PROVINCE OF QUEBEC
MRC OF PONTIAC

PROCEDURE CONCERNING THE RECEIPT, EXAMINATION AND TREATMENT OF COMPLAINTS IN THE CONTEXT OF AWARDING A CONTRACT

WHEREAS the *Act to facilitate oversigh of public bodies' contracts and to establish the Autorité des marchés financiers* (L.Q. 2017, c.27), hereinafter "the Act", was assented to on December 1, 2017;

WHEREAS according to article 938.1.2.1 of the *Municipal Code of Québec*, RLRQ c. C-27.1 (hereinafter the "Municipal Code"), a municipality must adopt a procedure concerning the receipt and review of complaints made in connection with the awarding of contracts as a result of a public tender solicitation or the awarding of a contract by mutual agreement with a sole source provider involving an expenditure equal to or greater than the minimum public tender solicitation threshold;

WHEREAS the MRC must adopt a procedure for the receipt, examination and treatment of complaints made in connection with the award of a contract;

CONSEQUENTLY, the Council orders that this procedure be and is adopted in accordance with the following:

ARTICLE 1 TITLE

This procedure will be referred to as the "Procedure for the Receipt, Examination and Treatment of Complaints addressed in the context of awarding a contract";

ARTICLE 2 PREAMBULE

The preamble is an integral part of the present procedure.

ARTICLE 3 MAIN OBJECTIVE OF THE PROCEDURE

The purpose of this procedure is to ensure the fair treatment of complaints made to the MRC through a tendering or awarding process for a Public Contract.

ARTICLE 4 INTERPRETATION

Unless otherwise stated or as a result of the context or provision, the following terms and expressions have, in this procedure, the meaning and application assigned to it by this section:

Public Contract:

A contract for the execution of work or for the supply of insurance, material, materials or services that may be entered into by the MRC with an expenditure equal to or greater than the applicable minimum public tender solicitation threshold according to the Municipal Code.

Award process :

Any process to award a Public Contract by mutual agreement with a supplier who is the only one able to provide the materials, equipment or services requested, in accordance with article 938.0.0.1 of the Municipal Code.

Designated contact Person :

Person responsible for the application of this procedure.

ETS : Electronic tendering system (SEAO) refered to in section 11 of the *Act Respecting Contracting by Public Bodies*, RLRQ c. C-65.1.

ARTICLE 5 APPLICATION

The application of this procedure is entrusted to the Director General.

This person is responsible for receiving complaints as well as any demonstration of interest, for conducting the necessary audits and analysis and responding to them within the time frame required by the Act.

ARTICLE 6 COMPLAINTS REGARDING AN AWARDING PROCESS

6.1 Interest required to file a complaint

Only an interested person or group of persons interested in participating in an ongoing awarding process or their representative may file a complaint in relation to that process.

6.2 Motives in the support of a complaint

In accordance with the Act, an interested person or group of persons interested in participating in the awarding process or their representative may file a complaint in relation to that process when they consider that the documents requesting public tender :

- Provide conditions that do not ensure fair treatment of competitors; or
- Provide conditions that do not allow competitors to participate, even though they are qualified to meet expressed needs; or
- Provide conditions that are not consistent with the MRC's normative framework.

6.3 How and when to transmit a complaint

All complaints must be sent electronically to the Designated contact Person at the following email address: n.guillemette@mrcpontiac.qc.ca

It must be presented on the form determined by the Autorité des Marchés Public available on its website.

It must be received by the Designated contact Person no later than the deadline for receipt of complaints indicated in the ETS.

6.4 Content of a complaint

A complaint must contain the following information:

- Date;
- Identification and contact details of the Complainant:
    - Name
    - Address
    - Telephone number
    - Email address
- Identification of the bid solicitation that is the subject of the complaint:
    - Number of the request for tender
    - ETS reference number
    - Title
    - Detailed statement of reasons supporting the complaint;
- Where applicable, any relevant documents supporting the grounds of the complaint;
- Any other information required in the form determined by the Authorité des Marchés Publics.

