

Toronto District School Board

Policy P017

Title: **PURCHASING**

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Authorization: Board of Trustees

1. RATIONALE

This Purchasing Policy (the “Policy”) governs how the Toronto District School Board (the “Board” or “TDSB”) plans, acquires, and manages the procurement of goods and services. As a public sector organization that is responsible to taxpayers and the larger school community, the Board is committed to integrity, fairness, and transparency for all procurement processes and decisions.

The Policy is consistent with the *Education Act* and all applicable laws, the Broader Public Sector Procurement Directive, as well as related interprovincial, federal, and international trade agreements.

This Policy supports the Board’s commitment to the Truth and Reconciliation Commission of Canada: Calls to Actions and the United Nations Declaration on the Rights of Indigenous Peoples as a framework for reconciliation.

2. OBJECTIVE

- To establish the rules and requirements for the procurement of goods and services while maintaining procurement governance and the integrity of the procurement process to provide the best overall value to the Board.

3. DEFINITIONS

Best Overall Value refers to an optimal balance of quality/performance and cost which is based on pre-determined evaluation criteria. In competitive procurement, this is best represented by the highest-ranked bid.

Bid means a proposal, offer or submission from a Bidder in response to a request for bids or a solicitation.

Board is the Toronto District School Board, which is also referred to as the “TDSB”.

Capital Project refers to a design and construction project at a single site with an estimated cost in excess of \$5 million, for new construction and/or replacement, or a building addition of more than 5,000 sq. ft. (464.52 m²).

Competitive Procurement refers to the acquisition of goods and/or services through a competitive process that ensures the best overall value for the funds expended to meet specific needs and promotes fair dealings and equitable relationships.

Conflict of Interest refers to situation(s) in which personal or private interests conflict with the interests of the Board or when there is a reasonable basis for the perception of such conflict.

Consultant means a person or entity that, under an agreement, other than an employment agreement, provides expert or strategic advice and related services for consideration and decision-making (source: Procurement Directive).

Consulting Services is the provision of expertise or strategic advice that is presented for consideration, and decision making. Consulting services may be related to management, technical, internet technology or communications, etc.

Direct Purchases means a purchase order created by schools or departments for goods and non-consulting services with a value of less than \$5,000 that does not require a competitive procurement process to be undertaken.

Emergencies refer to circumstances or situations beyond control which have the potential of affecting the health, well-being, life or safety of students or other personnel, or result in undue financial losses.

Historically and Currently Disadvantaged Groups refers to persons or groups who have experienced, and/or, are more likely to experience, and/or, are experiencing Bias, Oppression, disadvantage or discrimination based on one or more of these grounds: race, colour, Indigeneity (First Nations, Métis, and Inuit), creed, citizenship, ethnic origin, , disability, age, ancestry, place of origin, sex (including pregnancy), gender identity, gender expression, sexual orientation, family status, marital status, and record of offences. (Source: P029)

Lobbying, for the purpose of this Policy, means an attempt to influence staff or elected officials with respect to a decision related to procurement, TDSB Purchasing Policy (P017) and associated procedures.

Non-Competitive Procurement refers to procurement methods including single and sole source, as well as emergency purchases.

Pre-Qualified Supplier List refers to a selection of qualified suppliers for goods and services based on specifications and standards established by the Board.

Procurement means the act of obtaining goods and/or services that includes the concepts of procurement, leasing and renting, from an external source.

Professional Services means services rendered by an external provider with specific skills to successfully complete the task(s) required.

Request for Information (RFI) means a request used as a general market research tool to determine the availability of goods and or services that will meet business or operational requirements and/or to estimate costs for the purpose of developing a solicitation.

Request for Proposal (RFP) means a procurement document used by the Board to request suppliers to supply solutions for the delivery of products or services, or to provide alternative options or solutions to resolve an issue or technical, professional or management problem.

Request for Tender (RFT) means a formal written request for price submissions, normally accompanied by generic descriptions, performance specifications, and specific terms and conditions of supply.

Single Source refers to a procurement method, used for urgent or emergency purposes, to ensure business continuity, compatibility, maintain warranties or a statutory monopoly where there may be another supplier or suppliers capable of delivering the goods or services.

Sole Source refers to a procurement method when there is no competition because there is only one known source of supply for particular goods or service requirements.

Specification(s) refers to the technical and descriptive requirements of a product and its intended use of application. Specifications ensure proper quality levels, suitability based on intended use, and assist in evaluating bids.

