

### **Salient Points for Conducting Trading Operations in Schools**

To facilitate schools in proper governance of conducting trading operations, a list of salient points with some hypothetical cases have been compiled for schools' reference. Schools, however, should note that the list is by no means exhaustive and will be updated as and when required.

***(a) Should select suppliers/contractors through competitive quotation/tender exercises***

*Hypothetical cases*

*School A allowed its respective school sponsoring body (SSB) as the sole supplier to provide lunch box services without going through any quotation/tendering procedures.*

*School B delegated its parent-teacher association (PTA) to source on behalf of the school suitable supplier(s) for conducting certain trading operations on the school premises (e.g. lunch box and school bus services) and the PTA selected a supplier without going through a competitive quotation/tender exercise.*

When schools wish to procure goods or services for their students from any companies or organisations (such as SSBs), they should adopt open, fair and competitive procurement procedures. While such parties as SSBs or PTAs are delegated by the School Management Committees (SMCs) / Incorporated Management Committees (IMCs) to handle certain trading operations of the schools, SSBs/PTAs should also select the suppliers/contractors in an open, fair and competitive manner by observing the guidelines as stipulated in the prevailing circular on Procurement Procedures in Aided Schools.

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. Schools should comply with the quotation/tendering requirements particularly the part on "Involvement of School Sponsoring Bodies (SSBs) in Schools' Procurement Activities" as stipulated in the prevailing Guidelines on Procurement Procedures in Aided Schools.

**(b) Should specify the maximum term of each contract**

Hypothetical case

*School C has entered into contract with the same school uniform supplier for many years as the contract did not specify the expiry date.*

In the interest of students and parents, schools should conduct quotation/tender exercise at regular intervals, say at least once every three years, to ensure competitiveness of the prices and quality of goods and services provided. It is considered appropriate to set the maximum term at no more than three years and should be clearly specified in the quotation/tender document and the contract.

**(c) Should observe the principles of openness, fairness and competitiveness**

Hypothetical case

*School D habitually invited quotations/tenders from a limited list of suppliers/contractors.*

Schools should conduct quotation/tender exercise in an open, fair and competitive manner when selecting suppliers/contractor. It is undesirable for schools often limiting their choices to a few suppliers/contractors. In this regard, 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.

**(d) Should require the school personnel and PTA members to declare conflict of interest**

Hypothetical case

*A family member of an IMC manager of School E was the business partner of the school bus contractor. The IMC manager sat on the selection panel to select the school bus contractor but he did not declare such conflict of interest.*

According to sections 40BF and 40BG of the Education Ordinance as well as the prevailing 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 schools or in any company or organization which has or is likely to have business dealings with the schools. 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.

PTAs are very often involved in selecting suppliers/contractors or delegated to make appropriate arrangement for trading operations of the schools concerned. As such, schools should ask the PTA members who wish to bid for trading operation contracts to declare at the outset and require these members to abstain from participating in any subsequent discussions or assessment concerning the proposed contracts. Other PTA members involved in the selection process should also be required to declare conflict of interest to the school, e.g. a parent member who sits on the selection panel to select suppliers/contractors is a friend or a business partner of a supplier or operator bidding for a contract to operate trading operations in the school. The declared conflict of interest should be recorded and managed.

***(e) Should draw up specifications and evaluation criteria before calling for quotations/tenders***

*Hypothetical cases*

*Specifications of services/goods were not clearly spelt out in the quotation/tender documents, leading to difficulties in comparing the bids.*

*There were no pre-determined assessment criteria for quotation/tender evaluation.*

The suppliers invited to submit quotation/tender should be given full specifications of the required services/goods, and, whenever possible, samples of the items required should be provided or shown to the suppliers so that they are certain of the type and finish of the items required. The List of Major Items for Inclusion in Tender Documents for Trading Operations 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 > Reference Materials on Trading Operations*

For school uniforms, a standard chart on the sizes/dimension of uniforms should be drawn up for compliance by the potential suppliers, so that their bids can be compared on an apple-to-apple basis.

