

# PROCUREMENT AND TENDERING POLICY

## INTRODUCTION

Procurement is defined as the process of acquiring goods, works and services from external providers.

Procurement is at the heart of delivering value for money and covers everything from ordering stationery through to technical equipment, services and capital expenditure such as buildings and infrastructure. All those undertaking procurement carry an important responsibility. The aim of this policy is to help staff make and manage purchases effectively, correctly and with confidence.

Effective procurement ensures that the school makes the best use of its resources by producing the right outcome, delivering value for money over the whole life of the contract, minimising risk, protecting its reputation and operating within the law.

The principles of this Policy apply to all commercial contracts entered into by the school. It is the responsibility of all staff to ensure that the Policy is taken into account.

## PURPOSE

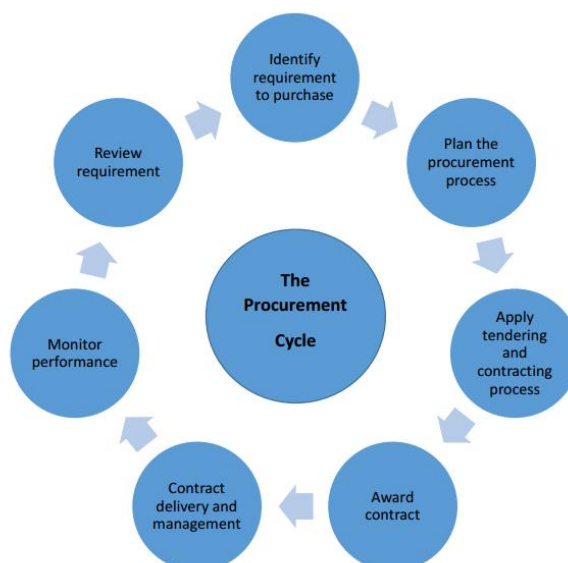
This policy has been produced to ensure that Northampton School for Girls manages public funds in a proper and effective manner as set out in the ESFA's Academies Financial Handbook. When considering the procurement of, and tendering for goods and services, consideration should be given to probity, accountability and value for money.

**Budget holders must notify the Headteacher, Bursar or Chair of Governors immediately of any financial irregularity or suspected irregularity which comes to their notice.**

Budget holders have delegated authority to incur expenditure with the school's overall strategy. It is the duty of all budget holders to ensure that all members of staff within their department are aware of the Procurement Policy and all procedures and guidance issued that relates and they follow the aforementioned regulation, policy, instructions and guidance accordingly.

## THE PROCUREMENT CYCLE

"Procurement" means the whole process of acquisition from third parties and covers goods, services and works projects. The process spans the whole life cycle from initial concept/idea and definition of business needs through to the end of the useful life of an asset or end of a services contract. Some people refer to this cycle as the "commissioning cycle". All procurement will typically involve the following stages:



## QUOTATIONS AND TENDERS

### The decision to tender

The procedure adopted by the academy depends on the value of the contract. Generally the position is as follows:

- (i) Up to £5,000 - at the discretion of the Headteacher
- (ii) Between £5,000 - £15,000

The academy shall obtain **at least two written quotations** confirmed by the supplier in writing. Wherever possible the person obtaining the quotations should not have a direct involvement in the certification and payment of accounts.

- (iii) Between £15,000 - £30,000

The academy shall obtain **at least three written quotations** confirmed by the supplier in writing. Wherever possible the person obtaining the quotations should not have a direct involvement in the certification and payment of accounts.

- (iv) Over £30,000

The academy shall obtain **competitive tenders**. Wherever possible the person obtaining and evaluating tenders should not have a direct involvement in the certification and payment of accounts. If, in the opinion of the Governors, it would not be practical to invite competitive tenders, then both the decision and the reasons behind the decision will be evidenced in Governing Body minutes. This would only be the case in exceptional circumstances.

- (v) Over EU thresholds

The academy shall obtain **competitive tenders**, with advertisements placed in OJEU (the Official Journal of the European Union) and must follow EU procurement requirements with particular regard to be given to the timescale for such tenders.

