

**ADMINISTRATIVE COMPILATION
BYLAW NUMBER 03-21**

CONCERNING THE CONTRACT MANAGEMENT OF THE MUNICIPALITY OF PONTIAC

Adopted by the Municipal Council on July 6, 2021
Entry into force on July 12, 2021

Name and/or number of bylaw, policy, resolution	Date of approval by Council	Date of coming into force	Status
Contract management policy	December 14, 2010	December 18, 2010	Repealed and replaced
Procurement policy	May 21, 2013	May 21, 2013	Repealed
Purchase policy resolution 11-05-677	May 10, 2011	May 10, 2011	Repealed
Bylaw 08-15 Authorization of expenditures	October 13, 2015	October 20, 2015	Amended
Bylaw 05-19	December 11, 2019	December 13, 2019	Repealed

PREFACE

The reader is hereby advised that any errors or omissions that may be identified in the text below do not affect the enforceability of the regulations and amendments referred to therein, as sanctioned in their original version.

CANADA
PROVINCE OF QUEBEC
MUNICIPALITY OF PONTIAC

**BYLAW 03-21 TO ABROGATE AND REPLACE BYLAW 05-19 CONCERNING THE
CONTRACT MANAGEMENT OF THE MUNICIPALITY OF PONTIAC**

REGULAR meeting of the Council of the Municipality of Pontiac, held on July 6, 2021, at 7:30 p.m., via videoconference, at which meeting were present:

The Mayor, Mrs. Joanne Labadie

The Council Members:

Leslie-Anne Barber
Susan McKay
Thomas Howard
Scott McDonald
Isabelle Patry

All Council members and forming a quorum.

WHEREAS the adoption of Bill 67 and its coming into force on March 25, 2021;

WHEREAS section 124 of Bill 67 called for an amendment to the regulation on contract management;

WHEREAS there was a need to make minor changes to bylaw #05-19;

WHEREAS a notice of motion was given and a draft bylaw was tabled at the Council meeting of June 8, 2021;

THEREFORE, it is moved by Councillor Leslie-Anne Barber and seconded by Councillor Isabelle Patry.

AND RESOLVED TO REPEAL AND REPLACE BYLAW #05-19 WITH BYLAW #03-21 AS FOLLOWS:

CHAPTER I

DECLARATORY AND INTERPRETATIVE PROVISIONS

SECTION I

DECLARATORY PROVISIONS

1. Purpose of the bylaw

The purpose of this bylaw is:

- a) to provide for measures for the award and management of contracts awarded by the Municipality, in accordance with section 938.1.2 *C.M.*
- b) to provide contracting rules that involve an expenditure of at least \$25,000, but less than the threshold set by the Minister.

2. Scope of application

This bylaw applies to any contract concluded by the Municipality.

This bylaw applies regardless of the authority granting the contract, whether it is the Council or any person to whom the Council has delegated spending and contracting authority on behalf of the Municipality.

SECTION II

INTERPRETATIVE PROVISIONS

3. Interpretation of the text

The present bylaw shall be interpreted in accordance with the principles of the Interpretation Act (RLRQ,c. I-16).

It shall not be interpreted as allowing derogations from the mandatory provisions of the laws governing municipal contracts, unless these laws expressly allow derogations to be made by this bylaw, including, for example, some of the measures provided for in Chapter II of this bylaw.

In the event of any discrepancy between the French and English versions, the French version shall prevail for the purposes of the Regulation.

4. Other bodies or organizations

The Municipality recognizes the importance, role and powers granted to other authorities that may investigate and act with respect to the matters covered by certain measures provided for in this bylaw. This includes measures to prevent acts of intimidation, influence peddling, corruption, bid rigging, as well as measures to ensure compliance with the Lobbying Transparency and Ethics Act and the Code of Conduct for Lobbyists adopted under that Act.

5. Special rules of interpretation

This bylaw shall not be interpreted:

- a) in a restrictive or literal manner;
- b) as restricting the possibility for the Municipality to contract by mutual agreement, in cases where the law allows it to do so.

