

Guidelines on Conducting Trading Operations

In handling trading operations (such as sale of textbooks/exercise books, tuck shop operation, supply of lunch boxes and school uniforms, school bus service, etc.), schools are required to comply with the relevant provisions in the Education Ordinance, Education Regulations, Codes of Aid (if applicable), guidelines, circulars and letters issued by the Education Bureau (EDB) from time to time.

2. Schools' attention is drawn, in particular, to the following documents related to trading operations:

- Regulations 99A and 99B of the Education Regulations
- Sections 40BF, 40BG and 40BH of the Education Ordinance, Cap 279 (for schools with Incorporated Management Committees (IMCs))
- Prevention of Bribery Ordinance, Cap 201
- Prevailing circulars/ circular memorandum on
 - Procurement Procedures in Aided Schools
 - Acceptance of Advantages and Donations by Schools and their Staff
 - Selection of Quality Textbooks and Curriculum Resources for Use in Schools

Administrative Arrangements

3. Schools should note the following arrangements in handling trading operations:

Communication with Parents

- Parents should be informed that purchase or acceptance of paid services is voluntary.
- Parents should be informed properly of the prices of the goods/services provided by the suppliers/contractors.
- An adequate description of the items for sale and paid services provided should be given so that parents/students can exercise discretion as to whether to acquire these items/paid services elsewhere or not. If items are made up in packages, each item should be made available for sale separately at reasonable times throughout the year with individual prices clearly shown.
- Schools should not allow the choice of suppliers/contractors to be in any way influenced by a donation or any other form of advantages. Should the School Management Committees (SMCs)/IMCs approve the acceptance of such donations

or advantages with compelling reasons, parents should be properly notified.

Conflict of Interest

- In accordance with sections 40BF and 40BG of the Education Ordinance as well as the prevailing EDB circular on Acceptance of Advantages and Donations by Schools and their Staff, SMC/IMC members and school staff are required to report any situations where they or their immediate family members or personal friends have an interest, financial or otherwise, in any matter under consideration by their school or in any company or organization which has or is likely to have business dealings with the school.
- Schools should properly record any declarations or disclosures made and necessary action taken to avoid any actual or perceived conflict of interest. This requirement on conflict of interest should be strictly observed when schools handle any trading operations. In this connection, aided schools should also refer to the relevant section of the School Administration Guide.

Acceptance of Advantages and Donations from Suppliers/Contractors

- Schools should observe the general principles/provisions on acceptance of advantages and donations from suppliers/contractors set out in the prevailing EDB circular on Acceptance of Advantages and Donations by Schools and their Staff and the circular memorandum on Selection of Quality Textbooks and Curriculum Resources for Use in Schools.
- Schools should not allow the choice of suppliers/contractors to be in any way influenced by a donation or any form of advantages.
- While schools are not allowed to accept any donations, or any form of benefits from textbook publishers or textbook retailers, only in very exceptional circumstances with compelling reasons should schools consider accepting donations from suppliers/contractors. Any benefits contributed by suppliers/contractors, if any, should go to students direct, e.g. in the form of greater discount in prices.
- The acceptance should be fully justified, documented and approved by the SMCs/IMCs. Adverse factors such as actual or perceived causing danger of being obliged to the donors or the cost of donations ultimately borne by parents must be duly considered.

Donation Register

- Schools should record any donations or advantages received from suppliers/contractors together with the compelling reasons for such acceptance and the subsequent disposal in a register, which is subject to the inspection by the EDB officers and should be made available to members of the public. Schools should also

include the aforesaid details of donations in their School Reports. A sample of “Register of Donations Received by Schools” is available on the EDB Homepage and it can be accessed via the following path:

EDB Homepage > School Administration and Management > Financial Management > Notes to School Finance > References on Acceptance of Advantages and Donations by Schools and their Staff

Quotation/Tender Exercises

- Quotation/tender exercises should be conducted for the procurement of goods or award of services contracts. The contract period should preferably not exceed three years. Schools are encouraged to set the optimum contract period taking account of the nature and market characteristics of the trading operations concerned or the services required (e.g. a one-year contract if the price is very unstable). If for operational reasons, schools find it necessary to use a longer-term contract (e.g. two to three years) with a price adjustment option during the contract period, consideration should be given to incorporating suitable and specific variation clauses (e.g. adjustment of price based on consumer price index) for implementing the adjustment instead of subjecting it to the negotiation with the contractor.
- Schools are encouraged to post quotation/tender notice on their websites so that other potential bidders may have a fair chance to compete with those on the invitation list. As a general rule, procurement should be made on a fair and competitive basis with the contract being awarded to the lowest conforming bid. Schools should not conduct post quotation/tender negotiation unless with genuine and compelling operational reasons. The justifications, objectives (e.g. the price and terms to be negotiated), and members conducting the post quotation/tender negotiation should be documented for prior approval by the SMCs/IMCs. The result of the negotiation should be recorded and approved by the SMCs/IMCs before the bid is accepted.

