

Municipality of Pontiac

August 2019



Procedure

on the reception and review of complaints made in connection with the awarding of a contract

Adopted on August, 13th 2019 / resolution 19-08-3844

ARTICLE 1 PURPOSE OF THE PROCEDURE

This procedure aims at ensuring the fair treatment of complaints made to the Municipality of Pontiac in connection with the process of awarding an affected contract.

ARTICLE 3 INTERPRETATION

Unless expressly stated otherwise, or resulting from the context or disposition, expressions, terms or the following words, the meaning and application in this procedure attributed to it by this article:

Affected contract :

Contract for the performance of work or the supply of insurance, material, materials or services, including professional services, that the Municipality of Pontiac may conclude involving an expenditure equal to or greater than the minimum threshold of the applicable public bid solicitation.

Tendering process :

Any ongoing public bid solicitation process leading to the awarding of an affected contract.

Awarding process :

Any process aiming to award by mutual agreement, an affected contract with a supplier who is the only one capable to supply the materials, material or services required, in accordance with article 938.0.0.1 of the Municipal Code.

Designated official :

Person in charge of implementing the present procedure.

SEAO :

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

ARTICLE 4 APPLICATION

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

This person is responsible for receiving the complaints as well as expressions of interest, to make the verifications and analysis necessary and to respond to them within the time required by the Act.



ARTICLE 5 COMPLAINTS MADE PERTAINING TO THE PROCESS OF AWARDING A CONTRACT

5.1 Interest required to file a complaint

Only a person or group of persons interested in participating in an ongoing tendering process, or their representative, may file a complaint pertaining to this process.

5.2 Reasons in support of a complaint

A person or group of persons interested in participating in a tendering process, or their representative, may file a complaint pertaining to this process when they consider that the bid solicitation documents :

- provide conditions that do not ensure an honest or fair treatment of competitors; or
- provide conditions that do not allow competitors to participate although they are qualified to meet the needs expressed; or
- provide conditions that do not comply with the regulatory framework of the Municipality of Pontiac.

5.3 How and when to lodge a complaint

Any complaint must be lodged electronically to the designated official at the following address: latulippe.genevieve@municipalitepontiac.ca

It must be presented on the specified form that is determined by the Public Procurement Authority available on its website.

It must be received by the designated official no later than the deadline for receipt of complains indicated in the SEAO website.

5.4 Contents of a complaint

A complaint must include the following information :

- Date;
- Complainant's identification and contact information :
 - name
 - address
 - telephone number
 - email address
- Identification of the bid solicitation to which the complaint relates:
 - Solicitation number
 - SEAO reference number
 - title

- Detailed statement of the reasons in support of the complaint;
- Where appropriate, any document relevant to the reasons for the complaint;
- Any other information required in the form determined by the Public Procurement Authority.

5.5 Criteria for the admissibility of a complaint

For a complaint to be subject to a review by the designated official, it must meet the following conditions :

- a) Be submitted by a person interested, in accordance with article 5.1;
- b) Be submitted electronically to the designated official;
- c) Be presented on the form determined by the Public Procurement Authority pursuant to article 45 of the Law;
- d) Be received by the designated official no later than the deadline for receipt of complaints indicated in the SEAO website;
- e) Concern an affected contract;
- f) Address the content of the bid solicitation documents available on the SEAO website, no later than two (2) days before the deadline for receipt of complaints;
- g) Be based on one of the conditions listed under article 5.2 of this procedure, all other reasons not being considered as part of the analysis.

5.6 Receipt and treatment of a complaint

Upon reception of a complaint, the designated official proceeds with reviewing the complaint, in accordance with the this provision.

The official ensures the complainant's interest, in accordance with article 5.1.

If the official considers that the complainant does not have the required interest, the official notifies the complainant without delay, by sending him a notice to that effect (Annex I of this guide).

After having made sure of the complainant's interest, the official mentions without delay on the SEAO website of the reception of a first complaint.

The official ensures that the other admissibility criteria provided in article 5.5 are met.

If the official considers the complaint to be inadmissible according to article 5.5 c) of this procedure, he notifies the complainant without delay, by sending him a notice to that effect (Annex II of this guide).

