



COMMISSION SCOLAIRE
Eastern Shores
SCHOOL BOARD

Purchasing Policy for Goods, Services and Construction Contracts Policy ES-243

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1. PURPOSE

The purpose of this policy is to specify the framework for the acquisition of goods, services and construction work of the Eastern Shores School Board (hereinafter referred to as the ESSB) and to determine the process for awarding contracts for supplies, services and construction work.

2. LEGISLATIVE AND REGULATORY PROVISIONS

This policy is based on the following laws, regulations and directives:

- Education Act (R.S.Q., c.I-13.3)
- An Act respecting contracting by public bodies (R.S.Q., c. C-65.1) and the regulations respecting supply contracts (C-65.1, r.2) service contracts (C-65.1, r.4) and construction contracts (C-65.1, r.5) of public bodies and other regulations.
- An Act respecting the Autorité des marchés publics. (A-33.2.1)
- An Act respecting integrity in public contracts. (LQ 2012, C.25)
- Decrees and intergovernmental free trade agreements.
- Directives concerning the contractual management of public bodies issued by the Secrétariat du Conseil du trésor;
- Directive on the management of goods, services, and construction contracts of public bodies.
- Charter of the French Language (R.S.Q., chapter C-11)
- Directive on the internal guidelines for contract management of the ESSB.
- By-Law regarding the delegation of functions and powers of the ESSB

3. PRINCIPLES

In compliance with any governmental agreement applicable to the ESSB and in accordance with the *Loi sur les contrats des organismes publics and its regulations*, the policy aims to promote

- Transparency in contracting processes;
- Sound management of the procurement process;
- The fair and honest treatment of competitors;
- The opportunity for qualified competitors to participate in ESSB tenders;
- The implementation of effective and efficient procedures including, in particular, an adequate and rigorous needs assessment that takes into account government orientations in terms of sustainable development and the environment;
- The implementation of quality assurance systems that cover the provision of goods, services or construction work required by the ESSB;
- Reporting based on the accountability of ESSB management and the proper use of public funds;
- Autonomy and responsibility of administrative unit directors;
- Public confidence in the ESSB

4. SCOPE OF APPLICATION

This policy applies to the procurement of goods, services and construction work by the ESSB with a supplier, service provider or contractor.

It governs the practices of staff or any other person who is involved in any way in a procurement process on behalf of the ESSB.

For purposes of application, the following are excluded from this policy:

- The purchase, lease, or disposition of real property.
- Contracts for the integration of the arts into the architecture and environment of government buildings and sites (*Decree Respecting the Policy for the*

Integration of the Arts into the Architecture and Environment of Government and Public Buildings and Sites);

- The contracting process for the purchase of books and volumes (*Act respecting the development of Québec enterprises in the book trade*);
- Contracts for the transportation of students (*Education Act*);
- The acquisition of goods for resale (e.g.: fundraising campaign);
- The acquisition of goods and services pursuant to ministerial obligations, policies, instructions, or legislation.

5. DEFINITIONS

5.1 Public Invitation to Tender

A process whereby the ESSB publicly invites suppliers, service providers and contractors to submit bids for a project to acquire goods, services or construction in accordance with the Public Bodies Contracts Act and its regulations.

5.2 Invitation to Tender

Process by which the ESSB invites a limited number of suppliers, service providers and contractors to submit their bids for a project to acquire goods, services or construction work. With very few exceptions, in order to ensure competition, a minimum of three firms should be invited to submit a bid.

5.3 Goods

All furniture, equipment, tools and consumables.

5.4 Specifications (Tender Document)

A set of documents used for the publication of a tender and the award and conclusion of the contract. These documents complement each other. These documents include, but are not limited to, the description of requirements, plans, evaluation criteria and grid, instructions to bidders, eligibility and compliance requirements, forms, the contract to be signed, schedules and, if applicable, addenda.

5.5 Selection Committee

A group of individuals appointed by the decision makers of the organization and responsible for the qualitative evaluation of bids received under the terms of the call for tender.

5.6 Purchase Order

A document duly signed by an authorized person authorizing a supplier, service provider or contractor to deliver goods, provide a service or carry out construction work under the conditions previously agreed upon.

5.7 Purchase Order Contract

A contract entered with one or more suppliers when there are recurring requirements and the quantity of goods, or the timing or frequency of their acquisition is uncertain.

5.8 Performance on Demand Contract

A contract with one or more service providers or contractors where there are recurring requirements and the number, timing or frequency of requests is uncertain.