6.5 Criteria for the admissibility of a complaint

In order for a complaint to be reviewed by the Designated contact Person, it must meet the following conditions:

a) Be transmitted by an interested person within the meaning of Article 6.1;
b) Be transmitted electronically to the Designated contact Person;
c) Be presented on the form determined by the Authorité des Marchés Publics;
d) Be received by the designated contact Percon no later than the deadline for receipt of complaints indicated in the ETS;
e) Relate to a Public Contract;
f) Relate to the content of tender documents available in the ETS no later than two (2) days before the deadline for receipt of complaints;
g) Be based on any of the grounds listed in Article 6.2 of this procedure, for any other reason not being considered in the analysis.

6.6 Reception and treatment of a complaint

Upon receipt of a complaint, the Designated contact Person shall review the complaint in accordance with this provision.

He ensures the interest of the Complainant within the meaning of Article 6.1.

If he considers that the Complainant does not have the required interest, he shall notify him without delay by sending him a notice to that effect.

After having ascertained the Complainant's interest, he immediately mentions in the ETS the receipt of a first complaint.

He ensures that the other admissibility criteria provided for in Article 6.5 are met.

If he considers the complaint to be inadmissible under Article 6.5 (c) of these procedures, he shall notify the Complainant without delay by sending him a notice to that effect.

If necessary, he agrees with the person responsible for the invitation to tender or with the requesting service of all verifications that must be carried out in order to analyze the merits of the grounds alleged in the complaint.

As part of the handling of the complaint, the the Designated contact Person may retain the services of external resources.

6.7 Decision

The Designated contact Person must forward the decision to the Complainant electronically after the complaint filing deadline specified in the ETS Program, 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 ETS.

In cases where more than one complaint for the same solicitation is received, the Designated contact Person transmits the decisions at the same time.

If necessary, the Designated contact Person will postpone the deadline for the receipt of tenders so that a minimum period of seven days remains to run from the date of transmission of the decision. This new deadline is published in the ETS.

The decision must indicate to the Complainant that he has three days following receipt of the decision to make a complaint to the Authorité des Marchés Publics in accordance with Article 37 of the Law.

The Designated contact Person mentions without delay the transmission of the decision in the ETS.

ARTICLE 7 DEMONSTRATION OF INTEREST AND COMPLAINTS ABOUT A PROCESS OF AWARD

7.1 Reason in support of a demonstration of interest

A person may express his or her interest in a contract that is the subject of a notice of intention when he or she considers that he or she is able to perform the contract in accordance with the needs and obligations set out in this notice published in the ETS.

7.2 Modality and deadline for the transmission of a demonstration of interest

Any expression of interest must be sent electronically to the Designated contact Person at the following email address: n.guillemette@mrcpontiac.qc.ca

It must be received by the Designated contact Person no later than the deadline specified in the notice of intent published in the ETS.

7.3 Content of a demonstration of interest

The demonstration of interest must contain the following information:

- Date;
- Identification of the person interested in concluding the contract with the MRC:
    - Telephone number
    - Contract number
    - ETS reference number
    - Title

- Detailed statement and documentation of the needs and obligations set out in the Notice of Intent.

7.4 Eligibility Criteria for a Demonstration of Interest

For a Demonstration of Interest to be reviewed by the Designated contact Person, it must meet the following conditions:

a) Be transmitted electronically to the designated Officer;
b) Be received by the Designated contact Person by the deadline specified in the Notice of Intent published in the ETS;
c) Relate to a Public Contract;
d) Be based solely on the ground listed in Article 7.1 of this procedure

7.5 Reception and treatment of the demonstration of interest

Upon receipt of a demonstration of interest, the Designated contact Person shall examine and analyze it in accordance with this provision.

He ensures that the eligibility criteria set out in section 7.4 are met.

He agrees with the person responsible for the contract authority or with the requesting department concerned by the notice of intent, undertakes any verification that must be made to ensure the ability of the person to carry out the contract according to the needs and obligations set out in this notice of intent.

As part of the processing of the demonstration of Interest, the Designated contact Person may retain the services of external resources.

7.6 Decision

The Designated contact Person must forward the decision to the person who has expressed 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 can not 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 has expressed his interest that he has three days following receipt of the decision to make a complaint to the Authorité des Marchés Publics in accordance with Article 38 of the Law.

ARTICLE 8 ENTRY INTO FORCE AND ACCESSIBILITY

This procedure is effective May 25, 2019.

Upon its entry into force, the MRC makes it, in accordance with article 938.1.2.1 of the Municipal Code, accessible at all times by publishing it on its website.

CARRIED THIS APRIL 17, 2019.

Jane Toller Warden	Bernard Roy Director General