



**PROCEDURE FOR RECEIVING AND CONSIDERING  
COMPLAINTS UNDER CONTRACT AWARD**

Mai 2019

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## PROCEDURE FOR RECEIVING AND CONSIDERING COMPLAINTS UNDER CONTRACT AWARD

WHEREAS Bill 108, the Act to promote the oversight of public agency contracts and establishing the Autorité des marchés publics (L.Q. 2017, C. 27), was passed on December 1, 2017;

WHEREAS following this sanction and in accordance with sections 573 to 573.3.4 of the Cities and Towns Act (RLRQ C-19), a municipality must have a procedure for the receipt and examination of complaints arising from the awarding of a contract following a public call for tender, or the awarding of a contract by agreement with a unique supplier involving an expenditure equal to or greater than the minimum threshold request for public tenders;

WHEREAS the Village of Senneville wishes to adopt a procedure for the receipt and examination of complaints made in the context of the award of a contract;

As a result of the above, the Village of Senneville wishes to adopt the procedure below.

### 1. PREAMBLE

The preamble is an integral part of the present proceedings.

### 2. OBJECTIVE OF THE PROCEDURE

The purpose of this procedure is to ensure fair treatment of complaints made to the Village of Senneville through a tendering process or the awarding of a covered contract.

### 3. INTERPRETATION

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

**"Normative framework"**: The by-laws, policies, procedures and resolutions adopted by the council of the municipality.

**"Contract Covered"**: Contract for the performance of work or for the supply of insurance, material, materials or services, including professional services, that the municipality may concludes involving an expenditure equal to or greater than the minimum threshold of a public call for tender.

**"Adjudication Process"**: Any ongoing public call for tender process leading to the award of a covered contract.

**"Award Process"**: Any process to award a contract by agreement with a supplier who, in the opinion of the municipality, is the only one able to provide the materials, equipment or services requested, in accordance with section 573.3.0.0.1 of the Cities and Towns Act.

**"Designated Official"**: The person responsible for the application of this procedure, being the Town clerk or, in his absence, the General manager.

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

#### **4. APPLICATION**

The application of this procedure is entrusted to the designated official.

This person is responsible for receiving complaints and expressions of interest, for performing the necessary verifications and analyzes, and for responding to them within the time required by the Act respecting the Autorité des marchés publics.

#### **5. COMPLAINTS AGAINST A TENDERING PROCESS**

##### **5.1. Interest required to file a complaint**

Only an interested person or group of people interested in participating in an ongoing adjudication process, or their duly appointed representative, may file a complaint about this process.

##### **5.2. Reasons in support of a complaint**

An interested person or group of people interested in participating in the bidding process; or its representative, may file a complaint with respect to this process when they consider that public call for tender documents:

- provide conditions that do not ensure fair or equitable treatment of 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 municipality.

##### **5.3. How and when to report a complaint**

- i. Any complaint must be sent electronically to the designated contact person at the following email address:  
[fcrite@villagesenneville.qc.ca](mailto:fcrite@villagesenneville.qc.ca);
- ii. It must be presented on the form determined by the Autorité des marchés publics available on its website.
- iii. It must be received by the designated official by the deadline for receipt of complaints indicated on the SEAO.

##### **5.4. Content of a complaint**

A complaint must contain the following information:

- Date;
- Identification and contact details of the complainant:
  - Name of the person or legal person interested in submitting a tender
  - Address
  - phone number
  - Email Address
- Identification of the call for tender that is the subject of the complaint:
  - number of the call for tender
  - SEAO reference number
  - title
- Detailed statement of the reasons for the complaint;
- Where applicable, any relevant document supporting the grounds of the complaint;
- Any other information required in the form determined by the Autorité des marchés publics.

### **5.5. Criteria for the admissibility of a complaint**

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

- a) to be transmitted by an interested person within the meaning of Article 5.1;
- b) to be transmitted electronically to the designated official;
- c) to be presented on the form determined by the Autorité des marchés publics pursuant to Article 45 of the Law on the Autorité des marchés publics;
- d) to be received by the designated official on or before the deadline for receipt of complaints indicated on the SEAO;
- e) to relate to a covered contract;
- f) update the content of documents available on the SEAO no later than two (2) days before the deadline for receipt of complaints;
- g) be based on any of the reasons listed in Article 5.2 of this proceeding, any other reason not being considered in the analysis.