*The figures above apply to single purchases. Where a leasing contract extends beyond a single year, the figures above relate to **each year** of the lease (see leasing section at end for further information).*

## SPECIFICATIONS

A specification is a detailed description of the requirements to which goods, services or works should conform. It should refer to the quality of materials and standards of workmanship but typically must not reference specific products, brands, marks or part numbers. International or European standards must be referenced where possible.

The specification should include **function** (the purpose of the product or service) and **performance**.

This:

- helps ensure no bias or favouritism towards one supplier, product or service;
- draws attention to the results rather than the means of achieving them;
- allows suppliers to offer solutions to the requirement;
- minimises the resources required to write the specification.

**Technical** (the physical characteristics of the product) specifications may be required where dimensions, colour or capacity need to be detailed, and bias should be avoided by the use of descriptions such as "similar to" or "equivalent to". Drawings may be used where the requirement cannot be sufficiently described, or to provide clarification, but suppliers can be given the opportunity to suggest innovative or alternative solutions.

The requirement of the specification should be in plain English, avoid jargon where possible, and with symbols, acronyms and technical terms clearly defined in a glossary. Generic terms should be used rather than supplier references.

The specification should identify all relevant details, including delivery schedules, milestone payments, ownership of intellectual property rights, and so forth.

It is best practice to incorporate the following points:

- A clear and simple title to ensure that it is not misleading. Where several items are required, the title should make it clear what the whole purchase is.
- A list of contents
- An introduction that may serve to increase the supplier's interest and enable them to understand the requirement in a broader context.
- Compliance with legal requirements.

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.

It is often useful at the start of a project, and strictly before the call for competition has formally begun, to directly engage with the market to establish how best to structure the specification and shape the procurement strategy.

For most contracts particularly for those of a higher value, specialist or complex nature a specific set of terms and conditions needs to be compiled to protect the school's interests. Legal advice may be required when drafting.

## THE TENDER PROCESS

### Forms of tender process

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 Bursar 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:

- 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.

### PROCEDURE FOR FORMAL TENDER

1. A specification will be prepared, authorised by the Chair of the Finance Committee and Headteacher and sent to at least three suppliers. It is anticipated that for any major building works of a value greater than £50,000 the services of an architect would be engaged to deal with the handling of specifications and suitability to tender.

2. Where appropriate (restricted tender), the suppliers invited to tender should be drawn from an approved list or from those agreed with the architect. Otherwise, invitations to submit tenders will be advertised in local newspapers and trade journals if appropriate (open tender).
3. The invitations to tender will include: a) an introduction/background to the project; b) the scope and objectives of the project; c) any technical requirements; d) implementation details for the project; e) the terms and conditions of the tender; and f) the form and date of response to the academy, or in the case of building works, to the architect or quantity surveyor g) tender evaluation criteria.
4. The notice of invitation will include at least 14 days' notice, shall express the nature and purpose of the contract, state where further details may be obtained, invite tenders for its execution and state the last date and time when tenders will be received. The notice shall state that no tender will be received unless it is enclosed in a sealed envelope which shall bear the word "Tender" - followed by the subject to which it relates, but no other name or mark indicating the sender. The tenders should be time and date stamped on receipt and be kept sealed in the secure custody of the Headteacher or architect (as determined at the outset of the process) until the time and date specified for their opening. No tender received after the time and date specified in the invitation shall be accepted or considered, nor will amendments to the tender be accepted.
5. All tenders submitted will be opened at the same time and details of the contractor, quotation and any other details recorded at the time of opening. At least two persons should be present for the opening of tenders. For contracts up to £30,000, where a decision to tender has been taken, two of the budget holder, the Bursar or the Headteacher will be present. For contracts over £30,000, the Headteacher plus a member of the Finance Committee will be present. 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 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.
6. 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 all those present at the tender opening.
7. For purchases up to £30,000, provided the expenditure is included in the budget, the decision as to which Quotation/tender to accept will be taken by the Headteacher, in consultation with the Bursar. For purchases exceeding £30,000, provided the expenditure has been budgeted for, a decision will be recommended by the Finance Committee. The decision will need to be ratified by the full Governing Board.
8. The accepted tender should be the one that is economically most advantageous to the academy. For tenders for contracts up to £30,000 the academy representative shall accept the lowest quotation or tender. Where the academy representative considers it would not be in the best interest of the school to accept the lowest quotation or tender the matter shall be referred to the Governors, who have the authority to accept other than the lowest quotation or tender. Any decision to accept other than the lowest quotation or tender shall be recorded in the minutes of the Governors' meeting, setting out the reason therefore.
9. Full records should be kept of all criteria used for evaluation and for contracts over £30,000 a report should be prepared for the Finance Committee highlighting the relevant issues and recommending a decision. Where tenders are obtained for contracts under £30,000 the decision and criteria should be reported to the Finance Committee.
10. 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.
11. Following approval, all parties must be informed of the decision.

