



**Submission to:**

**The Honourable Lisa Thompson, MPP  
Minister of Education**

**Student Transportation Procurement**

**November 2019**



# Student Transportation Procurement

## POSITION:

While we are still opposed to a Request For Proposal (RFP) procurement process, ISBOA favours a system that also permits a Consortium or School Board to enter into a negotiated-mediated-arbitrated contract with the members of local carrier associations for student transportation. This process can be supported with the use of a costing model and/or benchmarking.

## BACKGROUND:

In 2009 the then Minister of Education imposed a Request For Proposal (RFP) procurement process on the school bus industry. It has resulted in an unstable industry, service disruptions, driver shortages, forty family owned companies forced out of business, three separate court injunctions, multiple court decisions in favour of the industry, damage claims against the government and distrust between school board consortia (buyer) and the industry (seller).

For years the Ministry of Education has justified their actions stating that they were forced to implement this RFP process based on the recommendation of the Auditor General. We have reviewed all the records available and can find no record of the Auditor General stating such.

In his 1991 report, Ontario's Auditor General identified the creation of monopolies as one of the primary risks of imposing a conventional RFP procurement process on the student transportation industry. The Auditor General identified additional serious issues with conventional RFP's:

- The uniqueness of student transportation as compared with the procurement of other products and services;
- The lack of any study indicating that RFPs for student transportation achieve better value for taxpayers in the long term; and
- Service levels, safety and the various problems dealing with a low bidder must be considered when designing a procurement strategy.

In further reports in 2006 and 2008, the Auditor General examined the procurement processes used by school boards and suggested the use of RFPs for many supplies and services, but in recognition of the unique nature of the student transportation industry, the vulnerability of local operators, and the cost efficient service they provided, *excluded student transportation* from these recommendations.

While the Ministry were stating that the Auditor General recommended the use of RFPs, Justice Trranmer of the Superior Court of Justice wrote (Case Management Order May 12, 2014):

"...the Crown stated that ...each board and/or consortia is free to choose whatever forms of procurement best suits its business goals and local market conditions..." (para 5)

"Documentation that has recently been produced to the plaintiffs by the defendant and Crown indicates that, to the contrary of the position of the Crown and defendant, the Crown did direct or influence STEO to use only RFP procurement method solely..." (para 7)



Additionally, the Ministry, while directing consortia to use “the RFP procurement process method solely” for student transportation in school buses, single sourced without RFP, student transportation in transit buses.

Attached to this submission is further comments of concern with RFPs: “**A Failed Procurement Process**”.

**ISBOA REQUEST:**

The Minister of Education to inform school boards and their consortia that a Consortium or School Board can enter into a negotiated-mediated-arbitrated contract with the members of local carrier association for student transportation. This process can be supported with the use of a costing model and/or benchmarking.

**IN SUPPORT OF THIS REQUEST:**

- School Boards can better control costs through negotiations whereas in an RFP costs are dictated by the bids received.
- The uniqueness of the industry (single use vehicle, and buyer ‘monopolies’) does not always suit a RFP process: ‘one size does not fit all’.
- The Ministry currently allows and supports consortia to single source some student transportation from some entities (transit) at higher costs
- The Ontario government does not force other bus services of the broader public sector such as GO Transit, ONTC and municipal transit, to be contracted by an RFP process and government should be consistent in their policy
- With this system the focus goes on safety, service and taxpayer value (long term) and does not force ‘low bidder’ contracts that may negatively impact safety and service.

C:\Users\Admin\Documents\ISBOA\GR\GR 2018\Submission Procurement November 2018 .docx