5.9 Supply Contract

A contract for the purchase or lease of movable property, which may include charges for installation, operation, or maintenance of the property.

5.10 Mutual Agreement Contract

The awarding of a contract to a firm following negotiation between the two parties to meet a need identified by the public body. A method of award in which a public body negotiates directly with a non-business??? firm or individual to enter into a contract.

5.11 Technical Services Contract

A service contract for the practical performance of a contract and the application of predetermined standards, e.g., snow removal, computer support, housekeeping, etc.

5.12 Professional Services Contract

In addition to services rendered and regulated by the Professional Code, any contract that includes the provision of design, creative, research, analytical or writing services and other situations where a public body generally evaluates the quality of bids before entering into a contract.

5.13 Construction Contract

A contract for the performance of construction work covered by the Building Act, i.e., all work relating to the foundation, erection, renovation, repair, maintenance, alteration or demolition of an immovable for which the contractor must hold the licence required under Chapter IV of that Act.

5.14 Direct Request for Quotation

The process by which ESSB requests a limited number of suppliers, service providers, or contractors to submit written prices and terms and conditions in connection with a proposed acquisition of goods, services, or construction.

5.15 Management Unit

Branches of institutions and departments.

5.16 Decision makers of the organization

The Council of Commissioners of the ESSB or, where a by-law of delegation of authority has been duly adopted by the Council of Commissioners, the Executive Director or as otherwise provided in such by-law.

5.17 Contractor

A person or company that provides services related to the field of construction.

5.18 Supplier

A natural or legal person who supplies goods.

5.19 Service Provider

A natural or legal person who provides services of a technical or professional nature.

5.20 Certification of Goods

The process by which the ESSB ensures that a good conforms to a recognized standard or established technical specification prior to a procurement tender.

5.21 Bidding Threshold

The minimum amount established by the government procurement liberalization agreements at which public tendering becomes mandatory (except as provided in the Public Bodies Contracts Act).

5.22 Qualification of Service Providers

A process whereby providers or firms are publicly invited to submit a qualification package for potential contracts. All providers or firms that successfully complete the qualification phase will be placed on a list and any subsequent contracts will be reserved for them.

5.23 RARC

The contract compliance officer designated by the highest authority. (Council of Commissioners).

5.24 Subregion and Region

Territory of the ESSB covering the administrative regions of 11-Gaspésie-Iles-de-la-Madeleine (GÎM), 01-Bas-St-Laurent (BSL) and 09-Côte-Nord (CN). In addition, the geographic location of a school board establishment constitutes a sub-region that will be favoured in the various acquisition processes. If there is not enough competition in the sub-region, then the process will be extended to the ESSB territorial region.

5.25 Government Electronic Tendering System (SEAO)

Platform accessible via the Internet that brings together the various notices from most of the Quebec government's public organizations. Companies interested in public contracts can consult the published notices, obtain the related documents (specifications, call for tenders, addenda, digital schedules, support documents, etc.) and submit their bid.

5.26 Value of a Contract

The total estimated expenditure before taxes over the life of the contract, including options and renewal periods.

6. ROLES AND RESPONSIBILITIES

6.1 The Council of Commissioners

The Council of Commissioners adopts this policy, sees to its revision as needed, and ensures its dissemination and implementation.

6.2 The Director General

Exercises the functions conferred upon them by the various laws, subject to the powers delegated to them. The director general is responsible for the application of this policy and reports to the Council of Commissioners.

6.3 The Material Resources Department

Provides expertise in matters of acquisition to the ESSB and offers support to the administrative units authorized to commit ESSB budgetary funds.

Is responsible for:

- Publishing and reviewing the information required for accountability by the SEAO and by the Treasury Board Secretariat;
- Preparing relevant reports and recommendations to senior management and political bodies;
- The supervision of the procurement processes required as part of the normal internal supervision of the ESSB activities.

6.4 Management of the information resources department

- Preparation of public or invited tenders for supply and service contracts related to information resources;
- The opening and analysis of bids received following a public or invited call for tenders.

6.5 ESSB Staff and Others

Staff or any other person involved in any procurement process shall, subject to applicable laws and regulations, comply with this policy. They must maintain the confidentiality of any document or information related to this policy. This obligation always applies at all stages of the procurement process and thereafter.

Personnel or any other person who is involved in any way with an acquisition process may not have a direct or indirect interest in a business that conflicts with their personal interest. If they believe they are in a conflict-of-interest situation, they must immediately inform their immediate supervisor or, failing that, RARC, who will take the necessary measures.

