**Finance**

**Prevention of Procurement Fraud Policy**

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*Loughborough University has an* [*Anti-Fraud and Corruption Policy*](http://www.lboro.ac.uk/services/hr/a-z/fraud---anti-fraud---page.html)*, to which this policy is aligned, providing an extra level of detail as regards the prevention of procurement fraud.*

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| ***We will mitigate the risk of procurement fraud by making staff aware of how such fraud can happen, and its tell-tale signs, establishing procedures for preventing fraud in the first place, as well as a monitoring regime for detecting any fraud that does occur, including a procedure for reporting it.*** |

Procurement is a particularly high risk area in terms of fraud. It is important that University staff and academics are aware of procurement fraud risks and able to recognise and report potentially fraudulent activity.

Procurement fraud can take a number of forms:

1. Collusion between procurer and supplier
2. Collusion between suppliers
3. Procurer acting alone, for example, creating a fictitious supplier with payments to their own bank account, or spending money for private gain
4. External fraudster acting alone, for example, purporting to be a genuine supplier in order to arrange payments to their own bank account

The division of duties built into the procedures for setting up suppliers and placing and approving orders via the University’s Agresso purchasing system (and when using a Purchasing Card), mitigate the risk of the latter two forms of fraud above (3 and 4 – Payment Fraud), where the procurer or external fraudster acts alone. The setting up of suppliers on the Agresso purchasing system involves checks as to whether the proposed new supplier has been selected in compliance with the University’s Procurement Regulations.

The University’s Procurement Regulations stipulate how all staff and academics are to undertake procurement exercises, from identification of need, through to contract award (including any post-tender negotiation), in a way that is compliant with public procurement law, auditable, and mitigates the risk of the collusive forms of procurement fraud occurring (1 and 2 above).

Rule 1.9 of the Procurement Regulations explicitly states that:

(a) The Financial Regulations under the headings of Fraud, Corruption and Whistleblowing and Code of Conduct, and the Corporate Code of Ethics of the Chartered Institute of Purchasing & Supply apply to any Procurement Exercise.

(b) Every written Contract will include the standard Prevention of Bribery and Corruption clause included within the University’s Standard Terms and Conditions for Goods and Services, or a clause that is substantially similar.

The University’s standard Selection Questionnaire template requires applicants to disclose whether their organisation or its directors or any other person(s) having powers of representation, decision or control of the organisation have been convicted by final judgement of fraud or corruption. It is explained that failure to disclose this information or serious misrepresentation in relation to the information disclosed will result in the organisation’s exclusion from the procurement exercise or the termination of any subsequent contract awarded.

Furthermore, the CreditSafe system used by the Procurement Team not only allows suppliers’ financial standing to be vetted but also whether they have received adverse media coverage, including in relation to any financial irregularities or crimes.

The table below lists some of the more common forms of collusive procurement fraud as well as the steps taken by the University to mitigate the risk of them occurring.

