



Town of Kirkland

Annual Report on the Application of the Contract Management By-Law Year 2022

**Tabled at the Sitting of the Municipal Council
on March 6th, 2023**

1. Preamble

Article 573.3.1.2 of the *Cities and Towns Act* (“CTA”) as well as article 45 of By-Law No. GEN-2019-52 entitled “*By-Law Concerning Contract Management*”, adopted on January 14th, 2019 (hereinafter the “**By-Law**”) provide that, no later than April 1st of each year, a report on the application of the By-Law in the previous year and on the advisability of amending it shall be tabled at a sitting of the Municipal Council.

2. Purpose

The purpose of this report is to increase the transparency of the Town’s contract management process and to inform citizens regarding the application of the measures provided for in the By-Law.

3. Amendments to the By-Law

No amendments were made to the By-Law in 2022.

4. Application of the Measures Provided For in the By-Law

4.1 Measures to ensure compliance with any applicable anti-bid-rigging legislation

Article 19 of the By-Law provides that any elected office holder or employee shall report to the City Manager any situation of collusion, bid-rigging, influence peddling, intimidation, or corruption that they have witnessed or been advised of. Article 38 of the By-Law also provides that any person who witnesses the commission of an act that in that person’s opinion contravenes the applicable laws governing collusion and bid-rigging, influence peddling or corruption, or constitutes intimidation, or which in that person’s opinion contravenes a provision of the By-Law or any tender documents, must advise the Town without delay.

Finally, in accordance with Article 14 of the By-Law, bidders are required to complete the Attestation of Independent Bid Preparation provided in Annex A of the By-Law and to submit it duly signed.

4.2 Measures to ensure compliance with the *Lobbying Transparency and Ethics Act* and the *Code of Conduct for Lobbyists*

Article 11 of the By-Law provides, inter alia, that an elected office holder or employee shall verify if the person seeking to influence them (the lobbyist) is registered in the registry of lobbyists and if the registration (indicating the mandate and object of the activities) faithfully reflects that person’s lobbying activities with such elected office holder or employee.

Article 14 of the By-Law provides that, by submitting a tender to the Town, the bidder solemnly affirms that there has not been and that there will not be any influence communication, including by a person registered as a lobbyist, during the bidding period.

4.3 Measures to prevent acts of intimidation, influence peddling or corruption

In addition to what is provided for in Articles 19 and 38 of the By-Law, the identity of bidders is never disclosed before the opening of the bidding, and the names of the members of a selection committee are kept confidential.

4.4 Measures to prevent conflict of interest situations

Article 6 of the By-Law provides that any person involved in the contract management process on behalf of the Town must avoid placing themselves in situations likely to require that they choose between their personal interests and the interests of the Town. In such situations, they shall declare their interests and refrain from participating directly or indirectly in the contracting process. Article 18 of the By-Law provides that any elected office holder or employee likely to be involved in any manner whatsoever in a contracting process must declare any potential conflict of interest situation.

Before taking office, members of a selection committee and the secretary of the selection committee shall complete and submit the declaration provided in Annex C or Annex D of the By-Law. This declaration provides in particular that the selection committee members shall evaluate each submitted bid impartially, without favour or consideration, and in accordance with the governing rules of ethics, and that they shall individually evaluate the quality of each of the conforming bids submitted, prior to the selection committee's review.

The members of the selection committee and the selection committee secretary must also declare that they will not, under any circumstances, disclose the mandate entrusted to them by the Town, that they will keep the deliberations a secret and take all the appropriate precautions to avoid placing themselves in a potential conflict of interest situation, and that they have no direct or indirect interest in the call for tenders. Failing this, they formally undertake to declare their interest and terminate their mandate.

4.5 Measures to prevent situations likely to compromise the impartiality or objectivity of the call for tenders and the management of the resulting contract

Article 13 of the By-Law provides that during the bidding period, no prospective bidder and no person acting for the bidder shall communicate with any person regarding the call for tenders

other than the Town's representative(s) designated for that purpose in the general specifications of the tender documents.

