

Ormiston Academies Trust

Procurement policy

Policy version control

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Review	Policies will be reviewed in line with OAT's internal policy schedule and/or updated when new legislation comes into force
Description of changes	<ul style="list-style-type: none"> • Reference to OAT Environment Policy (currently in draft, available from summer 2022) • Specific reference to Environmental Sustainability in above threshold Procurements • Procurement Team contact • Removal of references to Preferred or Trusted Supplier list • Inclusion of Direct Award Contract guidance • Revised EU Threshold amendments • Simplified Procurement Decision Flowchart • Hyperlinks to new feasibility and business case templates

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Scope

1. Purpose

1.1. This document sets out OAT's policy towards procurement.

2. Legal and regulatory framework

2.1. This policy ensures OAT Head Office and Academy Staff follow the correct procurement process to meet internal governance rules, statutory and legal requirements and ensures compliance with the Public Contracts Regulations (PCR 2015).

2.2. This policy will also:

2.2.1. Ensure probity and compliance with the directives governed by The Public Contracts Regulations 2015, United Kingdom Legislation, OAT strategy and procedures.

2.2.2. Source high quality goods, services and works using best practice procurement methods.

2.2.3. Ensure OAT colleagues are fair, open, and transparent in the treatment of suppliers, acting impartially in relation to supplier selection, tender evaluation and contract award to ensure protection from claims of fraud, corruption and collusion.

2.2.4. Ensure that when selecting any supplier, appropriate terms and conditions are utilised and they have the technical and professional ability to provide the goods, services or works.

2.2.5. Ensure that goods, services, and works are procured that represent and achieve value for money and demonstrate good value for our customers and in a manner consistent with this policy.

2.2.6. Embed social value considerations into procurement activity. Help generate benefits to society and the economy including local communities where procurement activity allows

2.2.7. Help promote environmental and sustainable options where appropriate and proportionate, during and after procurement activity.

2.2.8. Continue to maximise the use of e-procurement in procurement and contract activities.

Policy Statement

3. Colleague Responsibilities

- 3.1. This policy provides the high-level framework for procurement activities and forms part of the OAT governance arrangements, in that it runs in parallel with the financial regulations and scheme of delegation. This policy relates to all colleagues within the Trust.
- 3.2. Only colleagues with relevant signing authority are permitted to commit expenditure to third parties. All colleagues and those who are specifically engaged in procurement activities are required to familiarise themselves with the content of this policy and any other related documents, including procedures, strategy and delegations of authority and comply with them.
- 3.3. This policy sets out the importance to all colleagues, prior to undertaking any procurement process, of considering how any goods, services or works that are procured might improve economic, social, and environmental well-being.
- 3.4. Colleagues should ensure that, where available, centrally procured OAT contracts and/or framework agreements are utilised. These contracts/frameworks have already been market tested and are compliant with EU and UK legislation, saving Academies time and providing a value-for-money solution.
- 3.5. Colleagues should minimise the time and cost of procurement activity by using OAT current contracts and/or framework agreements or, in the absence of these, conduct value for money evaluations on procurement consortia framework agreements, collaborative framework agreements and partnerships that operate locally, sector wide or nationally, when available.
- 3.6. Members of the OAT Head Office Procurement Team can offer advice to help colleagues make use of Contracts or framework agreements in key category areas.
- 3.7. In the absence of a suitable OAT Contract or Framework agreement, colleagues must strictly adhere to the Compliance Requirements set out in Appendix 1. Guidelines for producing a business case are set out in Appendix 2.

4. Procurement Team Responsibilities

- 4.1. Members of the Procurement Team (see Appendix 3) will collaborate with other registered providers and purchasing consortia where it is in the best interest of our customers, our community, and/or our business to do so.
- 4.2. All procurement activity planned with a contract value above the thresholds set under the European Public Contracts Directive must be conducted via the Procurement Team. For any

above EU threshold procurement activity not conducted via the Procurement Team, prior approval must be sought from the relevant Executive Director and National Finance Director.

- 4.3. Head Office Procurement will keep electronic copies of the procurement contracts in the Contracts Register. These will only be made available to those who need to use them for the business of OAT, but otherwise kept confidential.

5. Environmental, Social, Equality and Diversity Considerations

- 5.1. The specifications and evaluation criteria must reflect OAT's corporate values and consider OAT's environment policy (currently in draft, available from summer 2022).
- 5.2. All procurement exercises above the EU Threshold (currently £177,897 for Supplies and Services and £4,447,447 for Works) will evaluate each bidders' environmental sustainability. Each applicable procurement exercise will ask the bidder to confirm and attach their current Environmental Policy and provide information regarding their current Carbon emissions.
- 5.3. Colleagues must ensure that small and medium enterprises (SMEs) and third sector organisations within the local business community are encouraged to do business with OAT.
- 5.4. Colleagues must ensure that all procurement activity considers OAT equality and diversity policy and is sensitive to cultural differences.
- 5.5. Colleagues must ensure all procurement activity considers social impact and OAT's social values.

