Niagara Catholic District School Board

PURCHASING/SUPPLY CHAIN MANAGEMENT POLICY

ADMINISTRATIVE OPERATIONAL PROCEDURES

600 – Business Services **No. 600.1**

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PURCHASING CODE OF ETHICS – NIAGARA CATHOLIC DISTRICT SCHOOL BOARD

All Board employees involved in any aspect of purchasing or other supply chain related activities must comply with the following Supply Chain Code of Ethics. These are not a substitute for personal integrity and good judgment; they are intended to serve as a minimum standard of behaviour.

Personal Integrity and Professionalism

All individuals involved in purchasing or other supply chain-related activities must act, and be seen to act, with integrity and professionalism.

Honesty, care and due diligence must be integral to all supply chain activities within and between broader public sector organizations, suppliers and other stakeholders.

Respect must be demonstrated for each other and for the environment.

Confidential information must be safeguarded.

Participants must not engage in any activity that may create, or appear to create a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.

Accountability and Transparency

Supply chain activities must be open and accountable. In particular, tendering, contracting and purchasing activities must be fair, open, and transparent and conducted with a view to obtaining the best value for public money.

All participants must ensure that public sector resources are used in a responsible, efficient and effective manner.

Compliance and Continuous Improvement

All broader public sector supply chain participants must comply with this Code of Ethics and the laws of Canada and Ontario.

Participants should continuously work to improve supply chain policies and procedures, to improve supply chain knowledge and skill levels, and to share leading practices.

Purchasing Principles - Niagara Catholic District School Board

The purchasing principles of the Board shall be as follows:

1. The Niagara Catholic District School Board has a centralized purchasing function in the Purchasing (Purchasing/Supply Chain Management) section of the Financial Services Department, responsible for acquisition of Goods and Services and disposal of Board assets.

2. The Purchasing/Supply Chain Management Policy/Regulations and Administrative Procedures recognize that fair, open and transparent competition is a basic tenet of public acquisition, using a variety of source selection methods under varying market conditions.

3. Board staff shall procure by purchase, rental or lease, the required quality and quantity of Goods and Services in an efficient and cost effective manner.

4. Board staff shall consider all costs, including acquisition, operating and disposal costs, in evaluating bid submissions from responsive and responsible vendors, rather than basing a decision solely on the lowest bid price (i.e., "Total Acquisition Cost" method of procurement).

5. All Supervisory personnel are responsible for ensuring their immediate staff are properly informed of and comply with this policy, its regulations and procedures.

6. Personal purchases on behalf of an employee, elected official or family member, the requirement for which is not for the Board or any of its purposes, are not permitted.

7. Unauthorized purchases will be considered an obligation of the person making the purchase and not an obligation of the Board.

8. Employees of the Board may not promote or sell goods or services for compensation to any board, provincial school or teachers' college, or pupil enrolled therein, except as permitted by the Education Act.

9. Any arrangements which might prevent, or appear to prevent, fair, open and transparent competition shall be avoided in order to ensure open competition among qualified bidders.

10. Lobbying, during a competitive procurement call, is prohibited. An official point of contact shall be named and communication with anyone other than the official point of contact from the time of issuance, up to and including the time of award, is prohibited.

11. Any vendor/proponent who violates the lobbying prohibition will be subject to disqualification from the current and future procurements, at the Board's discretion.

12. Accessibility criteria and features are considered when procuring or acquiring goods, services and facilities, including self-service kiosks. If this is not practical or possible, an explanation will be provided upon request.

A. CRITERIA DETERMINING PURCHASING (PURCHASING/SUPPLY CHAIN MANAGEMENT) PROCESS

The Administrator of Purchasing – Supply Chain Management, in consultation with the initiating member of Senior Staff, Principal or Administrator, shall consider the following criteria in determining the acquisition process to be followed in the procurement of all applicable Goods and Services:

1. Where the required Goods or Service can be specified, the Tender or Quote process shall apply.

2. Where only the need can be specified rather than the specific product or service to fill the need, the Proposal process shall apply. The Proposal process may include the process of pre-qualification.

3. Where professional or consulting services are being requested, the Proposal process shall apply.

B. GOODS OR SERVICES PRODUCT SPECIFICATIONS

1. Board staff shall supply a complete product or service specification for the goods or services required.

2. Any reference to the trade name, brand name or catalogue number of a particular manufacturer shall be understood to have been made solely for the purpose of establishing and describing general performance and quality levels of the item to be supplied and shall not be construed to restrict Bidders to that manufacturer, unless specified that a substitute is not permissible.

