



PROVINCE OF QUÉBEC
CITY OF BEACONSFIELD

BY-LAW BEAC-140
BY-LAW CONCERNING CONTRACT MANAGEMENT

Adopted at the regular Council
meeting held on July 12, 2021



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At a regular Council meeting of the City of Beaconsfield, held at the Council Chamber, 303 Beaconsfield Boulevard, Beaconsfield, Québec, on Monday, July 12, 2021, at 8 p.m.;

WERE PRESENT: His Honour the Mayor Georges Bourelle, Councillors Dominique Godin, Karen Messier, Robert Mercuri, David Newell and Roger Moss

WHEREAS the Contract Management Policy was adopted by the Council of the City of Beaconsfield on December 20, 2010, and revised on March 24, 2014, in accordance with section 573.3.1.2 of the Cities and Towns Act;

WHEREAS according to section 278 of *An Act mainly to recognize that municipalities are local governments and to increase their autonomy and powers, all contract management policies adopted under section 573.3.1.2 of the Cities and Towns Act shall be deemed to be by-laws on contract management adopted according to same section as amended by the said Act*;

WHEREAS section 124 of *An 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* (S.Q. 2021, Chapter 7) provides that for a period of three (3) years, from June 25, 2021 to June 25, 2024, municipalities must include in their contract management by-law measures to promote Quebec businesses for all contracts involving an expenditure below the expenditure threshold for a contract that may be awarded only after a public call for tenders;

WHEREAS the City wishes to modify its contract management policy, deemed to be a by-law on contract management, in order to incorporate the new requirement to promote Quebec businesses;

WHEREAS a draft by-law was filed and a notice of motion of the present by-law was given at the regular meeting held on June 14, 2021;

On motion of Councillor Roger Moss, seconded by Councillor Robert Mercuri and UNANIMOUSLY RESOLVED:

THE MUNICIPAL COUNCIL OF THE CITY OF BEACONSFIELD ENACTS AS FOLLOWS:

Division I: General provisions

SECTION 1 PURPOSE – The City of Beaconsfield hereby establishes in this by-law various rules pertaining to contract management with a view to promoting transparency, fairness, integrity and sound contract management, in the best interests of the community. This by-law also promotes competition with a view to obtaining the best possible prices, while specifically taking into consideration the quality of goods and services offered, delivery deadlines and supplier reliability.

SECTION 2 SCOPE – Subject to the provisions of the *Cities and Towns Act*, this by-law applies to all contracts entered into by, and that result in an expenditure for, the City. This by-law is binding on the municipal administration and its mandataries and all bidders or parties contracting with the City.



SECTION 3 OBJECTIVES – Pursuant to the provisions of the *Cities and Towns Act*, the City hereby implements various measures to achieve the following:

- i) Ensure compliance with any applicable anti-bid-rigging legislation;
- ii) Ensure compliance with the *Lobbying Transparency and Ethics Act* (R.S.Q., chapter T-11.011) and the *Code of Conduct for Lobbyists* adopted under that Act;
- iii) Prevent intimidation, influence peddling and corruption;
- iv) Prevent conflict of interest situations;
- v) Prevent any other situation likely to compromise the impartiality or objectivity of the call for tenders process or the management of the resulting contract;
- vi) Ensure that no bidder or representative of a bidder has communicated or attempted to communicate with a member of the selection committee in order to influence the member concerning the call for tenders for which the bidder or the representative has submitted a bid;
- vii) Govern the decision-making process authorizing the amendment of a contract.

SECTION 4 DEFINITIONS – in applying this by-law:

"Administration" means an elected official, officer or employee of the City;

"Bidder" means an executive officer, director, shareholder or employee of a company and any other mandatary of that company who participates in a call for tenders process.

"Mandatary" means a person to whom the City authorizes to represent it in accomplishing a legal act with a third party and who, by this acceptance, obliges himself or herself to act.

Division II: Obligations of the administration and its mandataries
Subdivision I: Provisions applicable to the administration and its mandataries

SECTION 5 ETHICS – The administration and its mandataries hereby undertake with bidders and contracting parties to:

- i) Treat all participants fairly;
- ii) Ensure transparency of the contracting process;
- iii) Avoid all conflicts of interests and all situations that could provide personal advantage or gain;
- iv) Refrain at all times from using their position to promote the awarding of a contract to a particular bidder;
- v) Conduct themselves with integrity and honesty;
- vi) Apply this by-law in the best interests of the City.

SECTION 6 CONFIDENTIALITY – The administration and its mandataries must, in any call for tenders or contract award process, conduct themselves with absolute discretion and preserve the confidentiality of information disclosed to them regarding such process. Specifically, they must at all times refrain from disclosing information revealing the number and identity of the persons who have submitted a tender or who requested a copy of the invitation to tender, of a document to which it refers or of an additional document related thereto, until the opening of tenders.