### **Periodic contracts**

The procedure for periodic contracts shall be as for single purchases and the estimated value of the contract shall be calculated by reference to the period of the supply or one year whichever shall be the less. In every periodic contract the school shall ensure that effective price review procedures are introduced.

### **General points:**

Although quotations are not necessary for items under £5,000, the school encourages staff to obtain these in order to secure value for money.

Schools should bear in mind that unlike tenders, quotations are usually subject to the suppliers' terms and conditions of sale. Such conditions are not necessarily advantageous to the school and it may be that schools will choose to seek tenders even though these are not required.

Tenders have a high level of accountability and security for the Governing Bodies and Headteacher. The academy will provide a written specification when obtaining either quotations or tenders to facilitate comparison upon their receipt.

Whatever purchasing arrangements are made the school should be able to produce documentation to verify the action taken.

Products or services which are being provided as part of a government framework agreement are pre-tendered and fully EU-compliant and do not therefore require any quotes or tenders to be submitted.

## **ACCEPTANCE OF TENDER**

The following points will be considered when deciding which tender to accept:

1. The overall price and the individual items or services which make up that price.
2. Whether there are any 'hidden' costs; that is additional costs which the school will have to incur to obtain a satisfactory product.
3. Whether there is scope for negotiation, whilst being fair to all tenderers.
4. The qualifications and experience of the supplier, including membership of professional associations.
5. Compliance with the technical requirements laid down by the school.
6. Whether it is possible to obtain certificates of quantity.
7. The supplier's own quality control procedure; pre sales demonstrations, after sales service and, for building works, a minimum six month defects period and insurance guarantees.
8. The financial status of the supplier.
9. References from other establishments.
10. Understanding & compliance with Health & Safety, CDM regulations and Child Protection issues related to working on a school site
11. For OJEU contracts, a mandatory Alcatel period will apply. In the case of building works, where the tendering process is being carried out by the architect or quantity surveyor, they will be responsible for checking the documentation of the lowest tender before making a recommendation to the school/Trust. Once a tender is accepted an order should be issued immediately to the supplier in the normal way. The successful contractor should be provided and sign for a copy of the school's 'Contractors Guide' and reminded that the school is a NON SMOKING site. The Academy's Funding Agreement should be considered when applying this policy

## **FRAMEWORK AGREEMENTS**

Where appropriate, for both new and established SLAs, the academy may enter into framework agreements with contracting authorities. In all cases, the selection will be made based on value for money criteria

## **RELATED PARTY TRANSACTIONS**

All staff, Governors and Directors must declare pecuniary interests annually and in any meetings where any issues are discussed that might involve the related organisation.

## **HEALTH AND SAFETY**

Health and safety policies and practices should always be considered when commissioning work and in particular where the contract involves construction, other works or maintenance services.

## **INSURANCE REQUIREMENTS FOR CONTRACTS**

When compiling the terms and conditions on contract, consideration should be given to the insurance cover required dependant on the type of goods, services or works being tendered. All suppliers, contractors and consultants should ordinarily have a minimum insurance level of:

Public/Product Liability: £5,000,000,

Employers Liability Insurance (if they employ staff): £5,000,000

Consultants carrying out commissions also need Professional Indemnity insurance of at least £2,000,000. This particularly applies to Designers, Architects or Contractors who are carrying out design work and build projects. Depending on the nature, size and risk profile of individual contracts these levels of insurance may be increased, decreased or removed accordingly. An assessment should be made on whether the insurance level is appropriate to the school's requirement and will enable value for money to be achieved.

