



JCRA

JERSEY
COMPETITION
REGULATORY
AUTHORITY

December 2023
JCRA 23/73

SCHOOL UNIFORMS MARKET STUDY:

SUPPORTING
INFORMATION FOR
SCHOOLS ON COMPETITIVE
TENDERING

2nd Floor Salisbury House,
1-9 Union Street, St Helier, Jersey
01534 514990 | www.jcra.je

1. Introduction

The Jersey Competition Regulatory Authority (**the Authority**), administers and enforces the competition law within Jersey and is responsible for the economic regulation of the ports, postal and telecommunications sectors. The Authority's mission is to help markets work efficiently in the interests of consumers, businesses and the wider Jersey economy by encouraging innovation, investment, value for money, choice and quality. This is to achieve the Authority's vision of healthy and sustainable markets in goods and services for Jersey.

This note is structured as follows:

- Section 2 explains what this note is about;
- Section 3 sets out the purpose of this note;
- Section 4 provides the background;
- Section 5 sets out the applicability of this note;
- Section 6 sets out additional information on developing a competitive tender; and
- Section 7 provides links to where further information can be found.

2. What this note is about

This information is intended to help inform schools in developing a competitive tendering process for the supply of school uniforms. The information note will likely also be of interest to parents and guardians, Governors and Boards, and other key stakeholders.

This information is note is not provided as formal competition policy guidance (under Competition Law), it is however framed in the context of competition policy and law. This information note should not be relied on as a substitute for competition law itself, and if you have any doubts about your position under the competition law, you should seek legal advice.

3. Purpose of this note

School uniforms can be expensive purchases, particularly for low income and large families. Where there are multiple retailers supplying the required uniform items, competition between multiple retailers is likely to provide consumers with greater choice and an ability to shop around. Therefore, to meet consumer demand, multiple retailers of school uniforms are continually incentivised to offer lower prices and improved quality and service. A single supplier may not face the same incentives.

A competitive tender process can sometimes be used to help deliver the outcomes achieved in a competitive multiple supplier market. As is further explained in Section 4 of this note (below), a competitive tender process may not be required for all schools. For example, where schools might source uniforms from multiple retailers on non-exclusive terms, or the number of branded and compulsory school uniform items is relatively low. However, for those schools using a single supplier on exclusive terms for a larger number of branded uniform items, they are strongly advised to undertake a competitive tender (on a reasonably regular basis).

Running a tender exercise is also good governance; if a school uses a single retailer or supplier, a competitive tender can introduce competition into the process of choosing that retailer or supplier. It will enable schools to get better value for money from retailers and suppliers, and also help schools better understand the range of products and services available in the market, with a view to selecting a supplier that is more likely to meet a school's requirements (and parent's interests).

Competition policy, and the administration of competition law, ensures that consumers have the benefit of fair prices, desirable goods and services and the opportunity to choose what they want to buy. While we accept that it is not a matter for the Authority to advise schools as to the design or requirements of school uniforms. To the extent these requirements may result in higher costs for parents and guardians, and these higher costs are the result of the interaction between school uniform policies and competition policy, it is a matter for the Authority.

Moreover, School uniform policies on-island do interact with competition policy. For example, demand for school uniform is effectively non-discretionary and product choice can be artificially constrained in some way by school uniform policies, e.g., specific colours, items and/or branding. It is intuitive that a significant number of compulsory and/or branded uniform items can further add to consumers' expense. Also, where uniform items are supplied on 'exclusive' terms, particularly over a long-term period, there may also be a concern that competitive incentives - to reduce prices etc. - are materially weakened.

The promotion and maintenance of competition in the supply of school uniforms can help ensure that parents and guardians get a fair price and good service, and do not incur unnecessary costs.

4. Background

In April 2023, the Authority completed a market study into the on-island school uniform market.¹ The study found that a high proportion of school wear items are branded and/or compulsory; the number of such items were often greater than 40% of the total number of listed school uniform items. These items represent an additional consumer expense, when compared to fewer branded items, or non-branded (generic) school wear items.

Moreover, the review of market practice relative to previous guidance for this market (in 2011) indicated that more could be done to improve the competitive process. There is a role for schools, in the development and management of school uniform policies; and suppliers in being subjected to more rigorous processes when competing for consumer demand.

Consequently, the study included a recommendation that the Authority develop supporting information on the design and operation of competitive tenders for school uniforms. This note completes this recommendation and provides additional supporting information on this important area.

5. Applicability of this note

The Authority's market study showed that over 40% of schools do use multiple suppliers, albeit in most cases no more than two (suppliers). Accepting that schools will vary in the number of pupils and types

¹ All documents related to the study can be found at: [School Uniforms Market Study](#)

of uniform requirement, the data does indicate that there is at least scope for more schools to consider sourcing uniforms from multiple suppliers, including by means of competitive tender.