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Total Lifecycle Cost refers to the direct and indirect costs associated with a product, service or operation over its entire lifecycle and consideration of all costs, including but not limited to: acquisition, delivery, installation, removal, operating and disposal costs rather than solely the lowest price received.

4. RESPONSIBILITY

The Director of Education holds primary responsibility for implementation of this Policy.

Within the Director's Office, the responsibility for the day-to-day management and coordination of the Policy is assigned to the Associate Director, Modernization and Strategic Resource Alignment.

5. APPLICATION AND SCOPE

This Policy applies to all Trustees, employees, goods and service providers and agents of the Board engaged in procurement activities on behalf of the Board.

The provisions of this Policy apply to the purchasing of goods and services by the Board.

The Policy will not apply to the procurement of the following:

- Real estate;
- Utilities, banking and postal charges, charges to and from other government agencies, including transit tickets;
- Any work that must be completed by Federal/Provincial regulated organizations;
- Educational Partnership services; and
- Periodicals, journals, subscription expenses, including membership fees.

6. POLICY

6.1. General

- 6.1.1. Procurement at the TDSB will be open, competitive, and transparent with limited use of single- and sole-source methods under clearly stated conditions.
- 6.1.2. TDSB will procure goods and services in accordance with the mandatory requirements of the Broader Public Sector Procurement Directive, and in compliance with applicable legislation (e.g., Ontario's *Broader Public Sector Accountability Act, 2010*), international/ interprovincial trade agreements and treaties (e.g., Canada-European Union *Comprehensive Economic and Trade Agreement* (CETA), Canadian Free Trade Agreement (CFTA), Ontario-Quebec Trade and Cooperation Agreement) see related operating procedure for a comprehensive list), and applicable Board policies and procedures
- 6.1.3. Procurement decisions will be based on the merits of the submissions, focussing on Best Overall Value where quality, functionality, safety, environmental and other requirements are met. Indigenous, social, and environmental procurement will be included into the processes for selecting goods and services, alongside considerations including price, quality, service and technical specifications.

- 6.1.4. TDSB will make procurement decisions that are consistent with the Human Rights Code (Ontario), privacy legislation, and all TDSB policies and procedures, including the Equity Policy (P037), Accessibility Policy (P069) and the Environment Policy (P028).
- 6.1.5. Contracts or purchases will not be divided to circumvent the requirements of this Policy or other TDSB policies and procedures including the Delegation of Authority Procedure (PR711). The annual or total project cost will be considered.
- 6.1.6. TDSB is prohibited from using public funds to hire lobbyists in accordance with the *Broader Public Sector Accountability Act*.

6.2. Supply Chain Code of Ethics and Ethical Behaviour

- 6.2.1. TDSB endorses the requirements and overall spirit of the Supply Chain Code of Ethics, which govern the conduct of supply chain activities as outlined in the Broader Public Sector Procurement Directive.
- 6.2.2. All employees and Trustees will maintain personal integrity and professionalism, accountability and transparency, and compliance and continuous improvement in all procurement decisions in accordance with the Supply Chain Code of Ethics.
- 6.2.3. All employees and Trustees must avoid situations which may result in an actual or apparent conflict of interest and comply with all TDSB policies and procedures, as applicable, including:
 - a) Employee Conflict of Interest (P057)
 - b) Employee and Community Partners Conflict of Interest (PR673)
 - c) Board Code of Conduct (PR585)
 - d) Board Member Code of Conduct (P075)
- a) An employee believes that the gift giver is not trying to obligate them, or improperly influence a decision;
- b) It is considered normal and acceptable business practice for the purposes of courtesy and good business relations; and
- c) Acceptance of the hospitality does not conflict with Board policies and procedures, and generally accepted ethical standards.
- 6.2.4. Acceptance of gifts and hospitality from suppliers may be perceived as a conflict of interest.
- 6.2.5. TDSB employees will decline any gifts and hospitality from suppliers with the exception of offers being made to the broader school Board.

- 6.2.6. Employees involved in the evaluation of procurement bids, including assessment of bids, are prohibited from accepting any gifts.
- 6.2.7. Trustees are required to adhere to the rules outlined in the Board Member Code of Conduct (P075) pertaining to gifts, benefits and hospitality. Conflict of interest violations for Members of the Board will be managed in accordance with the Board Member Code of Conduct (P075). Trustees should consult with the Integrity Commissioner for advice on whether a matter constitutes an actual or perceived conflict of interest.