3. The requisitioner is responsible to specify all pertinent requirements, including, but not limited to the following: Proof of Liability Insurance, Proof of WSIB coverage, Vulnerable Sector Check, Safety Data Sheets (SDS), and Privacy Impact Assessment.

C. NON COMPETITIVE PROCUREMENT

When a non-competitive procurement purchase is proposed, the following procedures must be followed:

1. The member of Senior Staff will ensure that the Goods and Services are procured by the most open market procedure practicable under the circumstances.

2. Documentation, including a Non-Competitive Approval form, explaining the nature of the situation and the actions taken will be forwarded, with a purchase requisition, to the Purchasing/Supply Chain Management Department.

3. Purchase orders shall not be issued without the required documentation.

Exemptions: Purchases not requiring competitive procurement.

i) Student Trips / Extracurricular Activities: single or multi-day class field trips or excursions;
ii) Speakers, performers, or royalty fees for school or system events;
iii) Teaching materials purchased at book fairs and conferences;
iv) Registration for conferences/seminars, courses, workshops, and staff training and development.
v) Payment of professional or organizational membership dues;
vi) Purchase of periodicals or professional journals or publications;
vii) Publisher Textbooks – purchase made directly from the company that owns the rights to the textbook (print or electronic) and is responsible for its development and distribution, within the scope of the Ministry of Education Ontario Curriculum;
viii) Research, legal services, public relations & advertising, actuarial services,
ix) Real estate, leased/rental facilities;
x) Purchases of Goods for resale;

xi) Employment contracts;
xii) Utility payments;
xiii) Government agencies and Crown Corporation payments – MTO licensing, Technical Standards & Safety Association, Electrical Safety Authority, public transportation tickets, etc.

Purchase by Negotiation

Purchase by negotiation shall apply when, in the judgment of the Administrator of Purchasing – Supply Chain Management, in consultation with the initiating member of Senior Staff, Principal or Administrator, any of the following conditions exist:

1. Due to market conditions, Goods are in short supply.

2. There is only one known source of the Goods or Services.

3. Two or more identical low bids have been received.

4. The lowest bid received substantially exceeds the estimated cost of the Goods.

5. All bids received fail to comply with the specifications, tender terms and conditions, and it is impractical to recall Tenders

6. The extension or revision of an existing contract would prove more cost effective or beneficial. Same must be duly authorized by a "Change Order" and documentation sent to Purchasing.

7. A single source or sole source is being recommended because it is more cost effective or beneficial for the Board.

8. Purchase of an item where compatibility with an existing product, service or program is an overriding consideration.

9. When only one Bid is received through the tendering system.

Formal documentation must be completed and authorized by the Chief Financial Officer, in order to support and justify the decision to Purchase by Negotiation.

Blank Purchase Orders

Blanket purchase orders are authorized by Purchasing Services and are intended to be used for miscellaneous goods and/or services where tenders or quotations have not been issued or where actual quantities to be purchased are unknown. Blanket purchase orders will have a maximum dollar limit, be restricted to approved users and for a defined time period. Any purchase over the defined maximum limit will require quotation as noted and will require a unique purchase order. Vendor invoices over the predetermined limit will not be paid against a blanket purchase order.

Emergency Purchasing

Emergency Purchasing shall apply when a member of Senior Staff verifies that the procurement of Goods and/or Services is necessary to prevent, or correct, dangerous or potentially dangerous safety conditions, serious delays, or further damage, or to restore minimum service.

Non-Competitive Procurement (exemptions from the Competitive Process)

In certain unique circumstances, the Board will not have the ability to go through a competitive process activity. The Purchasing/Supply Chain Management Department would then go directly to one supplier to meet the requirements of the Board. There are two main types of direct awards:

Single Sourcing – is the use of non-competitive procurement process to acquire goods, services or construction from a specific supplier even though there may be more than one supplier capable of delivering the same Goods, Services or Construction.
Sole Sourcing – means the use of a non-competitive procurement process to acquire Goods or Services where there is only one available supplier for the source of Goods or Services.

Single Sourcing

Allowable exceptions for competitive procurements include:

1. Where an unforeseen situation of urgency exists and the Goods, Services or Construction cannot be obtained by means of open procurement procedures. Where a non-competitive procurement is required due to an urgent situation, the Board may conduct the procurement prior to obtaining the appropriate approvals, provided that the urgency has been justified in writing (see Emergency Purchasing).