### **5.6. Receipt and handling of a complaint by the designated official**

Upon receipt of a complaint, the designated official shall review the complaint in accordance with this disposition. He ensures the interest of the complainant within the meaning of Article 5.1.

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 on the SEAO the receipt of a first complaint. He ensures that the other criteria of admissibility provided in article 5.5 are met.

With the person in charge of the call for tenders or with the requesting service, the designated official must carry out verifications in order to analyze the merits of the reasons alleged in the complaint.

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

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

### **5.7. Decision**

The designated official must forward the decision to the complainant electronically after the deadline for receipt of complaints specified in the SEAO, but no later than three days before the scheduled bid closing date. If necessary, the deadline for receipt of tenders is extended so that a minimum period of seven days remains to run from the date of transmission of the decision. A notice to this effect is published on SEAO.

In cases where more than one complaint for the same call for tender are received, the designated official transmits his decision to each complainant.

The decision rendered must indicate to the complainant that he has three days following receipt of the decision to make a complaint, if any, to the Autorité des Marchés Publics, all in accordance with Article 37. of the Law on the Autorité des marchés publics.

The designated official shall forthwith mention the transmission of the decision on the SEAO.

## **6. MANIFESTATIONS OF INTEREST AND COMPLAINTS ABOUT A PROCESS AWARD**

### **6.1. Reason in support of an expression of interest**

A person may express an interest in a contract that is the subject of a notice of intention when he considers that he is able to realize the contract in accordance with the needs and obligations set out in this published notice on the SEAO.

### **6.2. Modality and deadline for the transmission of an expression of interest**

All expressions of interest must be sent electronically to the designated official to the following email address: [fcrite@villagesenneville.qc.ca](mailto:fcrite@villagesenneville.qc.ca).

It must be received by the designated official no later than the deadline specified in the notice of intent published on the SEAO.

### **6.3. Content of an expression of interest**

The expression of interest must contain the following information:

- Date;
- Identification of the person interested in concluding the contract with the municipality:
  - Name of the interested natural or legal person
  - Address
  - phone number
  - Email Address
- Identification of the Notice of Intent published on SEAO:
  - contract number
  - SEAO reference number
  - title
- 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 an expression of interest**

For an expression of interest to be reviewed by the designated official, it must meet the following conditions:

- a) be transmitted electronically to the designated official;
- b) be received by the designated official by the deadline specified in the notice of intent published in the SEAO;
- c) relate to a covered contract;
- d) be based on the ground listed in Article 6.1 of this procedure

### **6.5. Reception and treatment of the expression of interest**

On receipt of an expression of interest, the designated official shall examine and analyze it in accordance with this provision.

It ensures that the eligibility criteria set out in section 6.4 are met.

With the person responsible for the contract or the requesting department concerned by the notice of intent, the person must carry out checks to ascertain the capacity of the person to carry out the contract in accordance with the needs and obligations set out in the contract in this opinion. In the context of the processing of the expression of interest, the designated official may engage the services of external resources. The designated official must, when the verifications and analyzes carried out demonstrate that the person is able to carry out the contract, accept the expression of interest and recommend not to conclude the contract by mutual agreement. If not, the designated official recommends continuing the process with the unique supplier.

## 6.6. Decision

The designated official 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 formulate, in accordance with Article 38 of the Law, a complaint to the Autorité des marchés publics.

## 7. COMING INTO FORCE AND ACCESSIBILITY

This procedure is effective as of May 25th, 2019.

When it comes into force, the Village of Senneville, in accordance with article 573.3.1.2 of the Cities and Towns Act, makes it accessible by publishing it on its website.

*(Original signed)*

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Julie Brisebois, Mayor

*(Original signed)*

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Francine Crête, Town Clerk