



## PROCEDURE FOR THE MANAGEMENT OF COMPLAINTS RECEIVED DURING THE PUBLIC CALL FOR TENDERS PROCESS

### 1. Preamble

The preamble shall be an integral part of this procedure.

### 2. Purpose of the procedure

The purpose of this procedure is to ensure the equitable resolution of complaints filed with the KRG regarding the tendering and awarding processes for specified contracts.

### 3. Interpretation

Unless stated otherwise expressly or resulting from the context or the provision, the following terms, phrases and words have in the procedure the meaning and purpose assigned to them in this article:

**Act:** *An Act to Facilitate Oversight of Public Bodies' Contracts and to Establish the Autorité des marchés publics* (CQLR, c. A-33.2.1)

**Awarding process:** Any process to award a specified contract by mutual agreement with a supplier solely capable of supplying the materials, equipment or services requested, pursuant to section 358.3.1 of the Kativik Act.

**ETS:** Electronic tendering system referred to under section 11 of the *Act respecting Contracting by Public Bodies* (CQLR, c. C-65.1).

**Kativik Act:** *An Act respecting Northern Villages and the Kativik Regional Government* (CQLR, c. V-6.1).

**KRG:** Kativik Regional Government.

**Person in Charge:** Person responsible for the application of this procedure as outlined in article 4 Application.

**Specified contract:** Contract for the performance of work or the supply of insurance, equipment, materials or services that the KRG may enter into involving an expenditure equal to or above the applicable threshold for public calls for tenders.

**Tendering process:** Any ongoing public call for tenders leading to the awarding of a specified contract.

### 4. Application

The application of this procedure is entrusted to the Assistant Director of the KRG Legal, Socio-Judicial and Municipal Management Department and in their absence, these duties fall to the Director of the aforementioned Department.

This person is responsible for receiving complaints and expressions of interest, for conducting the necessary audits and analyses, and for acting within the deadlines prescribed in the Act.

### 5. Complaints files regarding a tendering process

#### 5.1. Interest required filing a complaint

Only a person or group of persons interested in participating in an ongoing tendering process or the representative of such a person or group may file a complaint regarding the process.

## **5.2. Grounds for a complaint**

A person or group of persons interested may file a complaint regarding an ongoing tendering process when the person or group considers that the public call for tender documents:

- Contain conditions that do not ensure the honest and fair treatment of tenderers; or
- Contain conditions that do not allow tenderers to compete although they are qualified to meet the stated procurement requirements; or
- Contain conditions that are not compliant with the KRG's normative framework.

## **5.3. Procedures and deadline for sending a complaint**

A complaint must be sent electronically to the Person in Charge at the following email address: [contract.complaints@krg.ca](mailto:contract.complaints@krg.ca). The complaint must be filed on the form determined by the Autorité des marchés publics available on its website.

The complaint must be filed with the Person in Charge not later than the complaint filing deadline published on the ETS.

## **5.4. Contents of a complaint**

A complaint must contain the following information:

- Date;
- Identification and contact information of the complainant:
  - Name;
  - Address;
  - Telephone number;
  - Email address;
  - Identification of the call for tenders subject to the complaint;
  - Call for tenders number;
  - ETS reference number;
  - Title;
- Detailed presentation of the grounds for the complaint;
- If applicable, any pertinent documentation supporting the grounds for the complaint;
- Any other information required on the form determined by the Autorité des marchés publics.

## **5.5. Eligibility criteria for a complaint**

For a complaint to be examined by the Person in Charge, it must meet the following conditions:

- a) Sent by a person or group of persons interested pursuant to article 5.1;
- b) Sent electronically to the Person in Charge;
- c) Presented on the form determined by the Autorité des marchés publics pursuant to section 45 of the Act;
- d) Received by the Person in Charge not later than the complaint filing deadline published on the ETS;
- e) Relate to a specified contract;
- f) Pertain to the content of the tender documents available on the ETS not later than two (2) days before the complaint filing deadline;
- g) Based on one of the grounds listed under article 5.2, any other grounds shall not be considered during the analysis.

## **5.6. Receipt and processing of a complaint**

On receipt of a complaint, the Person in Charge conducts an examination of the complaint in accordance with this provision. S/he ensures that the complainant is interested pursuant to article 5.1.

On determining that the complainant does not have the required interest, the Person in Charge notifies the complainant immediately by sending a notice to him/her to this effect.

