

CONTRACT MANAGEMENT POLICY OF THE MUNICIPALITY OF THE TOWNSHIP OF GORE

Reminder of the statutory obligation under article 938.1.2 of the Quebec Municipal Code.

Municipal code

938.1.2 Municipalities must adopt a contract management policy.

Such a policy is applicable to any contracts, including contracts not referred to in one of the paragraphs of the first subsection of paragraph 1 of the first subsection of article 935 or article 938.0.2

The contract management policy must include :

- 1° measures to ensure that no tenderer or representative of a tenderer has communicated or attempted to communicate with a member of the selection committee in order to influence one of the members concerning the call for tenders for which the tenderer or representative submitted a tender;
- 2° measures to promote compliance with any applicable anti-bid-rigging legislation;
- 3° measures to ensure compliance with the Lobbying Transparency and Ethics Act (chapter T-11.011) and the code of conduct for lobbyists adopted under that Act;
- 4° measures to prevent intimidation, influence peddling and corruption;
- 5° measures to prevent conflict of interest situations;
- 6° measures to prevent any other situation likely to compromise the impartiality or objectivity of the call for tenders or the management of the resulting contract; and
- 7° measures to govern the making of decisions authorizing the amendment of a contract.

Municipalities must make their policy available at all times, by publishing it on the Web site where is published the reference and the hyperlink referred to in the second subsection of Article 961.4.

In the case of non-compliance with one of the measures provided in the policy, Article 938.4 is only applicable to contracts for which the award process had started after the date the measure was provided for in the policy.

2010,c. a.23; 2010,c. 18, a.48.

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INTRODUCTION

The following "Contract Management Policy" is adopted according to **Article 938.1.2 of the Quebec municipal Code (L.R.Q. chapter C-27.1)**

Based on this provision, municipalities must adopt a contract management policy applicable to municipal contracts. The policy must include measures to ensure a fair competition between the people contracting to or wishing to contract with the municipality. The said measures must aim at seven (7) areas of concern clearly identified in this legislation. These areas of concern must cover at least two specific measures.

It should be noted that the purpose of this policy is not to replace, modify or improve any legislation or judicial rule applicable in term of granting or managing municipal contracts.

MEASURES FOR MAINTAINING A HEALTHY COMPETITION

1. **Measures to ensure that any bidder or its representative did not communicate or try to communicate, in order to influence, with one of the selection committee members about the call for tenders for which a tender was presented**
 - a) The council delegates to the general manager the power to form any selection committee needed to receive, study the received tenders and draw appropriate conclusions.
 - b) Any selection committee must be put together before the call for tenders and must include at least three members.
 - c) Any council member, employee or agent thereof must preserve at all times the confidentiality of the identity of the members of the selection committee.
 - d) When a call for tenders requires the creation of a selection committee, the tender documents must contain provisions to the following effects:
 - Any bidder shall submit with its bid a statement that neither he nor any representative communicated or tried to communicate, in order to influence, with a member of the selection committee.
 - If a bidder or one of its representatives communicates or tries to communicate, in order to influence, with one of the members of the committee, its bid will be automatically rejected.

2. Measures to promote compliance with applicable laws designed to fight against bid-rigging

- a) Any bidder shall submit with its bid with a statement that the bid was prepared and deposited without any collusion, communication, agreement or arrangement with any other bidder or person to agree on prices to be submitted or to influence the submitted prices. Failure to produce this statement will result in the rejection of the bid.
- b) A provision must be included in the tender call documents, providing that if a bidder as engaged in collusion, a communication or has made an agreement or arrangement with another bidder or a competitor, to influence or fix the submitted prices, its bid will be automatically rejected.

3. Measures to ensure compliance with the Lobbying Transparency and Ethics in Lobbying and Lobbyist Code of conduct made under that Act

- a) Any council member or any employee must make sure that any person contacting him for the purpose of obtaining a contract is registered under the Lobbyist Register provided by the Lobbying Transparency and Ethics in Lobbying Act.
- b) Any bidder shall submit with its bid a statement certifying that neither he nor any representative used influence to obtain the contract, or, if such influence occurred, join to its bid a declaration to the effect that the said communication was done after any registration according the Law of Lobbyist Register was made.

4. Measures aimed at preventing acts of intimidation, influence peddling or corruption

- a) The municipality must, in the case of written tender invitations, encourage as much as possible the invitation of different companies. The identity of the invited people can't be made public until the tender opening.
- b) Any bidder must submit with its bid a statement that neither he nor any collaborator or employee used intimidation acts, influence peddling or corruption.
- c) Any tender call shall indicate that if a person has engaged in one of the acts mentioned in the above paragraph, its bid will be automatically rejected.

5. Measures aimed at preventing conflicts of interest

- a) Any person involved in the development, the implementation or monitoring of a tender call or a contract, as well as the secretary and the members of the selection committee which ever applies, must declare any conflict of interest or potential conflict of interest.
- b) A person in a conflict of interest may not participate in the development, implementation or monitoring of a tender or contract.
- c) Any bidder shall submit with its bid a statement that there was no link susceptible of causing a conflict of interest because of its link with a member of the council or an official.

6. Measures aimed at preventing any other situation that could compromise the impartiality and objectivity of the tender call process and the management of the resulting contract

- a) For each tender call, a tender call officer is identified and given the mandate to supply any information concerning the tender call. It is provided in any tender call document that any potential bidder or any bidder must only refer to this officer to obtain any clarifications regarding the tender call.
- b) During a tender call, it is forbidden for any member of the council and to any municipal employee to answer any request for clarifications regarding a tender call other than by referring the applicant to the officer in charge.

7. Measures aimed at regulating the taking of any decision to authorize the amendment of a contract

- a) The municipality must, in all contracts, establish a procedure governing any authorization of the contract modification and provide that such modification is only possible if it is ancillary to the contract and does not change its nature.
- b) In all tender documents the municipality must provide sight meetings on a regular basis during the execution of the work in order to monitor contract performance.