

# **Complaint Examination Procedure for the City of Côte Saint-Luc ("Procedure")**

Approved by Resolution No. 190537 on May 13, 2019

Coming into force on May 25, 2019

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## SECTION 1 | Preamble

The preamble forms an integral part of this Procedure.

## SECTION 2 | Objective of the Procedure

This Procedure is intended to ensure that complaints to the City of Côte Saint-Luc (“City”) are dealt with equitably in the context of the process of adjudicating or awarding contracts.

## SECTION 3 | Interpretation

Unless expressly stated otherwise or resulting from the context or provision, the following expressions, terms and words in this Procedure have the meaning and application assigned to them by this section:

*Designated Contract:* Contract for the performance of work or for the supply of insurance, equipment, materials or services, including professional services, that the City may enter into involving an expenditure equal to or greater than the minimum applicable public tendering threshold.

*Designated official:* Person responsible for the application of this procedure.

*Process of adjudication:* Any ongoing public tender process that is expected to lead to the adjudication of a designated contract.

*Process of awarding:* Any process to award a designated contract by mutual agreement to a supplier who is the only one able to provide the requested materials, equipment or services for a purchase over the public tendering threshold, in accordance with section 573.3.0.0.1 of the *Cities and Towns Act*.

*SEAO:* Electronic tendering system referred to by Article 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 expressions of interest, conducting the necessary verifications and analyses and responding to them within the time limits required by the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* (“Act”).

## SECTION 5 | Complaints regarding the adjudication process

### 5.1 Interest required to file a complaint

Only a person or group of persons interested in participating in an adjudication process that is currently ongoing or their representative may file a complaint with respect to that process.

## 5.2 Grounds for a Complaint

A person or group of persons interested in participating in the adjudication process or their representative may file a complaint with respect to the adjudication process when they consider that the tender documents:

- provide conditions that do not ensure fair or equitable treatment of competitors; or
- provide conditions that do not allow competitors to participate although they are qualified to meet the requirements; or
- provide conditions that do not comply with the normative framework of the City.

## 5.3 Methods and time limit for transmitting a complaint

Any complaint must be transmitted electronically to the designated official at the following e-mail address: [tabramovitch@cotesaintluc.org](mailto:tabramovitch@cotesaintluc.org).

It must be presented using the form determined by the *Autorité des marchés publics (AMP)* on its website.

It must be received by the designated official at the latest by the deadline for receipt of complaints indicated on SEAO.

## 5.4 Content of a complaint

A complaint must contain the following information:

- Date
- Complainant's identification and contact details:
  - Name
  - Address
  - Telephone number
  - E-mail address
- Identification of the tender to which the complaint relates :
  - Tender number
  - SEAO reference number
  - Title
- Detailed statement describing the basis for the complaint;
- If applicable, any document(s) relevant to support the grounds of the complaint;
- Any other information required in the form determined by the *Autorité des marchés publics (AMP)*.

## 5.5 Criteria for admissibility of a complaint

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

- a) Be transmitted by an interested person as per the meaning of Article 5.1;
- b) Be transmitted electronically to the designated official;
- c) Be submitted on the form determined by the *Autorité des marchés publics (AMP)* pursuant to Article 45 of the Act;

- d) Be received by the designated official at the latest by the deadline for receipt of complaints indicated in the SEAO;
- (e) Concern a designated contract;
- (f) Concern the content of the tender documents available on SEAO no later than two (2) days before the deadline for receipt of complaints;
- (g) Be based on one of the grounds listed in section 5.2 of this procedure; other reasons will not be considered in the analysis.

## 5.6 Receipt and processing of a complaint

Upon receipt of a complaint, the designated official shall review it in accordance with this provision.

The designated official shall ensure the interest of the complainant within the meaning of Section 5.1. If he considers that the complainant does not have the required interest, he shall notify the complainant without delay by sending him or her a notice to that effect using the *Notice of required interest* model (Annex 1).

After confirming the complainant's interest, he shall immediately mention the receipt of a first complaint in the SEAO. He shall ensure that the other admissibility criteria outlined in Article 5.5 are met. If he considers that the complaint is inadmissible under section 5.5 (c) of this procedure, he shall promptly notify the complainant by sending a notice to that effect using the appropriate model *Notice of inadmissibility* (Annex 2, Annex 3).

Verifications should be carried out with the person responsible for the tender and/or the operating department in order to analyze the validity of the basis for the complaint. As part of the complaint process, the designated official may engage the services of external resources. If the verifications and analysis undertaken show that the complaint is well-founded, the designated official must accept the complaint and take appropriate measures to resolve it. Otherwise, he must reject the complaint.

## 5.7 Decision

The designated official must transmit the decision to the complainant electronically after the deadline for receipt of complaints indicated on SEAO, but no later than three days before the deadline for receipt of bids. If it is deemed necessary, and the deadline for the reception of bids is extended, this new deadline is published on SEAO. The decision will be formulated using the appropriate model (Annex 4, Annex 5).

In cases where more than one complaint for the same tender is received, the designated official will transmit the decisions at the same time. If necessary, the designated official shall extend the deadline for receipt of tenders so that a minimum period of seven (7) days will remain to be counted from the date of transmission of the decision. This new deadline is published on SEAO.

The decision must indicate to the complainant that they have three (3) days following receipt of the decision to file a complaint with the *Autorité des marchés publics (AMP)* in accordance with section 37 of the Act.

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

## SECTION 6 | Expressions of interest and complaints with respect to a Process of Awarding

### 6.1 Basis for an expression of interest

A person may express an interest regarding a contract that is subject to a notice of intent when they consider themselves capable of executing the contract in accordance with the needs and obligations described in the notice published on SEAO.

