



**PROCEDURE FOR THE RECEIPT AND EXAMINATION
OF COMPLAINTS MADE IN THE FRAMEWORK OF A
TENDERING OR AN AWARD PROCESS.**

Effective May 25, 2019

Approved by the resolution 2019-306

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WHEREAS Bill no. 108, *An Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics*, (SQ 2017, c 27) (hereinafter: the Bill), was sanctioned on December 1, 2017;

WHEREAS following this sanction and in accordance with section 573.3.1.3 of the *Cities and Towns Act* (hereinafter: CTA) a city must have a procedure to receive and review complaints arising from the award of a contract following a public call for tenders or award of a forward contract with a single supplier involving an expenditure equal to or greater than the minimum threshold for the public call for tenders;

It is hereby determined as follows:

Section 1 PREAMBLE

The preamble is an integral part of this procedure.

Section 2 PURPOSE OF THE PROCEDURE

The purpose of this procedure is to ensure fair treatment of complaints made to the City as part of a contract tendering or award process.

Section 3 INTERPRETATION

Unless expressly stated to the contrary or as a result of the context or provision, the following expressions, terms and words have, in this procedure, the meaning and application assigned to them in this section:

Normative framework: The by-laws, policies, procedures and resolutions passed by the City Council.

Target contract: Contract for the performance of work or for the supply of insurance, materials, equipment or services, including professional services, that the City may conclude with an expenditure equal to or greater than the applicable minimum threshold for public call for tenders.

Tendering process: Any ongoing public call for tenders process leading to the award of a target contract.

Award process: Any process to award a target forward contract to a supplier who is the only one able to provide the materials, equipment or services requested, in accordance with section 573.3.0.0.1 of the CTA

Designated manager: Person responsible for the application of this procedure.

SEAO: Electronic tendering system referred to in section 11 of the *Act respecting contracting by public bodies*.

Section 4 APPLICATION

The application of this procedure is entrusted to the city manager.

This person is responsible for receiving complaints and declarations of interest, for performing the necessary checks and analyses, and for responding to them within the time required by the Act.

In addition, if this person deems it appropriate, the designated manager may establish a committee of not more than four persons to examine a complaint or declaration of interest and to fulfil the obligations imposed on them by this procedure and the Act.

Section 5 COMPLAINTS WITH RESPECT TO A TENDERING PROCESS

5.1 Interest required to file a complaint

Only a person or group of people interested in participating in an ongoing tendering process or their representative may file a complaint with respect to this process.

5.2 Reasons in support of a complaint

A person or group of persons interested in participating in the tendering process or their representative may file a complaint with respect to this process when they consider that the public call for tenders documents:

- Provide conditions that do not provide fair or equitable treatment to competitors; or
- Provide conditions that do not allow competitors to participate even though they are qualified to meet the expressed needs; or
- Provide conditions that do not conform to the normative framework of the City.

5.3 How and when to file a complaint

All complaints must be sent electronically to the designated manager at the following email address:
plainte-adjudication-attribution-contrat@pointe-claire.ca

It must be presented on the form prescribed by the Autorité des marchés publics, available on its website. It must be received by the designated manager no later than the deadline for receipt of complaints indicated in the SEAO.

5.4 Content of a complaint

A complaint must contain the following information:

- Date;
- Identification and contact information of the complainant:
 - Name
 - Name
 - Address
 - Phone number
 - Email address
- Identification of the call for tenders that is the subject of the complaint:
 - Call for tenders number
 - SEAO reference number
 - Title
- Detailed statement of reasons in support of the complaint;
- Where applicable, any relevant documents supporting the reasons for the complaint;
- Any other information required in the form prescribed by the Autorité des marchés publics.

5.5 Criteria and admissibility of a complaint

In order for a complaint to be reviewed by the designated manager, it must meet the following conditions:

- a) Be transmitted by an interested person within the meaning of section 5.1;
- b) Be transmitted electronically to the designated manager;
- c) Be presented on the form prescribed by the Autorité des marchés publics under section 45 of the Act;
- d) Be received by the designated manager no later than the deadline for receipt of complaints specified in the SEAO;
- e) Be related to a target contract;

- f) Be related to the content of call for tenders documents available in the SEAO no later than two (2) days before the deadline for receipt of complaints;
- g) Be based on one of the reasons listed in section 5.2 of this procedure; any other reason shall not be considered in the analysis.

5.6 Reception and processing of a complaint

Upon receiving a complaint, the designated manager shall review the complaint in accordance with this provision.