Failing to have made a complaint on the form determined by the Public Procurement Authority, the complaint will be considered inadmissible, and this, as soon as the fault has been noticed. This way, the complainant could send his complaint to the Municipality and

it will have the opportunity to process the request rather than the complainant speak directly to the Public Procurement Authority.

If the complaint is admissible for one of the reasons stated in article 5.5 b) to g) of this procedure, the decision on the inadmissibility is considered as a decision within the meaning of the law (Annex III of this guide).

He agrees with the person responsible for the call for tenders or the requesting service, on the verifications that must be made to analyze the merits of the reasons alleged in the complaint.

As part of the handling of the complaint, the designated official may use the services of external resources.

The official must, once the verifications of the analysis made show that the complaint is valid, accept the complaint and take the appropriate action to follow up. Otherwise, he must reject the complaint.

5.7 Decision

The designated official must send the decision to the complainant electronically following the deadline for receipt of complaints indicated on the SEAO website, but no later than three (3) days before the foreseen deadline for receipt of tenders. If needed, the deadline for receiving tenders is postponed. This new deadline is published on the SEAO website.

In the case where more than one complaint for the same bid solicitation are received, the official sends the decisions at the same time.

If needed, the official postpones the deadline for the receipt of tenders so that a minimum period of seven (7) days remains from the date of transmission of the decision. This new deadline is published on the SEAO website.

The decision must indicate to the complainant that, according to article 37 of the Law, he has three (3) days following receipt of the decision to make a complaint to the Public Procurement Authority.

The designated official mentions without delay, the transmission of the decision on the SEAO website.

After having noticed the complainant's interest, and the admissibility of the complain, in accordance with article 5.5 of this procedure, the designated official must render a decision on the merits of the complaint. In case of rejection, we recommend that this decision be motivated and documented, as appropriate. (Annex IV of this guide for the acceptance of a complaint, and Annex V for the rejection of a complaint).

ARTICLE 6 EXPRESSION OF INTEREST AND COMPLAINTS MADE PERTAINING TO THE AWARDING PROCESS

6.1 Reason to support an expression of interest

A person may express their interest with regard to a contract that is a subject of a notice of intention when he considers that he is able to carry out the contract according to the needs and obligations stated in this notice published on the SEAO website.

6.2 Terms and deadline for transmitting an expression of interest

Any expression of interest must be sent electronically to the designated official at the following address : latulippe.genevieve@municipalitepontiac.ca.

It must be received by the designated official no later than the deadline set in the notice of intention published on the SEAO website.

6.3 Contents of an expression of interest

The expression of interest must include the following information :

- Date;
- Identification of the person interested in concluding a contract with the Municipality :
 - name
 - address
 - telephone number
 - email address
- Identification of the notice of intention published on the SEAO website:
 - Contract number
 - SEAO reference number
 - title
- Detailed statement and documentation showing that the person is able to perform the contract based on the needs and obligations set out in the notice of intent;

6.4 Criteria for the admissibility of an expression of interest

For an expression of intent to be subject to a review by the designated official, it must meet the following conditions :

- a) Be sent electronically to the designated official;
- b) Be received by the designated official no later than the deadline set on the notice of intent published on the SEAO website;
- c) Concern an affected contract;
- d) Be based on the only reason listed in article 6.1 of this procedure.

6.5 Receipt and processing of an expression of interest

Upon receiving an expression of interest, the designated official proceeds with its review and analysis in accordance with this provision.

The designated official ensures that the admissibility criteria provided in article 6.4 is met.

If the expression of interest is inadmissible for any of the reasons stated in article 6.4 of this procedure, the decision on the inadmissibility is considered as a decision within the meaning of the Law. A model decision of inadmissibility is attached to Annex VI of this guide.

He agrees with the person responsible for the call for tenders or the requesting service affected by the notice of intent, on the verifications that must be made to ensure the ability of the person to complete the contract according to the needs and obligations stated in this notice.

As part of the handling of the expression of interest, the designated official may use the services of external resources.

Once the verifications of the analysis made, the official must show that the person is able to carry out the contract, accepts the expression of interest and recommends not to enter into a mutual agreement. Otherwise, the designated official recommends to continue the awarding process with the sole provider.