7. GENERALITIES, OBLIGATIONS AND RESPONSIBILITIES OF THE EASTERN SHORES SCHOOL BOARD

- 7.1** All acquisitions by the ESSB shall be made in accordance with this policy, the documents on which it is based, and within the funds (budget) available to it.
- 7.2** The ESSB shall consider, in its acquisition processes, the ministerial policies and orientations regarding sound resource management, sustainable development and healthy lifestyle.
- 7.3** All ESSB acquisitions shall be carried out in accordance with the method of acquisition provided for in the Act respecting contracting by public bodies and its regulations or, where applicable, in accordance with the method of acquisition provided for in this policy, with the objective of generating the best value for money.
- 7.4** The ESSB favours grouped purchases of goods and services whenever possible and economically beneficial, if this does not jeopardize the economy of its region in the sector targeted by the grouped purchase.

When the ESSB engages in a group purchase, it must purchase from the selected suppliers or service providers and respect the conditions set out in the call for tenders' documents.

- 7.5** The ESSB favours the use of suppliers, service providers and contractors from its region whenever the Act respecting contracting by public bodies and its regulations so permit, if there is sufficient competition in its region.
- 7.6** The ESSB shall promote, as much as possible, rotation among the suppliers, service providers or contractors it uses in its procurement processes.
- 7.7** The ESSB shall also encourage the use of new suppliers, service providers, and contractors when they are qualified in the activity covered by the acquisition process.
- 7.8** The ESSB shall request a tender guarantee, a performance bond or a guarantee for pledges, materials and services when provided for in the *Loi sur les contrats des organismes publics*. The ESSB may also request such guaranties in connection with any other procurement process.
- 7.9** The ESSB may, provided that it states so in the tender documents, reserve the right to reject any supplier, service provider or contractor who, within the two years preceding the tender opening date, has been assessed by ESSB as having unsatisfactory performance or has failed to respond to a tender or contract, or has had a contract terminated for failure to comply with its terms.
- 7.10** For reasons of economy and to ensure the long-term use of goods or equipment, the ESSB may standardize them when required. The departments shall make recommendations regarding the goods or equipment to be acquired.
- 7.11** In its procurement processes, the ESSB shall ensure compliance with the laws and regulations in force and the filing of the documents required in the various clauses relating to contracts with public bodies.
- 7.12** The ESSB shall not split a contract, divide its requirements or make any modification to a contract in order to avoid tendering or to avoid any other obligation.
- 7.13** The ESSB shall retain ownership of all acquired assets regardless of their location in the administrative units and shall be the sole beneficiary of all services and construction acquired by it.

- 7.14** The ESSB requires that any staff member directly or indirectly involved in the provision of goods or services comply with the same obligations as an external supplier of the ESSB. In addition, they must comply with conflict-of-interest disclosure requirements.
- 7.15** The ESSB prohibits the acquisition of personal property from prices obtained through the organization's calls for tenders or requests for quotations. Staff wishing to purchase goods for their own use must deal directly with the supplier, on their behalf and outside their working hours.

8. PREQUALIFICATION PROCESS FOR GOODS OR PROVIDERS

- 8.1** Prior to a procurement process, the ESSB may, where there is a need to ensure that an asset conforms to a recognized standard or established technical specification, use an asset qualification process.
- 8.2** Similarly, the ESSB may, where it deems appropriate for a category of services of a technical nature or professional services, use a service provider qualification process.
- 8.3** These processes shall be carried out in accordance with the following provisions:
- For the qualification of goods: the Regulation respecting certain procurement contracts of public bodies;
 - For the qualification of service providers: the Regulation respecting certain service contracts of public bodies.
- 8.4** Any resulting contract for the certified goods or service for which the service providers have been qualified is restricted to the list of certified goods or, if applicable, the list of qualified service providers.
- 8.5** If the asset is certified by ESSB and a service provider(s) has been qualified for the technical or professional service, the public bidding process shall reflect this.

9. METHOD OF ACQUISITION

9.1 Public call for tender

- The ESSB must use the *public call for tender* procedure for all its contracts for which the amount of the expenditure is equal to or greater than the applicable public tendering threshold.
- The public tendering procedure is that provided for in the Act respecting contracting by public bodies and its regulations. The call for tenders must be published on the SEAO.
- When no intergovernmental agreement is applicable to the contract covered by the public tender procedure, the ESSB shall proceed with a regionalized public tender, unless such procedure does not allow sufficient competition;
- The ESSB may proceed with a public call for tenders for contracts for which the amount of the expenditure is less. In such a case, the applicable public tendering procedure shall be that provided for in the Act respecting contracting by public bodies and its regulations, subject to the adjustments permitted therein.
- If the property in question is subject to certification, refer to section 8.5 of this document.