6.3. Segregation of Duties and Responsibilities

- 6.3.1. TDSB will segregate at least three (3) of five (5) functional procurement roles: requisition, budgeting, commitment, receipt and payment. The responsibilities will be conducted by different departments or, at minimum, by different personnel.
- 6.3.2. Schools and/or departments are responsible for the segregation of duties for Direct Purchases.
- 6.3.3. It is the responsibility of schools and departments to:
- Ensure staff are appropriately knowledgeable and well versed on the procurement process; and
 - To ensure staff are compliant to the purchasing policy and procedures; and
 - Monitor and review Direct Purchases for compliance to purchasing policies and procedures; and
 - Ensure purchases are legitimately required for Board purposes prior to the issuance of any solicitation; and
 - Ensure that all specifications and requirements can be justified on the basis of a legitimate business objective and do not unfairly discriminate against any potential supplier; and
 - Allow sufficient time to complete the Procurement processes as required by Purchasing Services; and
 - Obtain approvals from the appropriate authorities; and
 - Ensure that except for an emergency, no purchases are made prior to a valid contract or purchase order being executed.
- 6.3.4. It is the responsibility of Purchasing Services Department to:
- Ensure that procurements are carried out in accordance with this policy, related policies, and procedures; and
 - Provide strategic procurement advice and guidance of the appropriate procurement process, supplier performance and contract management; and
 - Establish templates for common or repetitive solicitations; and

- Administer solicitations through to award and final contract execution or purchase order issuance; and
- Oversee the disposal of goods which have been declared surplus; and
- Develop co-operative procurement plans with other public bodies; and
- Provide information to suppliers in relation to this policy, procedures and related templates, tools, systems and practices; and
- Generally monitoring, supervising and reporting as required, on the procurement process.

6.4. Approval Authority

- 6.4.1. Approval authorities which are authorized to approve procurements for different dollar thresholds will be outlined in the Delegation of Authority Procedure (PR711) and Executive Signing Authority Policy (P082).
- 6.4.2. Board approvals are required for contracts valued over \$5 Million.
- 6.4.3. Contracts valued over \$5 Million that require a change order exceeding \$500,000, will be reported to the appropriate Board Committee for information.

6.5. Competitive Procurement

- 6.5.1. For goods, non-consulting services and construction purchases over \$5,000 but less than \$121,200, all staff must consult with the Purchasing Services Department to either obtain a minimum of three (3) written competitive quotations or post through the electronic public tendering portal.
- 6.5.2. For goods, non-consulting services and construction, TDSB will conduct an open competitive procurement process where the estimated value of procurement of goods or services is \$121,200 or greater. Exceptions from competitive procurement may include Non-Competitive Procurement as outlined in section 6.7 below.
- 6.5.3. Before any external purchases are made, Purchasing Services Department will consider whether the requirements can be fulfilled through an existing contract or agreement to take advantage of volume economies and honour contractual obligations with suppliers.
- 6.5.4. Timelines for public posting of procurement of goods and services will be in accordance with the requirements of the Broader Public Sector Procurement Directive. High complexity, risk or dollar value opportunities (excluding emergencies) will be given an appropriate response time where possible.

6.6. Evaluation Criteria, Notification and Appeals

- 6.6.1. Evaluation criteria will be established, reviewed, and approved by the appropriate authority prior to the commencement of the competitive procurement process.
- 6.6.2. A panel comprised of TDSB employees will evaluate all compliant bids based on an evaluation matrix. All bids submitted will identify and comply with the specifications outlined in the Records Retention Schedule. Evaluation scores will be retained for audit purposes.
- 6.6.3. Employees involved in procurement decisions must agree to conflict-of-interest declarations and non-disclosure of confidential information agreements and maintain the confidentiality and commercial sensitivity of all bids and information received in the process.
- 6.6.4. TDSB will disclose in its competitive procurement documents, the evaluation methodology and process used in assessing submissions, including the method of resolving tie scores.
- 6.6.5. Successful bidders will be notified regarding contract awards in accordance with requirements under the Broader Public Sector Procurement Directive.
- 6.6.6. Bidders may request a debriefing session following a contract award notification for procurements that meet a certain dollar value as outlined in the Broader Public Sector Procurement Directive. TDSB will disclose the opportunity for debriefing in its competitive procurement documents. Bidders will have sixty (60) calendar days following the date of contract award notification to request a debriefing session.
- 6.6.7. TDSB will implement and make available an appeal and dispute resolution process.

