



BY-LAW 624-2021

which modifies By-law (571-2019) regarding contractual management to specify the measures favouring Quebec purchases, allowing the forwarding of offers electronically and specifying the terms for the principle of rotating suppliers

EXPLANATORY NOTE

The present by-law modifies By-law (571-2019) regarding contractual management to correct the titles of chapters 4 and 5. It adds provisions regarding the terms for applying the principle of rotation pertaining to the granting of contracts by mutual agreement.

It allows for the submission of bids electronically as per the specified terms.

It integrates mandatory modifications decreed by draft By-law 67, Act to establish a new development regime for the flood zones of lakes and watercourses, to temporarily grant municipalities powers enabling them to respond to certain needs and to amend various provisions, (LQ, 2021, chapter 7) regarding measures for Quebec purchases to grant a contract which pertains to an expense inferior to the expenditure threshold which can only be awarded by a public call for tenders.

It specifies that these measures, in accordance to the Law, become valid and in effect until June 25th, 2024.

The measures for Quebec purchases included in this By-law will assist in guiding the decision making and the contents of the tender for construction, procurement, insurance and service contracts favouring Quebec goods and services as well as suppliers, insurers and contractors established in Quebec.

Finally, it corrects certain syntax errors and adds two definitions.

WHEREAS THAT the Act to establish a new development regime for the flood zones of lakes and watercourses, to temporarily grant municipalities powers enabling them to respond to certain needs and to amend various provisions (LQ, 2021, chapter 7) entered into effect on June 25th, 2021;

CONSIDERING Article 938.1.2.0.1 of the Municipal Code (RLRQ, ch. C-27.1) regarding responsible procurement;

CONSIDERING Article 936.0.4.1 of the Municipal Code regarding the derogation to the non-discrimination principle between tenderers;

CONSIDERING By-law (571-2019) regarding contractual management;

WHEREAS THAT a notice of motion was given by Councillor Leigh MacLeod at the regular Council meeting of July 14th, 2021 and that this draft by-law was presented and explained;

CONSEQUENTLY, the municipal council decrees the following :

CHAPTER 1 : INTRODUCTORY PROVISIONS

1. **Goal** – The goal of the present by-law is to make legal adjustments to the actual by-law and adjust the threshold for public call for tenders as decreed by the government's by-law.

2. **Objective** – The provisions of the by-law must be interpreted in order to favour the coherency of the present by-law with the provisions of the Act to establish a new development regime for the flood zones of lakes and watercourses, to temporarily grant municipalities powers enabling them to respond to certain needs and to amend various provisions (LQ, 2021, chapter 7) regarding the measures for Quebec purchases for the signing of contracts having an expense inferior to the expense threshold which can only be allocated by a public call for tenders.

This by-law also completes the existing provisions regarding the rotation of suppliers when granting mutual agreement contracts.

CHAPTER 2 : AMENDING PROVISIONS

3. **Title of chapter 4** – The title of chapter 4 is modified with the addition of, at the end of the title, « AND FOR CALL FOR TENDERS BY INVITATION ».

4. **Title of chapter 5** – The title of chapter 5 is modified with the addition of, at the end of the title, « PUBLIC ».

5. **Syntax correction in Article 9** – The fourth line of Article 9 is modified with the removal of commas and the addition of the work « and » after the word « by-law ».

6. **Forwarding of offers electronically** – Chapter 6 of the By-law is modified with the addition of the following, after Article 20 :

« 20.1 **Forwarding of offers electronically** – Any offer prepared as per a public or by invitation call for tenders may be forwarded electronically.

The tenderer must prove that the offer was forwarded within the stipulated timeframe.

20.2 **Acknowledgement of receipt of an offer forwarded electronically** – When an offer is received electronically, the Municipality immediately forwards an acknowledgement of receipt electronically. ».

7. **Definition of « Municipality »** - Article 3 is modified with the addition of, after the definition of the word « Employee », by the following definition: « « Municipality » designates every municipal department or administrative unit which must proceed with the supply or purchase of goods or a service from Quebec. ».

The first paragraph of the same Article is modified with the replacement of the expression « that a provision » by « that the context ».

CHAPTER 3 : MEASURES AIMED AT FAVOURING QUEBEC PURCHASES

8. **Definition of the expression « established in Quebec »** - Article 3 of the By-law is modified with the addition of, after the word « words », « and the expressions ».