9.2 Call for tender by invitation

- The ESSB uses the *Invitation to Tender* procedure for all its contracts where the amount of the expenditure is equal to or greater than \$25,000, but less than the applicable tender threshold;
- The ESSB may proceed with an invitation to tender for contracts for which the amount of the expenditure is less. In such cases, the tendering procedure provided for in this policy shall apply;
- The invitation to tender procedure requires the use of tender documents to specify the requirements, the method of awarding the contract and any other relevant elements;
- Invitation to Tender documents shall be sent, in writing, to at least three suppliers, service providers or contractors. If three suppliers are not available, the business unit management must justify this;
- If the asset is subject to certification, refer to section 8.5 of this document.

9.3 Direct Price Inquiry

- The management of an administrative unit shall proceed by request for quotation for all its contracts for which the amount of the expenditure is equal to or greater than \$5,000, but less than \$25,000;
- The management of an administrative unit may proceed with a request for quotation for contracts for which the amount of the expenditure is less. In such cases, the price request procedure provided for in this policy shall apply;
- This request shall be made to at least three suppliers, service providers or contractors, specifying the goods, services or construction work required, the method of awarding the contract and any other relevant element;
- In order to award a contract, unit management must receive written confirmation of the prices and terms offered by interested suppliers, service providers or contractors.
- If the subject property is subject to certification, refer to Section 8.5 of this document.

9.4 Purchase under \$5,000

1. The ESSB may purchase directly for acquisitions of goods or services where the amount of the expenditure is less than \$5,000;
2. Administrative unit management shall contact a supplier, service provider or contractor directly, specifying the goods, services or construction work required by the ESSB or any other relevant item;
3. Prior to awarding the contract, unit management shall ensure that it obtains the best possible price and terms from such supplier, service provider or contractor;
4. If the asset is subject to certification, refer to 8.5 of this document.

9.5 Exceptional Mutual Agreement Contract

The ESSB may award a contract by mutual agreement, regardless of the method of solicitation provided for in this policy, in situations where the *Act respecting contracting by public bodies or its regulations* (section 13 of the LCOP, sections 27, 28 and 29 of the *Regulation respecting certain types of procurement contracts*) so provides, in particular:

1. When, due to an emergency situation, the safety of persons or property is at stake;
2. When only one contractor is possible because of a warranty, proprietary or exclusive right;
3. When the matter is of a confidential or protected nature and it is reasonable to believe that its disclosure in a public bidding process could compromise the nature of the matter or otherwise harm the public interest;
4. When it believes that it will be possible to demonstrate, based on the subject matter of the contract, that a public tender would not be in the public interest;
5. In any other case determined by government regulation.

In the above cases, except for an emergency, the contract must be authorized by the ESSB officer if the expenditure is equal to or greater than the public tender threshold and the ESSB officer must inform the responsible Minister annually.

Before entering a contract awarded by mutual agreement, the ESSB shall ensure that it obtains the best price and conditions from the supplier, service provider or contractor concerned.

10. FUNCTIONING OF A SELECTION COMMITTEE

When the ESSB evaluates the quality of an offer of services in a call for tender process for a contract involving an expenditure equal to or greater than the threshold provided for in the applicable intergovernmental agreements, the ESSB must apply the terms and conditions related to the operation of a selection committee under the *Regulation respecting certain procurement contracts of public bodies*.

11. METHODS OF AWARDING CONTRACTS

- 11.1** The method of awarding contracts selected by the ESSB for any of the procurement processes referred to in this policy must be clearly established in the call for tender documents or, if applicable, during the requests for quotations or discussions with the suppliers, service providers or contractors solicited.

The application of the bid evaluation procedures shall be in accordance with the provisions of the *Act respecting contracting by public bodies and its regulations* according to one of the following options.

11.2 Contract awarded to the lowest bidder

The award shall be made to the lowest bidder. Minimum compliance requirements may be specified and must be quantitative and measurable. No qualitative judgement can be made in this method of contract award.

11.3 Contract awarded following a quality evaluation

In the event that a contract is awarded following a quality evaluation, the Board must apply the conditions and evaluation procedures provided for in the *Act respecting contracting by public bodies and its regulations*. Tenders are evaluated by a selection committee established for this purpose.

