

**PROCEDURE FOR RECEIVING AND EXAMINING COMPLAINTS  
ARISING UNDER THE ACT RESPECTING CONTRACTING BY  
PUBLIC BODIES (LCOP)**

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**ROADMAP**

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## 1. LEGAL FRAMEWORK

Under section 21.0.3 of the *Act Respecting Contracting by Public Bodies* (LCOP), public bodies subject to the *Act respecting the Autorité des marchés publics* (LAMP) are required to establish a procedure for receiving and examining complaints.

### 1.1. PROHIBITION AGAINST REPRISAL

The filing of a complaint under this procedure must be done in the absence of any fear of reprisal from the Centre de services scolaire du Littoral (CSSL).

Also note that section 51 of the LAMP stipulates that it is forbidden to threaten a person or partnership with reprisal to deter them from filing a complaint with the Autorité des marchés publics (AMP). Any person or partnership who believes they have been the victim of a reprisal may file a complaint with the AMP, which will then determine if the complaint is substantiated and make any recommendations it considers appropriate to the chief executive officer of the public body concerned by the reprisal. When its examination is complete, the AMP informs the complainant of its findings and, if applicable, its recommendations.

### 1.2. PRESERVING YOUR RIGHT TO RECOURSE

In order to preserve your right to recourse under sections 37, 38, 39 and 41 of the LAMP, you must follow this procedure when filing a complaint with the School Service Centre.

## 2. CONDITIONS FOR FILING A COMPLAINT

### 2.1. BEFORE FILING A COMPLAINT – MAKE SURE FILING A COMPLAINT IS THE APPROPRIATE RECOURSE

If it is a request for information or clarification about the content of documents relative to an ongoing public call for tenders, an enterprise qualification process, a certification of goods process or the awarding of a contract by mutual agreement under subparagraph 4 of the first paragraph of section 13 of the LCOP, **the appropriate recourse is to submit this request to the resource person identified in the notice published on the electronic tendering system (SEAO).**

If the documents relative to an ongoing public call for tenders, an enterprise qualification process, a certification of goods process or the awarding of a contract by mutual agreement under subparagraph 4 of the first paragraph of section 13 of the LCOP contain conditions that do not ensure an honest and fair treatment of tenderers, do not enable tenderers to participate even though they are qualified to meet the stated procurement needs, or are otherwise not compliant with the normative framework, **the appropriate recourse is to first submit your complaint to the School Service Centre by contacting the resource person identified in the notice published on the SEAO.**

### 2.2. WHO CAN FILE A COMPLAINT

Only an enterprise or group of enterprises, or their representative, interested in participating in a public call for tenders, an enterprise qualification process or a certification of goods process may file a complaint relative to one of these processes.

Only an enterprise capable of carrying out the contract by mutual agreement that is the subject of the awarding process under subparagraph 4 of the first paragraph of section 13 of the LCOP may express its interest.

### 2.3. WHAT TYPES OF PUBLIC CONTRACTS CAN BE THE SUBJECT OF A COMPLAINT

The following contracts that involve public expenditure AND an expenditure equal to or above the applicable minimum public tender threshold for:

1. Supply contracts, including contracts for the purchase, lease or rental of movable property, which may include the cost of installing, operating and maintaining the property, to the extent that they are not for the acquisition of goods for commercial sale or resale or to be used to produce or provide goods or services for commercial sale or resale;
2. Construction contracts to which the *Building Act* (chapter B-1.1) applies and for which the contractor must hold the licence required under chapter IV of that Act;
3. Service contracts other than contracts to integrate the arts with the architecture and environment of government buildings and sites.

A leasing contract is considered to be a supply contract.

Contracts of affreightment, contracts of carriage other than those subject to the *Education Act* (chapter I-13.3), damage insurance contracts and contracts of enterprise other than construction contracts are considered to be service contracts.

