



HAMPSTEAD

CONTRACT MANAGEMENT POLICY

TOWN OF HAMPSTEAD

Division I: General provisions

1. **Purpose** –The Town of Hampstead hereby establishes 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 Policy 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.

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

3. **Objectives** – Pursuant to the provisions of the *Cities and Towns Act*, the Town hereby implements various measures to achieve the following:

- I. 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;

- II. Ensure compliance with any applicable anti-bid-rigging legislation;

- III. 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;

- IV. Prevent intimidation, influence peddling and corruption;

- V. Prevent conflict of interest situations;

- VI. Prevent any other situation likely to compromise the impartiality or objectivity of the call for tenders process or the management of the resulting contract;

- VII. Govern the making of decisions authorizing the amendment of a contract.

4. **Definitions** – in applying this Policy:

"administration" means an elected official, officer or employee of the Town;

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

Division II: Obligations of the administration and its mandataries

Subdivision I: Provisions applicable to the administration and its mandataries

5. **Ethics** – The administration and its mandataries hereby give an undertaking to 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 honestly;
 - VI. Apply this Policy in the best interests of the Town.
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 that 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 have 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 Town mandatory responsible for drafting one or more documents used in a call for tenders or who assist the Town in such a process must also keep confidential the work carried out in connection with his or her mandate.

7. **Site visit and information session** – Organizing site visits or information sessions involving several bidders is prohibited. Should a site visit or information session be 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 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. However, should a question generate an amended specification requirements, the answer thereto will be provided in the form of an addendum.

8. **Declaration** – Where an officer or employee considers that he or she has a relationship that may be perceived as conflicting with the interests of a prospective bidder in a call for tenders, contract by mutual agreement or during the execution of a contract in which that officer or employee is involved, then the officer or employee must immediately inform the Director General.
9. **Gifts and other benefits** – The administration and its mandataries must refuse all gifts or other benefits offered by an enterprise or a supplier or their representatives in a call for tenders or contract award process.

Subdivision II: Provisions applicable to selection committees

10. **Selection committee** – Where a tender weighting and assessment system is used, the selection committee shall be constituted before commencement of the call for tender process. The Director General shall appoint the members of the committee in accordance with the *By-law 741-1 modifying By-Law no. 741 respecting the delegation of powers to officers and employees to authorize the spending of money and to make contracts in the name of the municipality.*

The Director General 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, but may not participate in committee deliberations or vote.

Each member of the selection committee shall individually analyze the quality of each tender received, without considering the price.

11. **Confidentiality** – During the call for tender process, the identity of selection committee members must be kept confidential by the administration.
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 conflicting with the interests of one or more bidders, regardless of whether that relationship is familial, financial or of some other nature.

Division III: Obligations of bidders or contracting parties

13. **Declaration** – During a call for tenders process, a bidder must sign the declaration that forms an integral part of the call for tender documents attesting to the following:
 - I. At the time of depositing its bid and to the best of its knowledge, it has no familial, financial or other relationships likely to create a perceived conflict of interests, directly or indirectly, with one or more members of the municipal administration;
 - II. That it has not influenced or otherwise participated in the development of the specifications or standards;
 - III. That during the call for tenders process, it 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 it generally satisfies each and every requirement stipulated in the Act and in this Policy;
 - V. That its 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 to submit a tender, or regarding the submission of a tender that does not meet the specifications of the call for tenders;
 - VI. That in the three years preceding the call for tenders it was never convicted of a violation of an act designed to counter the rigging of bids.
14. **Bidder's undertaking** – During the call for tenders process, a bidder shall undertake that it and its sub-contractors will not use the services of any person who obtained inside information on the development of the tender for which he is tendering or who was involved.
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.
16. **Lobbying activities** – Any bidder or contracting party must comply with the provisions of 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.

17. **Exceptions** – The following do not constitute lobbying activities:

- 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 Town's authority;
- Communications for the sole purpose of inquiring as to the nature or scope of the rights or obligations of a client, an enterprise or a group pursuant to the law governing the call for tenders.

18. **Declaration** – 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

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 Policy.

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

20. **Call for tenders** – For a contract award process involving a value greater than \$25,000 but less than \$100,000, call for tender documents shall be provided by the person designated by the administration.

For a contract award process involving a value greater than \$100,000, the call for tender documents shall be provided by the *Système électronique d'appel d'offres* (SEAO), Québec's electronic bid system.

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.

- 22. Group purchasing** – The Town 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 Town is working with other cities to implement such a system.

Division V: Administrative provisions

- 23. Director General** – The Director General is responsible for overseeing the application of this Policy 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.

- 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*.

- 25. Sanctions for the administration** – Any member of the administration must comply with the measures provided for in this Policy, subject to the penalties under the *Cities and Towns Act*.

- 26. Sanctions respecting the bidder** – A bidder who, directly or indirectly, breaches any of its obligations imposed under this Policy may have his tender automatically 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 Town constituted for the granting of contracts on a discretionary or by-invitation basis, for a maximum period of five (5) years.

- 27. Sanctions respecting the mandatary** – The Town may unilaterally terminate the contract of a mandatary who breaches this Policy, in addition to imposing any penalty that may be stipulated in the contract binding on the Town.

The mandatary may also be removed from the List of suppliers of the Town constituted for the granting of contracts on a discretionary or by-invitation basis, for a maximum period of five (5) years.

- 28. Coming into force** – This policy comes into force as of December 13, 2010.