If an expression of interest is accepted, the Municipality must publish a public bid solicitation on the SEAO website if it wishes to continue the process and award the contract.

6.6 Decision

The designated official must send the decision electronically to the person who has shown interest, at least seven (7) days before the date set in the notice of intent for the conclusion of the contract.

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

The decision must indicate to the person who has shown an interest that he has (3) days following receipt of the decision to make a complaint to the Public Procurement Authority, in compliance with article 38 of the Law.

After having ascertained the admissibility of the expression of interest within the meaning of article 6.4 of this procedure, the designated official must render a decision as to the conclusion or not of the affected contract. (Annex VI of this guide for decision of acceptance or Annex VIII for decision of rejection).


ARTICLE 7 ENTRY INTO EFFECT AND ACCESSIBILITY

This procedure comes into effect on August 13, 2019.

As soon as it is in effect, the Municipality of Pontiac makes it accessible at all times by publishing it on its website, in accordance with section 938.1.2.1 of the Municipal Code.



Joanne Labadie
Mayor



Pierre Said
Director General and
Secretary-Treasurer

ANNEX I

Tendering process

Notice of interest

(articles 5.1 et 5.5 a) of the Procedure)

Date : _____

To : _____

From : _____

SUBJET : NOTICE – LACK OF INTEREST TO LODGE A COMPLAINT

Please note that following receipt of your complaint dated _____ on the call for tenders _____, we have determined that you do not have the interest required to lodge a complaint, since you are not, in accordance with the *Act to promote the supervision of public agency contracts and to establish the Public Markets Authority* (L.Q. 2017, c. 27), a person or a group of persons interested in participating in the ongoing tendering process, or their representative.

We will not analyze your complaint.

Pierre Said, Director General
Municipality of Pontiac

ANNEX II

Tendering process

Notice of inadmissibility
(article 5.5 c) of the Procedure)

Date : _____

To : _____

From : _____

SUBJECT : NOTICE – INADMISSIBILITY OF YOUR COMPLAINT

Please note that following receipt of your complaint dated _____ on the call for tenders _____, we have hereby inform you this complaint is inadmissible since it was not sent using the form determined by the Public Market Authority in compliance with section 45 of the *Act to promote the supervision of public agency contracts and to establish the Public Markets Authority* (L.Q. 2017, c. 27).

Therefore, we have not analyzed your complaint.

If you would like us to proceed with the analysis of your complaint, please send it to us on the form prescribed for this purpose before the deadline for receipt of complaints indicated on the SEAO website.

Pierre Said, Director General
Municipality of Pontiac

ANNEX III

Tendering process

Decision – inadmissibility (article 5.5 of the Procedure)

Date : _____

To : _____

From : _____

SUBJECT : DECISION – INADMISSIBILITY OF YOUR COMPLAINT

Please note that following receipt of your complaint dated _____ on the call for tenders _____, your complaint was subject to an admissibility analysis. Your complaint is inadmissible for the following reason(s):

- It was not sent electronically to the designated official (**article 5.5 b**)
- It was not presented on the form determined by the Public Markets Authority in compliance with article 45 of the Law (**article 5.5 c**)
- It was not received by the designated official by the deadline for receipt of complaints indicated on the SEAO website (**article 5.5 d**)
- It does not concern a affected contract (**article 5.5 e**)
- It does not address the content of the bid solicitation documents available on the SEAO website, no later than two (2) days before the deadline for receipt of complaints (**article 5.5 f**)
- Is is not based on one of the conditions listed under article 5.2 of this procedure, based on the receipt and review of complaints made in connection with the awarding of a contract, all other reasons not being considered as part of the analysis (**article 5.5 g**)

Therefore, we have not analyzed your complaint on the merits.

If you disagree with the decision rendered, you have three days from the receipt of this decision to lodge a complaint with the Public Markets Authority, in accordance with article 37 of the *Act to promote the supervision of public agency contracts and to establish the Public Procurement Authority* (L.Q. 2017, c. 27)

Pierre Said, Director General
Municipality of Pontiac

ANNEX IV

Tendering process

Decision – acceptance of the complaint

Date : _____

To : _____

From : _____

SUBJECT : DECISION RELATING TO YOUR COMPLAINT

Please note that following receipt of your complaint dated _____ on the call for tenders _____, your complaint was subject to an analysis, after which your complaint was considered to be founded.