This same Article is once again modified with the addition of, after the definition of the expression « Call for tenders », by the following expression : « « Have an establishment in Quebec » every location where a supplier, an insurer or a contractor exercises his activities permanently which is clearly identified in his name and accessible during regular business hours. » ».

9. **Measures aimed at favouring Quebec purchases** – Chapter 4 of the By-law is modified with the addition of the following, after Article 9:

« 9.1 **General rule** – Without restricting the rules and measures stipulated with regards to the rotation of suppliers specified in the present by-law as per the granting of any contract involving an expense inferior to the threshold decreed for the expense for a contract which cannot be allocated until after a public request for bids, the Municipality may favour Quebec goods and services as well as suppliers, insurers and contractors which are established within Quebec.

9.2 **Quebec goods and services** – Are considered goods and services, those having been mainly designed, made and assembled or fabricated within an established located in Quebec, as per Article 3.

9.3 **Measures to be applied** – For the purpose of applying Chapter 4, the following measures must be applied:

- a) At the time of identifying the purchase or procurement needs, the Municipality identifies the available Quebec goods or services;
- b) For every contract having an expense inferior to the expense threshold for a contract which cannot be allocated until after a call for public tenders, the Municipality must invite at least two bidders established on its territory or within the MRC des Pays-d'en-Haut;
- c) Regarding the contracts that are determined, for the purpose of identifying the suppliers established within the territory of the MRC des Pays-d'en-Haut, the Municipality may prepare a list of suppliers and, if necessary, the rotation between the suppliers included on this list must be favoured;
- d) For contracts granted by mutual agreement, when the price is submitted by a company which is established in Quebec presents a difference of less than 10% with the lowest bid, the Municipality must favour the granting of the contract to the Quebec business on the condition that the applicable provisions regarding this contract cannot be allocated until after the call for public tenders. ».

10. **Rotation mechanism** – Chapter 4 is modified with the addition of the following, after Article 7 :

« 7.1 **General rules** – When granting the contract stipulated by the present Article, the Municipality notably considers the principles and measures stipulated pertaining to the rotation of potential suppliers and more specifically detailed in Articles 7.2 and 7.3 of the By-law, conditional to the necessary adjustments for local purchases.

7.2 **Considerations regarding matters of rotation** – The Municipality favours, when possible, the rotation amongst potential suppliers when contracts cannot be granted by mutual agreement as per Article 6.

The Municipality considers the following principles when making a decision in this regard :

- a) the degree of necessary expertise;
- b) the quality of work, services or material already provided or delivered to the Municipality;
- c) the delays inherent to the execution of the work, to the supply of material or providing the service;
- d) the quality of goods, services or work to be done;
- e) the terms of delivery;
- f) the maintenance services;
- g) the required experience of financial capacity;
- h) the price competitiveness, taking into account the complete market conditions;
- i) the fact that the supplier is established on the Municipality's territory;
- j) any other criteria regarding the market.

7.3 **Implementation of the rotation** – For the purpose of implementing the rotation stipulated in Article 7.2, the Municipality applies the following measures, whenever possible unless under particular circumstances:

- a) the potential suppliers are identified before granting the contract and should the Municipality's territory have more than one supplier, this identification may be limited to this last territory or, if necessary, the territory of the MRC or of any other geographical region which will be deemed pertinent taking into account the nature of the contract to be entered into;
- b) once the supplier will have been identified and considering the principles stipulated in Article 9, the rotation between them must favoured unless there are motives linked to a healthy;
- c) the Municipality may proceed with a call for interest in order to find out if the susceptible suppliers meet its needs;
- d) unless under particular circumstances, the person in charge of managing the contract must complete, whenever possible, the analysis form found in Annex 4;
- e) for categories of contracts which are determined, for the purpose of identifying potential suppliers, the Municipality may also prepare a list of suppliers and rotate between suppliers included on the list if necessary must be favoured conditional to the specifications stipulated in paragraph b) of the present Article.

CHAPTER 4 : FINAL PROVISIONS

11. **Entering into effect and duration of Articles 9.1 to 9.3** – Article 34 of the By-law is modified with the addition of the following paragraph, after the first paragraph:

Articles 9.1, 9.2 and 9.3 will no longer be in effect as of June 25th, 2024. ».

12. **Entering into effect** – The present by-law enters into effect in accordance to the Law.

Timothy Watchorn	Michel Grenier
Mayor	Director, Finance and Administration