2. Where Goods or consulting Services regarding matters of confidential or privileged nature are to be purchased and the disclosure of those matters through an open competitive process could reasonably be expected to compromise confidentiality, cause economic disruption or otherwise be contrary to the public interest.

3. Where a contract is awarded under a cooperation agreement that is financed, in whole or in part, by an international organization only to the extent that the agreement includes different rules for awarding contracts.

4. Where construction materials are to be purchased and it can be demonstrated that transportation costs or technical considerations imposed geographic limits on the availability of the supply base, specifically in the case of sand, stone, gravel, asphalt compound and pre-mixed concrete for use in the construction or repair of roads.

5. Where an open competitive process could interfere with the organization's ability to maintain security or order or to protect human, animal or plant life.

6. Where there is an absence of any bid in response to an open competitive process that has been conducted in compliance with this document.

7. Where only one supplier is able to meet the requirements of procurement in the circumstances (Sole Sourcing).

Sole Sourcing

In the situation where only one supplier is able to meet the requirements of procurement, the Board may use the following Sole Source method:

1. To ensure compatibility with an existing product, to recognize exclusive rights, such as exclusive licenses, copyrights and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative.

2. Where there is an absence of competition for technical reasons and the Goods or Services can only be supplied by a particular supplier and no alternative or substitute exists.

3. For the procurement of Goods or Services, the supply of which is controlled by a supplier that is a statutory monopoly.

4. For the purchase of Goods on a commodity market.

5. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor or its authorized work force.

6. For works to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work.

7. For a contract to be awarded to the winner of a design contest.

8. For the procurement of a prototype or a first Good or Service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases.

9. For the purchase of Goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.

10. For the procurement of original works of art.

11. For the procurement of subscriptions to newspapers, magazines or other periodicals.

12. For the procurement of real property.

Formal documentation must be completed to support and justify the decisions above. This documentation must be completed and approved by the appropriate authority levels within the Board and may be used as supporting documentation in the case of a competitive dispute.

D. ADVERTISING OF BIDS

Advertising of Bids shall be conducted through the Purchasing/Supply Chain Management Department utilizing an electronic Website. Bids must be advertised as per all Provincial and National Regulations.
Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

The purpose of MFIPPA is to make Boards accountable to the public and to protect personal privacy. MFIPPA accomplishes these purposes by:

- Providing the public with a right of access to records within the Board's custody or control
- Preventing the unauthorized collection, use and disclosure of personal information.

All notes, e-mails, memos, letters or any other documentation relating to a competitive procurement process are ordinarily subject to MFIPPA requests. Freedom of Information requests can be made for information on tendering and administration of contracts. Any record, so requested, must be disclosed in its entirety unless MFIPPA exceptions to disclosure apply to all or part of the request.

E. CONTRACTS/LEASES/AGREEMENTS

Contracts, leases and agreements will be processed in accordance with the Approval Authority Limits, as specified in the Purchasing/Supply Chain Management Policy.

F. SEGREGATION OF DUTIES

Budget(s) – authorized and approved by the Board on an annual basis. The Budget department forward/allocates budgets to originators (Schools Administrators/Department Administrators).

Requisition(s)/Commitments – authorized by the budget holder (Schools/Departments) and forwarded to the Purchasing/Supply Chain Management Department for acquisition purposes.
Receipt(s) – authorized by the budget holder (Schools/Departments) and forwarded to the Expediting Department for receiving purposes.

Payment(s) – authorized by the budget holder (Schools/Departments) and forwarded to the Accounts Payable Department for verification of prices, matched with the receipt, then processed for payment by the Accounts Payable Department.

G. EVALUATION OF BIDS

All information regarding timelines of Bids, Bid receipts, evaluation criteria, evaluation methodology and process, selection process, tie score process, fixed evaluation criteria, evaluation matrix, conflict of interests, and dispute resolution process are contained within the terms and conditions of the individual Bid and the Bid specifications. Evaluation methods and processes to be used in assessing the bidder's submission must be fully disclosed and must not discriminate or exercise preferential treatment in awarding a contract to a supplier as a result of a competitive procurement process.

The Board must then select only the highest ranked submissions that meet all mandatory requirements set out in the related procurement documents. Alternative strategies or solutions NOT requested in the original procurement documents will not be accepted unless expressly requested in the original procurement documents.