The following contracts whether or not they involve public expenditure AND regardless of the value of the expenditure:

1. Public-private partnership contracts entered into for the purposes of a public infrastructure project for which a public body brings in a contractor to participate in designing, building and operating the infrastructure;
2. Any other contract determined by government regulation.

#### 2.3.1 PROCESSES COVERED BY THIS PROCEDURE

This procedure applies to ongoing public calls for tenders and to processes for the qualification of enterprises and the certification of goods. It also applies to the awarding of a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP which an enterprise wishes to express its interest in carrying out.

#### 2.3.2 MINIMUM APPLICABLE THRESHOLDS FOR PUBLIC CALLS FOR TENDERS

The minimum thresholds for public calls for tenders are established by the Secretariat of the Conseil du trésor for supply contracts, technical and professional service contracts, and construction contracts. Information on current thresholds can be found at the following link [in French only]:

<https://www.tresor.gouv.qc.ca/faire-affaire-avec-letat/cadre-normatif-de-la-gestion-contractuelle/accords-de-liberalisation/tableaux-synthese/>

### 3. PROCEDURE FOR RECEIVING A COMPLAINT

#### 3.1. TO WHOM IS THE COMPLAINT SUBMITTED AND HOW

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

The complaint must be sent electronically to the following email address: [srm@csdulittoral.qc.ca](mailto:srm@csdulittoral.qc.ca).

It is mandatory that you use the form provided by the AMP to file your complaint, as stipulated in section 21.0.3 of the LCOP. This form is available at: <https://amp.quebec/en/file-complaint/complaint-public-body/>.

For a complaint concerning the awarding of a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP which an enterprise wishes to express its interest in carrying out:

The complaint must be sent electronically to the following email address: [srm@csdulittoral.qc.ca](mailto:srm@csdulittoral.qc.ca).

The procedure for receiving an enterprise's demonstration that it is capable of carrying out the contract by mutual agreement as based on the needs and obligations is set out in the documents available from the Contract Rules Compliance Monitor (CRCM).

### **3.2. WHAT IS THE DEADLINE FOR FILING A COMPLAINT**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

Such a complaint subject to section 21.0.4 of the LCOP must be received by the School Service Centre before the deadline for receipt of complaints<sup>1</sup> indicated on the SEAO.

Such a complaint may pertain only to the content of documents available at least two (2) days before this date.

The complainant must simultaneously send their complaint to the School Service Centre for appropriate handling and to the AMP for information purposes.

For a complaint concerning the awarding of a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP which an enterprise wishes to express its interest in carrying out:

The enterprise's demonstration that it is capable of carrying out the contract by mutual agreement based on the needs and obligations set out in the notice of intention must be sent to the School Service Centre before the deadline for receipt indicated on the SEAO according to the documents available.

### **3.3. ACKNOWLEDGEMENT OF RECEIPT**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

The School Service Centre will send an acknowledgement of receipt to the complainant as soon as possible.

### **3.4. WITHDRAWING A COMPLAINT**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

The complaint must be withdrawn before the deadline for receipt of complaints.

To withdraw a complaint, the complainant must send an email outlining the reasons for the withdrawal to the School Service Centre at [srm@csdulittoral.qc.ca](mailto:srm@csdulittoral.qc.ca).

Following receipt of this email, the School Service Centre will record the date of the complaint's withdrawal on the SEAO.

For a complaint concerning the awarding of a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP which an enterprise wishes to express its interest in carrying out:

The enterprise may withdraw its demonstration document without compromising its right to submit a new one before the prescribed deadline.

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<sup>1</sup> The complaint must be received by 11:59:59 p.m. on the deadline date. Note that a complaint may be sent and received by the School Service Centre any time before the prescribed deadline.

## **4. PROCEDURE FOR EXAMINING A COMPLAINT**

### **4.1. VERIFICATION OF COMPLAINANT'S INTEREST**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

A complainant who has obtained the documents available on the SEAO is considered to have an interest.