In general, all questions and e-mails are directed to one person in the Procurement Department in order to avoid any confusion or differing interpretations. Suppliers are prohibited from communicating with other managers.

4.6 Measures to govern the making of decisions authorizing the amendment of a contract

Article 8.1 of By-Law No. 2013-52, entitled "*Internal By-Law of the Municipal Council Pertaining to the Delegation of Powers in Matters Relating to Contracts and to Human Resources*", provides for a procedure for modifying a contract. The power to authorize any modification to an already awarded contract may be exercised when this modification is an accessory to the contract and does not change its nature. Furthermore, all employees shall comply with Articles 2 and 9 of By-Law No. 2013-52, which establish the maximum amounts of a delegated expense and provide for the application of the By-Law at all times.

5. Statistics on Contracts Entered Into for the Period from January 1st to December 31st, 2022

The Town can enter into contracts using three main methods of solicitation: a contract entered into by mutual agreement, a contract awarded following a call for tenders by invitation, or a contract awarded following a public call for tenders. In order to determine the applicable method of solicitation, the Town takes into consideration the total estimated amount of the contract.

a) Group purchasing

We have mandated the UMQ, the City of Montreal and the Centre d'acquisitions gouvernementales (formerly the CSPQ) for several mandates, including:

- ✓ Supply and spreading of de-icing salt;
- ✓ Supply of tires;
- ✓ Supply of fuel;
- ✓ Supply of desktop computers, laptops, software, servers, and electronic tablets;
- ✓ Office and printer supplies;
- ✓ General insurance services;
- ✓ Group insurance services.

b) **Table:** Summary of contracts awarded for the year 2022 by awarding method and value of contracts with an expenditure of \$25,000 or more.

Type of Contract	Nature of Contract	Number of Contracts	Value of Contracts
Mutual Agreement Contract	Supply (goods)	9	\$343,082
Mutual Agreement Contract	Technical Services	4	\$261,261
Mutual Agreement Contract	Professional Services	1	\$37,712
Mutual Agreement Contract	Construction Services	2	\$78,403
Call for Tenders by Invitation	Supply (goods)	2	\$170,627
Call for Tenders by Invitation	Technical Services	6	\$229,688
Call for Tenders by Invitation	Professional Services	2	\$117,119
Public Call for Tenders	Supply (goods)	5	\$980,475
Public Call for Tenders	Technical Services	5	\$813,364
Public Call for Tenders	Professional Services	2	\$300,679
Public Call for Tenders	Construction Services	10	\$7,249,732

6. Exemptions to the Rules Governing the Awarding of Contracts

In 2022, no exemption was made by the Town to the rules of the By-Law governing the awarding of contracts.

7. Complaints and Sanctions

In 2022, no complaints were received and no sanctions were imposed regarding the application of the By-Law.

8. Contract Management Best Practices

The Town has put in place best practices for contract management, in particular:

- The Town has put in place measures to promote rotation among prospective contracting parties. The Town aims for the participation of the greatest possible number of companies from among those able to meet its requirements by promoting rotation between potential contracting parties whenever possible. Such rotation must not compromise the sound management of public expenditures;
- Verifications in the Register of Enterprises Ineligible for Public Contracts (RENA) are carried out before awarding any contracts;

- Bids received are verified and analyzed as to the eligibility of the bidders and the compliance of the bids. Bids deemed non-compliant are documented as such;
- The Town has put in place a process for evaluating the performance of contracting parties;
- Cost overruns and other modifications to contracts are authorized only when they are accessory to the initial contract and when they concern elements that could not be foreseen at the time the contract was awarded. Depending on the amount of the additional expenses, such expenses are either authorized by employees with the delegated authority to authorize expenses in accordance with By-Law No. 2013-52, or by the Municipal Council, as the case may be.

Report tabled at the Public Sitting of March 6th, 2023.

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