## **SUSTAINABLE PROCUREMENT POLICY**

The school recognises its responsibilities to carry out its Procurement activities in an environmentally responsible manner and will take environmental, social and economic factors into consideration when purchasing goods and services. When making purchases sustainability should be assessed by considering the following questions:

- Is the product recyclable?
- Is the product made from recycled materials?
- Is the product manufactured from renewable resources?
- Does the manufacturing process cause pollution?
- Is excessive packaging used which will require disposal?
- Does the product carry an ECO label?
- Is the product energy efficient?

## **PUBLIC SERVICES (SOCIAL VALUES) ACT 2012**

Procurement processes can have a significant impact on the social, economic and environmental wellbeing in a geographical area. The Act places a requirement upon the school to consider the economic, environmental and social benefits in the procurement process when commissioning work.

## **EQUALITIES ACT 2010**

The school is committed to meeting the requirements of the Equalities Act 2010, including the creation of 'a positive, inclusive environment, free from prejudice, bullying, harassment and unlawful discrimination'. Procurement is able to contribute to those objectives through its tendering and evaluation processes, for example by checking suppliers' credentials, policies and recent prosecution history.

## **WHOLE LIFE COSTS (WLC)**

Whole Life Costing (WLC) is a technique used to establish the total cost of acquisition and ownership. It is a structured approach which addresses all the elements of cost and can be used to produce a spend profile of the product or service over its anticipated lifespan. The results of WLC can be used to assist decision making when there is a choice of product or service. It can be used when constructing a business case or evaluating bidder submissions for a contract.

Some typical examples of individual costs to consider in WLC are:

<b>Pre-Acquisition Costs</b>	Investigating the market place Conducting the tender process
<b>Acquisition Costs</b>	Purchase price Delivery charges Insurance and taxes

	Training and support
	Internal cost of changing from one supplier to another
<b>Operating Costs</b>	Labour
	Materials
	Consumables
	Energy costs
	Contract management costs
<b>Maintenance Costs</b>	Specialist labour and tooling
	Replacement parts and spares
	Reduced output with age
	Servicing and inspection regimes
<b>End of Life Costs</b>	Disposal
	Resale
	Ongoing liabilities
	Decommissioning
	Removal for scrap

## **DETERMINING CONTRACT VALUE**

The length of a contract must be taken into account when calculating the contract value to ensure it is applied to the correct spend threshold. A contract can be made up of a single one-off transaction or multiple purchases over a number of months/years, repeat purchases may be considered as a single contract. All elements of the purchase need to be considered as part of the contract, for example; product/service training, servicing, any possible extension of the contract and so forth, and these should NOT be disaggregated (split up) to avoid threshold requirements.

## **NEGOTIATED TENDERS**

Where there is good reason for Quotations or Tenders not to be obtained, for example, where there is only a single supplier in the market, a written justification must be agreed by the Headteacher before an order is placed, and filed with the order.

## **FRAMEWORK AGREEMENTS**

Purchasing consortia working within the public sector conduct tender exercises to establish framework agreements for a range of commonly used goods and services. A framework agreement is made with one or more suppliers using common terms and conditions for making purchases, and the goods or services that may be purchased. It does not guarantee the suppliers on the agreement any business.

The benefits of using a framework agreement are that requirements for the provision of goods and services have already been tendered so the selection of compliant and capable suppliers has already been completed and indicative pricing established. This reduces the time needed to conduct the process to select the best value option/supplier. Economies of scale achieved through the use of frameworks can also improve value for money. Most agreements require a further competition between its suppliers to meet the specific requirements and deliver best value for money.

An example of relevant purchasing consortium is the Eastern Shires Purchasing Organisation (ESPO).

## **PURCHASE VERSUS LEASE CONTRACTS**

On some occasions suppliers may offer options for how the school pays for goods or services. The options can be by traditional Outright Purchase or by Lease or Lease Rental.