SMCs/IMCs should also spell out the pre-determined assessment criteria and marking scheme, if applicable, in the quotation/tender documents for reference of the potential bidders. The Points to Note on Preparing Marking Scheme for

Tender Evaluation 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 > Reference Materials on Trading Operations*

***(f) Should maintain security and confidentiality of quotation/tender information***

*Hypothetical cases*

*A bidder included its company name on the envelope of the tender.*

*The tender bids were not maintained as confidential documents.*

*School F opened the tender before the tender submission deadline.*

Bidders should not identify themselves on the quotation/tender cover, and quotation and tender information should be kept confidential with restricted access on a need-to-know basis. This requirement should be brought to the notice of the staff involved by means of a school circular for which they should be required to sign to indicate that they have read and understood it.

Security measures should be taken to prevent leakage of quotation/tender information. Quotations/Tenders should be put in the tender box which is under double lock. The tender box should be opened at a specified time according to the school's quotation/tender opening schedule.

Schools should specify in the quotation/tender documents that a quotation/tender bid will be disqualified if the bidder discloses its identity on the sealed envelope.

***(g) Should properly inform parents of donations and advantages accepted***

*Hypothetical case*

*There is no record showing that School G had informed parents of the donations at \$10,000 by the lunch box contractor.*

*There is no record showing that parents were informed of PTA's acceptance of donations from the suppliers/contractors.*

Schools should not accept donations and advantages from the suppliers/contractors without compelling reasons and prior approval from SMC/IMC. Parents should be properly informed of the acceptance of donations and advantages.

Similarly, the PTA concerned should also be required to announce to parents any acceptance of donations and advantages from the suppliers/contractors. Schools should abstain from involving those PTAs who do not make such disclosures in the selection of suppliers/contractors.

***(h) Should not designate suppliers/contractors of goods/services for donors without following quotation/tendering procedures***

*Hypothetical case*

*School H sent out invitation cards for anniversary ceremony to the guests and attached order form with a designated shop for gardening supplies and flowers to the school.*

Although the purchase of the donated items is not directly conducted by schools, the act of attaching order form with designated supplier could induce donors to purchase goods from the supplier and could arouse concern over whether there is any conflict of interest involved in such donation arrangement. In case the SMCs/IMCs consider accepting donation of particular item or materials is justifiable, schools should provide a list of the items or materials concerned they wish to obtain from donors and let donors have a free choice of suppliers. If for any reason the SMCs/IMCs feel it necessary to designate suppliers for donors, schools should select goods provided by the suppliers in a fair and open way and ensure that the quality, price, safety and other factors of the selected goods have complied with the open criteria. If such procedures to select a supplier have been conducted, schools should let prospective donors know and decide whether to patronize the designated supplier.

***(i) Should maintain donation register properly***

*Hypothetical case*

*School I did not maintain a register on donations accepted and the donations were entered into various ledgers of the school account, making it difficult to trace the disposal of the donations for inspection purposes.*

Schools should document such donations or advantages accepted, the compelling reasons for acceptance as well as the subsequent disposal in a register which is subject to inspection by EDB officers and should be made available to members of the public. Schools should not only notify parents and students of the donations accepted, but also include details of the donations in their School Reports.

- (j) Should apply profits/net income of trading operations only for the purposes directly benefiting the students of the school**

Hypothetical cases

*A SSB was delegated to make arrangements for the trading operations in a number of schools. The profits/net income (including the donations from the suppliers/contractors as specified in the contract) arising from such trading operations was credited into the SSB bank account for use other than directly benefiting the students.*

*A PTA was delegated to handle certain trading operation on behalf of School J. The profits/net income (including donations from the supplier/contractor as specified in the contract) arising from such trading operations was credited into the PTA bank account and later partly used to sponsor a PTA activity.*

SMCs/IMCs should strictly observe regulations 99A and 99B of the Education Regulations, which stipulate that any profits/net income arising from trading operations should be applied for direct benefit of the students of that school. The profits/net income (including donations) should be credited into school accounts.

