KAWARTHA PINE RIDGE DISTRICT SCHOOL BOARD

ADMINISTRATIVE REGULATION - APPENDIX E

Regulation Name: Procurement Procedures
Vendor Suspension Protocol
Regulation Code: BA-5.1.1E

Section: Business and Administrative Services
Policy Code Reference: BA-5.1

Established: January 16, 2023
Revised or
Reviewed:

Vendor Suspension Protocol

1. Purpose

The purpose of this protocol is to set out the reasons and process for suspending vendors from participation in the Board's procurement processes.

2. Application

In order to ensure that the Board is receiving quality deliverables and value for public money and is dealing with vendors that conduct business in a professional and ethical manner, the Board may suspend vendors from participating in its procurement processes for prescribed time periods.

A decision to suspend a vendor must be made in accordance with this protocol, must be supported by evidence and must be based on the reasons and factors set out below.

Vendors are responsible for any employees, representatives, agents or subcontractors that are acting on their behalf and all references to the actions or conduct of the vendor under this protocol include the actions of any individual or entity acting on behalf of the vendor.

3. Procurement Review Committee

The Board will establish a Procurement Review Committee (PRC) for the purpose of making determinations under this protocol. The PRC will consist of the Senior Manager of Finance and a minimum of two other officers or employees appointed at the discretion of the Senior Manager of Finance.

4. Reasons for Suspension

4.1 Crimes or Offences

If a vendor is convicted of serious crimes or other serious offences, including bid-rigging, price-fixing or collusion, fraud or other statutory offenses, the Board will suspend that vendor from participating in future procurement processes.

4.2 False Declarations

If a vendor includes false or misleading information in its bids the Board may suspend that vendor from participating in future procurement processes.

If a vendor fails to disclose a conflict of interest in connection with a procurement process or during the performance of a contract with the Board, and the Board subsequently discovers that such a conflict of interest exists, the Board may suspend that vendor from participating in future procurement processes. The following non-exclusive factors should weigh in favour of suspension:

4.2.1 The vendor knowingly made misrepresentations or failed to disclose a conflict of interest.

4.2.2 The misrepresentation or undisclosed conflict of interest resulted in the vendor having an unfair advantage or otherwise compromised the integrity of the Board's procurement process.

4.3 Poor Performance

If a vendor performs inadequately under a contract with the Board, the Board may consider suspending that vendor in any of the following circumstances:

4.3.1 The deficiencies in performance were significant or persistent.

4.3.2 The contract was terminated for performance issues prior to expiry.

4.3.3 There were unrectified performance issues on a contract that resulted in extra costs to the Board.

4.3.4 The deliverables provided were defective or deficient, and either were not replaced or repaired, or required multiple repairs.

4.3.5 The Board brought a litigation proceeding against the vendor in connection with performance or non-performance of the vendor's contractual obligations.

4.4 Professional Misconduct or Lack of Commercial Integrity

Board may suspend a vendor for professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the vendor. Such conduct includes, but is not limited to:

4.4.1 unethical bidding practices, such as inappropriate offers of gifts to the Board's officials, officers, employees or agents and inappropriate in-process lobbying or prohibited communications during a procurement process;

4.4.2 failing to perform contracts in a professional and competent manner in accordance with the duty of honest performance and all applicable laws, including safety and labour codes; and

4.4.3 engaging in litigious conduct or bringing frivolous or vexatious claims in connection with the Board's procurement processes or contracts, including but not limited to, unreasonable cost or expense claims or unsubstantiated allegations impugning the integrity of the purchasing institution or its staff in relation to a procurement process.

5. Process for Suspension

5.1 Suspension Recommendation Report

Any decision to suspend a vendor must be supported by a written Suspension Recommendation Report that contains all details connected with the analysis of factors set out above.

The Suspension Recommendation Report will be prepared by the Manager of Procurement and Central Services and/or the contract administrator.

5.2 Length and Scope Suspension

The Suspension Recommendation Report must include the recommended length and scope of the suspension.

The length of the suspension period should be proportional to the reasons for the suspension and, in most cases, should not exceed a maximum of five years. In the most serious of cases involving convictions criminal or quasi-criminal offences, a suspension period of up to 10 years may be considered.

The scope of the suspension can be either a blanket suspension for all procurement processes or a suspension limited to procurement processes for specific deliverables.

The scope of the suspension can apply to both corporate entities as well as individuals.

5.3 Vendor Notification and Opportunity to Respond

The Manager of Procurement and Central Services will notify the vendor of the decision to recommend suspension and will provide the vendor with a copy of the Suspension Recommendation Report setting out the reasons for the suspension. The notice will advise the vendor of its opportunity to respond to the recommendation for suspension by sending written submissions to the Manager of Procurement and Central Services within 10 business days of the notice.

5.4 Decision of Procurement Review Committee

All decisions to suspend a vendor must be approved by the PRC. In making its decision, the PRC will consider the Suspension Recommendation Report and any response submitted by the vendor. The PRC may seek any additional information it requires and may consult with other staff or other advisors, as necessary.

5.5 Notice of Decision

The vendor must be notified, in writing, of the final suspension decision made by the PRC. If the recommendation for suspension is approved, the notification letter must contain:

5.5.1 the length of the suspension period and the scope of the suspension;

5.5.2 full details as to the reasons for the suspension, including copies of any documents or correspondence to support such a suspension; and

5.5.3 notice of the vendor's right to apply for reinstatement within the prescribed time period and the process for requesting such a reinstatement.

6. Application for Reinstatement

A suspended vendor may apply for reinstatement upon the completion of half of the original suspension period. For example, if the original suspension period was two years, the vendor may apply for reinstatement after one year.

In order to apply for reinstatement, the vendor must submit a written case for reinstatement, including supporting documentation, if necessary, that provides reasons why the original reason for the suspension would no longer prove a risk for the Board.

6.1 Applications for reinstatement are to be reviewed by the PRC. If the PRC determines that allowing the vendor the opportunity to participate in the Board's procurement processes would no longer expose the Board to risk, then the application for reinstatement may be approved.

6.2 The vendor must be notified, in writing, of the final reinstatement decision made by the PRC.

7. Suspended Vendors List

Procurement Services must maintain an up-to-date and current list of all suspended vendors. Any vendor that is owned or controlled by the same individual(s) that owned or controlled a suspended vendor at the time it was suspended is also considered suspended.

The list should contain, at a minimum:

7.1 the full name of the vendor or individual where an individual is suspended;

7.2 the names of the directors and officers of the vendor, if applicable;

7.3 the reasons for the suspension;

7.4 the file number where the Suspension Recommendation Report is filed;

7.5 the scope of the suspension (i.e., blanket suspension or specific deliverables); and

7.6 the length of the suspension period and the date of the expiry of the suspension period.

For any competitive procurement process, Procurement Services must check the suspended vendors list to ensure that bids are not accepted from suspended vendors.