11.4 Possibility of a purchase order contract or a contract to be executed on demand

Regardless of the procurement procedure selected, the ESSB may enter into a standing contract with the successful supplier or enter into an execution contract upon request with the successful service provider or contractor;

The ESSB must specify that it intends to commit itself, in price, minimum quantity, and time, at the end of the process, to such a standing or performance upon request contract.

- 11.5** Any commitment by the ESSB to a supplier, service provider or contractor shall be confirmed by the execution of a contract or the issuance of a purchase order. These documents must be signed by an authorized person in accordance with the ESSB Delegation of Power and this policy.

12 CONTROL OF EXPENDITURES

12.1 The person responsible for the acquisition of goods, services or construction work shall conduct an accurate and detailed needs analysis to ensure that the amount of the expenditure is controlled;

12.1.1 When an amendment to a contract is required, the person responsible for the contract shall:

- Ensure, in accordance with Section 17 of the Public Organisations Contracts Act, that the proposed amendment is incidental to the contract and does not change its nature;
- Obtain authorization for additional expenditures of an original contract in accordance with the ESSB Delegation of Powers and functions Regulation

13. FRENCH LANGUAGE REQUIREMENTS

All stages of the procurement process shall be conducted in the French language. Procurement documents, as well as documents accompanying goods and services and the labeling of purchased products and their packaging, are in the French language. Similarly, if the use of a product or equipment requires the use of a language, it will be French.

However, it may be necessary for the content of an educational product to be in the language of instruction; in this case, all stages of the acquisition process are nevertheless conducted in French.

14 EFFECTIVE DATE

14.1 This policy cancels and replaces any other previous policy or rule on the same subject and comes into force on the day of its adoption by the Council of Commissioners.

14.2 In the event of a discrepancy between this policy and the *Loi sur les contrats des organismes publics et ses règlements*, these laws and regulations take precedence.

SUPPLY CONTRACTS (INCLUDING IT)			
Estimated expenditure	Acquisition method	Responsible for the process	Approval / Signature
Less than 5 000\$	Mutual agreement		P - DS
5 000\$ to 24 999\$	Direct Price inquiry		DS - SG
25 000\$ to 121 199\$	Tender by Invitation / Public Call for Tenders		DG
121 200\$ and more	Public Call for Tender		CC

P=Principal; DS=Director of Service; SG=Secretary General; DG=Director General; AO= Administration Officer; CC= Council of Commissioners
SMR= Superintendent of Material Resources

CONTRATS DE SERVICE TECHNIQUE (INCLUANT IT)			
Estimated expenditure	Acquisition Method	Responsible for the process	Approval/ Signature
Other than a natural person	Less than 5 000\$	Mutual Agreement	P - AO
	5 000\$ to 9 999\$	Direct Price Inquiry	DS - SG - MR
	10 000\$ to 24 999\$	Direct Price Inquiry	DG
	25 000\$ to 121 199\$	Tender by Invitation / Public Call for Tenders	DG
	121 200\$ and more	Public Call for Tender	CC
With an individual	Less than 5 000\$	Mutual Agreement	P - AO
	5 000\$ to 9 999\$	Direct Price Inquiry	DS - SG
	10 000\$ to 24 999\$	Direct Price Inquiry	DG
	25 000\$ to 121 199\$	Tender by Invitation / Public Call for Tenders	DG
	121 200\$ and more	Public Call for Tender	CC

Ex.: Janitorial, Snow removal, Maintenance, etc.

CONTRATS DE SERVICE PROFESSIONNELLE			
Estimated expenditure	Acquisition Method	Responsible for the process	Approval/ Signature
Less than 5 000\$	Mutual Agreement		DS
5 000\$ to 24 999\$	Direct Price Inquiry		DG
25 000\$ to 121 199\$	Tender by Invitation / Public Call for Tenders		DG
121 200\$ and more	Public Call for Tender		CC

Ex : Professionals subject to a professional code (architects, engineers, notaries, etc.)

CONTRATS DE CONSTRUCTION			
Estimated expenditure	Acquisition Method	Responsible for the process	Approval/ Signature
Less than 5 000\$	Mutual Agreement		P- DS
5 000\$ to 24 999\$	Direct Price Inquiry		DS - SG
25 000\$ to 121 199\$	Tender by Invitation / Public Call for Tenders		DG
121 200\$ and more	Public Call for Tender		CC

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