| **Collusion between procurer and supplier can happen when…** | **We will mitigate the risk of collusion between procurer and supplier by…** | **Procurement Regulation** (where applicable) |
| --- | --- | --- |
| A member of staff/academic with influence over the evaluation of tenders and ultimate contract award decision has an undeclared interest in one of the competing organisations | Ensuring that any conflicts of interest are established before the procurement exercise starts by requiring tender evaluation panellists to complete and sign the Declaration of Interests form (see Appendix) for £60k+ contracts, and through Category Managers/Specialists having access to the Register of Interests maintained by the Academic Registry |  |
| A director or senior officer of an organisation competing for a University contract has a personal or financial connection with a member of the University’s staff who has influence over the procurement exercise | Asking the following question within all of our tender document templates:To the best of your knowledge, does any director or senior officer of your organisation have any personal or financial connection with a senior member of the University’s staff (including academics) or any member of University staff involved in this procurement exercise? If yes, please provide details of the individuals concerned and the nature of their relationship. |  |
| A need / requirement is invented | Requiring that procurement exercises have a supporting Business Case, and are challenged by Category Managers/Specialists |  |
| A specification is drafted so as to favour a particular supplier | Drafting specifications based on consultation with internal stakeholders and the supply market (not just one potential supplier), encouraging innovation by stating outcomes wherever possible, and stating ‘or equivalent’ wherever appropriate |  |
| A tender is actively invited from only a preferred supplier, with other capable potential suppliers ignored | Requiring that exceptions to Procurement Regulations, including not undertaking a competitive process, are approved by the Procurement Team | 1.6 |
| The same organisations are invited to tender each time, with the knowledge that the same supplier will likely win each time | Ensuring the advertising of contract opportunities to all, wherever appropriate or legally required  | 2.5 |
| Enhanced information is provided to only a preferred supplier during the tendering exercise | Ensuring that all potential bidders are given the same information about the procurement exerciseRequiring that all contracts with a total value of £60k+ are tendered via an electronic system, with any bid clarifications made through the system so as to ensure an audit trail | 3.4 (b) & (c)1.5 (k) |
| Tender information from other competing organisations is provided to a preferred supplier to inform its tender | Requiring that all contracts with a total value of £60k+ are tendered via an electronic system, which does not allow tenders to be opened ahead of the deadline  | 3.5 |
| Evaluation criteria are not established ahead of inviting applications/tenders, allowing manipulation of the evaluation | Ensuring that evaluation criteria are clearly stated in tender documents, including prompting this information in our templates | 2.4 & 2.5 |
| Non-standard contracts/tender documents are used that include an overly complex/vague pricing schedule that can be exploited | Maintaining a set of up-to-date tender document templates, and standard conditions of contract, and requiring that the use of any materially different templates/contract conditions are approved by the appropriate Category Manager/Specialist  | 4.3 |
| Valuations are made at face value without checks and / or verification of supporting documentation | Checking and signing off interim valuation certificates |  |
| Authorisation of payments is made without assurance that checks have taken place | Requiring full supporting documentation, for example how the valuation was compiled, calculated, that deductions (such as for defective work) are included and mitigating actions taken on delays |  |
| There are inflated claims for payment | Checking full supporting documentation (above) prior to payment certification |  |
| Due damages are not deducted | Documenting and approving any decisions not to deduct damages |  |
| **Collusion between suppliers can happen when…** | **We will mitigate the risk of collusion between suppliers by…** |
| Suppliers are part of a cartel and divide up contracts between themselves by sharing bid information | Selecting suppliers on the basis of quality as well as price, wherever appropriate |
| Suppliers exert pressure on non-cartel members not to submit bids | Monitoring procurement activity and maintaining awareness of supply markets to identify suspicious behaviour, such as:* patterns of successful bidders
* high margins between bids
* same price, discounts, service, credit terms being offered by bidders
* unexpected refusals to bid

…and sharing this intelligence with other universities and public sector organisations |

1. **Monitoring**

A significant level of control and monitoring of the University’s procurement activity results from the Procurement Team being required to manage all £60k+ non-construction procurement exercises, and all £5,372,609m+ (incl. VAT) construction procurement exercises. Further control, and an audit trail, is provided by the University’s electronic tendering system (Delta), which is to be used for all £60k+ procurement exercises.

The Procurement Team will monitor compliance with its Procurement Regulations, including checking for any signs of procurement fraud, by:

* Undertaking frequent random ‘dip tests’, whereby the process followed for awarding sampled contracts is reviewed by the Procurement Team
* Regularly reviewing the Register of Interests maintained by the Academic Registry against the Contracts Register (including named Contract Managers) held by the Procurement Team

Ensuring that the Procurement Team’s Category Managers/Specialists have a comprehensive understanding of the procurement activity undertaken within the categories for which they are responsible, through regular contact with internal stakeholders and spend analysis

1. **Reporting**

Any suspected procurement fraud conducted between suppliers or by any other external fraudster should be reported to:

Mark Chester, Head of Commercial Finance

E: m.t.chester@lboro.ac.uk/ T: 01509 222010

As explained in the [Anti-Fraud and Corruption Policy](http://www.lboro.ac.uk/services/hr/a-z/fraud---anti-fraud---page.html):

“Any allegations relating to a staff member’s (procurer’s/contract manager’s) financial conduct will be reported without delay to the (Director of Finance (James Henry, E: j.m.henry@lboro.ac.uk / T: 01059 228099). He will then decide on the most appropriate action to be taken in order to reduce the possibility of any financial loss to the University. He will also instruct the University’s Internal Auditors to carry out an investigation and to report subsequently to the Audit Committee.”