- (k) Should not distribute/display/posting commercial publicity materials in the school premises without following proper procurement procedures**

Hypothetical case

*School K provided booklist, with name and address of the textbook supplier shown on the cover, to students for purchase of textbooks for the coming school year. The booklist was printed by the textbook supplier free of charge. No quotation/tender exercise was conducted to select the supplier.*

*School L exhibited a poster advertising new models of computer for sale at discounted prices in the school premises. The poster was provided by a computer retailer and the name and address of the retailer were shown in the poster. No quotation/tender exercise was conducted to select the retailer.*

Schools should not provide, exhibit or post commercial publicity materials in the school premises without adopting competitive procurement procedures. While Schools K and L did not directly enter into business or trading operation with any person for the supply of goods to their students, the booklist and poster showing the name and address of the supplier/retailer could induce students to procure goods from the supplier/retailer concerned. In the case that schools wish to provide students with information of goods/services offered by particular

suppliers/contractors, schools should adopt competitive procurement procedures to ensure equity and competitiveness of the prices and quality of goods/services.

- (l) *Should not solicit donations or advantages in any forms from suppliers/contractors***

*Hypothetical case*

*School M requested the lunch box contractor to provide free lunch boxes for consumption of the school staff.*

SMCs/IMCs should never permit the members of SMCs/IMCs or the school staff to solicit advantages in any form. Schools are obliged to put in place a system of openness, integrity, probity, accountability and transparency in terms of financial management. It is also considered unethical by the public if schools take advantages from trading operations. Besides, the benefits/advantages contributed by the suppliers/contractors would ultimately be borne by the parents of the school.

- (m) *Should not accept donations or advantages from the school's suppliers/contractors without compelling reasons and without the SMC/IMC's approvals in advance***

*Hypothetical cases*

*School N accepted \$20,000 donations from the tuckshop contractor for sponsoring school activities.*

*School O accepted the school uniform supplier's donation of over \$100,000 which was linked to the percentage of the business volume.*

*School P accepted the school bus contractor's cash donation which was calculated at a specified rate for each student using the school bus service.*

*For all cases, approval of SMCs/IMCs and reasons for acceptance could not be traced.*

As a general rule, schools should not solicit or accept donations or advantages in any form from suppliers/contractors and should not allow the choice of suppliers/contractors to be in any way influenced by a donation or any other form of advantages. Only in very exceptional circumstances, where there are compelling reasons, should schools consider accepting donations from suppliers/contractors. For example, based on the economic background of the students, schools may implement plans/projects to assist those needy students in enhancing their learning (such as using the donation received from

suppliers/contractors to purchase computers or musical instruments for loan to students-in-need).

The acceptance should be fully justified, approved by SMCs/IMCs in advance and recorded in the meeting notes or approved by circulation of documents among SMC/IMC members and such records should be properly documented.

Schools should document such donations or advantages accepted, the compelling reasons as well as the subsequent disposal in a register which is subject to inspection by EDB officers and should be made available to members of the public. Schools should not only notify parents and students of the donations accepted, but also include the details of donations in their School Reports.

Despite the above, acceptance of any donations, or any form of benefits from textbook publishers or textbook retailers is NOT ALLOWED.

- (n) Should not let selection of suppliers/contractors be influenced in any way by a donation of any other form of advantages***

*Hypothetical case*

*School Q renewed a contract with its tuckshop contractor in view of the contractor's donation of \$100,000 to the school last year.*

Schools should not allow the choice of suppliers/contractors to be in any way influenced by a donation or any other form of advantages and should bear in mind that the benefits accepted would ultimately be passed on to the parents. Schools are reminded that proper quotation/tender exercise should be conducted before renewal of contract.

- (o) Should not involve staff's personal bank accounts in collections of fees from students and payment to the suppliers/contractors***

*Hypothetical case*

*School R allowed its staff to bank the fees collected from students into their personal bank accounts. The staff then made payments to the suppliers/contractors direct through their own accounts.*

Schools should observe the following provisions set out in the School Administration Guide and the prevailing circular on Use of Autopay Services for Payment to prevent possible abuse:



- School income and payment should be handled through the school's bank accounts, not the staff's personal accounts; and
- Collection of fees through autopay is strongly recommended.

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