Toronto District School Board

Policy P017

Title: **PURCHASING**

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Authorization: Board of Trustees

# RATIONALE

This Purchasing Policy (the “Policy”) governs how the Toronto District School Board (the “Board” or “TDSB”) plans, acquires, and manages the sourcing 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.

# OBJECTIVE

To establish the rules and requirements for the procurement of goods and services through purchasing methods and decisions which maintain the integrity of the procurement process and provide the best overall value to the Board.

# DEFINITIONS

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

*Bid* is a quotation for goods and/or services usually in competition with other vendors.

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

*Competitive Purchasing* refers to the acquisition of supplies, equipment, and 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 tosituation(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.

*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.

*Lobbying* means an attempt to influence staff or elected officials with respect to a decision related to procurement.

*Non-Competitive Purchasing* refers to purchasing methods including single and sole source, as well as emergency purchases.

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

*Procurement* means the act of obtaining goods or services that includes the concepts of purchasing, leasing and renting, from an external source via tendering or competitive bidding process.

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

*Request for Proposal (RFP)* means a procurement document used by the Board to request vendors 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 purchasing method, -used for emergency, to ensure 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 purchasing 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.

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

*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.

# 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, Business Operations and Service Excellence.

# 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. Real estate transactions are not governed by this Policy.

1. **POLICY**

## General

### Procurement at the TDSB will be open, competitive, and transparent with limited use of single- and sole-source methods under clearly stated conditions.

### 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, and applicable Board policies and procedures.

### Purchasing 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.

### TDSB will make purchasing 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).

### 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.

## Supply Chain Code of Ethics and Ethical Behaviour

### 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.

### All employees and Trustees will maintain personal integrity and professionalism, accountability and transparency, and compliance and continuous improvement in all purchasing decisions in accordance with the Supply Chain Code of Ethics.

### 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:

#### Employee Conflict of Interest (P057)

#### Employee and Community Partners Conflict of Interest (PR673)

#### Board Code of Conduct (PR585)

#### Board Member Code of Conduct (P075)

### In accordance with the Employee and Trustee Expenses Policy (P016) and accompanying Employee Expense Procedure (PR582a), acceptance or offer of hospitality may constitute actual or perceived conflict of interest. Therefore, employees must consider the potential risks and exercise caution before accepting or offering gifts. An employee may only accept the hospitality of a gift over the course of the professional relationship, if all of the following criteria are met:

#### The gift is an estimated value of $50 or less and is infrequent and non-recurring, such as holiday candies or inexpensive giveaways;

#### An employee believes that the gift giver is not trying to obligate them, or improperly influence a decision;

#### It is considered normal and acceptable business practice for the purposes of courtesy and good business relations; and

#### Acceptance of the hospitality does not conflict with Board policies and procedures, and generally accepted ethical standards.

### TDSB employees will decline any gifts and hospitality of value from vendors when the estimated value exceeds $50. Acceptance of gifts and hospitality from vendors may be perceived as a conflict of interest.

### Notwithstanding sections 6.2.4 and 6.2.5 above, employees involved in the evaluation of procurement bids , including assessment of bids, are prohibited from accepting any gifts.

### 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.

## Segregation of Duties and Responsibilities

### 6.3.1 TDSB’s central Purchasing Services Department is responsible for the purchase of supplies, materials, services, equipment, construction projects and insurance required by the Board, except for real estate (purchase and sale) which are provided by Toronto Lands Corporation. The Purchasing Services Department is also responsible for the disposal of surplus equipment.

### 6.3.2 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.

### 6.3.3 Approval authorities which are authorized to approve procurements for different dollar thresholds will be outlined in the Delegation of Authority Procedure (PR711).

## Competitive Purchasing

### 6.4.1 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 vendors.

### 6.4.2 TDSB will post available open competitive purchase opportunities (e.g., Requests for Tenders and Requests for Proposals) through an electronic tendering portal accessible to all vendors.

### 6.4.3 Timelines for public posting of procurement of goods and services valued at $100,000 or more require a minimum response time of fifteen (15) days. High complexity, risk or dollar value opportunities (excluding emergencies) will be given an appropriate response time where possible.

## Evaluation Criteria, Notifications and Appeals

### 6.5.1 Evaluation criteria will be established, reviewed, and approved by the appropriate authority prior to the commencement of the competitive purchasing process.