A City mandatary responsible for drafting one or more documents used in a call for tenders or who assists the City in such process must also keep confidential the work carried out in connection with his or her mandate.

SECTION 7 SITE VISIT AND INFORMATION SESSION – If a site visit or an information session is necessary, the person in charge shall arrange for individual site visits or information sessions with each bidder. Such visits or sessions shall be arranged on an appointment basis and a schedule shall be established to ensure that bidders do not meet.

All pertinent questions asked by a bidder during a site visit or information session shall be noted and communicated to the relevant municipal departments. The questions and answers thereto shall be provided to all bidders.

It is forbidden to organize group site visits or information sessions with more than one bidder.

SECTION 8 DECLARATION REGARDING PERCEIVED CONFLICTS OF INTEREST – Where an officer or employee considers that he or she has a relationship that may be perceived as conflicting with the interests of a potential bidder in a call for tenders, negotiation or contract award process by agreement, in which that officer or employee is involved, then the officer or employee must immediately inform the Director General.

SECTION 9 GIFTS AND OTHER BENEFITS – The administration and its mandataries must refuse all gifts or other benefits offered by a company or a supplier or their representatives in a call for tenders or contract award process.

Subdivision II: Provisions applicable to selection committees

SECTION 10 SELECTION COMMITTEE – Where a tender weighting and assessment system is used, the selection committee shall be constituted before commencement of the call for tenders process. The Director General shall appoint the members of the committee in accordance with **BEAC-030, the by-law on delegation of power.**

The Assistant City Clerk or his or her delegate shall sit *ex officio* on all selection committees as secretary. He or she shall assist, supervise and ensure the proper conduct of the committee's work, without participating in committee deliberations or vote.

Each member of the selection committee shall individually analyze the quality of each tender received in accordance with the evaluation criteria in the call for tenders documents, without knowing the price, unless the weighting grid provided in the call for tenders documents includes the price with the evaluation criteria.

SECTION 11 CONFIDENTIALITY – During the call for tenders process, the identity of the selection committee members must be kept confidential by the administration.

SECTION 12 Member's declaration – A member of a selection committee or the secretary must immediately advise the Director General if he or she has a relationship that may be perceived as a conflict of interests with one or more bidders, regardless of whether this relationship is of a familial, financial or of any other nature.

Division III: Obligations of bidders or contracting parties

SECTION 13 DECLARATION REGARDING MEASURES TO PREVENT INTIMIDATION, INFLUENCE PEDDLING OR CORRUPTION – During a call for tenders process, a bidder must sign the declaration that forms an integral part of the call for tenders documents attesting to the following:



- i) At the time of depositing the bid, and to the best of his or her knowledge, he or she did not have any familial, financial or other ties likely to create a perceived conflict of interest, directly or indirectly, with one or more members of the municipal administration;
- ii) That he or she has not influenced or otherwise participated in the development of the specifications or standards for the purpose of obtaining an advantage or limiting competition;
- iii) That during the call for tenders process, he or she did not attempt to communicate with the members of the administration involved in the tendering process, including the members of the selection committee, for the purpose of influencing them in their consideration, appreciation or recommendation respecting the awarding of the contract that was the subject of the process;
- iv) That he or she has generally satisfied each and every requirement stipulated in the Act and in this by-law;
- v) That his or her tender was established without collusion and that there has been no communication, agreement, or arrangement with a competitor regarding prices, methods, factors, or formulas used to calculate prices, regarding whether or not to submit a tender, or regarding or not the submission of a tender that does not meet the specifications of the call for tenders;
- vi) That in the three years (3) preceding the call for tenders he or she was never convicted of an infraction to a law regarding bid-rigging.

SECTION 14 BIDDER'S UNDERTAKING – During the call for tenders process, a bidder or a contracting party undertakes for itself and its sub-contractors, not to use the services of any person who has obtained privileged information related to the development of the call for tenders for which he is bidding or who has participated in it. .

SECTION 15 GIFTS AND OTHER BENEFITS – The bidder or contracting party is prohibited from offering a gift or other benefit to a member of the administration or to any of its mandataries in a call for tenders or contract award process.

SECTION 16 LOBBYING ACTIVITIES – A bidder or contracting party shall respect the *Lobbying Transparency and Ethics Act* (R.S.Q., chapter T -11.011) in its communications with the administration or its mandataries.

The arranging by a lobbyist of a meeting between a public office holder and any other person is considered to be a lobbying activity.

