

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF HULL

MUNICIPALITY OF PONTIAC

MRC DES COLLINES-DE-L'OUTAOUAIS

BY-LAW 08-13

BY-LAW 08-13 - PROCUREMENT POLICY – MUNICIPALITY OF PONTIAC

It is

Moved by : Dr. Jean Amyotte
Seconded by : Inès Pontiroli

AND RESOLVED TO adopt by-law # 08-13. By this Regulation, it is decreed and enacted the following:

1. Objective

The Municipality of Pontiac hereby wishes to outline the procedures and rules that must be adhered to regarding the procurement of goods and services.

2. Scope

This policy applies to any acquisition of goods and services made for, and in the name of the Municipality of Pontiac.

It can only be amended by a resolution of the municipal Council.

The person responsible for the call for tenders, as identified by the municipal Council, will be responsible for the management and implementation of this policy.

3. Definitions

Call for tenders: A public acquisition process or by invitation, soliciting written quotations from suppliers for goods or services according to conditions defined within the specifications.

Call for proposal: Step to be carried out prior to acquisitions that are not done via a call for tenders, commonly referred to as an “invitation to quote”, “invitation to tender”, or estimate.

Contract: Written agreement describing the terms and conditions that link the municipality to a supplier in relation to an acquisition of goods or services resulting in a monetary obligation.

Specifications: Administrative or technical document that describes the goods or services to be acquired through clauses and specifications, as well as the inherent conditions.

Suppliers file: Registry containing all of the suppliers’ information (example: address, category of goods and services offered...).

Supplier: Any natural or legal person who offers their goods or services.

Local Supplier: A supplier who has a business establishment situated on the Municipality of Pontiac territory.

External supplier: A supplier who does not have a business establishment situated on Municipality of Pontiac territory.

Requesting department: The department who needs goods or services to accomplish their task and realize a municipal activity that falls under their responsibility.

Professional fees: Any service carried out by a member or members of a professional corporation governed by the Professional code or any service emanating from a person whose profession is governed by a specific law, that directly or by way of an association, corporation, union or office, controls this exercise. Any specialized opinion is also considered as a professional service - whatever the support may be – of an intellectual nature, given by a person whose pertinent training is sanctioned by a university diploma, or the equivalent.

Tender: Proposal received following a call for tenders.

4. **Objectives**

The main objective of this procurement policy is to ensure that the monies spent by the municipality for the supply of goods and services are spent according to precise regulations in compliance with the principles of good administration while respecting the municipality's values and encouraging local purchasing.

It aims at supplying the municipality with a flexible, confidential, rigorous, transparent and equitable acquisition process, compliant with the current legislation and regulations.

This policy also allows for the definition and promotion of principles and methods that govern the municipality's acquisition process.

It therefore provides municipal employees with clear and precise rules and responsibilities allowing them to act in this field while respecting the municipality's best interest.

More precisely, this policy aims at:

- Encouraging administrative efficiency and economies of scale;
- Allowing the municipality to buy under the best conditions (price, quality, service, deadline, etc.) while bearing in mind the needs of the various departments of the municipality, market availability and the current legislation;
- Defining everyone's responsibilities with respect to acquisitions;
- Establishing an impartial process for suppliers while encouraging healthy competition and local purchasing;
- Ensuring control over the nature, quality, quantity, delivery and cost according to the municipality's needs and available budgets;
- Ensuring transparency in the acquisition process while ensuring the confidentiality necessary to guarantee healthy competition, justice and impartiality.

5. **Principles**

The procurement policy relies on the principles of fairness, transparency, integrity, honesty and loyalty.

At all times, the municipality, its employees, Council members and suppliers with whom they deal with must follow the current legislation and regulations, notably with respect to free competition as well as fiscal and labour legislation. In this sense, the present policy relies on the current provincial and federal regulations and with respect to the municipality, it refers to the following policies and regulations:

- Policy on contract management;
- By-law # 06-08 to decree the rules of controlling and monitoring the budget;
- Policy on local purchasing (11-05-677);
- By-law # 09-12 on the code of ethics and professional conduct for the municipal employees of the Municipality of Pontiac;
- By-law # 09-11 to enact the standards that are applicable to the members of the Pontiac municipal Council – code of ethics and professional conduct on a municipal level.