Consequently, the measures deemed appropriate [**will be/have been**] taken in order to follow up.

If you disagree with the decision rendered, you have three days from the receipt of this decision to lodge a complaint with the Public Markets Authority, in accordance with article 37 of the *Act to promote the supervision of public agency contracts and to establish the Public Procurement Authority* (L.Q. 2017, c. 27)

Pierre Said, Director General
Municipality of Pontiac

ANNEX V

Tendering process

Decision – rejection of your complaint

Date : _____

To : _____

From : _____

SUBJECT : DECISION RELATING TO YOUR COMPLAINT

Please note that following receipt of your complaint dated _____ on the call for tenders _____, your complaint was subject to an analysis, after which your complaint was considered unfounded. Consequently, your complaint is rejected.

The reasons for rejecting your complaint are the following :

If you disagree with the decision rendered, you have three (3) days from the receipt of this decision to lodge a complaint with the Public Markets Authority, in accordance with article 37 of the *Act to promote the supervision of public agency contracts and to establish the Public Procurement Authority* (L.Q. 2017, c. 27).

Pierre Said, Director General
Municipality of Pontiac

ANNEX VI

Awarding process – Expression of interest

Decision –e xpression of interest inadmissible

Date : _____

To : _____

From : _____

SUBJECT : DECISION – INADMISSIBILITY OF YOUR EXPRESSION OF INTEREST

Please note that following receipt of your complaint dated _____ on the call for tenders _____, having been the object of a notice of intent published on the SEAO website, we hereby inform you that your expression of interest is inadmissible for the following reason(s):

- It was not sent electronically to the designated official (**article 6.4 a**)
- It was not received by the designated official by the deadline no later than the deadline set in the notice of intention published in _____ on the SEAO website (**article 6.4 b**)
- It does not concern a affected contract (**article 6.4 c**)
- Is is not based on the only condition of admissibility under article 6.1 of this procedure, based on the receipt and review of complaints made in connection with the process of tendering or awarding a contract, to know that you are able to complete the contract according to the needs and obligations set out in the notice published on the SEAO website

Therefore, we have not analyzed your expression of interest. If you disagree with the decision rendered, you have three (3) days from the receipt of this decision to lodge a complaint with the Public Markets Authority, in accordance with article 38 of the *Act to promote the supervision of public agency contracts and to establish the Public Procurement Authority* (L.Q. 2017, c. 27).

Pierre Said, Director General
Municipality of Pontiac

ANNEX VII

Awarding process – Expression of interest

Decision –expression of interest accepted

Date : _____

To : _____

From : _____

SUBJECT : DECISION RELATING TO YOUR EXPRESSION OF INTEREST

Please note that following receipt of your complaint dated _____ on the contract _____, having been the object of a notice of intent published on the SEAO website, we hereby inform you that your expression of interest was subject to an analysis, after which your expression of interest is accepted.

Consequently, the contract will not be concluded by mutual agreement.

If you disagree with the decision rendered, you have three (3) days from the receipt of this decision to lodge a complaint with the Public Markets Authority, in accordance with article 38 of the *Act to promote the supervision of public agency contracts and to establish the Public Procurement Authority* (L.Q. 2017, c. 27).

Pierre Said, Director General
Municipality of Pontiac

ANNEX VIII

Awarding process – Expression of interest

Decision – expression of interest rejected

Date : _____

To : _____

From : _____

SUBJECT : DECISION RELATING TO YOUR EXPRESSION OF INTEREST

Please note that following receipt of your expression of interest dated _____ on the contract _____, having been the object of a notice of intent published on the SEAO website, we hereby inform you that your expression of interest was subject to an analysis, and that it has been rejected for the following reasons:

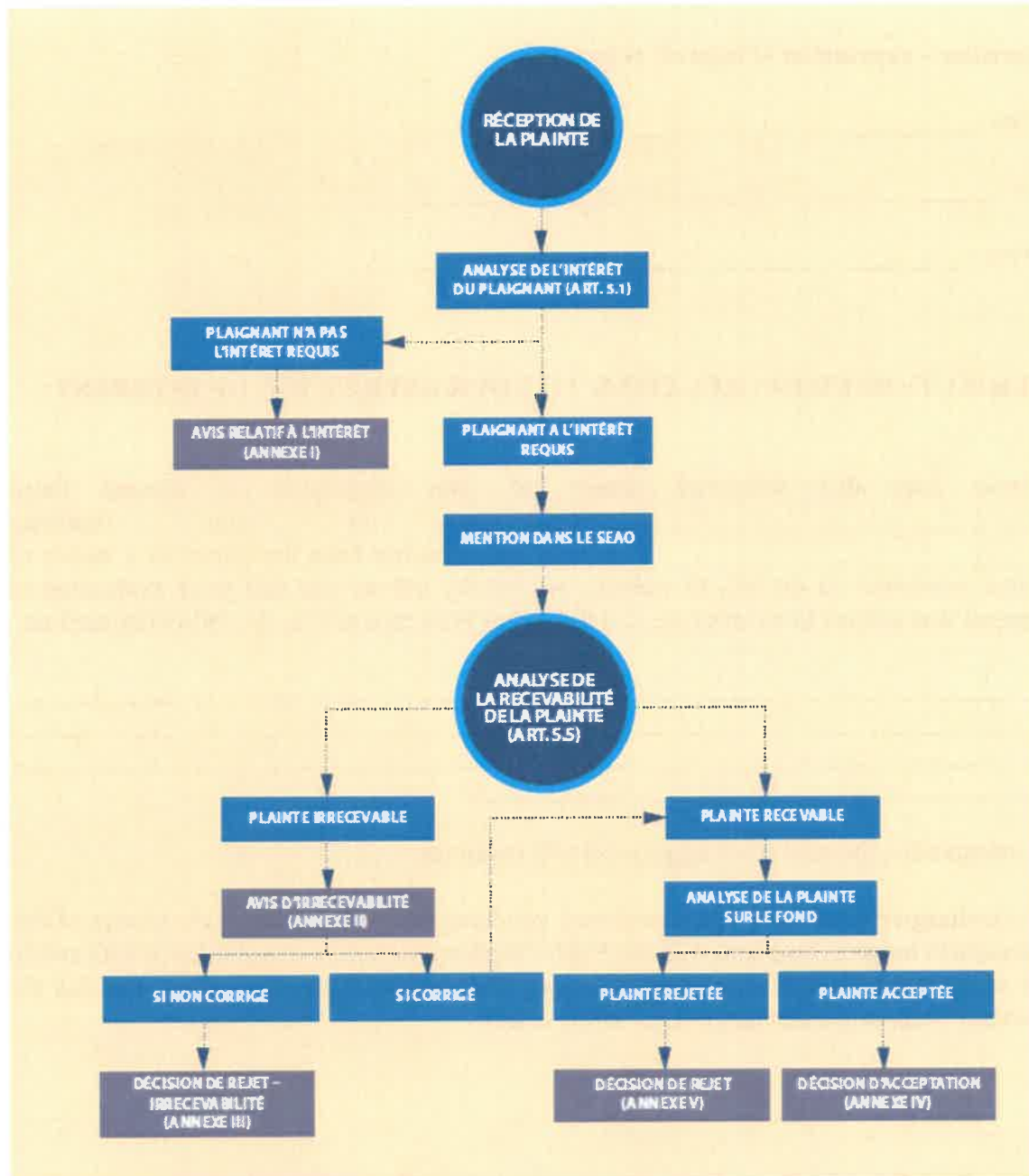
Consequently, the sole-sourcing process will continue.

If you disagree with the decision rendered, you have three (3) days from the receipt of this decision to lodge a complaint with the Public Markets Authority, in accordance with article 38 of the *Act to promote the supervision of public agency contracts and to establish the Public Procurement Authority* (L.Q. 2017, c. 27).

Pierre Said, Director General
Municipality of Pontiac

DRAWING UP PROCEDURES

Complaints made regarding an awarding process



Expressions of interest and complaints made regarding an awarding process