6. Transparency

- 6.1. All contractual relationships must be documented in writing and be based on OAT standard terms and conditions. Where this is not possible, advice must be sought from the Procurement Team in the first instance. An electronic copy of all resulting contracts, must be passed to the Procurement Team using the template available at [Contract Register Template - Non Central Contracts.xlsx](#). This information must be centrally retained by the Procurement Team for audit purposes.
- 6.2. OAT colleagues must not endorse any products or services. Individual requests received for endorsement must be referred to the Procurement Team in the first instance.
- 6.3. Conflicts of interest can arise through outside activities, relationships or other engagements that might adversely affect a colleague's or contractor's objectivity, transparency, or credibility. Colleagues are required to declare any conflict of interest to the Procurement Team and the Head of Governance prior to undertaking any procurement activity. Failure to do so may result in disciplinary action. Please refer to the OAT Business & Pecuniary Interests policy.

7. Contract Management

- 7.1. Colleagues executing a contract must ensure arrangements are in place to manage its delivery including specific performance measures. Where possible, these will be referenced in the tender documents or the resulting contract. Failure to measure performance will affect the effectiveness of the contract and potentially impact our ability to apply performance clauses written into the contract should they need to be activated.
- 7.2. Only contracts which specifically state an extension is available may be extended. Any contract which does not include an agreed extension period must be completed in accordance with the terms and the requirement put out to market for competition. To extend a contract where it is not written into the contract is construed as a Direct Award Contract and under EU rules and can lead to legal challenges (see section 8 of this policy).
- 7.3. Colleagues must ensure any contract entered which is more than 3 months in length is added to the Contracts Register. An electronic signed record must be sent to the Procurement Team. This record must include the contract annual value, commencement date, initial expiry date, maximum expiry date (including extensions), senior contract owner, Key Performance Indicators (KPI's), Operational Contract Manager and any Social or Environmental considerations. (See [Contract Register Template - Non Central Contracts.xlsx \(sharepoint.com\)](#))

8. Direct Award Contracts (DACs)

- 8.1. Direct Award Contracts (otherwise known as Single Tender Actions – STA's or 'sole sources of supply') are where only one company/individual is asked to quote/tender for a particular good, service or works requirement.

It is discouraged, as a competitive process is more likely to achieve better value for money (VFM). Therefore, the requester must be satisfied that the direct award is justified, will achieve value for money and will not result in OAT becoming overly reliant on the supplier.

A Direct Award or single source process may be justified in a few specific situations:

- 8.1.1. The work relates to a recently competed contract, and the likely cost saving through tendering is clearly outweighed by the added value of continuity of supplier
- 8.1.2. Exclusive rights - the good, service or work required is so specialist that it is only available from one source e.g. only one supplier has the required knowledge or owns the Intellectual Property needed. Other branding or sources of supply must be considered, where possible.
- 8.1.3. A tight deadline has been imposed by the Government or by new legislation which means there is insufficient time to compete the work. This must be due to unforeseeable circumstances that are beyond the control of the Awarding Authority.
- 8.1.4. Exceptional VFM can be demonstrated by benchmarking cost.

- 8.1.5. There's a serious health & safety, safeguarding or some other overriding public interest concern.
- 8.1.6. Use of a framework agreement permits direct award.
- 8.2. The following are example categories of contracts awarded on the basis of an exclusive right which are exempt from this policy:
 - 8.2.1. the acquisition or rental, by whatever financial means, of land or existing buildings;
 - 8.2.2. employment contracts;
 - 8.2.3. public contracts between public sector entities, which satisfy a range of conditions.
 - 8.2.4. Criminal record checks.
 - 8.2.5. Professional body memberships.
 - 8.2.6. Local Authority (Council) payments.
 - 8.2.7. Rental of land and existing buildings.
 - 8.2.8. Subscriptions to journals.
 - 8.2.9. TV licensing.
 - 8.2.10. Unique work of art or artistic performance.
 - 8.2.11. Training Courses (individual only).
- 8.3. Use of a Direct Award Process for expenditure >£5k is viewed as a deviation or 'waiver' within section 5 of OAT's Financial Delegations. Waivers require a specific approval process. Further details of this process is contained in Appendix 2 (points 2 – 5).