The measures provided for in this bylaw must be interpreted:

- in accordance with the principles set out in the preamble of the Act aimed mainly at recognizing that municipalities are local governments and thus increasing their autonomy and powers (2017, c. 13) (Bill 122), which recognizes municipalities as local governments and gives elected officials the legitimacy they need to govern according to their powers;
- in order to respect the principle of proportionality and thus ensure that the steps related to the measures imposed are proportionate to the nature and amount of the contract expenditure to be incurred, considering the costs, time required and size of the Municipality.

6. Terminology

Unless the context indicates otherwise, the words and expressions used in this bylaw have the following meanings:

"Call for Interest": Call procedures to suppliers to obtain the characteristics and external factors of the targeted market.

"Call for tenders": Means a public call for tenders or by invitation, required by sections 935 and following, *C.M.* or the bylaw adopted under section 938.0.1 *C.M.* The expression "call for tenders" does not include estimates that are made when no call for tenders is required by law or by this bylaw.

"Estimate": A written document determining the value of a good or service estimated by a supplier and by which a candidate commits to the Municipality to ensure its conformity and accuracy. This estimate is submitted in response to a written request for a price quote from the Municipality.

"Bid" Means a written act by which a person or company, in response to a public call for tenders or by invitation, offers his/its services for the execution of work and indicates the price for which he/it is prepared to do so.

CHAPTER II

CONTRACTING RULES AND ROTATION

7. General information

The Municipality complies with the contracting rules provided for in the laws governing it, including the *C.M.* In particular:

- a) it shall proceed by invitation to tender when the law or the bylaw adopted pursuant to section 938.0.1 *C.M.* requires such a call for tenders, unless otherwise specifically provided in this bylaw;

- b) it shall proceed by public tender in all cases where a public call for tenders is required by law or by the bylaw adopted under section 938.0.1 *C.M.*;
- c) it may proceed by mutual agreement in cases where the law or this bylaw allows it to do so.

Nothing in this bylaw may have the effect of limiting the possibility for the Municipality to use any method of competitive bidding for the award of a contract, whether by public tender, invitation or estimate, even if it may legally proceed by a mutual agreement contract.

8. Contracts less than the threshold set by the Minister

Subject to section 13, any contract for supply, construction, services (including professional services) and insurance involving an expense of at least \$25,000, but less than the threshold set by the Minister, may be entered into by mutual agreement or by any other contract award process chosen by the Municipality.

If it involves an expense equal to or greater than the threshold set by the Minister, the contract may only be awarded after a request for public tender pursuant to section 935 *C.M.*

Any official of the Municipality must obtain a resolution from Council before committing the Municipality to any obligation that may bind it, unless the official is delegated the authority to spend and enter into contracts on behalf of the Municipality under bylaw n° 08-15 in accordance with bylaw n° 06-08 enacting budgetary control and monitoring rules.

The amount of the expenditure related to the contract involving an expenditure of at least \$25,000, but less than the threshold set by the Minister, includes all applicable taxes.

9. Rotation - Principles

The Municipality shall promote, if possible, rotation among potential suppliers with respect to contracts that may be entered into by mutual agreement pursuant to section 8. In making its decision in this regard, the Municipality particularly considers the following principles:

- a) the degree of expertise required;
- b) the quality of previous work, services or materials provided or delivered to the Municipality;
- c) the time required to carry out the work, to supply the equipment or materials or to provide services;
- d) the quality of the goods, services or works sought;
- e) the terms of delivery;
- f) the maintenance services;
- g) the required experience and financial capacity;
- h) price competitiveness, considering all market conditions;
- i) the fact that the supplier has an establishment on the Municipality's territory;
- j) any other criteria directly related to the contract.

With the objective of wanting to contribute to the economic recovery following the health crisis, the Municipality favors the purchase of Quebec goods and services, suppliers, insurers and contractors with an establishment in Quebec, until as of June 25, 2024 (3 years).

