

Education and Manpower Bureau Circular No. 13/2003

**Fundamental Principles for Conducting Trading Operations in
Schools in Receipt of Public Funds**

[Note : This circular should be read by -

- (a) Supervisors/heads of aided schools, caput schools and schools under the Direct Subsidy Scheme and the English Schools Foundation -- for necessary action; and
- (b) Supervisors/heads of government schools and private schools and heads of sections -- for information]

Summary

This circular serves to draw the attention of schools in receipt of public funds to the fundamental principles they need to observe when they operate or permit to operate on the school premises any business or trading undertaking, or enter into business or trading arrangement with any person (the afore-said activities are hereafter referred as trading operations).

Details

Trading Operations

2. According to Regulation 99A(1) of the Education Regulations, no supervisor, manager or management committee of a school in receipt of public funds shall, without the prior permission in writing of the Permanent Secretary for Education and Manpower (PSEM), operate or permit to operate on the school premises, or enter into with any person, any trading operations.

3. In a recent value for money audit on primary education, the Audit Commission has made recommendations on matters relating to trading operations in aided primary schools, e.g. in providing procurement services for students and parents, schools should follow the practice of obtaining competitive tenders or quotations so as to obtain the best available prices.

4. In order to safeguard the interests of parents and students, we have updated the guidelines on trading activities to ensure that trading operations are properly conducted. Schools are required to seek prior approval from PSEM when they decide to conduct/enter into any trading operations. Applications from schools should be endorsed by the School Management Committees (SMCs) and forwarded to the respective Senior School Development Officers for processing. A sample application form for reference/use by aided schools is at Appendix 1. Subsequent changes to the approved trading operations (e.g. change of trading operator/supplier, changes to the terms of the agreement with the trading operator/supplier as reported earlier via Appendix 1) also require PSEM's prior permission.

5. Schools should observe the arrangements detailed at Appendix 2 in handling various types of trading operations. In short, schools are strongly advised to set up monitoring committee(s) to monitor and steer various types of trading operations conducted/entered into, and should observe the fundamental principles contained therein. Schools may also make reference to specific principles in respect of certain trading operations via the following website -

http://www.emb.gov.hk/eng/content_schools.asp

Donations from Trading Operators/Suppliers

6. Schools are reminded to observe the general principles on acceptance of advantages and donations set out in the Education and Manpower Bureau Circular on Acceptance of Advantages and Donations by Schools and Their Staff and the *Notes on Selection of Textbooks and Learning Materials for Use in Schools* attached to the Schools Curriculum Circular on the same subject currently in force. Schools, in principle, should not accept any advantages or donations from trading operators/suppliers (including publishers). In exceptional circumstances, where there are compelling reasons to accept such donations, they should be fully justified, approved by the SMCs in advance and documented. In any case, schools should not allow the choice of trading operators/suppliers to be in any way influenced by a donation or any other form of advantages. Also, parents and students should be notified of the donations or advantages received from trading operators/suppliers. Schools should record

such donations or advantages in a register, which should be made available to members of the public. In addition, aided schools should include details of donations in their Annual Report.

Conflict of Interests

7. In accordance with the Education and Manpower Bureau Circular on Acceptance of Advantages and Donations by Schools and Their Staff currently in force, SMC 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. Any declarations made and necessary action taken to avoid any actual or perceived conflict should be properly recorded. This requirement on conflict of interests should be strictly observed when schools handle any trading operations. In this connection, aided schools should also make reference to Appendix 9 on *Conflict of Interest* under Section 7 of the School Administration Guide.

Profits Arising from Trading Operations

8. Under regulation 99A(3) of the Education Regulations, any profits or net income arising from any trading operations shall not be used for any purpose not directly benefiting their students without PSEM's prior written permission.

Enquiry

9. Any enquiry about this circular should be directed to your respective Senior School Development Officers.

10. This circular supersedes Administration Circular No. 3/2001 dated 29 January 2001.

Mrs Betty IP
for Secretary for Education and Manpower

School Name : _____

School Address : _____

Date : _____

To : SSDO ()

Application for Permission to Conduct/Enter into Business or Trading Undertaking/Arrangement

My school would like to apply for permission to conduct/enter into the following business or trading undertaking/arrangement with effect from (date) _____ -