9. Performance Measures

- 9.1. The Procurement Team will provide EU and other annual statistical returns to the UK Government Departments.
- 9.2. Reports on procurement activity, value added and progress against the annual sourcing plan will be provided to the Executive Team and to the Finance & Capital Committee on a termly basis or as often as they require.
- 9.3. Procurement will provide reports as required on cashable and non-cashable savings. In addition, any added value benefits or efficiencies will also be highlighted.

9.4. Academies will from time to time be asked to provide statistical data on procurement activity to help respond to regulator body questions and/or support new centrally procured projects.

10. Education & Communication

10.1. The Procurement policy will be updated in May 2023 and promoted via the OAT Procurement intranet site: <https://ormistonacademiestrust.sharepoint.com/sites/procurement>

10.2. This site contains high level corporate information as well as useful guidance regarding contract management, procurement procedures, routes to market and a range of templates to assist OAT colleagues with the procurement process.

11. Monitor & Review

11.1. This policy will be monitored by the OAT Executive Board and reviewed every year. As part of the internal audit work undertaken each year, spot checks will be carried out on to ensure that the correct process, in line with this policy is being followed.

11.2. This policy will be updated from time to time to reflect legislation, market, and business changes. Feedback from colleagues and stakeholders will form part of the review process and will influence the development and content of this policy.

11.3. The National Finance Director –will be responsible for colleague awareness of this policy and ensuring that its objectives are being met. In addition, all Executive Directors will ensure that their teams comply with this policy.

12. Associated documents policies and procedures

12.1. The Public Contracts Regulations 2015

12.2. OJEU (Official Journal of the European Union)

12.3. General Data Protection Regulation 2016 and Data Protection Act 2018

12.4. Bribery Act 2010

12.5. Equality Act 2010

12.6. The Social Value Act 2012

12.7. Staff code of conduct

- 12.8. Gifts and hospitality policy
- 12.9. eSafety and eSecurity policy
- 12.10. Data protection and freedom of information policy
- 12.11. Modern slavery statement
- 12.12. Annual declaration of interest form
- 12.13. Business & pecuniary interests policy
- 12.14. Financial scheme of delegation
- 12.15. OAT Environment Policy (currently in draft, available from summer 2022)

Appendix 1

Colleague compliance requirements

Total Contract Value (TCV) is the total estimated expenditure (net of VAT) for the entire term of the contract including any extension periods and the net of any forecast credits or revenue received e.g. profit sharing arrangements, if applicable.

Level	Contract Value & Authority <i>(Contract value is established using the full contract term including extension periods).</i> <i>(Authority denotes the approval required at the Academy and/or Head Office level, as applicable)</i>	Feasibility Case ¹ required?	Pre-Procurement Approval Required?	Quotations/ Tenders Required?	Pre-Award Approval of Business Case ² /Award Report Required?
1	<p>Up to £5,000</p> <p>Academies: Academy Finance Lead/Director (or equivalent)</p> <p>Head Office: Budget holder and Finance Manager</p>	No, colleagues with relevant signing authority must be satisfied those purchases represent good VFM and that a contract is not already in place	No	Best value principals must be applied even to current suppliers. No requirement for written quotes unless there is good reason to request a quote from the wider market.	No

¹ See the Feasibility Case Template information and hyperlink in Appendix 2

² Required by exception at the £5,000 to £10,000 level and mandatory at the £10,000 to £50,000 and £50,000 to EU Threshold levels. See the Business Case Template information and hyperlink in Appendix 2

2	<p>£5,000 to £10,000</p> <p>Academies: Principal, Academy Finance Lead/Director (or equivalent)</p> <p>Head Office: Budget holder and Finance Manager</p>	<p>No, colleagues with relevant signing authority must be satisfied those purchases represent good VFM and that a contract is not already in place</p>	No	Evidence of an invitation to quote to a minimum of 3 suppliers with at least 2 written returns received.	No, unless the exception referenced is triggered (see Appendix 2 point 2) in which case a Business Case with appropriate justifications requires approval by colleagues with the relevant signing authority to confirm VFM.
3	<p>£10,000 to £50,000</p> <p>Academies: Principal, Academy Finance Lead/Director (or equivalent) and OAT Head of Academies Finance.</p> <p>Head Office: Applicable OAT National Director</p>	<p>No, colleagues with relevant signing authority must be satisfied those purchases represent good VFM and that a contract is not already in place.</p> <p>HO Procurement team advice is available on request.</p>	No	Evidence of an invitation to quote to a minimum of 3 suppliers with at least 2 written returns received.	Yes, a Business Case derived from the responses received from the invitation to quote and approved by colleagues with the relevant signing authority to confirm VFM
4	<p>£50,000 to EU Threshold (currently £177,897 for Supplies & Services and £4,447,447 for Works)</p> <p>Academies: Principal, Finance Lead/Director (or equivalent) & the applicable OAT Head of Academies Finance & National Director.</p> <p>Head Office: Applicable OAT National Director</p>	<p>Yes, unless the Invitation to Tender (ITT) requirements cannot be met (see Appendix 2 point 4).</p> <p>HO Procurement Team advice must be sought before finalising the Feasibility Case.</p> <p>The relevant signing authorities must be satisfied the envisaged procurement is justified and that an appropriate contract is not already in place.</p>	Yes, the Feasibility Case must be approved by the applicable OAT National Director <i>before</i> the Invitation to Tender (ITT) is issued, if applicable.	Invitation to tender (ITT) to minimum of 4 suppliers with at least 3 returned bids	Yes, a Business Case derived from responses received from the invitation to tender (ITT) and approved by colleagues with the relevant signing authority to confirm VFM.