At all times, the provincial and federal regulations have precedence over the municipality's policies and regulations, including the present policy. In this sense, the fact that the municipality or one of its employees who does not follow the present policy in part or as a whole, does not invalidate the bidding or acquisition process if all of the requirements of provincial and federal legislation and regulations have been met.

More precisely, where acquisitions are concerned, the municipality shall be guided by the following principles:

- Acquire goods and services whose quality reflects the municipality's needs;
- Deal with responsible suppliers (see 7.2 Criteria for qualification);
- Encourage local business.

6. Methods of payment and acquisition process

For all acquisitions, the expense must have been approved previously by the municipal Council with the exception of those included in the list of fixed expenses (according to the resolution adopted annually).

The present policy does not apply to the following acquisition of goods and services:

- Membership to associations;
- Subscriptions;
- Travel, meals and entertainment expenses;
- Training courses;
- Advertisement in magazines and newspapers;
- Food and caterers;
- Entrance fee to a recreational or social activity;
- Room rentals;
- Permit fees;
- Vehicle registration (plates);
- Books for the municipal libraries operations;
- Laboratory tests;
- Gifts, flowers or bouquets for funerals or to recognize an event;
- Supply of materials or services for which a fee is set by the provincial or federal government, by their ministers or organizations, or done as grouped purchasing;
- During the use of the delegation of purchasing authority, notably in the case of emergencies or the unexpected (spending authority – delegation 08-08-278 and 08-11-372), granted to the director general (the assistant director general in his absence) and the director of public works. These delegations are summarized as follows:
 - o A maximum of \$500 per day for the director of public works (or his replacement in his absence);
 - o A maximum of \$2,500 per day for the director general (or ADG in his absence);
 - o A maximum of \$3,000 per day when the director of public works and the director general (or ADG in his absence) use their delegation of purchasing authority together.

6.1 Procurement process based on cost estimates

For every acquisition of goods and services, an internal estimate for the cost of an acquisition must be done beforehand. It is this estimate that will determine which procurement process should be followed.

Lower than \$25,000

Procurement may be done either by mutual agreement, by written open invitation to tender or by public tender. However, all acquisitions of goods or services representing an expenditure of more than \$2 500 must be subject to a call for proposals from local suppliers initially if the goods or services are available from them. If only one local supplier exists for the acquisition in question, this call for proposals shall include at least one external supplier, and if no local suppliers exist for the goods or services in question, two external suppliers are required.

Written proof of these calls for proposals shall be kept on file even when suppliers who were approached have declined to submit a tender or if a bid was given verbally. In such cases, it remains the responsibility of the person in charge of the acquisition in question, to produce a document proving that a call for proposals was given and that the supplier(s) who was (were) approached did not respond or that they have given a verbal bid only. The document shall therefore reiterate the proposal received verbally as accurately as possible (cost, details, deadline).

Between \$25,000 and \$100,000

The municipality will proceed with a written open invitation to tender or by a public call for tenders.

For a written open invitation to tender, at least 2 tenderers shall be invited, except in cases where exceptions specified by law apply (professional services with exclusive practices). Furthermore, a delay of at least eight (8) days between the issuance of the call for tenders (invitation) and the closing date must be respected.

When rules and regulations allow it, the municipality has a policy on encouraging local businesses, as long as there is healthy competition with respect to the supply of goods and services that are required. In that respect, all local suppliers will be invited when open invitations to tender are issued (when pertinent – according to the type of goods and services). However, when there is no competition among local suppliers of the goods or services in question, the municipality will extend the invitation beyond its territory, in order to satisfy the minimal number of tenders required by law or by this present policy.

For public tenders, the delay is increased to fifteen (15) days.