- The Board is entitled to ask bidders for clarification on their Bid as long as it does not change their Bid in any way.
- Where Bids are received in response to a solicitation but exceed the Board's budget, are not responsive to the requirement or do not represent fair market value, a revised solicitation can be issued in an effort to obtain an acceptable Bid.
- If no Bids are acceptable and it is not reasonable to go through any other method, the Board may choose to negotiate directly with a chosen supplier.

With the exception of any pricing that was made publicly available at the time of a public opening, all submission evaluation details are subject to MFIPPA.

Evaluation records of procurement process must be fair, factual, fully defensible, auditable and kept on file in the Purchasing/Supply Chain Management Department.

Bids will be evaluated according to all relevant criteria contained in each particular Bid. The Board will evaluate Bids based on price, product quality, past performance, delivery and payment terms or any combination or additions thereof, at its sole discretion. The Board reserves the right to evaluate pricing based on the combined total cost of the items tendered or separately. Maximum justifiable weighting will be allocated to the price/cost component of the evaluation criteria.

Evaluation of Bids include, but are not limited to:

- (*) Bid is appropriately received
- Bid meets all mandatory requirements (compliant vs. non-compliant)
- Bid meets optional/desirable requirements
- schedule compliance
- skills/experience and capability
- price/quality/value analysis
- weights, sub-weights for rated requirements
- reference checks, oral interviews, demonstrations
- any and all other criteria as listed within the Bid

* Bid Receipt - The Board must ensure that the closing date is set on a normal working day. Submissions that are delivered after the closing time must not be considered and will be returned unopened. Each Bid must be stamped as it arrived with the date, time, location, company name and contact information. Bids are not opened until after the competitive process has closed. The Board has to ensure that there is at least one witness to view the Bid openings.

Evaluation criteria will be developed, reviewed and approved BEFORE the competitive process begins and contained within the Bid documents. Mandatory and any technical standards that need to be met have to be identified. The evaluation criteria cannot be changed or altered once the competitive process begins, with the exception of an addendum sent to all suppliers prior to Bid closing.

Evaluation Team

Every competitive process requires an evaluation team that will be responsible for reviewing all the compliant Bids. Evaluation team members will be selected and participation confirmed before the competitive documents have been posted. Board evaluation team members will have been included in the development of the evaluation criteria and general requirements. Each team member will complete an evaluation matrix rating each of the submissions in a fair, factual and fully defensible manner. Evaluation team members will be made aware of the restrictions related to confidential information shared through the competitive process and refrain from engaging in activities that may create, or appear to create, a Conflict of Interest. The Board will require team members to sign a Conflict of Interest Declaration and Non-Disclosure Agreement. The Board will require suppliers to sign a Conflict of Interest Declaration with each Bid submitted. The Board must consider any Conflict of Interest during procurement activities applicable to all employees, advisors, external consultants or suppliers.

Note: Consultants that are hired by the Board must be aware of the conflict of interest created when a consulting organization is involved in the development of the competitive documents and also has the ability to fulfill the procurement needs that are being contemplated in those competitive documents. The Board must be very clear and insist on documented agreements that any consultants involved in developing the competitive documents CANNOT be involved in the creation of the response to those competitive documents.

Employees, Consultants and Advisors who are on the Evaluation Team must also declare a Conflict of Interest. Employees, Consultants and Advisors are ultimately responsible and accountable for using good judgment in the exercise of the Board's duties and must:

- Disclose Conflict of Interest to the Board in writing to the Administrator of Purchasing/Supply Chain Management
- Avoid situations that may present Conflict of Interest while working with persons doing business or seeking to do business with the Board.

Situations that might result in a Conflict of Interest are:

- Engage in outside employment
- Not disclosing an existing relationship that may be perceived as being a real or apparent influence on their objectivity in carrying out an official role
- Providing assistance or advice to a particular supplier participating in a competitive process
- Having an ownership, investment interest, or compensation arrangement with any entity participating in a competitive process
- Having a family member with an ownership, investment interest or compensation arrangement with any entity participating in a competitive process
- Having access to confidential information
- Accepting favours or gratuities from those doing business with the organization

Selection Process

The submission that receives the highest evaluation score and meets all mandatory requirements set out in the competitive procurement document must be declared the winning bid.

1. The Board will select Bids based on criteria contained within the Bid but shall not discriminate:
    - Between the Goods or Services of a particular province or region, including those goods and services included in construction contracts, and those of any other province or region; or
    - Between the suppliers of such Goods or Services of a particular province or region and those of any other province or region.