5	<p>EU Threshold + (currently £177,897 for Supplies & Services and £4,447,447 for Works) and over</p> <p>Academies and Head Office: Applicable OAT National Director (pre-procurement approval) and the OAT Executive, Finance and Capital Committee</p>	<p>Yes, unless the ITT requirements cannot be met (see Appendix 2 point 5).</p> <p>HO Procurement Team advice must be sought before finalising the feasibility case.</p> <p>The relevant signing authorities must be satisfied the envisaged procurement is justified and that an appropriate contract is not already in place.</p>	<p>Yes, the Feasibility Case must be approved by the applicable OAT National Director <i>before</i> the Invitation to Tender (ITT) is issued, if applicable.</p>	<p>EU Procurement Rules / The Public Contracts Regulations 2015 apply</p>	<p>Yes, the Award Report created by the OAT Procurement Team and submitted for the approval of the OAT Executive and OAT Finance and Capital Committee (subset of OAT Trustees).</p>
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Appendix 2

Feasibility Cases and Business Cases

1. The purpose of the feasibility case is to demonstrate the overarching need and viability of a proposed procurement for the review and approval of the relevant signing authority/authorities **prior to the commencement** of certain procurement activities. The feasibility case will be required **by exception** for contract values between £5k and £50k and **mandatory** for **all** above £50k procurements

The feasibility case, when required, will be typically based on commercial estimates from market research or benchmarking activity and should clearly identify and manage any associated risks by ensuring that all relevant issues have been satisfactorily considered **prior to the commencement** of any associated procurement activity.

If the feasibility case is approved, formal procurement activity can commence in keeping with compliance requirements. Once the procurement process has concluded **actual** commercial and contractual information derived from the procurement process is used to revise and enhance the feasibility case into a Business case; demonstrating the benefits and satisfactorily mitigating the risks identified in the feasibility case, with a clear recommendation for the review and approval of the relevant signing authority/authorities.

If the required business case is approved, the requester can proceed to enter into the contract with the successful bidder.

Feasibility/Business cases should use the templates available in the 'Business/Feasibility Case Templates' section of the 'Template' area in the Procurement Webpage - [Business/Feasibility Case Templates](#) - or Contact the Procurement Team.

2. **Expenditure between £5k and £10k:** Business cases need only be provided if you do not intend to follow the appropriate quotation rule e.g. a Direct Award Contract is justifiably required (see [Business Case Template - deviation from Procurement Policy - Waiver Request](#)) or less than 2 written quotation returns are received. In the event of the Direct Award Contract scenario (Waiver request) being sought the related Business Case requires (in addition to the applicable signatories) CFO, Functional Budget holder and Commercial Procurement Manager endorsement after reviewing the reasons given (If the CFO is involved in this process, the CEO will endorse the waiver after reviewing the reasons given). NB: a summary of Waiver requests will be maintained by the Commercial Procurement Team and termly monitoring will be carried out by the Executive.
3. **Expenditure between £10k and £50k:** A **mandatory** business case is required whether or not the appropriate quotation rule is applied. In the event of a Direct Award Contract scenario (Waiver request) being sought, the related Business Case requires (in addition to the applicable signatories) additional CFO, Functional Budget holder and Commercial Procurement Manager endorsement after reviewing the reasons given (If the CFO is involved in this process, the CEO will endorse the waiver after reviewing the reasons given). NB: a summary of waivers will be maintained by the Commercial Procurement Team and termly monitoring will be carried out by the Executive.
4. **Expenditure over £50k but less than the EU Threshold** (currently £177,897 for Supplies and Services and £4,447,447 for Works)

If an Invitation To Tender (ITT) is viable, procurement team advice must be sought at least six months in advance of the envisaged commencement of the associated Contract to assist planning. An initial feasibility case ([Feasibility Case Template](#)) requires approval **before the tender exercise can commence**, if an ITT is viable.

