PROCUREMENT ESCALATION GUIDELINES

Medtech Canada members have increasingly raised concerns regarding procurement issues and practices. Members often ask what actions Medtech Canada can take to intervene on their behalf with purchasers to address procurement issues at an association level. To provide clarity to members regarding what actions Medtech Canada may take in these situations and to manage potential legal compliance issues, we have developed the following escalation guidelines.

Where a procurement issue is raised in a sector where members compete within the same clinical areas, it is necessary to ensure that any actions by Medtech Canada members and staff do not raise legal compliance issues, in particular those relating to competition law.

ESCALATION GUIDELINES

1. Medtech Canada encourages the member to individually raise concerns with the procuring entity prior to engaging Medtech Canada.

2. Where a member is unable to resolve the issue directly with the procuring entity, the member may make an escalation request to the Procurement Escalation Administrative Support (Admin) by completing the Procurement Escalation Form(Appendix 1). Medtech Canada will only consider requests for escalation that are supported by a completed Procurement Escalation Form.

3. Medtech Canada cannot intervene where the concern relates to the commercial terms of a procurement while the procurement is still open.

4. Medtech Canada will only intervene where the procurement issues have broad implications relating to healthcare system sustainability and/or, achieving optimal patient outcomes and/or, ensuring that Canadian patients have access to quality medical devices and/or the sustainability of the Canadian Medical Device Industry.

5. Medtech Canada will assess whether the concerns raised have a broad impact on its members and will consider an appropriate course of action.

6. Medtech Canada members cannot collectively interact or discuss (whether formally or informally) how they will respond to a procurement issue, or exchange competitively-sensitive or confidential information that could be viewed as furthering any possible agreement between competing members.

7. Medtech Canada's Competition Law Compliance Guidelines apply to all discussions (whether formal or informal) and actions taken by Medtech Canada members or staff regarding a procurement-related issue or escalation request.

8. Where Medtech Canada determines that it is appropriate to engage with purchasers to address a procurement-related issue, it will only do so in an open and transparent manner.

9. Medtech Canada reserves the right to decide whether to take action, as well as the appropriate course of action in response to an escalation request. In Quebec, this may include using the Autorité des marchés publics (AMP) complaint process (https://amp.gouv.qc.ca/en/file-complaint/).

Any questions regarding these guidelines should be directed to Katharine Ashford-Smith, Events & Operations Director, Medtech Canada at kashford-smith@medtechcanada.org

- Procurement Escalation Lead (Lead): Nicole DeKort, President & CEO, Medtech Canada
- Procurement Escalation Expert (Expert): Pamela Robertson, Strategic Advisor
- Procurement Escalation Administrative Support (Admin): Katharine Ashford-Smith, Events & Operations Director, Medtech Canada