1. **Communication**

Awareness of the different types of procurement fraud and how to mitigate, spot and report them, will be raised through the rolling in-house Procurement & Contract Management training, as well as through the Procurement pages of the University’s intranet.

**Appendix**

**Tender Evaluation Panelist**

**Declaration regarding any Conflict of Interest**

**and Confidentiality Undertaking**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |  | **Job Title:** |  |
| **Tel:** |  | **E-mail:** |  |
| **Dept:** |  |  |  |

|  |  |
| --- | --- |
| **Procurement Exercise:** |  |

**Conflict of Interest**

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| **Conflict of Interest** refers to situations in which personal interests (which may include financial interests) may compromise, or have the appearance of, or potential for, compromising professional judgement and integrity and, in doing so, the best interests of Loughborough University.Examples of conflicts of interest include: *(This is not an exhaustive list)** Having a financial interest (e.g. holding shares or options) in a potential tenderer or any entity involved in any tendering consortium
* Having a financial or any other personal interest in the outcome of the evaluation of any tender evaluation process
* Being employed by (as staff member or volunteer) or providing services to any potential tenderer
* Being a member of a potential tenderer’s management/executive board
* Receiving any kind of monetary payment or non-monetary gift or incentive (including hospitality) from any tenderer or its representatives
* Canvassing, or negotiating with, any person with a view to entering into any of the arrangements outlined above
* Having a close member of your family (which term includes unmarried partners) or personal friends who falls into any of the categories outlined above
* Having any other close relationship (current or historical) with any potential tenderer

It is the individual’s responsibility to ensure that any and all potential conflicts are disclosed to the University (the Chair of the Tender Evaluation Panel) in writing prior to them becoming involved in any procurement process. Individuals will be excluded from the procurement process where the identified conflict is in the University’s opinion material and cannot be mitigated. The decision as to whether the identified conflict is material, and whether any mitigating arrangements are required, is to be made by the respective Category Manager). |

Option 1:

“I do not have any conflicts of interest that prevent my full and unprejudiced participation in any procurement process.

I also declare that I will inform the University immediately, should my circumstances change in any way that effects this declaration.”

**Signature Date**

Option 2:

“I **do have** a conflict of interest that may prevent my full and unprejudiced participation in a procurement process. The nature of this conflict of interest is described below:

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I also declare that I will inform the University as soon as is practicable, should my circumstances change

in any way that effects this declaration.”

**Signature: Date:**

**Confidentiality Undertakings**

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| **“Procurement exercise”** encompasses any formal and informal meetings, associated discussions, meeting preparation and follow up or any other activity related to the procurement exercise.**“Information”** means all information, facts, data and other matters of which I acquire knowledge, either directly or indirectly, as a result of my activities as an evaluator of any supplier Pre-Qualification Questionnaire or Tender submissions or tender interviews/presentations etc.**“Documents”** means all draft, preparatory information, documents and any other material in either paper or electronic form, together with any information contained therein, to which I have access, either directly or indirectly, as a result of my participation in any procurement exercise. Furthermore, any records or notes made by me relating to information or documents shall be treated as Confidential Documents. |

I understand that I may be invited to participate either directly or indirectly in the

procurement exercise and agree:

1. To treat all information and documents under conditions of strict confidentiality
2. Not to disclose, make copies of, or discuss any received information with any

person who is not a member of the Tender Evaluation Panel (without the prior written approval of the Chair of the Tender Evaluation Panel)

1. Not to use (or authorise any other person to use) information and documents

other than for the purpose of my work in connection with the procurement process

1. To return documents to the Chair of the Tender Evaluation Panel as soon as the evaluation process is complete

Unless otherwise agreed with the Chair of the Tender Evaluation Panel, and subject to relevant legislation, this undertaking applies until the end of the contract, including any contract extensions.

This undertaking shall not apply to any document or information that becomes public knowledge otherwise than as a result of a breach of any of the above undertakings.

**Signature: Date:**