They ensure the interest of the complainant within the meaning of section 5.1.

If the designated manager considers that the complainant does not have the required interest, the manager shall notify the complainant without delay by sending them a notice to that effect.

After having ascertained the complainant's interest, the manager immediately reports the receipt of a first complaint to the SEAO.

The responsible manager ensures that the other criteria of admissibility under section 5.5 are met.

If the manager finds that the complaint is inadmissible under section 5.5 c) of this procedure, the manager shall notify the complainant without delay by sending them a notice to that effect.

Together with the tendering manager, the requesting department or the members of the complaints and declaration of interest committee, where applicable, must carry out checks to analyze the merits of the reasons alleged in the complaint.

As part of processing the complaint, the designated manager may engage the services of external resources.

The manager must, when the verifications and analyses carried out demonstrate that the complaint is founded, accept the complaint and take the appropriate measures to follow it up. If not, the manager must reject the complaint.

5.7 Decision

The designated manager must forward the decision to the complainant electronically after the deadline for the receipt of complaints specified in the SEAO, but no later than three days before the scheduled tender closing date. If necessary, the deadline for the receipt of tenders is postponed. This new deadline is published in the SEAO.

In cases where more than one complaint for the same call for tenders is received, the manager transmits the decisions at the same time.

If necessary, the designated manager shall postpone the deadline for the receipt of tenders so that a minimum period of seven days remains from the date of transmission of the decision. This new deadline is published in the SEAO.

The decision must indicate to the complainant that they have three days following receipt of the decision to make a complaint to the Autorité des marchés publics in accordance with section 37 of the Act.

The designated manager shall immediately report the decision to the SEAO.

Section 6 DECLARATION OF INTEREST AND COMPLAINTS WITH RESPECT TO AN AWARD PROCESS

6.1 Reasons in support of a declaration of interest

A person may declare their interest in a contract that is the subject of a notice of intent when they consider that they are able to perform the contract in accordance with the needs and obligations set out in this notice published in the SEAO.

6.2 How and when to file a declaration of interest

All declarations of interest must be sent electronically to the designated manager at the following email address: plainte-adjudication-attribution-contrat@pointe-claire.ca

It must be received by the designated manager no later than the deadline set in the notice of intent published in the SEAO.

6.3 Content of a declaration of interest

A complaint must contain the following information:

- Date;
- Identification of the person interested in concluding the contract with the municipality:
 - Name
 - Address

- Phone number
 - Email address
- Identification of the notice of intent published in the SEAO:
 - Contract number
 - SEAO reference number
 - Title
- A detailed statement and documentation demonstrating that the person is able to complete the contract based on the needs and obligations set out in the notice of intent.

6.4 Eligibility criteria for declaration of interest

In order for a declaration of interest to be reviewed by the designated manager, it must meet the following conditions:

- a) Be transmitted electronically to the designated manager;
- b) Be received by the designated manager no later than the deadline set in the notice of intent published in the SEAO;
- c) Be related to a target contract;
- d) Be based on the sole reason listed in section 6.1 of this procedure.

6.5 Reception and processing of the declaration of interest

Upon receiving a declaration of interest, the designated manager shall review and analyze the declaration of interest in accordance with this provision.

The responsible manager ensures that the other eligibility criteria under section 6.4 are met.

Together with the tendering manager, the requesting department or the members of the complaints and declaration of interest committee, where applicable, must carry out checks to ensure the ability of the person to carry out the contract in accordance with the needs and obligations set out in this notice.

As part of processing the declaration of interest, the designated manager may engage the services of external resources.

When the verifications and analyses carried out demonstrate that the person is able to carry out the contract, the designated manager must accept the declaration of interest and recommend not to conclude a forward contract. Otherwise, the designated manager recommends continuing with the sole supplier award process.

6.6 Decision

The designated manager must forward the decision to the person who has declared an interest electronically at least seven days before the date specified in the notice of intent for the conclusion of the contract.

If this deadline cannot be respected, the date of conclusion of the contract must be postponed by as many days as necessary to respect it.

The decision must indicate to the person who declared their interest that they have three days following receipt of the decision to make a complaint to the Autorité des marchés publics in accordance with section 38 of the Act.

Section 7 EFFECTIVE DATE AND ACCESSIBILITY

This procedure came is effective May 25, 2019.

Once effective, the City makes it accessible at all times by publishing it on its website, in accordance with section 573.3.1.3 CTA.