2. Except as otherwise provided, measures that are inconsistent with the above include the following:
    - The imposition of conditions on the invitation to compete, registration requirements or qualification procedures that are based on the location of a supplier's place of business in Canada, the place in Canada where the Goods are produced or the Services are provided, or other like criteria.

- The biasing of technical specifications in favour of, or against, particular Goods or Services, including those Goods or Services included in construction contracts, or in favour of, or against, the suppliers of such Goods or Services for the purpose of avoiding the obligations of the Board.
- The timing of events in the competitive process so as to prevent suppliers from submitting Bids.
- The specification of quantities and delivery schedules of a scale and frequency that may reasonably be judged as deliberately designed to prevent suppliers from meeting the requirements of the procurement.
- The division of required quantities or the diversion of budgetary funds to subsidiary agencies in a manner designed to avoid these obligations.
- The use of price discounts or preferential margins to favour particular suppliers.

3. Except where legislated by law, the Board shall not impose or consider, in the evaluation of bids or the award of contracts, local content or other economic benefits criteria that are designed to favour:
    - The Goods and Services of a particular province or region, including those Goods and Services included in construction contracts; or
    - The suppliers of a particular province or region of such goods or services.

H. CONTRACT AWARDS & MANAGEMENT

Contract Awards

Upon request of the Board, a bidder whose Tender is under consideration for the award of a contract shall promptly submit satisfactory evidence of financial resources, experience of the organization and its staff, and equipment available for the performance of the contract. In addition, a technical question and answer interview may be conducted, if deemed necessary to clarify or verify the Bidder's Tender and to develop a comprehensive assessment of the Tender.

The award of any Bid or any part thereof, will be made in writing and may be subject to the successful bidder entering into a contract that is satisfactory to the Board. Provided however, and it is expressly understood and agreed, that upon the acceptance of the Bid by the Board, the said Bid shall, with the said conditions, specifications and form of Bid constitute a valid and binding contract. The Board must obtain the supplier's signatures before obtaining the designated Board's signature. The contract must be finalized using the form of agreement/contract that was released with the procurement document. If it appears to the Board that the Tender will be adversely affected because timely signing of a contract acceptable to the Board will not take place, the Board reserves the right to award the contract to the next ranked qualified bidder. Appropriate terminology regarding cancellation/termination clauses, vendor debriefing notification and protocol, dispute resolution process and arbitration are contained within Bid specifications and terms and conditions.

A Purchase Order will be issued upon formal award.

Unsuccessful bidders will be provided with the name of the successful bidder(s), start and end dates including any options for extension. Any information provided must comply with MFIPPA.

Contract Type

Fixed price: A fixed price contract is a contract that has a set fee for a specific scope of work to be completed, which can include the completion of a specific deliverable or deliverables. When deciding to use a fixed price contract, the organization must consider the level of scope detail that has been developed. The more well defined the scope and the requirements, the lower the risk of using a fixed price contract for the Board. Using a fixed price contract with a scope that is not well defined contains risk for the Board because items may be deemed out of scope and thus results in costly change orders. If using a fixed price contract for a specific deliverable or deliverables, the Board must understand the desired outcome of the work being completed. One advantage of a fixed price contract is that the cost of the procurement is known in advance.

Time and material: A time and materials contract identifies work to be paid based on units of time spent on the procurement. These time units are typically in the form of daily or hourly rates for the amount of time and materials used by the resources assigned by the supplier. If the Board does not have a well-defined scope of work, a time and materials contract may be the only option. The Board must monitor the hours spent during a time and materials contract to ensure that the procurement does not exceed the budget.

Cost reimbursable: A cost reimbursable contract is a contract where the Board agrees to reimburse all of the costs incurred by a supplier in the completion of the work identified. Typically, the Board will pay an additional fee on top of those costs to represent the supplier's profit. This additional fee can be calculated as a percentage of the costs incurred or as a flat fee on top of the costs incurred.

A combination of the contract types above can also be used, depending on the requirements being contemplated.

Note: The Board must include proper cancellation or termination clauses in all contracts.

The term of the contract agreement and any options to extend must be set out in the procurement documents (Bid documents). Changes to the term of the contract may change the procurement value. Prior written approval by the appropriate approval authority is necessary before changing contract start and end dates. Extensions to the contract beyond what is set out in the procurement document are considered non-competitive procurements and the Board must seek appropriate approval authority prior to proceeding.