## **LEASE AND LEASE RENTAL AGREEMENTS**

These agreements spread the outlay of the total cost of the goods (plus interest) over an agreed period. Some lease arrangements allow for equipment updates during the period by restructuring the

payment schedule, which can be cost effective in some instances, but this arrangement sometimes has 'strings attached' such as committing to the agreement for an extended period. Under a lease arrangement the title in the goods does not pass to the academy, it will always remain with the supplier or finance company.

**Important note:** An **operating lease** is the only type of lease agreement that state funded schools (local authority or Academy) can enter into without prior approval. In order to enter into a finance lease, trusts must obtain prior approval from EFA. No other form of finance (such as hire purchase) may be entered into by a school as this is a prohibited form of borrowing

### The Operating Lease:

- An Operating Lease requires the school to pay only a proportion of the capital value of the equipment and over a shorter agreement term, classed usually as its 'useful economic life.'
- With an operating lease you only finance a percentage of the total cost of the equipment over the term of the lease, as the provider of the finance must retain a proportion of the original cost, known as the Residual Value.
- As part of the current accountancy regulations, the funder is required to take 'sufficient risk' in the lease, with the academy using the '90% test' to establish this i.e. the lease rentals paid under the primary lease must not exceed 90% of the original capital cost.
- The length of the agreement should not exceed the expected 'useful economic life' of the equipment (equipment such as MFDs and photocopiers typically have a useful life of 3-4 years).
- At the end of the agreed lease term, the school can choose to either return the equipment or continue with the rental agreement but be mindful of the point above on "useful life" of equipment. The ownership of the asset should remain with the leasing company. There should be no option for the school to gain ownership of the asset at any time.
- The leasing company might retain responsibility for maintenance

Questions to ask about finance and operating leases

If you are not sure about the type of lease being offered, it is worth asking the following questions using the tables below in order to find out more.

#### Questions to ask to ascertain whether the lease is operating or finance

	Answer	Answer
Does the lease transfer ownership of the asset to the lessee (i.e. the school) by the end of the lease term?	Yes - finance lease	No - operating lease
Does the lessee have the option to purchase the asset at a price which is expected to be sufficiently lower than fair value at the date the option becomes exercisable such that, at the inception of the lease, it is reasonably certain that the option will be exercised?	Yes - finance lease	No - operating lease
Is the lease term for the major part of the economic life of the asset, even if title is not transferred?	Yes - finance lease	No - operating lease
At the inception of the lease does the Net Present Value of the minimum lease payments amount to at least substantially all of the fair value of the leased asset?	Yes - finance lease	No - operating lease
Are the leased assets of a specialised nature such that only the lessee can use them without major modifications being made?	Yes - finance lease	No - operating lease



**If still unsure as to type of lease, i.e. a mix of yes and no answers to the section above, consider the next set of questions:**

	Answer	Answer
If the lessee is entitled to cancel the lease, are the Lessor's losses associated with the cancellation borne by the lessee?	Yes - finance lease	No - operating lease
Do any gains or losses from fluctuations in the fair value of the residual fall to the lessee (e.g. in the form of a rebate equalling most of the sales proceeds at the end of the lease)?	Yes - finance lease	No - operating lease
Does the lessee have the ability to continue to lease for a secondary period at a rent that is substantially lower than market rent?	Yes - finance lease	No - operating lease
Are you responsible for maintaining and insuring the asset?	Yes - finance lease	No - operating lease

### Authorising equipment leases

1. Only the Headteacher is authorised to sign lease agreements.
2. Ensure that the supplier of any equipment is reputable and an accredited supplier of the equipment involved.
3. Ensure with the supplier that the equipment is new, or if not that you are content that used or refurbished equipment is suitable.
4. Always ensure that the completed contract corresponds with any verbal or written quotation and, for photocopiers or multi-function devices, a lease proposal sheet supplied.
5. Make sure you understand and agree with all terms and conditions of the contract and, if you are unsure, seek advice.
6. Make sure you understand the costs involved and whether the agreement allows for any automatic increases in charges.
7. Check the period of hire and any notice period required for its termination and the settlement terms to be applied on early termination.
8. Ensure that the length of the agreement is no longer than the expected working life of the equipment involved.
9. Check whether the agreement includes the supply of service(s) and whether this will continue after any minimum or initial period of hire. If you are entering into a separate contract for the provision of service you should check its terms carefully and that the length of the service agreement matches the length of the agreement for the equipment.
10. If any agreements are made to your contract or a further contract is required to replace an existing agreement, do not sign until you have made the same checks as you did for the original agreement.
11. Read your contract carefully before signing it and ensure it is correct, particularly in respect of the rental amount and the period of hire. NEVER SIGN AN AGREEMENT WHICH IS NOT FULLY COMPLETED.