The Authority accepts that there may be circumstances in which it would be undesirable for the uniforms of a single school to be stocked by more than one retailer. For example, in some cases, having multiple retailers would lead to smaller batch sizes for uniform items of particular sizes (or otherwise) – such batch sizes may not even be available from manufacturers or wholesalers outside Jersey, or, if available, the cost per item might be considerably higher.

The Authority also recognises the administrative requirements posed by regular competitive tender processes. Therefore, it is understood that tender processes may only be taken forward by schools where the volume of uniform items (and the proportion of pupils required to wear those items) is considered sufficient. For example, if the number of branded and compulsory items is few, and/or the items are to be worn by a small number of pupils, it is understood that a regular competitive tender process may not be proportionate.

However, in the context of the on-island supply of school uniforms, the Authority proposes that where it is not practicable for school uniforms to be available from multiple retailers, schools should engage in a competitive tender process. In any event, it would be expected that schools of over 400 pupils would engage in a competitive tender process.

6. Additional information on developing a competitive tender

A more rigorous and competitive procurement process should be a feature of on-island school uniform supply. In competing and tendering for contracts, firms are required to effectively meet consumer demand, and importantly, offer value for money.

Clear and effective procurement processes can help secure competitive outcomes. Poor procurement design may restrict competition and may even create conditions for closer ‘cooperation’ between competitors.

Therefore, procurement and tender processes should be designed to promote effective competition between bidders; and the following additional five areas of guidance can be used as a basis for helping to ensure there is a framework that supports competitive outcomes²:

1. Minimise the cost of participation:
 - For example, ensure that potential participants in the tender are not unnecessarily burdened with multiple phases, complex processes or forms, and that the cost of participation is proportionate to the prospective bid.
 - This also applies to schools carrying out a tender exercise; a relatively straightforward and simple tender process can often be as effective in generating competitive outcomes as a detailed multi-round process.
2. Consider the participation criteria, unnecessary criteria may limit the number of potential bidders:

² This guidance is consistent with a number of Government and other procurement approaches, for example: [Procurement Best Practice & Procedures: User Guide & Toolkit](#)

- It is important that schools do not inadvertently restrict the number or type of participant in a tender exercise. This could happen when specific and detailed criteria is applied to participation, such as: requiring evidence of long-term experience of supply, setting high minimum standards on all items etc.
 - This is to avoid creating too high a level of entry to the market, and to encourage a range of retailers to respond to a tender process. For example, a more open tender process with fewer criteria may encourage other potential suppliers into the market, in competition with existing market suppliers.
3. Consider the approach to evaluation (not just the immediate cost focus):
- For example, no weight should be placed on the provision of benefits that are unrelated to uniform supply, such as the payment of commission to schools or provision of bursaries for individual students etc. These types of factors are likely to distort a competitive outcome, and if considered, may favour certain and/or established suppliers.
 - Further, while cost (and uniform prices) will clearly be a key consideration in any tender exercise, this may be considered relative to other key issues, such as: quality, service, stability and range of supply (and other potential factors of likely importance to different schools).
4. Establish a suitable timeframe/contract duration:
- Where schools propose to enter a contract for the supply of uniforms with a single supplier, the school should carry out a competitive tender exercise for the renewal of the contract on a reasonably regular basis. The Authority's view is that every 5 years would represent a suitable and reasonable timeframe, ensuring also that suppliers and schools are not administratively burdened.
5. Ensuring the outcomes of competitive tenders are effective:
- The outcomes of competitive tenders will be more effective if the participants and suppliers are competing wholly independently, that is, participants are not able to cooperate, or coordinate on tenders. If suppliers cooperate on tenders or are able to coordinate on the terms of any tender, this is unlikely to generate a competitive outcome and could be in breach of competition law.
 - Therefore, schools and all participants in the competitive tender should avoid disclosing or sharing commercial information relevant to the tender, such as, proposed prices, volumes, contract term etc. (this applies to both successful and unsuccessful tenders).
 - Similarly, the tender process should seek to maintain independence between potential participants and competitors. For example, avoiding joint meetings or other joint fora relating to the competitive tender. In short, the tender process should be designed to ensure it does not inadvertently facilitate any form of cooperation between competitors.

7. How can I find out more?

More information and formal guidance on competition law in Jersey is also available on our website here: <https://www.jcra.je/competition-and-regulation/competition/guidelines-and-further-advice>

Key guidance to be aware of includes:

- [Guideline 1 - Anti-Competitive Arrangements | JCRA](#) - Anti-competitive arrangements are prohibited. These are arrangements between two or more businesses that hinder or prevent competition in Jersey, regardless of where the arrangements may have originated.
- [A Compliance Guide JCRA](#) - This guide provides a brief introduction to compliance with the competition law

Please contact us at info@jcra.je if you have a question about this supporting information or competition law in Jersey.