(A) Type of Business and Name of Trading Operator/Supplier

Please tick as appropriate	Item no.	Type of business/trading undertaking/arrangement	Name of operator/supplier (e.g. conducted by school itself, xxx Fast Food Shop)
	(1)	Exercise books	
	(2)	Stationery and school accessories	
	(3)	Textbooks	
	(4)	School uniforms, badges and ties	
	(5)	Physical education kits	
	(6)	Lunch boxes	
	(7)	School bus service	
	(8)	School Tuckshop	
	(9)	Newspaper	
	(10)	Others (Please specify. Use separate sheets if required) :	

(B) Other details (Please complete, where applicable)

Item no.#	Details			
	Rental (Please specify the amount per month or per annum as appropriate.)	Utilities charges (such as water, gas, electricity) (Please indicate the amount to be paid/reimbursed by the operator/supplier on the basis of actual consumption <u>or</u> at a fixed sum per month/annum as appropriate.)	Agreement with operator/supplier	
			Commencement date	Termination date

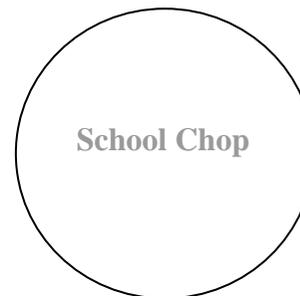
The same item no. used under (A) above should be adopted.

- * Regarding our application for conducting/entering into the above business or trading undertaking/arrangement, I confirm that our school will observe the requirements laid down in the Education and Manpower Bureau Circular on Fundamental Principles for Conducting Trading Operations in Schools in Receipt of Public Funds currently in force and will ensure that the trading operation(s) will be conducted in an open, fair and just manner. I further confirm that the profit/net income arising will be used for purposes benefiting the students.

OR

- * Regarding our application for conducting/entering into the above business or trading undertaking/arrangement, our school will adopt arrangement(s) not following the requirements laid down in the Education and Manpower Bureau Circular on Fundamental Principles for Conducting Trading Operations in Schools in Receipt of Public Funds currently in force. Details and justifications are given as follows -

* Please put a “✓” in the appropriate box.



(Signature of Supervisor)

(Name of Supervisor)

Guidelines on Conducting/Entering into Business or Trading Undertaking/Arrangement

Schools are strongly advised to set up a Monitoring Committee on Trading Operations to monitor and steer various types of business or trading undertaking/arrangement (trading operations), such as sale of textbooks/exercise books, tuckshop operation, school bus service and supply of lunch boxes and school uniforms. They may, if they so wish, set up different committees to monitor different types of trading operations instead. This appendix details the recommended composition of the committee(s) and the general duties to be assumed by it/them. It also provides schools with the fundamental principles for conducting/entering into trading operations.

(A) Setting Up of Committee(s) to Monitor Trading Operations

1. Schools are strongly advised to form a Monitoring Committee on Trading Operations or, in its stead, specific committees for different types of trading operations.

Recommended Composition

2. The composition of the Monitoring Committee on Trading Operations or the specific committees set up for different types of 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 School Management Committee (SMC)
- Members : (a) At least two other members of the staff appointed by the School Head, who acts under the delegated authority of the SMC; and
- (b) Two representatives from the Parent-Teacher-Association (PTA) if there is one, or two parents from the school if no PTA has been set up

A bi-sessional primary school with different School Heads may set up one Monitoring Committee on Trading Operations or two separate such Committees, or, as the case may be, one specific committee for each type of trading operations or two separate such specific committees. In the case of one committee for the two sessions with different School Heads,

- (a) the AM and the PM sessions should take turn to appoint a senior member of their teaching staff to chair the Monitoring Committee on Trading Operations or the specific committees for different types of trading operations; and
- (b) other members should include staff of both sessions and a parent from each session.

3. The Monitoring Committee on Trading Operations or the specific committees should be responsible to the School Head or both School Heads in case it/they serve(s) both the AM and the PM sessions with different School Heads. Under the delegated authority of the SMC, the School Head(s) should oversee the operation of the committee(s) to ensure that operation is open, fair and just.

Duties

4. In general, duties of the Monitoring Committee on Trading Operations or the specific committees 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 Administration Circular on Tendering and Purchasing Procedures in Aided Schools currently in force;
- (b) To conduct quotation/tender exercises to compare prices and quality of goods/services and reliability at appropriate intervals of at least once every three years, or before renewal of a contract as appropriate;
- (c) To have all selection exercises properly documented;
- (d) To have direct control of prices and to consider and approve price revision proposals made by the trading operators/suppliers;
- (e) To review regularly the types of goods/services provided by the trading operators/suppliers and check their quality;
- (f) To consider suggestions from the school and parents on trading operations;
- (g) 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; and
- (h) To investigate into complaints about trading operations, and to take appropriate action, if necessary.

