



Town of Kirkland

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

Year 2023

Tabled at the Sitting of the Municipal Council

on March 4th, 2024

1. Preamble

Article 573.3.1.2 of the *Cities and Towns Act* (C.T.A.) as well as the Town of Kirkland's By-Law No. GEN-2019-52, the *By-Law Concerning Contract Management*, adopted on January 14th, 2019 ("**Contract Management By-Law**"), provide that an annual report regarding the application of the Town's Contract Management By-Law 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 its Contract Management By-Law.

3. Amendments to the Contract Management By-Law

The following amendments were made to the Town of Kirkland's By-Law Concerning Contract Management No. GEN-2019-52, and to the Town's By-Law Pertaining to the Delegation of Powers No. 2013-52-7.

- Amendment of Articles 20 and following of the Contract Management By-Law in order to better describe the competitive bidding mechanisms for an expenditure of \$25,000 or more but not exceeding the threshold for public calls for tenders, namely, request for quotations, call for tenders by invitation and public call for tenders;
- Clarifications on the applicable publication deadlines and on the tabling of this annual report;
- Addition of a clause pertaining to accessible procurement;
- Amendment of Article 9 of the By-Law Pertaining to the Delegation of Powers in order to modify the expenditure thresholds for the Director General and the Division Heads;
- Addition of the power of the Assistant Director General and the Treasurer to authorize expenditures and payments relating to insurances and public utility services.

4. Application of the Measures Provided for in the Contract Management By-Law

4.1 Measures to combat bid rigging

The bidder's Attestation to this effect is included in all our calls for tenders, and bidders are required to return it duly completed and signed.

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

Suppliers seeking to influence an elected officer of the Town must already be registered in the registry of lobbyists. This aspect is also addressed in the bidder's Attestation.

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

The identity of invited bidders is never disclosed before the opening of the bidding. The names of the members of a selection committee are kept confidential and such members are appointed by the Director General.

4.4 Measures to prevent conflict of interest situations

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 Contract Management 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

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

Our By-Law 2013-52 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.

5. Statistics on Contracts Entered into for the Period from January 1st to December 31st, 2023

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;
- ✓ Supply of winter abrasives;
- ✓ General insurance services;
- ✓ Group insurance services.

b) **Table:** Summary of contracts entered into for the year 2023, listed 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)	4	\$191,711.51
Mutual Agreement Contract	Technical Services	3	\$455,708.88
Mutual Agreement Contract	Professional Services	3	\$63,074.13
Call for Tenders by Invitation	Supply (goods)	13	\$553,811.03
Call for Tenders by Invitation	Technical Services	6	\$285,155.17
Call for Tenders by Invitation	Professional Services	1	\$119,277.26
Call for Tenders by Invitation	Construction Services	1	\$72,313.53
Public Call for Tenders	Supply (goods)	10	\$2,263,112.47
Public Call for Tenders	Technical Services	9	\$1,635,940.18
Public Call for Tenders	Professional Services	4	\$979,127.10
Public Call for Tenders	Construction Services	13	\$6,594,471.54

6. Exemptions to the Rules Governing the Awarding of Contracts

The only exemption made by the Town in the call for public tenders process in 2023 is in connection with the ice storm of April 5th, 2023. The provision of the Cities and Towns Act under which the Mutual Agreement Contract was awarded is located in Article 573.2: a case of force majeure.

7. Complaints and Sanctions

In 2023, no complaints were received, and no sanctions were imposed regarding the application of the Contract Management By-Law.

8. Contract Management Best Practices

The Town of Kirkland 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 prospective 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 expenditures, such expenditures are either authorized by the employees with the delegated authority to authorize expenditures in accordance with By-Law No. 2013-52 Pertaining to the Delegation of Powers, or by the Municipal Council.

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

Nadine Bassila
Assistant Director General and Treasurer