6.7. Non-Competitive Procurement

Direct Purchases below \$5,000

- 6.7.1. Schools and departments may purchase goods and non-consulting services with a value of less than \$5,000 without a competitive process, via Direct Purchase.
- 6.7.2. It is recommended that multiple quotations be obtained to ensure best value.
- 6.7.3. Staff responsible for Direct Purchases must obtain a supplier quotation, proof of insurance and/or WSIB, where applicable.
- 6.7.4. Staff will use a local budget purchase order to create a Direct Purchase.

- 6.7.5. Purchasing Services will conduct quality assurance checks on Direct Purchases on a regular basis.

Direct Purchase Restrictions

- 6.7.6. Splitting a purchase into more than one Direct Purchase to keep the value of each respective Direct Purchase less than \$5,000, thereby circumventing the transaction limit of \$5, 000, is not permitted.
- 6.7.7. Repetitive purchases to a supplier within a fourteen (14) day period is not permitted.
- 6.7.8. Direct Purchases are not to be used for goods and/or services that are required on a recurring basis.
- 6.7.9. Staff are not permitted to create a Direct Purchase to pay for invoices received by the Board. An invoice must not predate the purchase order.
- 6.7.10. Staff are not permitted to use a Direct Purchase for the following:
- Information technology hardware or software;
 - Non-approved excursion suppliers;
 - Telecommunications equipment such as telephones, cellular phones and mobile radios;
 - Consulting services;
 - TDSB Purchasing Catalogue Items; and
 - Where an active TDSB contract for goods and or services is available.

Non-Competitive Procurements Over \$5,000

- 6.7.11. The Purchasing Services Department may engage in a Non-Competitive procurement in limited circumstances in accordance with the Broader Public Sector Procurement Directive for non-competitive procurements valued over \$5,000.
- 6.7.12. Single and sole source procurement requires review and completion of the Non-Competitive Procurement form with appropriate sign-off and supporting documentation including rationale/justification of why a competitive process was not undertaken.

6.8. Emergencies

- 6.8.1. In the case of emergencies, the Board has the authority to obtain goods and/or services in the most expedient manner possible regardless of the amount.

6.9. Consulting Services

- 6.9.1. TDSB will establish a procurement approval authority schedule for consulting services as outlined in the Executive Signing Authority Policy (P082) and Delegation of Authority Procedure (PR711).
- 6.9.2. TDSB will competitively procure consulting services irrespective of value, unless exempted in accordance with applicable trade agreements and approval authority schedule.

6.10. Architect Selection for Capital Projects

- 6.10.1. Selection of suppliers, including architect service providers, will be conducted by Purchasing Services department staff in accordance with the procurement requirements.
- 6.10.2. Purchasing Services department will invite the local ward Trustee to attend as an observer during the final interview with the highest scoring firm. Staff from Procurement will provide a verbal summary of the interview. If the local ward Trustee is unable to attend the meeting and the local ward Trustee requests this information.
- 6.10.3. Once an architect service provider is selected and awarded the contract, local Trustees and representatives from the school communities will be able to participate in the design development process and provide feedback on the designs for new schools and the additions in their corresponding wards.

6.11. Collaborative Purchasing

- 6.11.1. In an effort to maximize administrative efficiencies and financial benefits from joining networks which can enhance buying power, the Board is committed to working collaboratively with other boards and/or other public sector organizations to develop cooperatives and shared services in a wider range of Board operations.

6.12. Indigenous Procurement

- 6.12.1. TDSB procurement decisions will reflect the Board's commitment to the United Nations Declaration on the Rights of Indigenous Peoples, in recognition of Indigenous sovereignty, and in keeping with the principles set out in What We Have Learned: Principles of Truth and Reconciliation by the Truth and Reconciliation Commission of Canada.
- 6.12.2. TDSB will identify opportunities to source goods and services to support Indigenous Peoples and include procurement criteria as part of its bid evaluation process, alongside other considerations including price, quality, service and technical specifications, where applicable, to improve access, and support the Board's commitment to the Call to Act outlined in the Truth and Reconciliation Commission of Canada.

6.13. Social and Environmental Procurement

- 6.13.1. TDSB procurement decisions will reflect the Board's commitment to equity as outlined in the Equity Policy (P037) and improve access to address economic disadvantage, discrimination, and barriers to equal opportunity by embedding practices which facilitate supply chain diversity within procurement processes and contribute to inclusive economic growth.
- 6.13.2. TDSB will identify opportunities to source goods and services from historically and currently disadvantaged groups and include social procurement criteria as part of its bid evaluation process, alongside other considerations including price, quality, service and technical specifications, where applicable, to improve access, supplier diversity and support the Board's commitment to equity.
- 6.13.3. TDSB will purchase goods and services in accordance with the Environment Policy (P028) and support overall environmental objectives of the TDSB's Climate Action Plan.