Accounting Records

- Proper books of accounts and relevant records must be kept. They should reflect all incomes received and expenses incurred by the schools. All account books and records are subject to inspection by EDB officers. Any charges made and/or fees collected from the trading activities operated directly by the school should be accounted for under the school’s non-government funds and the profit/net income/loss/net expense should be reflected in the school’s annual audited accounts.

Trading Operations Arranged/Undertaken by Parent-Teacher Associations (PTAs) and School Sponsoring Bodies (SSBs)

- PTAs or SSBs are required to observe the principles and arrangements as set out in

the prevailing EDB circular on Trading Operations in Schools should they be delegated by the SMCs/IMCs to make arrangements for trading operations in the schools; and any profits/net income arising from such trading operations should be credited into school accounts and applied for any purposes directly benefiting the students of the schools.

- Before delegations take place, prior approval should be obtained from SMCs/IMCs and such records should be properly documented. SMCs/IMCs have the obligation to ensure their compliance (especially those concerning quotation/tender exercise and the use of profits/net income arising from the trading operations). In this connection, SMCs/IMCs should obtain relevant records from PTAs/SSBs for proper documentation purposes.
- If PTAs or SSBs wish to undertake trading operations in the schools, they should be treated as one of the bidders and subject to competitive bidding and the same selection procedures applicable to other bidders. Under such circumstances, the procurement procedures should be conducted by schools.

Prevention of Bribery

- When schools call for quotations/tenders in selecting a suitable supplier/contractor, they should include the following prevention of bribery clause in the call for quotations/tenders from potential suppliers/contractors –

“The bidder as well as its employees and agents shall not offer any advantage (as defined in the Prevention of Bribery Ordinance, Cap. 201) to the school employees, SMC/IMC members, or any parent or student representative in any committee responsible for considering any matters in relation to this quotation/tender. Any such offer by the bidder or its employees or agent may constitute an offence under the Prevention of Bribery Ordinance and may render the contract null and void. The school may also cancel the contract awarded and hold the bidder liable for any loss or damage the school may sustain.”

- Schools are also required to include a similar prevention of bribery clause in the contract with a supplier/contractor –

“The supplier/contractor as well as its employees and agents shall not offer any advantage (as defined in the Prevention of Bribery Ordinance, Cap. 201) to the school employees, SMC/IMC members, or any parent or student representative in any committee responsible for considering any matters relating to this contract. If the supplier/contractor or its employees and agents commit any offence under the Prevention of Bribery Ordinance in relation to this contract, the school may cancel the contract and hold the supplier/contractor liable for any loss or damage which the school may thereby sustain.”

Setting Up of Committee(s) to Monitor Trading Operations

4. Schools are strongly advised to form Monitoring Committee(s) on Trading Operations to monitor and steer various types of trading operations.

Recommended Composition

5. The composition of the Monitoring Committee(s) on Trading Operations is recommended as follows, with a view to upholding the spirit of school-based management, which aims at putting in place a more open, accountable and participatory school management structure –

- Chairman : A senior member of the teaching staff appointed by the School Head, who acts under the delegated authority of the SMC or IMC.
- Members : (a) At least two other members of the staff appointed by the School Head, who acts under the delegated authority of the SMC/IMC; and
(b) Two representatives from the PTA or one/two parents from the school if no PTA has been set up.

Duties

6. Duties of the Monitoring Committee(s) on Trading Operations should include the following –

- (a) To adopt an open, fair and competitive system in the selection of suppliers/contractors by calling for written/verbal quotations or tenders, as appropriate, following the provisions stipulated in the prevailing circular on Procurement Procedures in Aided Schools (the procurement of services from the social enterprises set up by non-governmental organizations should also follow the proper procurement procedures as stipulated in the circular);
- (b) To maintain security and confidentiality of the quotation/tender exercises to prevent abuse;
- (c) To conduct quotation/tender exercises to compare prices and quality of goods/services and reliability at appropriate intervals, preferably not exceeding three years, or before renewal of a contract as appropriate;
- (d) To ensure that there is a maximum term, preferably not exceeding three years, for each contract;
- (e) To have all selection exercises properly documented;
- (f) To ensure all donations or advantages accepted (i.e. those contributed by any suppliers/contractors of the schools) and the related information (e.g.

reasons for acceptance and subsequent disposal) are properly recorded in a register;

- (g) To review regularly the types of goods/services provided by the suppliers/contractors and check their quality;
- (h) To consider suggestions from the school and parents on trading operations;
- (i) To hold regular meetings^{Note} to review issues relating to trading operations and to keep proper record of these meetings, including the resolutions made, for future reference;
- (j) To investigate complaints about trading operations, and to take appropriate action, if necessary; and
- (k) To ensure that there is no acceptance of the contractor sub-contracting services/purchases to a third party.

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^{Note} School Head(s) may be invited to attend committee meetings. If required, the suppliers/contractors should attend committee meetings to answer queries.