In other cases, the complainant must already have had, at minimum, a communication with the Contract Rules Compliance Monitor (CRCM) by telephone or email clearly identifying the complaint before the deadline for receipt of complaints indicated on the SEAO.

#### **4.1.1. POSTING OF THE DATE OF RECEIPT OF A COMPLAINT ON THE ELECTRONIC TENDERING SYSTEM**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

After verifying the complainant's interest, the School Service Centre will promptly post on the SEAO the date on which the complaint is received.

### **4.2. ANALYSIS OF COMPLAINT ADMISSIBILITY**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

The complaint must meet all of the following conditions in order to be admissible:

- Concern a public contract as defined in paragraph 1(a) or paragraph 1(b) of section 20 of the LAMP;
- Concern an ongoing public call for tenders or an enterprise qualification process for which the documents contain:
  - conditions that do not ensure a fair and honest treatment of tenderers; or
  - conditions that do not enable tenderers to participate even though they are qualified to meet the stated procurement needs; or
  - conditions that are otherwise not compliant with the normative framework.
- Concern the content of documents for a call for tenders or an enterprise qualification process available no later than two (2) days before the deadline for receipt of complaints indicated on the SEAO;
- Be sent electronically to the resource person identified for this procedure and in accordance with the provisions set out in this procedure;
- Be submitted using the form provided by the AMP, as stipulated in section 45 of the LAMP;
- Be received before the deadline for receipt of complaints indicated on the SEAO.

For a complaint concerning the awarding of a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP which an enterprise wishes to express its interest in carrying out:

The complaint must meet all of the following conditions in order to be admissible:

- Concern a public contract as defined in paragraph 1(a) or paragraph 1(b) of section 20 of the LAMP;
- Concern a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP;
- Be sent electronically to the resource person identified in this procedure and in accordance with the provisions set out in this procedure;
- Be received before the deadline for receipt of enterprise demonstration documents indicating that the enterprise is capable of carrying out the contract by mutual agreement based on the needs and obligations set out in the notice of intention.

#### **4.2.1. REJECTION OF THE COMPLAINT**

The School Service Centre will reject a complaint if:

- the complaint does not meet all of the conditions outlined in section 4.2 of this procedure; or
- the complainant is seeking or has sought legal recourse for the facts contained in the complaint.

#### **4.3. IN-DEPTH ANALYSIS OF THE COMPLAINT**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

If needed, the person responsible for examining complaints will contact the complainant to obtain more information on the situation detailed in the complaint form.

After conducting an in-depth analysis of the complaint, the person responsible for examining complaints will decide on the merits of the complaint:

- If they determine that the documents for a call for tenders, an enterprise qualification process or a certification of goods process contain conditions that do not ensure a fair and honest treatment of tenderers, do not enable tenderers to participate even though they are qualified to meet the specified procurement needs, or are otherwise not compliant with the normative framework, they will apply the corrective measure described in section 5.2 of this procedure.
- If they determine that the documents for a call for tenders, an enterprise qualification process or a certification of goods process do not contain any conditions that do not ensure a fair and honest treatment of tenderers, do not enable tenderers to participate even though they are qualified to meet the specified procurement needs, or are otherwise not compliant with the normative framework, they will not consider the complaint filed, inform the complainant in writing of their decision and maintain the call for tenders.

For a complaint concerning the awarding of a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP which an enterprise wishes to express its interest in carrying out:

Depending on the details provided in the complaint, the person responsible for examining complaints will decide if the enterprise is capable of carrying out the contract by mutual agreement based on the needs and obligations set out in the notice of intention.

### **5. CONCLUSION(S) AND CLOSING OF THE FILE**

#### **5.1. FORWARDING OF DECISION TO THE COMPLAINANT**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

The School Service Centre will send its decision electronically to the complainant. This decision will consist of:

- notice that the complaint has been rejected due to the complainant's lack of interest; or
- notice that the complaint has been rejected due to inadmissibility; or
- the conclusions of the in-depth analysis of the complaint.