6.14. Contract Management

- 6.14.1. TDSB will establish a framework for review and approval of Board contracts, taking into account legislative and policy requirements, as well as risk mitigation strategies and internal controls.
- 6.14.2. All procurement documentation, including contracts and agreements, will be retained and managed in accordance with the Board's records retention schedule, Records and Information Management Policy (P097), and corresponding procedures.
- 6.14.3. All staff and members of the Board will protect suppliers' confidential and commercially sensitive information when handling, storing, and maintaining the records in accordance with the Broader Public Sector Procurement Directive, its requirements and applicable privacy laws.
- 6.14.4. All requirements, designs, documentation, plans, and information documents obtained by the bidder in connection with a bidding opportunity remain property of the Board and must be treated as confidential and not used for any other purpose than replying to the tender and fulfilment of any subsequent contract. All designs, documents, plans, and information will be returned to TDSB upon request.
- 6.14.5. The *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) applies to information provided to TDSB by suppliers. Suppliers should identify any information in the tender or bid response or any accompanying documentation supplied for which confidentiality is to be maintained by the Board. The confidentiality of such information will be maintained, except as otherwise required by law or court/tribunal order.

- 6.14.6. All documents related to procurement will be retained and kept in a recoverable form for a period of seven (7) years for reporting and auditing purposes.
- 6.14.7. Conflict of interest provisions will be included on procurement documents and requests.

6.15. Supplier Requirements

- 6.15.1. TDSB staff will practice and maintain the highest possible standards of ethics in all its dealings with suppliers.
- 6.15.2. TDSB will maintain a list(s) of approved, qualified contractors and consultants for construction-related services and pre-qualified vendors list(s) for consumable products and non-construction services. Capital construction projects will be tendered through an open competitive process.
- 6.15.3. The selection of a supplier for a list of pre-qualified suppliers does not create a legal contract by the Board with any listed supplier.
- 6.15.4. TDSB will not conduct business with any suppliers where:
 - a) there is an actual or perceived conflict of interest between the supplier and the Board; and/or
 - b) there are any current, pending or threatened lawsuits or alternative dispute resolution proceedings between the supplier and the Board which, in the Board's sole opinion, require that the Board no longer engage in business with the supplier; and/or,
 - c) there has been a previous termination of legal relationship between the supplier and the Board on the basis of failure to perform by the supplier.
- 6.15.5. Lobbying during a competitive procurement call is prohibited. Communication with anyone other than the authorized TDSB staff as identified in the bid document, from the time of issuance, up to and including the time of award, is strictly prohibited.
- 6.15.6. Suppliers who violate the lobbying prohibition will be subject to disqualification from the current project and may be disqualified from future procurements at the Board's discretion.
- 6.15.7. Suppliers (including their subcontractors) will comply with all safety and insurance requirements in accordance with any agreement(s), including *Occupational Health and Safety Act* and *Workplace Safety and Insurance Board Act* requirements.
- 6.15.8. The Board will determine police reference checks and screening requirements for TDSB's suppliers on a case-by-case basis, taking into consideration the nature and scope of services provided, risk assessment, risk mitigation strategies and internal controls.

6.16. Disposal

6.16.1. Purchasing Services is responsible for the disposal of surplus goods.

7. SPECIFIC DIRECTIVES

The Director of Education is authorized to issue operational procedures to implement this Policy.

8. EVALUATION

This Policy will be reviewed as required but at a minimum, every five (5) years.

9. APPENDICES

N/A

10. REFERENCE DOCUMENTS

Legislation:

- *Broader Public Sector Accountability Act*
- Broader Public Sector Procurement Directive
- *Education Act*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Occupational Health and Safety Act*
- *Workplace Safety and Insurance Board Act*

Policies

- Accessibility (P069)
- Board Member Code of Conduct (P075)
- Employee and Trustee Expenses (P016)
- Employee Conflict of Interest (P057)
- Equity Policy (P037)
- Executive Signing Authority (P082)
- Occupational Health and Safety (P048)
- The Environment (P028)

Procedures

- Architects and Engineering Consultants Selection (PR513)
- Board Code of Conduct (PR585)
- Consulting Services (PR680)
- Delegation of Authority (PR711)
- Employee and Community Partners Conflict of Interest (PR673)
- Employee Expense (PR582a)
- Occupational Health and Safety Purchasing Specifications (PR674)
- Trustee Expense (PR582b)