After having ascertained the complainant's interest, the Person in Charge makes an entry to that effect on the ETS as of receiving a first complaint. S/he ensures that the other eligibility criteria under article 5.5 are met.

On determining that the complaint is not eligible pursuant to article 5.5 c), the Person in Charge notifies the complainant immediately by sending a notice to him/her to this effect.

The Person in Charge comes to an agreement with the Legal Advisor responsible for the call for tenders or the applicant department, concerning the audits to be conducted to analyze the merits of the grounds alleged in the complaint.

To process the complaint, the Person in Charge may retain the services of external resources.

The Person in Charge must, when the audits and analyses conducted demonstrate that the complaint is justified, accept the complaint and take relevant steps to follow up. Otherwise, the Person in Charge must dismiss the complaint.

## **5.7. Decision**

The Person in Charge must send the decision electronically to the complainant after the complaint filing deadline published on the ETS but not later than three (3) days before the tender closing date. If necessary, the tender closing date is deferred. The new date is published on the ETS.

If two or more complaints about the same call for tenders are received, the Person in Charge sends both or all of his/her decisions at the same time.

If applicable, the Person in Charge must defer the tender closing date to allow a minimum period of seven (7) days to remain from the date his/her decision is sent. The new date is published on the ETS.

The decision must inform the complainant of his/her right, within three (3) days after receiving the decision, to file a complaint with the Autorité des marchés publics, pursuant to section 37 of the Act.

The Person in Charge makes an entry on the ETS immediately concerning the sending of the decision.

## **6. Expressions of interest and complaints filed regarding awarding process**

### **6.1. Grounds for an expression of interest**

A person may express interest regarding a contract subject to a notice of intention when the person considers s/he is capable of carrying out the contract based on the requirements and obligations stated in the notice of intention published on the ETS.

### **6.2. Procedures and deadline for sending an expression of interest**

An expression of interest must be sent electronically to the Person in Charge at the following email address: [expressionofinterest@krg.ca](mailto:expressionofinterest@krg.ca). It must be filed with the Person in Charge not later than the deadline indicated in the notice of intention published on the ETS.

### **6.3. Contents of an expression of interest**

An expression of interest must contain the following information:

- Date;
- Identification and contact information of the person interested in entering into contract with the KRG:

- Name;
- Address;
- Telephone number;
- Email address;
- Identification of the notice of intention published on the ETS;
- Contract number;
- ETS reference number;
- Title;
- Detailed presentation and documentation demonstrating that the person is capable of carrying out the contract based on the requirements and obligations stated in the notice of intention.

#### **6.4. Eligibility criteria for an expression of interest**

For an expression of interest to be examined by the Person in Charge, it must meet the following conditions:

- a) Sent electronically to the Person in Charge;
- b) Received by the Person in Charge not later than the deadline indicated in the notice of intention published on the ETS;
- c) Relate to a specified contract;
- d) Based on the sole grounds listed under article 6.1.

#### **6.5. Receipt and processing of an expression of interest**

On receipt of an expression of interest, the Person in Charge conducts an examination and analysis of the expression of interest in accordance with this provision. S/he ensures that the eligibility criteria under article 6.4 are met.

The Person in Charge comes to an agreement, with the person responsible for the contract or with the applicant department, concerning the audits to be conducted to confirm the person's capacity to carry out the contract on the basis of the requirements and obligations stated in the notice of intention.

To process the expression of interest, the Person in Charge may retain the services of external resources.

S/he must, when the audits and analyses conducted demonstrate that the person is capable of carrying out the contract, accept the expression of interest and recommend that the contract be entered into by mutual agreement. Otherwise, the Person in Charge recommends continuing the awarding process with the sole supplier.

#### **6.6. Decision**

The Person in Charge must send the decision electronically to the person who expressed interest not later than seven (7) days before the date indicated in the notice of intention for the contract. If it is impossible to comply with this period, the contract date must be deferred for as many days as necessary to comply.

The decision must inform the person who expressed interest of his/her right, within three (3) days after receiving the decision, to file a complaint with the Autorité des marchés publics pursuant to section 38 of the Act.

### **7. Coming into force and accessibility**

The present procedure comes into force on May 25, 2019.

The KRG shall make the procedure available by publishing it on its website pursuant to section 358.3.1 of the Kativik Act.