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

(B) Fundamental Principles

1. When a school operates or permits to operate on the school premises, or enter into with any person (directly or indirectly), any trading operations (e.g. recommending a lunch box supplier to parents), it should observe the following principles-

- (a) No purchase or acceptance of paid services should be compulsory, and parents should be informed accordingly.
- (b) Parents should be informed properly of the prices of the goods/services provided by the trading operators/suppliers.
- (c) 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.
- (d) Items for the exclusive use of students in one particular school (e.g. items bearing special insignia) should be kept to the minimum.
- (e) Subject to sound educational practice, the total cost of items needed by students to pursue their course of study should be kept as low as possible.
- (f) 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 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.
- (g) The profit from sale of exercise books, school uniforms, stationery, equipment and other items (other than textbooks) should be limited to 15% of the cost price at which they are purchased from the suppliers. The profit limit of 15% should also cover paid services provided to students. All profits or net income obtained by schools arising from any trading operations should be used for the benefit of students unless prior approval has been sought from the Education and Manpower Bureau.
- (h) For sale of textbooks, the Education and Manpower Bureau holds the stand that financial burden upon parents should be reduced whenever possible, and profit generated from sale of textbooks should not be allowed. While we understand that some schools may not be able to implement this no-profit policy immediately, a school should arrange to rectify the situation as soon as possible. In the interim, any discount or

block sum of money received from a bookseller/textbook supplier by a school should not in any case exceed the percentage of rebate it previously obtained. Moreover, parents and students should be informed in advance of the discount or block sum of money received by the school and the discount passed onto students, and that any difference or sum of money received will be used for the benefit of students later. The discount or block sum of money received from a bookseller/textbook supplier through sale of textbooks should be either passed onto students immediately or entered into the “Sales of Textbooks” account to be used later for the benefit of students. The year-end balance of the account should be carried forward to the following year. Also, the “Sales of Textbooks” account should be available to parents and the public upon request, or put on the Internet.

- (i) For the sale of other items/provision of paid services, where an arrangement is made with any supplier and a discount or block sum of money is received, parents and students should be informed of such in advance and the discount or block sum of money should be entered into an appropriate account (e.g. the Subscriptions (Tong Fai)/General Funds Account for aided schools) as an item of income.
- (j) Proper books of accounts must be kept. They should reflect all sales and purchases, including the provision of paid services. All account books are subject to inspection by officers of the Education and Manpower Bureau.
- (k) Any offers of donation or advantage from trading operators/suppliers should only be accepted in accordance with the general principles on acceptance of advantages and donations set out in the Education and Manpower Bureau Circular on Acceptance of Advantages and Donations by Schools and Their Staff currently in force. Schools, in principle, should not accept any donations or other advantages from trading operators/suppliers/publishers. In exceptional circumstances, where there are compelling reasons to accept such donations, they should be fully justified, documented and approved by the SMCs. In any case, 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. Parents and students should be notified of the donations or advantages received from trading operators/suppliers. Schools should record such donations or advantages received in a register, which should be made available to members of the public. Aided schools should also include details of donations in their Annual Report. In addition, the provisions on consideration of donations by publishers and acceptance of such attached to the Schools Curriculum Circular on Notes on Selection of Textbooks/Learning Materials for Use in Schools currently in force

should be observed by all schools. Schools should also comply with the requirements to avoid or to declare conflict of interests as specified in the afore-mentioned circular on Acceptance of Advantages and Donations by Schools and Their Staff. Aided schools should also make reference to Appendix 9 on Conflict of Interest under Section 7 of the School Administration Guide.

- (l) Schools should observe the following principles when operating tuckshops -
 - (i) In determining the award of tender for tuckshop operation, schools should pay due regard to the prices of items sold in addition to the amount of rental payable.
 - (ii) A separate electricity meter must be installed by the tuckshop operator, who is responsible for the electricity charges. For aided schools, any reimbursement of electricity or water charges should be credited to the School and Class Grant Account.
 - (iii) The tuckshop operator should be responsible for the rates and the government rent in respect of the tuckshop area. The school should include such term in its contract/agreement with the tuckshop operator. In this connection, the school will not be eligible for any refund of the rates and the government rent for the area of the school tuckshop. Regarding the apportionment of rates and government rent for the tuckshop area, schools should seek advice direct from the Rating and Valuation Department.

2. 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 members, or any parent or student representative in a committee responsible for the selection of the operator. Any such offer by the bidder or his employees or agent will 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.”

3. 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 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.”