline and completion date of the work.
- An exit process.
- The requirements for any companies being employed by the supplier.

If the supplier is employing another company to undertake some, or all, of the work, or to provide goods, it is the supplier's responsibility to ensure the company has:

- Health and safety policies in place.
- The relevant insurance.
- The required professional qualifications.
- Proof of certification.

Copies of all contracts will be securely stored in the central contracts register. The college will place a contract award notice in the OJEU using eNotices, if the purchase is over the PCR procurement threshold, within 30 days of awarding the contract.

The college will set the option to extend a contract in its invitation to tender, if required, and specify a timeframe. Any extended contracts will adhere to the timeframe set in the invitation to tender, using a variation agreement.

The college will seek legal advice or contact the DfE if a contract needs to be extended but was not an option included on the initial invitation to tender.

Challenges from unsuccessful bidders

The college will maintain the following minimum standstill period between notifying the winning bidder and awarding the contract, depending on the means of communication used to transmit the standstill notice:

- Notices communicated by electronic means: **10** calendar days
- Notices communicated by non-electronic means: **15** calendar days

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 college will contact them and explain that a fair assessment process was conducted, and good records have been kept – legal advice may be sought depending on the nature or seriousness of the challenge.

If an unsuccessful bidder makes a legal challenge, the college will not finalise the contract, and will seek legal advice before proceeding. Where the court grants 'interim measures', the college will wait for the outcome of the legal proceedings.

The end of a contract

The college will plan for the end of a contract in advance by:

- Returning the supplier's equipment, where required.
- Terminating any joint arrangements.
- Disposing of or removing any unwanted items.

The college will follow its exit process where a contract needs to end prematurely.

16. Invoices

As per college payment policy, all invoices will be 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.

17. Risk Management

The college will maintain a risk register and manages risks to ensure its effective operation. The college's risk management for the procurement of goods and services will include contingency and business continuity planning. The governing body will retain the ultimate oversight of the risk register, drawing on advice from the audit committee. The governing body will review the risk register annually.

The college will be protected by adequate insurance cover in compliance with legal obligations.

The college will cooperate with risk management auditors, implementing any reasonable risk management audit recommendations to ensure the procurement of goods and services does not negatively impact the college.

To cover rare occasions where the college may need to stop a bidding process, the college will ensure that its tender documents clearly state that the college has the right to abandon the bidding process at any time without any liability to the bidders.

18. Related party transactions

The governing body and all relevant members of staff will avoid any conflicts of interest, declare their interest in proposed transactions and arrangements, and will not accept benefits from third parties.

All members of the governing body and any relevant members of staff will complete the register of interests. No employee or volunteer will use their connection to the college for personal gain. Personal relationships with related parties will be managed in a manner that avoids both real and perceived conflicts of interest. The college will be aware of relationships with related parties that may attract greater public scrutiny, such as:

- Transactions with individuals in a position of control and influence.
- 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.

The college will keep a record of any related party transaction, including:

- The value of the contract.
- The person's interest which makes it a related party transaction.
- Details on the procurement was handled.

The college will keep a register of interests and manages related party transactions in line with the Business Continuity Policy

19. Fraud

Fraud is defined as deliberate deception intended to make financial gain or cause a loss. The college will remain vigilant for fraudulent activity during the procurement process and will aim to avoid this by:

- Adhering to the college's Anti-fraud & Corruption and Whistleblowing policies.
- Maintaining clear records.
- Running a transparent buying process.
- Ensuring all relevant parties are well informed of the process.
- Implementing a selection stage in the procurement process to exclude fraudulent offers.
- Researching the estimated cost of a purchase before starting the procurement process.
- Adhering to the Anti-fraud and Corruption Policy.
- Conducting fraud risk assessments.

The college will remain vigilant for:

- Price fixing – where suppliers work together to raise process or decide who wins the bid.
- Cover pricing – where suppliers send in excessively high bids to make other bids seem low, or where they do not want the work but do not want to seem unwilling to do similar work in the future.
- Overcharging.
- Suppliers charging for work or goods that are not provided or required.

The college may halt the procurement process if it suspects there is fraudulent activity, and

reports this to the relevant authority in line with the Anti-fraud and Corruption Policy

20. Assessment of goods

Goods will be inspected by procurer upon delivery. Any items that are not part of the order, damaged, or not fit for purpose will be returned as soon as practicable.

21. Monitoring and review

This policy will be reviewed by the Finance & Resources Committee and approved by the full Governing Body every two years. The VP (Finance, Resources & Systems) is responsible for the implementation of this policy.

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