The Municipality reserves the right to exclude any company or supplier that has demonstrated unsatisfactory performance, fault or deficiency under a previous contract.

10. Rotation - Measures

In order to ensure the implementation of the rotation provided for in section 9, the Municipality shall apply, as far as possible and unless there are special circumstances, the following measures:

- a) potential suppliers are identified before awarding the contract. If the Municipality's territory has more than one supplier, this identification may be limited to the latter territory or, where applicable, the territory of the MRC or any other geographic region that will be deemed relevant given the nature of the contract to be given;
- b) once suppliers have been identified and considering the principles set out in section 9, rotation between them shall be promoted, unless for reasons of sound administration;
- c) unless there are special circumstances, the person in charge of managing the contract shall, as far as possible, complete the analysis form set out in Appendix 4;
- d) for the purpose of identifying potential suppliers, the Municipality shall establish a list of suppliers for the categories of contracts it determines. Rotation between the suppliers on this list, if any, shall be promoted, subject to the provisions of paragraph (b) of this section. This list shall constitute a public document and any supplier may register on request if it complies with the eligibility criteria within the meaning of section 11.

11. Eligibility of companies

In order to obtain a contract with the Municipality, the company must:

- a) possess the qualifications, authorizations, permits, licences, registrations, certificates, accreditations and attestations necessary or required by Law;
- b) not be registered in the Register of Persons Not Eligible for Public Contracts (RENA);
- c) if there has been a previous contractual relationship, maintain a business relationship based on respect and the principle of good faith.

12. Competitive mechanism

The Municipality favours the following competitive bidding mechanism for any contract referred to in section 8 when the nature of the contract allows it:

- a) the Municipality may issue a call for interest in order to identify suppliers likely to meet its needs;
- b) the Municipality shall request estimates from two (2) suppliers, verbally or in writing, except in an emergency or with the authorization of the Director General;
- c) the normal time for the receipt of estimates is at least two (2) working days and may vary depending on the nature of the contract and the circumstances of its award;

- d) the period of validity of the estimates shall expire after a reasonable period and may vary depending on the nature of the contract and the circumstances of its award.

CHAPTER III

MEASURES

SECTION I

CONTRACT BY MUTUAL AGREEMENT

13. General information

For some contracts, the Municipality is not subjected to any specific competitive bidding procedure (public call for tenders or by invitation). This bylaw cannot have the effect of restricting the possibility for the Municipality to proceed by mutual agreement for these contracts. These include, more specifically, contracts:

- which, by their nature, are not subject to any tendering process (contracts other than insurance contracts, supply of equipment or materials, services and performance of works);
- expressly exempted from the tendering process (including those listed in section 938 *C.M.*) and contracts for professional services which are necessary for proceeding before a court, an agency or a person exercising judicial or jurisdictional functions;
- insurance, for the performance of work, for the supply of equipment or materials or services (including professional services) that involve an expense of more than \$10, 000, but less than \$25,000. In the latter case, the Municipality must request an estimate in writing, except under the authorization of the Director General;

14. Transparency, integrity and impartiality measures

When the Municipality chooses to award, by mutual agreement, any of the contracts referred to in section 8, the following measures aimed at transparency, integrity and impartiality shall apply, unless the latter are incompatible with the nature of the contract:

- a) Measures provided for in sections 18 (Duty to inform elected officials and employees) and 19 (Training) - LOBBYISM;
- b) Measure provided for in section 21 (Denunciation)-INTIMIDATION, INFLUENCE PEDDLING OR CORRUPTION;
- c) Measure provided for in section 23 (Denunciation) - CONFLICT OF INTEREST;
- d) Measure provided for in SECTION 29 -AMENDMENT OF A CONTRACT.

15. Information document

The Municipality must publish, on its Website, the information document relating to contract management in order to inform the public and potential contractors of the measures taken by the Municipality under this bylaw (Appendix 1).

SECTION II

BID RIGGING

16. Sanctioning if collusion

The Municipality will reject any estimate if it is established that there has been collusion with any person in violation of any law aimed at combating bid-rigging.