\$100,000 and over

The municipality shall proceed with a public call for tenders, except in cases where exceptions specified by law apply (professional services with exclusive practices).

For any acquisition of goods or services where the cost could exceed \$100,000, an estimate of the total cost shall be done before tenders are opened (this estimate will be made public after the awarding of the contract via the SEAO Website).

A delay of at least fifteen (15) days between the issuance of the call for tenders (invitation) and the closing date must be respected.

The opening of tenders will be done publicly and by the person in charge of the call for tenders who will read the names of the tenderers out loud in the chronological order of their deposit and each according price submitted (except in the case where a weighting system and a sealed envelope is chosen).

6.2 Dissemination of the calls for tender

When it comes to a written open invitation to tender, a minimum of two (2) suppliers must be invited to bid.

For the acquisition of goods or services subject to an invitation to a public call for tenders to which the value is estimated at \$99,999 or less, the notice of a public call for tenders will be published in at least one (1) local newspaper in addition to being posted in various public areas (town hall, post offices, convenient stores) located on the municipality's territory. The tender documents will also be available at the Town hall, on the municipality's Website or on the SEAO Website.

For the acquisition of goods or services subject to an invitation to a public call for tenders to which the value is estimated at \$100,000 and over, the notice of a public call for tenders will be published on the SEAO Website (Système électronique d'appel d'offres "*Electronic bidding system*") and in at least one (1) newspaper that is not local, such as the Journal Constructo and Le Droit. Among others, the notice will also be posted in various public areas (town hall, post offices, convenient stores) located on the municipality's territory. The tender documents will be made available via the SEAO Website only.

6.3 Weighting system

When the acquisition of professional services to which the value is estimated at \$25,000 and over, the municipality shall proceed with a call for tenders with a weighting system. In such a case, the procedure is similar to that of the acquisition of other goods and services, but the weighting system will be added to the awarding process.

That system :

- shall include, in addition to the price, a minimum of 4 evaluation Criteria;
- shall provide for the maximum number of points that can be awarded to a tender, bearing in mind that for each of the criteria other than the price; this number cannot exceed 30 on a total of 100 points that may be awarded to a tender;
- requires that a selection committee be created, comprised of at least 3 members other than council members who must:

- a) evaluate each tender individually without knowledge of the price;
- b) give a number of points to the tender, bearing in mind each criteria;
- c) establish interim points for each tender by adding the points obtained by this one, bearing in mind all of the criteria;
- d) as for the envelopes containing the proposed prices, only those coming from people whose tender was given interim points of at least 70 will be opened, and the others will be returned to sender, without having been opened;
- e) establish the final points for each tender that received at least 70 interim points, by dividing by the proposed price, the sum obtained by multiplying by 10,000 the interim points increased by 50.

The request for tenders or a document to which it is referred to, shall mention all of the requirements and criteria that will be used to evaluate the offers, notably the minimum 70 interim points, as well as the methods of weighting and evaluating offers based on this criteria. The request for tenders or the document, as the case may be, must specify that the tender must be sent in an envelope including all of the documents as well as an envelope containing the proposed price.

Council cannot award the contract to any person other than:

- 1° the one who has, within the deadline, submitted the tender that has obtained the best final points, subject to paragraphs 2° and 3° ;
- 2° in the case where several people are affected by paragraph 1°, the one among them who has the proposed the lowest price, subject to paragraph 3°;
- 3° in the case where several people are affected by paragraph 2°, the one among them who has been selected by random draw.

For the application of paragraph 8 in article 573, the tender of the person who has been selected on the basis of the third paragraph is regarded as the lowest tender.

7. Selection of suppliers

7.1 Awarding of contract

For any acquisition of goods or services that has previously gone through the price comparison process or call for tenders, the municipality, with some reservations (related in particular to the characteristics of the goods or services required and the assessment of suppliers), will proceed with the acquisition from the lowest tenderer. When there is equality in prices, priority will be given to local suppliers, followed by suppliers who have received the best assessment according to list of suppliers, provided that all of the tenderers whose price are equal have had at least one assessment in the past. In ultimate cases, the choice will be established by random draw.