Contract Management

Procurements and the resulting contracts must be managed responsibly and effectively.

Payments must be made in accordance with the provisions of the contract. All invoices must contain detailed information sufficient to warrant payment. Any overpayments must be recovered in a timely manner.

Assignments must be properly documented. Supplier performance must be managed and documented, and any performance issues must be addressed.
Service type contracts will be managed as follows:

- Establish clear terms of reference for assignment. The terms will include objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, approval requirements and knowledge transfer requirements.
- Establish expense claim and reimbursement rules compliant with the Broader Public Sector Expenses Directive and ensure all expenses are claimed and reimbursed in accordance with these rules.
- Ensure that expenses are claimed and reimbursed only where the contract explicitly provides for reimbursement of expenses.

I. COOPERATIVE PURCHASING

Under the direction of the Chief Executive Officer, or their designate, the Board shall explore cooperative purchasing with other school boards and other units of government or their agencies of public authorities, or utilize a "on-board clause" to existing ministry or government service contracts or other cooperatives, whenever the best interest of the Board will be served.

J. DISPOSAL PROCEDURES

The following shall apply for disposal of surplus equipment:

1. Any property belonging to the Board and declared surplus to its particular use by the respective member of Senior Staff, Principal or Administrator shall be disposed of by means of public auction,

tender or quotation or released to a charitable organization by the Purchasing/Supply Chain Management Department and documented accordingly.

2. The Administrator of Purchasing/Supply Chain Management shall have the authority to sell, exchange, or trade-in all goods declared surplus to need, and where it is cost effective and in the best interest of the Board to do so.

3. If it is determined that a higher return of net disposal costs can be achieved by sale of surplus Goods to the original vendor or vendors in that line of business, the Administrator of Purchasing/Supply Chain Management shall negotiate to sell such Goods at the highest return.

4. Where it is deemed appropriate by the Administrator of Purchasing/Supply Chain Management and/or the respective member of Senior Staff, Principal or Administrator, a reserve price may be established and, in the case of disposal by Tender, published and disclosed; and in the case of auction or quotation, shall be used as an internal estimate and not disclosed.

5. Where items have been declared surplus and are determined by the Administrator of Purchasing/Supply Chain Management to have little or no value, the Administrator of Purchasing/Supply Chain Management, in consultation with the respective member of Senior Staff, Principal or Administrator, shall have such item scrapped or donated to a charitable organization by the Purchasing Department and documented accordingly.

K. PROHIBITIONS REGARDING PURCHASES

1. No contract or purchase shall be divided to avoid the requirements of these procedures, and the annual or total project requirement shall be considered.

2. All petty cash purchases must exclude Tendered Goods, Tendered Programs and Tendered Services.

3. No employee or elected official shall purchase or offer to purchase, on behalf of the Board, any Goods or Services, except in accordance with these procedures.

4. No personal purchases shall be made by the Board for elected members, or any appointed member of the Board, or for any Board employees, who are not deemed to be at Arms Length.

5. No member of the Board of Trustees and no officer or employee of the Board, shall become interested, directly or indirectly as a contracting party, or partner, in the work, the supplies or business in connection with a contract, or in any portion thereof, or of any supplies to be used therein, or in any monies to be derived there from.

6. No employee or elected official shall bid on the sale of Goods except those Goods disposed of by public auction.
    - No employee of the Board who is assigned to work at an auction may bid on any Board assets being offered for sale at the auction.
    - No employee of the Board having the responsibility for identifying items as surplus may bid on such items at the auction sale.

L. MISCELLANEOUS

1. Discounts

In arriving at a price, cash discounts will be considered part of the vendor's Bid.

2. Procurement Documentation and Records Retention

All acquisition processes shall be documented by the Purchasing Department and kept on file in the Purchasing Department. In the case of a Tender/RFP issued by a Consultant, records will be retained by the department of the originating member of Senior Staff. A record of the procurement process documentation includes the following:

- A copy of the procurement justification or the business case.
- Information regarding all supplier consultations, including any requests for information undertaken in the development of the procurement business case and/or procurement documents.
- Evidence that all required approvals were obtained.
- Copies of all procurement documents used to qualify and select the supplier.
- Where the procurement was conducted through a VOR arrangement, information regarding the second stage selection process used to select the particular vendor of record.
- Where the procurement was single or sole sourced, documented justification, applicable exemptions and associated approvals.
- Copies of all advertisements of procurement documents.
- Copies of all successful and unsuccessful responses, submissions, proposals and Bids received in response to procurement documents, including the Conflict of Interest Declaration and other attached forms.
- Information regarding any issues that arose during the procurement process.
- Information regarding all evaluations of submissions, Proposals and Bids received in response to procurement documents.
- Information regarding all vendor debriefings including written documentation of the offer of vendor debriefing.
- Copies of all award letters, notices and posted announcements.
- Copies of additional agreements.
- Information regarding all changes to the terms and conditions of an agreement, including any changes that resulted in an increase to pricing.
- Information regarding the management of the supplier, including how the supplier's performance was monitored and managed and, where applicable, mechanisms used to transfer knowledge from the supplier to Board staff.
- Risk assessment information and recommendations, where applicable.
- Contractor security screening decisions, where applicable. - Information regarding all protests, disputes or supplier complaints regarding the procurement process.
- Evidence of receipt of deliverables.
- Any other documentation as identified by the Board.

All procurement documents, as well as any other pertinent information for reporting and auditing purposes, must be maintained for a period of seven years and be in recoverable form if requested.

3. Change Orders/Retrofits Only

Extensions or changes to existing construction/service contracts shall be authorized in the following manner:

1. The originator of the contemplated change shall obtain a price from the contractor/supplier for the change under consideration.

2. When the originator is satisfied that the price for the contemplated change fairly represents the value of the work, they shall prepare and issue a "Purchase Order Increase Approval Form" subject to the following limitations;

3. Copies of all Purchase Order Increase Approval Form shall be distributed to the Accounting Department and to the Purchasing Department. In the case of a Tender/RFP issued by a Consultant, copies of all Purchase Order Increase Approval Form will be retained by the department of the originating member of Senior Staff.

4. Environment

Every effort shall be made to competitively procure, whenever possible, environmentally appropriate and ecologically sound products while giving vendors fair and equitable access to School Board business.

The Board needs to consider environmentally responsible and sustainable Goods and Services as part of the purchasing decisions. The objectives of environmental sourcing are to:

- Provide an environmental role model for public procurement by making it a priority to use environmentally responsible Goods and Services, where feasible and cost effective;
- Support a healthier working environment for employees and for citizens in general through the purchase of environmentally preferable Goods and Services;
- Increase demands for environmentally responsible Goods and Services, which may ultimately enhance their quality and cost competitiveness;
- Increase the conservation of resources through the use of more reusable products, and/or Goods and Services that require less energy and materials to produce or use.

5. Auctions

When deemed cost effective to the Board, the Administrator of Purchasing/Supply Chain Management, in consultation with the initiating member of Senior Staff, Principal or Administrator, shall consider auctions as a viable alternative to purchase.

6. Health and Safety

All product and service purchases through the Tendering/Quotation/Proposal process must adhere to the Board's policy of acquiring and maintaining Material Safety Data Sheets on file. Any Goods/Services purchased by an individual will become the obligation and liability of said individual.

7. Bidder's Recourse/Debriefing and Bid Protest Procedures

By contacting the Board's Administrator of Purchasing/Supply Chain Management, within 60 calendar days following the date of contract award notification, unsuccessful bidders will have an opportunity to request a debriefing session. The debriefing will provide a bidder with a critical review of the unsuccessful Bid and, what, in the opinion of the Evaluation Committee, were its particular strengths and weaknesses.

In scheduling vendor debriefings, the Board will:

- Confirm the date and time of the debriefings with each vendor
- Conduct separate debriefings with each vendor
- ensure that the same participants from the Board participate in every debriefing conducted
- Retain all correspondence and documentation relevant to the debriefing session as part of the procurement documentation
- Provide a general overview of the evaluation process set out in the procurement documents
- Discuss the strengths and weaknesses of the supplier's submission in relation to the specific evaluation criteria and the supplier's evaluation score, if used. If more than price is evaluated, the Board may provide the supplier's evaluation scores and their evaluation ranking.
- Provide suggestions on how the supplier may improve future submissions
- Be open to feedback from the supplier on current procurement processes and practices
- Address specific questions and issues raised by the supplier in relation to their submission.

The Board must not disclose information concerning other suppliers other than as specified above, as it may contain confidential third-party organization proprietary information subject to the mandatory third-party exemption under the MFIPPA. If a supplier makes such a request, the Board must advise the supplier that a formal FOI request be submitted.