A provision must be included in the tender documents providing for the possibility for the Municipality to reject a bid if it is clearly established that there has been collusion with any person in contravention of any law aimed at combating bid-rigging.

17. Declaration

Every supplier must attach to his estimate or to his tender, or at the latest before the award of the contract, a declaration stating solemnly that his estimate has been prepared and filed without collusion, communication, agreement or arrangement with any person in contravention of any law against bid-rigging (Appendix 2).

SECTION III

LOBBYISM

18. Duty to inform elected officials and employees

Any member of the Council or any official or employee must remind anyone who takes the initiative to contact him or her in order to obtain a contract, of the existence of the Lobbying Transparency and Ethics Act, when he or she considers that there has been a contravention of that Act.

19. Training

The Municipality favours the participation of council members, public servants and employees for training which aims at getting information on the legislative and regulatory provisions applicable to lobbying.

20. Declaration

Every supplier must attach to his estimate or to his tender, at the latest before the award of the contract, a declaration stating solemnly that neither he nor any of his collaborators, representatives or employees engaged in a communication of influence for the purpose of obtaining the contract in contravention of the Lobbying Transparency and Ethics Act or, if such communication of

influence took place, that it was made after any registration has been made in the registry of lobbyists where it is required under the Act (Appendix 2).

SECTION IV

INTIMIDATION, INFLUENCE PEDDLING OR CORRUPTION

21. Denunciation

Any member of Council, public servant or employee, as well as any other person working for the Municipality, must report, as soon as possible, any attempt at intimidation, influence peddling or corruption that he or she has witnessed in the course of his or her duties. This measure should not be interpreted as limiting the right of the concerned individual to lodge a complaint with a police force or other public authority.

A member of Council shall make this denunciation to the Director General; the Director General to the Mayor; other officials and employees as well as any person working for the Municipality, to the Director General. When the denunciation directly or indirectly involves the Mayor or the Director General, the denunciation is made to the person who is not involved. The Director General or Mayor shall treat the denunciation promptly and take appropriate measures depending on the nature of the situation reported, including reporting the situation to any other competent authority.

22. Declaration

Every supplier must attach to his estimate or to his tender, or at the latest before the award of the contract, a solemn declaration that neither he nor any of his collaborators, representatives or employees has engaged, in the contractual process, in acts of intimidation, influence peddling or corruption against a member of the Council, an official, an employee or any other person working for the Municipality (Appendix 2).

SECTION V

CONFLICTS OF INTEREST

23. Denunciation

Any Council member, any public servant, any employee, as well as any other person working for the Municipality, involved in preparing contract documents or in the awarding of contracts, must report as soon as possible, the existence of any pecuniary interest of a legal person, corporation or company likely to conclude a contract with the Municipality.

A member of Council reports this to the Director General; the Director General to the Mayor; other public servants and employees as well as any other person working for the Municipality, reports this to the Director General. When the denunciation directly or indirectly involves the Mayor or the Director General, it is reported to the one that is not involved. If they are both involved, the denunciation is made to the acting mayor or to another Municipal Council member who is not involved. The person who receives the denunciation must treat it with diligence and take the appropriate measures according to the nature of the situation denounced.

24. Declaration

When the Municipality uses a weighting and evaluation system of tenders, any member of the selection committee must solemnly declare in writing, before starting the evaluation, that he/she has no particular pecuniary interest, neither directly nor indirectly, with respect to the contract being evaluated. He/she must also agree to not disclosing the mandate he/she has been entrusted by the Municipality, as well as to not use, communicate, attempt to use or communicate the information obtained in the course of, or in connection with the performance of his/her duties as a member of the selection committee (Appendix 3), both during his/her term of office and after.

25. Minimal pecuniary interest

The minimum pecuniary interest is not affected by the measures described in sections 23 and 24.

SECTION VI

IMPARTIALITY AND OBJECTIVITY OF THE CALL FOR TENDERS

26. Person responsible for the call for tenders

Any call for tenders specifies of a person in charge and foresees that any (potential or real) bidder must contact that sole contact person to obtain any information or clarification regarding the call for tenders.