7.2 Criterias for qualification

As mentioned above, the municipality wishes to deal with responsible suppliers.

In that sense, a supplier should meet the following qualification criteria:

- respect all of the provincial and federal laws (business number, CSST contributions, etc.), as well as the admissible municipal by-laws;
- possess the experience, expertise, skills and the means of production and distribution needed to provide the required goods or services;
- supply quality goods or services that meet the required specifications, and within the specified deadlines;
- assume responsibility for their products and services.

These criteria will be taken into account during the suppliers' assessment and could therefore determine the eligibility of certain suppliers for the acquisition of certain goods or services.

7.3 List of suppliers, supplier files and acquisition files

The municipality will draw up a list of suppliers that it deals with. This list will include firstly, all of the local businesses. External suppliers which it has dealt with in the past will be added to this list, as well as those who were invited to submit a proposal or who have tendered at the time of a public call for tenders.

Furthermore, a file will be open, kept and updated for each of the suppliers and each acquisition of \$2,500 and over. The supplier files will include proof for each transaction with the municipality, as well as correspondence, complaints and other pertinent information. Acquisition files will include a copy of the initial cost estimate of the acquisition, the resolution authorizing the expense, the “purchase order” and proof of the bidding process and their results.

7.4 Assessment of suppliers

An assessment system will be introduced, as much for local suppliers as for all suppliers as a whole, with which the municipality deals with. This assessment system will establish a balance in terms of quality of the delivery of goods and services and, when the assessment warrants it, could lead to the temporary or permanent withdrawal of a supplier’s name from the list of municipal suppliers. In such cases, the municipal Council must approve any recommendations in that sense.

As noted above, during an open invitation to tender and when the law and by-laws allow it, all local suppliers will be invited and external suppliers may be approached with those who have the best estimate having priority, until the minimum number of tenderers have been obtained, as provided for by law or by this present policy.

In the case of an acquisition of goods or services by mutual agreement, the same principle applies, if the acquisition cannot be made from a local supplier, the municipality will proceed with the acquisition from an external supplier.

7.5 Rotation system

For the acquisition of goods and services that are not subject to a call for tenders, a rotation system will be introduced to ensure a fair and just distribution of municipal expenses among local businesses.

When the supply of goods or services by local suppliers is done by mutual agreement, a rotation will be done within the goods and services category. The municipality will first of all contact the first local supplier in alphabetical order on the list, and whether there is an acquisition or not, will continue on with the next supplier on the list at the time of the next purchase. In that sense, a supplier who has declined to offer a cost estimate for goods or services will not be approached again until all other suppliers on the list have been approached. After the last supplier on the list, the municipality will start over with the first one, always in alphabetical order. This order will remain from one year to the next.

If a supplier declines to offer a cost estimate several times, his name could be taken off the list indefinitely.

8. **Bid bond**

For the acquisition of goods and services to which the value is \$24,999 or less, a bid bond may be requested.

For the acquisition of goods and services to which the value is \$25,000 and over, a bid bond must be included with the tender. However, the director general (assistant to the director general in his absence), the person in charge of the call for tenders and the director of public works may approve a derogation to this directive.

In all cases, when the specifications in the tender documents require the deposit of a bid bond, the tenders received that do not include the bid bond will automatically be turned down.

9. **Performance bond**

For the acquisition of goods or services to which the value is \$99,999 or less, a performance bond may be required.

For the acquisition of goods or services to which the value is \$100,000 and over, a performance bond will be required.

In all cases when the deposit of a performance bond is required and if it has not been supplied within the requested time limit, this may result in the cancellation of the contract in question or, the municipality may decide to withhold payments to the supplier at fault, equivalent to the amount of the performance bond whose deposit was omitted.

10. Other contract obligations

In all cases where the supplier fails to comply with the contract obligations, this may result in the cancellation of the contract and will be taken into consideration during the assessment of the supplier.

