

Pre-Opening Resource

Procurement in pre-opening guidance

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**New
Schools
Network**

Introduction

Like any public body, academy trusts must follow relevant regulations around procurement. Essentially, the rules are about using a fair and open procurement process to help ensure that you achieve the best outcomes for your free school.

The DfE's [pre-opening guidance](#) contains details about the procurement rules and regulations which free schools must follow. It is important that you are fully aware of these, as poor procurement decisions risk wasting time and money. They can also risk reputational damage with suppliers and lead to potential legal challenges and financial penalties. Following a fair and transparent process will enable you to achieve good value for money (balancing quality and cost) and identify the best proposals from suppliers.

The DfE have produced and signposted schools to a range of useful documentation on procurement, including [Buying for schools](#), [Guidance on how to plan and run an efficient procurement process](#), [Procurement training for schools](#) and [Schools financial health and efficiency](#). Additional guidance can be found in annex 4.6 of HM Treasury's [Managing Public Money](#).

Procurement regulations

The DfE [pre-opening guidance](#) outlines a number of key procurement regulations which are summarised below. These should be read in conjunction with the guidance in the [Academies Financial Handbook](#), which sets out a number of rules governing using public money. For example:

- Procurement must comply with the **Public Procurement Regulations**, which incorporate the requirements of the European Procurement Directive. Advice on procurement thresholds is provided in the Official Journal of the European Union ([OJEU](#))
- Conflicts of interest must be scoped and steps taken to manage them (including if a member or trustee successfully bids for work or their friends/relatives/business associates are involved with or employed by potential suppliers bidding)
- Procurement plans should comply with the trust's articles of association

If you decide to procure additional services using your project development grant (PDG) you can opt into **open procurement** where the trust issues a specification for services (tender), evaluates the

bids and appoints a supplier based on the responses. **In-house procurement** is where the trust uses existing employees to deliver services 'at cost'.

Open procurement

This option allows you to invite any third party supplier to bid for your work by tendering. The DfE proposer group guidance states that you will need to specify what you want to buy and what criteria you will use to assess the tenders.

The greater the value of the contract, the greater the need to demonstrate that the competition is open and fair. You should also estimate the total value of the potential contract across its lifetime (the 'whole life cost') which may include: price of the goods, delivery, maintenance and running costs. Your trust will need to decide the approach to take at different contract values but these might be:

- **Low value – below £10,000.** This may involve simply evaluating two or three quotes or, if there is only one option, negotiating the best value deal
- **Medium – between £10,000 and £40,000.** For low to medium value goods, works or services, the DfE recommends using a [framework agreement](#) where possible as this will generally save you time and money. However, if this does not meet your requirements, you may choose to [run your own procurement process](#). You will need to check whether your school or local authority has existing rules that determine the process you will use
- **High – over £40,000 but below the EU threshold.** Again, the DfE recommends using a [framework agreement](#) for purchases, but if you use your own procurement process to select the most economically advantageous tender (MEAT), the 'buying for schools' guidance outlines the [process](#) in detail
- **Above the EU threshold** – where the value of procurement goes over the threshold for goods, services or works, the process must comply with the [EU directive](#). The current thresholds are £164,176 for supplies and services and £4,104,394 for building works. A 'light touch regime', with a higher threshold of £589,148, applies for some services that are specifically for education provision. The DfE recommends that you seek legal advice or contact them to determine whether your procurement qualifies

You should also decide the 'award criteria' you will use to assess suppliers' bids which may include assessment of:

- Quoted price
- How the supplier can meet your requirements and how quickly they can provide them
- The quality of the goods or services they are offering
- Previous experience

Further details of how to evaluate suppliers' tender responses can be found [here](#).

In-house delivery

A trust may use its own employees to deliver services, using the PDG for the employment costs of staff. As with open procurement, a trust must ensure good value for money, including setting reasonable salary levels and appropriate expense costs as required. Appropriate employment contracts will need to be in place and trusts should ensure compliance with existing employment legislation.