After the tender exercise has concluded, a Business Case (conveying tendered outcomes and a suggested recommendation for award which demonstrates good VFM, is required. This business case needs approval by the appropriate OAT National Director, Academy Principal, Finance Lead/Director (or equivalent) and the OAT Head of Academies Finance (this approval allows the requester to proceed with the award of the contract) – see [Business Case Template - no deviation from Procurement Policy](#).

If an ITT is not viable e.g. a Direct Award Contract is justifiably required (Waiver request), the requester must produce a Business Case to explain the justification for not following the usual ITT process ([Business Case Template - deviation from Procurement Policy - Waiver Request](#)). This Business Case requires (in addition to the usual applicable signatories) CFO, Functional Budget holder and Commercial Procurement Manager endorsement after reviewing the reasons given (If the CFO is involved in this process, the CEO will endorse the waiver after reviewing the reasons given) AND the applicable Principal **prior to entering any potential contract**.

NB: a summary of waivers will be maintained by the Commercial Procurement Team and termly monitoring will be carried out by the Executive.

5. **Expenditure above the EU Threshold** (currently £177,897 for Supplies and Services and £4,447,447 for Works)

If an Invitation To Tender (ITT) is viable, procurement team advice must be sought at least one year in advance of the envisaged commencement of the associated Contract to assist planning. An initial feasibility case requires approval **before the tender exercise can commence**. The procurement team will normally issue the invitation to tender (ITT).

After the tender exercise has concluded, the procurement team will create an Award Report for the approval of the OAT Executive and OAT Finance and Capital Committee (subset of OAT Trustees).

If an ITT is not viable e.g. a Direct Award Contract is justifiably required (Waiver request), the requester must produce a Business Case to explain the justification for not following the usual ITT process (see [Business Case Template - deviation from Procurement Policy - Waiver Request](#)). This Business Case requires (in addition to the usual applicable signatories) CFO, Functional Budget holder and Commercial Procurement Manager endorsement after reviewing the reasons given (If the CFO is involved in this process, the CEO will endorse the waiver after reviewing the reasons given) AND the applicable Principal AND the OAT Finance and Capital Committee (subset of OAT Trustees) **prior to entering any potential contract**.

NB: a summary of waivers will be maintained by the Commercial Procurement Team and termly monitoring will be carried out by the Executive.

Appendix 3

The OAT Procurement Team

Advice and guidance are available on request for procurements over £10k estimated total contract value where an existing OAT contract needs to be considered and/or an invitation to quote from a minimum of 3 Suppliers is required.

For procurements over £50k estimated total contract value the HO Procurement Team must be contacted for guidance on :

- The draft and final business cases,
- Management of the e-procurement process and system MyTenders,
- Contract Terms & Conditions and
- Ongoing contract management and Supplier relationship management

Procurement Team contact		
Trevor Armstrong	trevor.armstrong@ormistonacademies.co.uk	Commercial Procurement Manager

Appendix 4

Contract Signatories

Most OAT Contracts which have been formally tendered, do not require a physical signature on a Contract, but rather the formal Trust confirmation of the Contract/Framework Award, for a legally binding Contract or Framework to be formed.

If, however, a physical signature is needed to initiate the forming of a Contract, Framework or Leasing Agreement on behalf of the Trust, the following shall apply:

Award Type	Expenditure Level	Required Signatory
Framework	Up to £10,000	Academy Finance Lead/Director (or equivalent)
Framework	£10,000 to £50,000	Head of Finance or OAT Head of Academies Finance
Framework	£50,000 to EU Threshold (currently £177,897 for Supplies and Services and £4,447,447 for Works)	National Director of Finance
Framework	>EU Threshold (currently £177,897 for Supplies and Services and £4,447,447 for Works) and over	OAT CEO/Trustee
Contract	Up to £10,000	Academy Finance Lead/Director (or equivalent)
Contract	£10,000 to £50,000	Head of Finance or OAT Head of Academies Finance
Contract	£50,000 to EU Threshold (currently £177,897 for Supplies and Services and £4,447,447 for Works)	National Director of Finance
Contract	>EU Threshold (currently £177,897 for Supplies and Services and £4,447,447 for Works) and over	OAT CEO/Trustee
All Leasing Agreements/Contracts	Any value	OAT CEO

Appendix 5

Procurement decision flowchart