### Photocopiers and Multi-Function Devices

In addition to the above:

1. Be clear exactly what the copy cost covers.
2. Check if there is any minimum contract period.
3. Check for any minimum monthly charge and ensure you are happy with this, if it applies.
4. The maximum contract period should normally be 5 years.

### General:

1. Specifically ask for an operating lease. If the finance document is entitled a Hire or Rental agreement - it may still be a finance lease unless you are paying substantially less than the Recommended Retail Price of the equipment
2. Apply proper procurement procedure to obtaining a lease, just as you would for obtaining equipment

3. Make sure that the costs are broken down and that you are aware of your obligations for monthly/quarterly payments under the WHOLE value of the contract (what do all the payments over the term add up to? Do you need to consider potential extension rental costs?)
4. When deciding on the length of time of the contract e.g. a three year versus a five year plan, consider the implications of a longer commitment against the potential cost savings. New suppliers or those where the school has limited experience with the provision pose a higher risk and therefore the shorter term option is best taken even if a higher cost is incurred.
5. Always take a photocopy of any agreement you sign
6. Ensure the term does not exceed the useful life of the asset
7. Confirm what happens at the end of the lease
8. Be aware of any outstanding balances owed on current leased equipment to ensure you are not taking out another lease on replacement equipment and adding the balance outstanding and ultimately paying compounded interest. This is called a "ROLL OVER LEASE" and should BE AVOIDED
9. Do not use leasing (of any type) if you are unable to return the asset. The documentation for an operating lease should include detailed 'Return Conditions' which explain how the equipment should be returned

### **USE OF ONLINE MARKET PLACES**

The use of online marketplaces such as E-Bay to purchase equipment may only be authorised by the Headteacher and only in circumstances when the cost of an alternative is prohibitive.

### **POLICIES AND OTHER LEGISLATION**

The following policies must be complied with when procuring goods and services: anti-fraud

### **CONFLICTS OF INTEREST**

Staff must declare to the Headteacher any conflict of interest whether this may be actual or perceived, in relation to contracts that are being let.

### **CONFIDENTIALITY AND FREEDOM OF INFORMATION (FOI) REQUESTS**

The Freedom of Information Act (FOIA) 2000 gives the general public (including successful and unsuccessful bidders) rights to certain information which might previously have been deemed confidential. The Headteacher's Office handles all requests relating to FOI including the procurement process. See the FOI policy for more information.

### **INVENTORIES**

Many procurement processes will result in tangible assets being acquired such as: land and buildings; equipment; fixtures and fittings; IT Systems. Once the purchase is completed assets should be registered in the appropriate inventories.

### **DISPOSAL OF ASSETS**

#### **SALE OF USED EQUIPMENT/FURNITURE**

The academy will, from time to time, have surplus items of furniture or equipment which still have a residual value and could be sold on. There are a number of requirements that need to be considered when the items are in a used condition, particularly in relation to safety and whether any sale is to another commercial organisation, or to an end consumer. The academy has legal liabilities and responsibilities in respect of the sale of these items.

### **CONTRACT MANAGEMENT**

Management of contracts after they are awarded is an important element in obtaining value for money for the school. However, planning for effective contract management should begin at the initial project planning stage and be captured in the specification and other contract documents.

### **WARRANTIES**

Some goods purchased will come with a warranty. ALL documents relating to the purchase, including warranties, should be retained so the school can take advantage of them if required at a future date.

#### **RETENTION OF DOCUMENTATION**

For legal and audit purposes all documentation used for Tenders and Request for Quotations must be retained for a minimum of 6 years.