

Guidelines on Conducting Trading Operations

In handling trading operations (such as textbooks, tuckshops, lunch boxes, school uniforms, exercise books, school buses etc), schools are required to comply with the relevant provisions in the 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
- Prevention of Bribery Ordinance, Cap 201
- Prevailing circulars on
 - Trading Operations in Schools
 - Tendering and Purchasing Procedures in Aided Schools
 - Acceptance of Advantages and Donations by Schools and their Staff

Fundamental Principles

3. When a school operates or permits to operate on the school premises, or enters into with any person directly or indirectly (e.g. trading undertakings arranged by the parent-teacher associations (PTAs) / school sponsoring bodies (SSBs) on behalf of the schools), any trading operations, it should observe the following principles:

- No purchase or acceptance of paid services should be compulsory.
- As a rule, schools should not solicit or accept donations or advantages in any form from trading operators/suppliers.
- Acceptance of donations or advantages from the trading operators/suppliers should be considered only in very exceptional circumstances with justification of compelling reasons and should be approved by school management committees (SMCs) / incorporated management committees (IMCs).
- The profits/net income arising from trading operations should be applied

for the purposes of directly benefiting the students of the schools as stipulated in the regulations 99A(3) and 99B(2) of the Education Regulations. Non-compliance of the regulations may lead to prosecution.

- Profits/net income arising from trading operations should not be transferred to the respective PTAs or SSBs.
- Schools should select the trading operators/suppliers through competitive tender/quotation exercises at regular intervals, preferably not exceeding three years.

Administrative arrangements

4. 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 trading operators/suppliers.
- 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 trading operators/suppliers/publishers to be in any way influenced by a donation or any other form of advantages. Should 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 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 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 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. In this connection, aided schools should also refer to the relevant section of the School Administration Guide.

Acceptance of Donations

- Schools should observe the general principles/provisions on acceptance of advantages and donations set out in the prevailing circular on Acceptance of Advantages and Donations by Schools and their Staff and the circular memorandum on Notes on Selection of Textbooks and Learning Materials for Use in Schools.
- Schools should not allow the choice of trading operators/suppliers/publishers to be in any way influenced by a donation or any other form of advantages.
- Any benefits contributed by trading operators/suppliers, if any, would rather go to students direct, e.g. in the form of greater discount in prices. Only in exceptional circumstances, where there are compelling reasons to do so, may SMCs/IMCs consider to accept and approve such donations or advantages. For example, based on the economic background of the students, schools have to implement plans/projects (such as purchase of computers or musical instruments for loan to students-in-need) to assist those needy students in enhancing their learning.
- 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 such donations or advantages received together with the compelling reasons for such acceptance (if the donor is one of the trading operators/suppliers of the school) and the subsequent disposal in a register (a sample of which is at http://www.edb.gov.hk/FileManager/EN/Content_1977/donation%20register-e.pdf), 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.

Quotation/Tendering Exercises

- Quotation/tender exercises should be conducted to compare prices and quality of goods/services and reliability at regular intervals, preferably not exceeding three years.
- Schools are encouraged to post tender notice on their websites so that other

potential bidders may have a fair chance to compete with those on the invitation list.

- Prices should be negotiated with the trading operators/suppliers annually, where appropriate. The negotiation process (including the date, persons involved and the negotiated price, etc.) should be properly documented and SMC/IMC approval to the negotiated price should be sought. Items/paid services should be sold/provided at the minimum feasible price and should not be above the market price.

Accounting Records

- Proper books of accounts and relevant records must be kept. They should reflect all sales and purchases, including the provision of paid services. All account books and records are subject to inspection by EDB officers.

Trading Operations Arranged/Undertaken by PTAs and SSBs

- PTAs or SSBs are required to observe the principles and arrangements as set out in the prevailing circular on Trading Operations in Schools should they be delegated by the SMCs or 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 tendering/quotation 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 tendering procedures should be conducted by schools.

Prevention of Bribery

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

“The bidder, 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 a committee responsible for considering any matters in relation to this

contract. 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 trading operator/supplier -

“The operator, 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 operator, 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 operator liable for any loss or damage which the school may thereby sustain.”

Setting Up of Committee(s) to Monitor Trading Operations

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

Recommended Composition

6. 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

7. 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 trading operators/suppliers by calling for written/verbal quotations or tenders, as appropriate, following the provisions stipulated in the prevailing circular on Tendering and Purchasing Procedures in Aided Schools (the procurement of services from the social enterprises set up by non-governmental organizations should also follow the proper tendering and procurement procedures as stipulated in the circular);
- (b) To maintain security and confidentiality of the tender/quotation 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 trading operators/suppliers of the schools) and the related information (e.g. reasons for acceptance and subsequent disposal) are properly recorded in a register;
- (g) To consider and approve price revision proposals made by the trading operators/suppliers;
- (h) To review regularly the types of goods/services provided by the trading operators/suppliers and check their quality;
- (i) To consider suggestions from the school and parents on trading operations;
- (j) 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;
- (k) To investigate into complaints about trading operations, and to take appropriate action, if necessary; and
- (l) To ensure that there is no acceptance of the contractor sub-contracting services/purchases to a third party.

Education Bureau

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