Links

DfE free schools pre-opening guide for mainstream, special, alternative provision and 16-19 free schools: <https://www.gov.uk/government/publications/free-school-pre-opening-guide>

The Education and Skills Funding Agency (ESFA) **Academies Financial Handbook** that describes financial requirements for academy trusts:

<https://www.gov.uk/government/publications/academies-financial-handbook>

DfE 'Buying for schools' collection. This information will help you follow the correct procedures for buying goods and services for your school and includes: procurement guidance, templates, forms, related documents and related guidance: <https://www.gov.uk/government/collections/buying-for-schools>

DfE 'Buying for schools' guidance on how to plan and run an efficient procurement process including: planning the process, writing the specification, direct selection from a framework, running a mini-competition between suppliers on a framework, running your own procurement process for lower value tenders, high value and EU tenders and managing your contract:

<https://www.gov.uk/guidance/buying-for-schools>

DfE procurement training sessions for school staff who are responsible or accountable for budgets or buying (includes Power point presentations and accompanying notes):

<https://www.gov.uk/government/publications/procurement-training-for-schools>

DfE 'Buying goods and services in education' collection. This contains guidance and promotional material on buying goods and services from the Crown Commercial Service:

<https://www.gov.uk/government/collections/buying-goods-and-services-in-education>

Advice on procurement thresholds can be found in the **Official Journal of the European Union**:

<https://www.ojec.com/?aspxerrorpath=/thresholds.aspx>

DfE memorandum of understanding (MoU) with Microsoft, where all schools in the UK can take advantage of discounts and better licensing terms across a wide range of Microsoft's academic software:

<https://www.gov.uk/government/publications/buying-for-schools-microsoft-memorandum-of-understanding>

DfE guidance for schools selecting a new management information system (MIS):

<https://www.gov.uk/government/publications/buying-for-schools-ict-selecting-a-school-mis>

DfE advice on data protection for schools considering cloud software services:

<https://www.gov.uk/government/publications/cloud-software-services-and-the-data-protection-act>

Support for schools in pre-opening

NSN has supported free school groups in pre-opening since 2014. NSN's unrivalled knowledge and experience has been informed by our work with over 70% of open and approved free school groups throughout the application and pre-opening phases.

The NSN Delivery Programme has been meticulously designed to address the challenges of the rigorous pre-opening process. Whilst proposer groups may have a wealth of skills and expertise, the NSN Delivery Programme will fill gaps in capacity and/or capability, providing a range of support options to prepare schools for a successful opening.

Our exclusive packages of advice, support and project management have been developed to comply with Department for Education (DfE), and Education and Skills Funding Agency (ESFA) guidance and focuses on the areas that our experience shows will provide free schools with the most value in pre-opening.

NSN Delivery Programme

Foundation Advisory Service

All approved projects have access to our core advisory service, which is free of charge. This foundational offer includes:

- An invitation to our annual launch event, delivered in partnership with the DfE
- A telephone and email service
- Key pre-opening resources
- Invitations to our Spotlight events at open free schools
- An invitation to our events focusing on the final stages of pre-opening

Site Advisory Service

Relevant to both sequential and concurrent groups, the NSN Site Advisory Service helps groups to navigate the complex process of securing a site and suitable free school building. Developed to complement the support provided by LocatED and ESFA, the service includes:

- A named NSN Project Manager
- Access to NSN Site Associates
- Comprehensive and exclusive guidance resources about free school capital projects

- In-depth support meetings with NSN Project Managers and Site Associates
- Detailed feedback from support meetings

Essentials Advisory Service

Developed to support the project management and delivery of the non-site related challenges you will tackle in pre-opening, the NSN Essentials Advisory Service focuses on areas such as pupil recruitment and admissions, the section 10 consultation, finance, governance, education planning and staffing. The NSN Essentials Advisory Service provides:

- A named NSN Project Manager
- Access to a range of NSN Associates
- Bespoke and exclusive networking opportunities with existing free schools
- In-depth meetings with NSN Project Managers and Associates
- Detailed feedback from support meetings
- Comprehensive and exclusive suite of guidance resources about all aspects of pre-opening
- Spokesperson training for principal designates

Project Management Partnership Service

Based on our vast experience, and developed with the DfE's Pre-Opening Guidance in mind, the NSN Project Management Partnership is for groups planning to outsource some or all of the project management of their free school in pre-opening.

Split into two phases, the NSN Project Management Partnership takes into account the volume, complexity and timing of tasks in different phases of pre-opening. With additional bolt-on services available to buy, the NSN Project Management Partnership is the most bespoke service offered as part of the NSN Delivery Programme.