The person requesting the estimate is, by default, the person responsible and may delegate this responsibility to any person working for the Municipality.

27. Questions from tenderers

The person responsible for the call for tenders compiles the questions that are asked by each of the tenderers during the tendering process and submits an addendum if he/she deems it necessary, so that all bidders receive answers to the questions asked by others.

The person responsible for the call for tenders has the sole discretion of judging the relevance of the questions asked and of those that require an answer, and he/she may consolidate and rephrase certain questions for the purpose of providing answers to the tenderers.

28. Denunciation

Any Council member, any public servant, any employee, as well as any other person working for the Municipality, must, as soon as they have been informed, report the existence of any situation, other than a conflict of interest, susceptible of compromising the impartiality and objectivity of the contract process and management of any resulting contract.

A member of Council reports this to the Director General; the Director General to the Mayor; other public servants and employees as well as any other person working for the Municipality, reports this to the Director General. When the denunciation directly or indirectly involves the Mayor or the Director General, it is reported to the one that is not involved. If they are both involved, the denunciation is made to the acting mayor or to another Municipal Council member who is not

involved. The person who receives the denunciation must treat it with diligence and take the appropriate measures according to the nature of the situation denounced.

SECTION VII

MODIFICATION OF A CONTRACT

29. Modification of a contract

Any amendment to a contract resulting from a call for tenders or an estimate which has the effect of increasing the price must be justified by the person responsible for managing the contract, by considering the rules applicable to authorize such an amendment. This person must also obtain the authorization of the Council or the Director General according to the threshold conferred on him by virtue of his delegation of authority, in accordance with article 8 para. 2 of this bylaw.

The Municipality cannot amend a contract that has been awarded following a call for tenders, except when the amendment constitutes an add-on to the contract and does not change its nature.

CHAPTER IV

ADMINISTRATIVE AND FINAL PROVISIONS

30. Enforcement of the bylaw

The enforcement of the present bylaw falls under the responsibility of the Municipality's Director General. He is responsible for preparing the report concerning the enforcement of the present bylaw, to be tabled to council annually, in accordance with section 938.1.2 *C.M.*

31. Promotion of French

The Municipality promotes the use of French and is not required to produce a document in a language other than that of French within the framework of the application of this by-law.

32. Repeal and amendments to policies and bylaws regarding contract management

The present bylaw replaces and repeals bylaw 05-19, the Policy on contract management adopted by Council on December 14, 2010, the Procurement policy adopted by Council on May 21, 2013, the Purchasing policy under resolution #11-05-677, as well as any other provision that is not in accordance with this bylaw.

This bylaw amends section 4.2 of bylaw #08-15 delegating to municipal officials the power to authorize expenditures and to award contracts accordingly, as follows:

4.2 The Municipality of Pontiac's bylaw concerning contract management.

Notwithstanding the above, the present authorization does not exempt public servants who are subject to an authorization, from complying with the bylaw concerning the contract management of the Municipality of Pontiac.

33. Complaints in connection with the awarding of a contract

Any contract resulting from a call for tenders is subject to the *Procedure regarding the reception and examination of filed* complaints made in connection with the adjudication or the award of a contract adopted on August 13, 2019 by resolution no. 19-08-3844.

34. Coming into effect and publication

The present bylaw comes into effect in compliance with the Law and is published on the Municipality's website. In addition, a copy of this bylaw is sent to the MAMH.