### 6.5.2 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.

### 6.5.3 Employees involved in purchasing 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.

### 6.5.4 TDSB will disclose in its competitive purchasing documents, the evaluation methodology and process used in assessing submissions, including the method of resolving tie scores.

### 6.5.5 Successful bidders will be notified regarding contract awards. For procurements valued at $100,000 or more, TDSB will post, in the same manner as the procurement documents were posted, contract award notification.

### 6.5.6 For procurements greater than $100,000, bidders may request a debriefing session following a contract award notification. TDSB will disclose the opportunity for debriefing in its competitive purchasing documents. Bidders will have sixty (60) calendar days following the date of contract award notification to request a debriefing session.

### 6.5.7 TDSB will implement and make available an appeal and dispute resolution process.

### 6.5.8 For purchases over $10,000 but less than $100,000, staff must consult with the Purchasing Services Department to either obtain a minimum of three written competitive quotations or post through the electronic public tendering portal.

###  6.5.9 Purchases with a value of less than $10,000 may be made without a competitive process. However, it is encouraged that multiple quotations be obtained to ensure best value. Purchasing Services Department reserves the right to request additional quotations prior to the purchase requisition process.

## Non-Competitive Purchasing

### 6.6.1 Purchasing Services Department may engage in single and sole source purchasing in narrowly defined circumstances.

### 6.6.2 Single and sole source purchasing requires review and completion of the Sole/Single Source Form with appropriate sign-off and supporting documentation including rationale/- justification of why a competitive process was not undertaken.

### 6.6.3 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.

## Architect Selection for Capital Projects

### 6.7.1 Selection of vendors, including architect service providers, will be conducted by Purchasing Services Department staff in accordance with the procurement requirements. 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 review and provide feedback on the designs for new and renovated schools in their corresponding wards.

## Collaborative Purchasing

### 6.8.1 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.

## Contract Management

### 6.9.1 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.

### 6.9.2 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.

### 6.9.3 All staff and members of the Board will protect vendors’ 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.

### 6.9.4 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.

### 6.9.5 The *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) applies to information provided to TDSB by vendors. Vendors 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.

### 6.9.6 All documents related to procurement and purchasing will be retained and kept in a recoverable form for a period of seven (7) years for reporting and auditing purposes.

###  6.9.7 Conflict of interest provisions will be included on purchasing documents and requests.

6.9.8 Should there be any subsequent increases to the original project contract value of $500,000 or more, staff will report the change amount and the rationale for the change to the appropriate Board Committee for information on a quarterly basis at minimum.

##  Vendor Requirements

### 6.10.1 TDSB staff will practice and maintain the highest possible standards of ethics in all its dealings with vendors.

### 6.10.2 TDSB maintains 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.

### 6.10.3 TDSB will not conduct business with any vendors where:

1. there is an actual or perceived conflict of interest between the vendor and the Board;
2. there are any current, pending or threatened lawsuits or alterative dispute resolution proceedings between the vendor and the Board; and/or,
3. there has been a previous termination of legal relationship between the vendor and the Board on the basis of failure to perform by the vendor.

### 6.10.4 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.

### 6.10.5 Vendors who violate the lobbying prohibition will be subject to disqualification from the current project and may be disqualified from or future procurements at the Board’s discretion.

### 6.10.6 Vendors (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.

### 6.10.7 Board will determine police reference checks and screening requirements for TDSB’s vendors on a case-by-case basis, taking into consideration the nature and scope of services provided, risk assessment, risk mitigation strategies and internal controls.

# SPECIFIC DIRECTIVES

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

# EVALUATION

This Policy will be reviewed as required but at a minimum, every four (4) years.

# APPENDICES

N/A

# 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 Policy (P069)
* Board Member Code of Conduct (P075)
* Employee and Trustee Expenses Policy (P016)
* Employee Conflict of Interest (P057)
* Equity Policy (P037)
* Executive Signing Authority (P082)
* Occupational Health and Safety Policy (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 Procedure (PR582a)
* Occupational Health and Safety Purchasing Specifications (PR674)
* Trustee Expense Procedure (PR582b)

Other Documents

* Supply Chain Code of Ethics, Supply Chain Canada: <https://www.supplychaincanada.com/media/files/code-of-ethics.pdf>