### 6.2 Method and time limit for an expression of interest

Any expression of interest must be sent electronically to the designated official at the following email address: [tabramovitch@cotesaintluc.org](mailto:tabramovitch@cotesaintluc.org).

It must be received by the designated official on or before the deadline in the Notice of Intent published on the SAEO.

### 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
  - Address
  - Telephone 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 execute the contract according to the needs and obligations as set out in the notice of intent.

### 6.4 Eligibility Criteria for an expression of interest

In order for an expression of interest to be analyzed by the designated official, it must respect the following conditions:

- (a) Be transmitted electronically to the designated official;
- b) Be received by the designated official no later than the deadline established by the notice of intent published on SEAO;
- (c) Relate to a designated contract;
- (d) Be founded solely on the basis listed in Article 6.1 of this procedure.

### 6.5 Receipt and processing of an expression of interest

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

He shall ensure that the eligibility criteria listed in Article 6.4 are met.

He shall verify with the person responsible for the contract or operating department the notice of intent in order to ensure the person's ability to carry out the contract based on the needs and obligations set out in the notice.

As part 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 analyses carried out show that the person is able to execute the contract, accept the expression of interest and recommend against concluding the contract by mutual agreement. Otherwise, the designated official recommends that the process of awarding the contract be continued with the sole supplier.

### 6.6 Decision

The designated official must electronically transmit the decision to the person who had expressed an interest at least seven (7) days before the date set out 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 to respect it.

The decision must indicate to the person who has expressed an interest that he has a period of three (3) days following receipt the decision to file a complaint with the *Autorité des marchés publics* pursuant to section 38 of the Act.

## SECTION 7 | Coming into force and accessibility

This procedure shall come into force on May 25, 2019.

Upon coming into force, the City of Côte Saint-Luc shall, in accordance with Article 573.3.1.1.3 of the Cities and Towns Act, make it accessible at all times by publishing it on its website.

## ANNEX 1 | Notice of Required Interest

(Sections 5.1 and 5.5(a) of the Procedure)

Date: [specify date]

To: [identify the complainant]

From: [Designated official]

### **SUBJECT: NOTICE – ABSENCE OF INTEREST TO FILE A COMPLAINT**

Please note that after receipt of your complaint dated [specify date] regarding tender [specify number and name], we have determined that you do not have the interest required to file a complaint, since you are not, within the meaning of the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* (L.Q. 2017, c. 27), a person or group of persons interested in participating in an adjudication process that is currently ongoing or their representative.

We will not proceed with the analysis of your complaint.

[Signature of designated official]

## ANNEX 2 | Notice of Inadmissibility

(Section 5.5 (c) of the Procedure)

Date: [specify date]

To: [identify the complainant]

From: [Designated official]

### **SUBJECT: NOTICE – INADMISSIBILITY OF YOUR COMPLAINT**

Please note that following the receipt of your complaint dated [specify date] regarding tender [specify number and name], we must advise you that this complaint is inadmissible because it was not transmitted on the form determined by the Autorité des marchés publics according to section 45 of the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* (L.Q. 2017, c. 27).

Therefore, we did not analyze your complaint.

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

[Signature of designated official]

## ANNEX 3 | Decision - Inadmissibility

(Section 5.5 of Procedure)

Date: [specify date]

To: [identify the complainant]

From: [Designated official]

### **SUBJECT: DECISION – INADMISSIBILITY OF YOUR COMPLAINT**

Please note that following the receipt of your complaint dated [specify date] regarding tender [specify number and name], we proceeded to an analysis of its admissibility. Your complaint is inadmissible for the following reason(s):

- It was not electronically transmitted to the designated official (section 5.5 (b))
- It was not submitted on the form determined by the *Autorité des marchés publics* according to section 45 of the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* (L.Q. 2017, c. 27) (section 5.5 (c))
- It was not received by the designated official by the deadline for receipt of complaints indicated on SEAO (section 5.5 (d))
- It is not in regards to a designated contract (section 5.5 (e))
- It does not concern the contents of the tender documents available on SEAO at the latest two days before the deadline for the receipt of complaints (section 5.5 (f))
- It is not based on one of the grounds listed in section 5.2 of the Procedure (section 5.5 (g))

Therefore, we did not proceed to the analysis of your complaint on its merits.

In the event of disagreement with the present decision, you have a period of three days from the receipt of this letter to file a complaint with the *Autorité des marchés publics*, in accordance with section 37 of the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* (L.Q. 2017, c. 27).

[Signature of designated official]

## ANNEX 4 | Decision – Acceptance of the complaint

Date: [specify date]

To: [identify the complainant]

From: [Designated official]

### **SUBJECT: DECISION REGARDING YOUR COMPLAINT**

Please note that following the receipt of your complaint dated [specify date] regarding tender [specify number and name], it was analyzed and considered to be founded.

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

[Signature of designated official]

## ANNEX 5 | Decision – Rejection of the complaint

Date: [specify date]

To: [identify the complainant]

From: [Designated official]

### **SUBJECT: DECISION REGARDING YOUR COMPLAINT**

Please note that following the receipt of your complaint dated [specify date] regarding tender [specify number and name], it was analyzed and considered to be unfounded. Your complaint is therefore rejected.

The reasons for rejecting your complaint are as follows: [list the reasons for rejection and attach, if applicable, any relevant documentation]

In the event of disagreement with the present decision, you have a period of three days from your receipt of this letter to file a complaint to the *Autorité des marchés publics*, in accordance with section 37 of the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* (L.Q. 2017, c. 27).

[Signature of designated official]