Adopted at Pontiac, this 6 of July two thousand and twenty-one



JOANNE LABADIE
Mayor



PIERRE SAÏD
Director General and Secretary-treasurer

Notice of motion :	June 8, 2021
Presentation of the draft bylaw :	June 8, 2021
Adoption of the bylaw :	July 6, 2021
Notice of promulgation/coming into force :	July 12, 2021
Sent to MAMH :	July 12, 2021

APPENDIX 1

INFORMATION DOCUMENT (Contract management)

The Municipality has adopted a bylaw on contract management providing measures aiming to :

- Promote compliance with applicable laws to oppose bid-rigging;
- Ensure that the *Lobbying Transparency and Ethics Act* and *Lobbyists Code of Conduct* adopted under this law are respected
- Prevent acts of intimidation, influence peddling or corruption
- Prevent situations of conflict of interest;
- Prevent any other situation likely to compromise the impartiality and objectivity of the estimation request or tender process and the resulting management of the contract;
- Supervise the taking of any decision that has the effect of authorizing the amendment of any contract.
- Promote, as much as possible, the rotation of potential counter-parties with respect to contracts involving an expenditure of at least \$25,000, but less than the threshold decreed by the Minister and that may be concluded by mutual agreement with the Municipality, according to the criteria and principles provided for in the bylaw.

Anyone who intends to enter into a contract with the Municipality is invited to read the bylaw concerning contract management and to enquire with the Director General and Secretary-Treasurer if they have any questions in this regard.

Furthermore, anyone who has information regarding the non-compliance with any of the measures contained herein is invited to share it with the Director General and Secretary-Treasurer or the Mayor. They will, if necessary, see that useful measures are taken or will refer the complaint and documentation to the competent authorities.

APPENDIX 2

**SUPPLIER'S DECLARATION
(Contract management)**

I, the undersigned, supplier or the supplier's representative _____, solemnly declare to the best of my knowledge:

- a) that the present estimate or the present tender was prepared and submitted without any collusion, communication, agreement or arrangement with any other person, in violation of any law designed to oppose bid-rigging;
- b) that neither myself nor any collaborators, suppliers' representatives or employees, did we engage in any communication of influence, for the purpose of obtaining the contract in breach of the *Lobbying Transparency and Ethics Act*, or, if such communication of influence has taken place, I declare that this communication was made after any registration in the lobbyists' register was made, required by law,
- c) that neither myself nor any collaborators, suppliers' representatives or employees, did we engage in any acts of intimidation, influence or bribery, against a member of the council, any public servant, any employee, as well as any other person working for the Municipality as part of this request for estimates.

AND I HAVE SIGNED :

■

Solemnly affirmed before me at ■

this ■ day of ■ 2021

Commissioner of Oaths for Quebec

APPENDIX 3

DECLARATION OF A MEMBER OF A SELECTION COMMITTEE

I, the undersigned, member of the selection committee pertaining to (identify contract), solemnly declare that I do not have particular pecuniary interest, directly or indirectly, in regard to this contract.

I promise not to disclose the mandate entrusted to me by the Municipality, as well as not use, communicate, attempt to use or communicate, both during and after my term, the information obtained in the course of, or in connection with, the performance of my duties as a member of the selection committee.

AND I HAVE SIGNED :

Solemnly affirmed before me at _____

this _____ day of _____ 2021

Commissioner of Oaths for Quebec

APPENDIX 4

ANALYSIS FORM FOR CHOOSING A CONTRACTING METHOD

1 NEEDS OF THE MUNICIPALITY		
Object of the contract		
Specific objectives (desired savings, quality, environment, etc.)		
Estimated value of the expense (including renewal options)	Duration of the contract	
2 TARGETED MARKET		
Targeted region	Number of known companies	
Is the participation of all known companies desirable? Yes <input type="checkbox"/> No <input type="checkbox"/> If not, please justify.		
Estimated cost of preparing the estimate or tender		
Other pertinent information		
3 CONTRACTING METHOD CHOSEN		
Mutual agreement <input type="checkbox"/>	Call for tenders by invitation <input type="checkbox"/>	
Regional public tender <input type="checkbox"/>	Public invitation to tender open to all <input type="checkbox"/>	
In the case of a contract entered by mutual agreement, are the measures of the bylaw concerning the contractual management of the Municipality of Pontiac to promote rotation respected? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, which measures are concerned?		
If not, why is the rotation not possible?		
4 SIGNATURE OF THE PERSON RESPONSIBLE		
_____	_____	_____
First name, last name	Signature	Date