Questions unrelated to the procurement process must not be responded to during the debriefing and must be noted as out of scope based on the debriefing process agreed to in the procurement documents.

If the bidder has further concerns after meeting with the Administrator of Purchasing/Supply Chain Management, the bidder will be referred to the Chief Financial Officer to discuss the concern and attempt to resolve the matter.

If not satisfactorily resolved, then the complaint will be referred to the Chief Executive Officer for resolution or to be directed to the Board of Trustees at an appropriate meeting.

8. Claims or Possible Claims

The Niagara Catholic District School Board will preclude a vendor from bidding if the vendor has made a formal demand or otherwise put the Board on notice of a pending action or is involved in any actual litigation proceedings (excepting only construction lien demands, notices or proceedings) by or against or otherwise involving the Board.

9. Arbitration

The Board will utilize an Arbitration clause within bid documents as follows: Any dispute between the parties arising out of or relevant to the Bid which cannot be resolved by the parties shall be referred to mediation for mandatory Alternative Dispute Resolution, and a Mediator shall be selected from the list of approved Mediators of the Ontario Court (General Division), and such mediation is to take place within thirty (30) days of such referral. Any dispute between the parties which cannot be resolved by such mediation shall be settled and determined by any Court of competent jurisdiction, provided however, that the Board reserves the right to submit such dispute for settlement and determination by arbitration pursuant to the Arbitration Act of Ontario (the "Act") in which case the following provisions shall apply. Either party may at any time give written notice to the other of its desire to submit such dispute to arbitration stating with reasonable particularity the subject matter of such dispute. In the case of the vendor giving notice to the Board, if the Board does not consent to submitting such matter to arbitration, the vendor may refer such matter to a court of competent jurisdiction. If the Board generates the notice, or if the notice is generated by the vendor and consented to by the Board, then the following provisions shall apply. Within five (5) business days after receipt of such notice, the parties shall appoint a single arbitrator with appropriate experience to determine such dispute. If the parties fail to appoint an arbitrator, either party may apply to a Judge of the Ontario Court (General Division) to appoint an arbitrator to determine such dispute. The costs of arbitration shall be paid by the party as determined by the arbitrator, which jurisdiction shall include the determination of the costs to be paid by the unsuccessful party. The award of the arbitrator shall be final and binding upon the parties. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction and enforced in the normal course.

10. Demonstration/Pilot Programs

If a department/school wishes to participate in a demonstration program/pilot to test certain products in specific Instructional or Administrative environments, the following must be followed:

Administrative

Standard Agreement to be formalized by the originator to include terms of agreement (listing of products, title risk, termination, etc.) and duly authorized by the Chief Financial Officer. All administrative pilots will incorporate (if feasible) a minimum of three vendors for comparison purposes.

Instructional

Request for Information to be issued which would include terms of reference (termination dates, etc.) duly authorized by the appropriate Superintendent of Education and the Chief Financial Officer. All Instructional pilots must adhere to operational procedures of the Program Department as well as incorporate (if feasible) a minimum of three vendors for comparison purposes.

11. Procurement Card

In support of sound business practices, a procurement card will be issued to authorized Board employees for the acquisition of low dollar value, non-tendered Goods/Services.

12. Code of Ethics

All Niagara Catholic employees shall abide by the Purchasing Code of Ethics. The Purchasing Department Staff of the Niagara Catholic District School Board shall abide by the Code of Ethics for Supply Chain Canada/National Institute of Supply Chain Leaders of which they are a member.

13. Bid Irregularities

Major Irregularity

A deviation from the Bid request which affects the price, quality, quantity, or delivery and is material to the award. The Administrator of Purchasing/Supply Chain Management must reject any Bid which contains a major irregularity.

Minor Irregularity

A deviation from the Bid request which affects form rather than substance, providing the effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected the bidder would not gain an unfair advantage over competitors. The Administrator of Purchasing/Supply Chain Management may permit the bidder to correct a minor irregularity. (Substantial compliance or strict compliance).

Mathematical Errors: Rectified by Staff

Errors in mathematical extensions and/or taxes will be corrected by the Administrator of Purchasing/Supply Chain Management and the unit prices will govern.

Adopted Date:	**February 24, 1998**
Revision History:	**December 21, 2010** **April 26, 2011** **June 16, 2015** **February 25, 2020** **June 18, 2024** ***September 8, 2026 *(Administrative Update)***