11. Responsibilities

Person responsible for the call for tenders

As identified by the municipal Council, the person responsible for the call for tenders will take charge of the administrative aspect related to acquisitions subject to the bidding process, which includes the drafting of specifications, coordinating the bidding process and analyzing the administrative elements of the tenders. In that sense, all of the calls for tender must be dealt with by the person responsible for the call for tenders.

To be more precise, his/her responsibilities include the following:

- identify the specific needs for the acquisition of goods or services, to be done via a call for tenders, in collaboration with the requesting department;
- prepare in collaboration with the requesting department, the specifications describing the various characteristics of the goods or services required, or validate the specifications when it has been prepared by the requesting department;
- manage the bidding process, including the timetable;
- have the necessary notices published and ensure the distribution of pertinent documents and the dissemination of information, including communications with the tenderers;
- make sure that laws and regulations with respect to the awarding of the contract are enforced and ensure compliance with the present policy;
- evaluate the administrative aspect of tenders received and establish their validity;
- prepare the required documents for granting contracts and convey the requests for information, guidelines and other contract documents;
- ensure the follow-up of contracts with the suppliers (and make sure that contract obligations are met, including the timetable, warranties, deliverables and others);
- ensure verification, in collaboration with the finance department, that the acquisitions of goods and services made in the name of the municipality are done according to the present policy;
- manage a file of suppliers including an assessment system and maintaining it up-to-date, in collaboration with the requesting departments;
- give recommendations to the municipal Council on the process and procurement needs, the follow-up on contracts, the update of the present policy or the withdrawal of suppliers' names' from the list;
- create, keep and maintain up-to-date the list of suppliers, supplier files and acquisition files under his/her responsibility.

The person responsible for the call for tenders may refer to the requesting department to analyze offers or certain elements associated with the follow-up of contract obligations.

Requesting department

The requesting departments, that is, departments of the municipality, through their supervisor or head of department, are responsible for the technical aspects related to the acquisition of goods and services that meet their needs. In this sense, they express the technical elements within the specifications and ensure a technical analysis of tenders. They therefore work closely with the person responsible for the call for tenders when the acquisition of goods or services originating from their department is subject to the bidding process.

More precisely, the responsibilities of the requesting department include the following:

- define their need, and in the case where the acquisition must be done by call for tenders, convey it as well as any other specifications, to the person responsible for the call for tenders;
- proceed with the acquisition of goods and services that does not warrant a call for tenders, in compliance with this present policy;
- take into account in their planning, the inherent delays in the procurement process, notably for the call for tenders;
- collaborate with the person responsible for the call for tenders, in the preparation of specifications, identify suppliers in reference to the written open invitation to tender and the assessment of suppliers;
- inform the person responsible for the call for tenders of any breach of contract obligations by the supplier, so that he/she may carry out any follow-up actions;
- create, keep and maintain the list of suppliers, supplier files and acquisition files under his/her responsibility.

Supervisor in the supply of services

When it comes to supervising in the delivery of goods or supply of services, or for the assessment of a supplier, this responsibility may be shared with the person representing the department for which the request for goods or services in question originated, and the person responsible for the call for tenders.

Respondent to the call for tenders

Although the person responsible for the call for tenders is by default the respondent and therefore the one and only point of contact for tenderers, this responsibility may be shared with a representative of the requesting department, when appropriate. There will therefore be a respondent for each call for tenders, and unless there is shared responsibility established beforehand, all requests for information and answers shall be dealt with exclusively by the respondent dedicated to the call for tenders in question.

In all cases, it is the person responsible for the call for tenders that must ensure the compliance of the specifications and the bidding process, including the awarding of contract. He/she will also be responsible for the follow-up with suppliers with respect to their contract or administrative obligations.

12. Coming into force

The present by-law will come into force in accordance with the law.

EDWARD J. MCCANN
Mayor

SYLVAIN BERTRAND
Director General

Notice of motion given on: May 14, 2013

Adopted on: May 21, 2013

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