This decision will be sent after the deadline for receipt of complaints but no later than three (3) days before the tender closing date indicated on the SEAO.

The School Service Centre will ensure a minimum period of seven (7) days between the date of transmission of its decision to the complainant and the tender closing date. If needed, the tender closing date on the SEAO will be deferred by the number of days needed to ensure compliance with the minimum period.

For a complaint concerning the awarding of a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP which an enterprise wishes to express its interest in carrying out:

The School Service Centre will send, electronically, its decision concerning whether or not to maintain its intention to enter into the contract by mutual agreement to the enterprise that expressed its interest in accordance with subparagraph 5 of the first paragraph of section 13.1 of the LCOP.

This decision will be sent at least seven (7) days before the projected date of the contract by mutual agreement.

The School Service Centre will ensure a minimum period of seven (7) days between the date it sends its decision to the enterprise that expressed their interest in accordance with subparagraph 5° of the first paragraph of section 13.1 of the LCOP and the projected date of the contract by mutual agreement. If needed, the projected date of the contract by mutual agreement will be deferred by the number of days needed to ensure compliance with the minimum period.

#### **5.1.1. POSTING ON THE ELECTRONIC TENDERING SYSTEM OF THE DATE ON WHICH SCHOOL SERVICE CENTRE SENT ITS DECISION TO THE COMPLAINANT**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

- Immediately after sending its decision to the complainant, the School Service Centre will indicate on the SEAO that it has sent its decision.
- This notice will be posted on the SEAO only when the complaint was sent by a complainant with the required interest.

#### **5.2. CORRECTIVE MEASURES (IF REQUIRED)**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:

The School Service Centre will modify, by way of an addendum, the relevant documents for the process that is the subject of the complaint if it deems this to be necessary after its in-depth analysis of the complaint. If the changes affect the costs or timelines for the work, the documents relative to the call for tenders will be adjusted accordingly.

For a complaint concerning the awarding of a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP which an enterprise wishes to express its interest in carrying out:

The School Service Centre may possibly proceed with a public call for tenders if it deems, after analysis, that at least one expression of interest by an enterprise demonstrated that it is capable of carrying out the contract by mutual agreement in accordance with the procurement needs and obligations set out in the notice of intention.

#### **5.3. POSSIBLE RECOURSE TO THE AMP FOLLOWING A COMPLAINT TO THE SCHOOL SERVICE CENTRE**

For a complaint concerning an ongoing public call for tenders, an enterprise qualification process or a certification of goods process:



If the complainant does not agree with the decision of the School Service Centre, they may file a complaint with the AMP. The complaint must be received by the AMP no later than three (3) days after the complainant has received the decision of the School Service Centre. (Section 37 of the LAMP)

If the complainant has not received the decision of the School Service Centre three (3) days before the tender closing date, the complainant may file a complaint with the AMP. This complaint must be received by the AMP before the tender closing date set by the School Service Centre. (Section 39 of the LAMP)

For a complaint concerning the awarding of a contract by mutual agreement designated under subparagraph 4 of the first paragraph of section 13 of the LCOP which an enterprise wishes to express its interest in carrying out:

If the complainant does not agree with the decision of the School Service Centre, they may file a complaint with the AMP. The complaint must be received by the AMP not later than three (3) days after the complainant receives the decision of the School Service Centre. (Section 38 of the LAMP)

If the complainant has not received the decision of the School Service Centre three (3) days before the projected date of the contract by mutual agreement, they may file a complaint with the AMP. Such a complaint must be received by the AMP no later than one (1) day before the projected date of the contract by mutual agreement published on the SEAO by the School Service Centre (Section 41 of the LAMP)

## **6. DATE ON WHICH THIS PROCEDURE ENTERS INTO FORCE**

This procedure is effective on the date of its adoption.