SECTION 17 EXCEPTIONS – The following do not constitute lobbying activities:

- i) The response by a bidder or a contracting party to a request from a member of the administration or one of its mandataries, including submissions made in response to a call for public tenders issued under the City's authority;
- ii) Communications for the sole purpose of inquiring as to the nature or scope of the rights or obligations of a client, a company or a group pursuant to the law.

SECTION 18 DECLARATION REGARDING LOBBYING – A bidder or contracting party must declare that, if any communications took place in order to influence the securing of a contract, they took place in compliance with the *Lobbying Transparency and Ethics Act* (R.S.Q., chapter T- 11.01), with the *Code of conduct for Lobbyists* and opinions issued by the Lobbyists Commissioner.



Division IV: Contracts

Subdivision I: Provisions applicable to all contracts

SECTION 19 CONTRACT MANAGEMENT – An amendment to a contract is permissible if it is ancillary to the contract, does not change the nature thereof, and is not an element that predictably would be included in the initial contract.

Notwithstanding the foregoing, an amendment resulting in an additional expenditure must be justified, in writing, by the person in charge of the contract or the person who can approve the expenditure and it must be authorized in accordance with the applicable rules.

No project, requirement or order may be split up or apportioned in order to prefer a contracting party, be exempted from a control procedure or avoid an obligation stipulated in this by-law.

Subdivision II: Special provisions applicable to contracts for more than \$25,000

SECTION 20 CALL FOR TENDERS – For a contract award process involving a value greater than \$25,000 but less than \$105,700 (indexed according to Cities and Towns Act), the call for tender documents shall be provided by the person designated by the administration to the prospective bidders that he or she determines.

For a contract award process involving a value greater than \$105,700 (indexed according to Cities and Towns Act), the call for tender documents shall be provided by the *Système électronique d'appel d'offres* (SEAO), Québec's electronic bid system.

Subdivision II.a : Local purchasing

SECTION 20.a. QUEBEC GOODS AND SUPPLIERS - Subject to sound management reasons, in the context of any contract award that involves an expenditure below the threshold for contracts subjected to a call for public tender, the City promotes goods and Quebec services, as well as suppliers, insurers and contractors who have an establishment in Quebec.

In addition, in the context of a call for competition, the holder of a public office may promote any Quebec good and service and take into consideration the origin of the goods and said suppliers, in order to determine the best value for money.

An establishment in Quebec, within the meaning of this section, is any place where a supplier, an insurer or a contractor carries out his activities on a permanent basis which is clearly identified with his name and accessible during normal office hours.

Quebec goods and services are goods and services for which the majority of their design, manufacture, assembly and production is carried out mainly from an establishment located in Quebec

In accordance with section 124 of an 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, this subdivision will remain in effect for a period of three (3) years, until June 25, 2024.



SECTION 21 DOCUMENTS – Call for tender documents must be prepared with the objectives of fairness, impartiality and clarity. All available information concerning a call for tenders must be impartially and uniformly accessible to all prospective bidders.

SECTION 22 GROUP PURCHASING – The City shall promote, where appropriate to the nature of the contract to be awarded, the use of a group purchasing system to procure goods and services insofar as such a system exists or where the City is working with other cities to implement such a system.

Division V: Administrative provisions

SECTION 23 DIRECTOR GENERAL – The Director General is responsible for overseeing the application of this by-law and compliance therewith. He or she shall inform every person in administration who performs one or more tasks related to awarding or managing municipal contracts of the rules established hereunder.

SECTION 24 REPORTING – Every member of the administration has the duty to report to the Director General any situation, conduct or action that could compromise the integrity of a contract award process. Any person may report such a situation to the complaints handling coordinator of the *Ministère des Affaires Municipales, des Régions et de l'Organisation du territoire*.

SECTION 25 SANCTIONS FOR THE ADMINISTRATION – All members of the administration must respect the rules set out in the present by-law, or be sanctioned according to the *Cities and Towns Act*.

SECTION 26 SANCTIONS RESPECTING THE BIDDER – A bidder who, directly or indirectly, breaches any of its obligations imposed under this by-law may have his tender rejected if justified by the seriousness of the breach complained of.

The bidder's name may also be removed from the list of suppliers of the City constituted for the granting of contracts on a discretionary or by-invitation basis, for a maximum period of three (3) years.

SECTION 27 SANCTIONS RESPECTING THE MANDATARY – The City may unilaterally terminate the contract of a mandatary who breaches this by-law, in addition to imposing any penalty that may be stipulated in the contract binding on the City.

The mandatary may also be removed from the list of suppliers of the City constituted for the granting of contracts on a discretionary or by-invitation basis, for a maximum period of three (3) years.

SECTION 28 COMING INTO FORCE This by-law shall come into force according to law with retroactive effect as of June 25, 2021.

MAYOR

CITY CLERK