

POLICY NO. 19

RESPECTING THE
MANAGEMENT OF SUPPLY,
SERVICE AND
CONSTRUCTION
CONTRACTS

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OF SUPPLY, SERVICE AND CONSTRUCTION
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POLICY NO. 19 RESPECTING THE MANAGEMENT OF SUPPLY, SERVICE AND CONSTRUCTION CONTRACTS

SECTION 1

PURPOSE AND SCOPE

- 1.1 The purpose of this document is to establish a policy respecting the management of contracts entered into by Cégep John Abbott College (the “**College**”).
- 1.2 It applies to supply, service and construction contracts covered under paragraphs (1) to (3) of the first paragraph of section 3 of *An Act respecting contracting by public bodies* (CQLR, c. C-65.1) (“**ACPB (LCOP)**”) and contracts considered to be supply, service and construction contracts, that the College may enter into with a person or partnership covered under section 1 of the ACPB (LCOP) or with a natural person who does not operate a sole proprietorship. It is required under section 24 of the ACPB (LCOP).

SECTION 2

CONFIDENTIALITY OF DOCUMENTS

- 2.1 To ensure that tender documents or any other related document or information not yet rendered public remain confidential, the following measures apply:
 - Access to documents and the computer drives in which they are stored is limited to qualified persons under the control of the manager in charge.
 - Personnel with access to these documents will be informed that they are confidential and will be asked to sign a certificate of confidentiality and declaration of interest.

SECTION 3

CONFLICTS OF INTEREST

- 3.1 To ensure that employees involved in managing public contracts are not in a conflict of interest, they are informed about statutes, regulations and other rules governing ethics and discipline through different means, such as: documentation, presentation, webinar, training and portal.

SECTION 4

DELEGATION OF POWERS

- 4.1 Certain powers are delegated in accordance with Articles 5 to 8 of By-law 3 *Concerning the Financial Management of the College* (“**By-law 3**”), as same may be amended from time to time; the College thereby respecting the Treasury Board requirements.

SECTION 5

CONTROL PROVISIONS RELATING TO THE CONTRACT AMOUNT AND AMENDMENTS

- 5.1 The following control provisions apply to the contract amount:
- The selection committee shall refuse to accept any of the tenders received, including where it considers that the prices are too high or disproportionate or that they do not reflect a fair price.
 - The College shall reserve the right to claim from any tenderer the difference between the lowest tender amount and the one subsequently accepted where the lowest bidder fails to respect its tender, in order to avoid collusion between tenderers.
 - When the lowest bid is judged to be unusually low, the College shall comply with the provisions set forth in sections 18.2 to 18.9 of the *Regulation respecting construction contracts of public bodies* (CQLR, c. C-65.1, r. 5).
- 5.2 The control provisions set forth in Article 5.05 of By-law 9 *Concerning Procurement, Service and Construction Work Contracts* (“**By-law 9**”), as same may be amended from time to time, apply to amendments; the College thereby respecting the Treasury Board requirements.

SECTION 6

TENDERER OR CONTRACTOR ROTATION SYSTEM

- 6.1 To ensure that tenderers are rotated during an invitation to tender, the measures set forth in Articles 7.01 and 7.02 of By-law 9, as same may be amended from time to time, shall be complied with; the College thereby respecting the Treasury Board requirements.
- 6.2 To ensure that contractors are rotated when the contract is by mutual agreement, the measures set forth in Articles 7.01 and 7.02 of By-law 9, as same may be amended from time to time, shall be complied with; the College thereby respecting the Treasury Board requirements.

SECTION 7

SOLICITING CONTRACTS INVOLVING EXPENDITURES BELOW THE PUBLIC TENDER THRESHOLDS

- 7.1 A public call for tender shall be used in the cases set forth in Articles 5.01 to 5.04 and 5.06 of By-law 9, as same may be amended from time to time; the College thereby respecting the Treasury Board requirements.
- 7.2 A tender by invitation shall be used in the cases set forth in Articles 5.01 to 5.04 and 5.06 of By-law 9, as same may be amended from time to time; the College thereby respecting the Treasury Board requirements.
- 7.3 A contract by mutual agreement may be entered into in the cases set forth in Articles 5.01 to 5.04 and 5.06 of By-law 9, as same may be amended from time to time; the College thereby respecting the Treasury Board requirements.

SECTION 8

AUTHORIZATIONS AND ACCOUNTABILITY REPORTING TO THE BOARD OF GOVERNORS OF THE COLLEGE

- 8.1 The terms applicable to authorizations and accountability reporting to the Board of Governors of the College and amendments to any contract for an amount, including any amendment, equal to or above the public tender thresholds, are set forth in Articles 5.07 and 5.05 of By-law 9, as same may be amended from time to time; the College thereby respecting the Treasury Board requirements.

SECTION 9

CONTRACT RULES COMPLIANCE MONITOR (responsable de l'observation des règles contractuelles (RORC))

- 9.1 The contract rules compliance monitor (*responsable de l'observation des règles contractuelles (RORC)*) has the following functions:
- seeing that the contract rules prescribed by the ACPB (LCOP) and the regulations, policies and directives under the ACPB (LCOP) are complied with;
 - advising, and making recommendations or providing advisory opinions to the College on compliance with contract rules;
 - recommending that measures are put in place within the College to ensure the integrity of internal processes;
 - exercise any other function that the Board of Governors may require to ensure that contract rules are complied with.
- 9.2 The following information shall be submitted to the contract rules compliance monitor (RORC) so that he/she may perform the required actions:

All information concerning a file requiring authorization by the Board of Governors under the normative framework are to be sent to the contract rules compliance monitor (RORC) so that he/she may fulfill his/her role as advisor.

SECTION 10

OPENING UP COMPETITION TO SMALL AND MEDIUM ENTERPRISES

- 10.1 To ensure that competition is open to small and medium enterprises and that the requirements are realistically defined in relation to the College's needs, the following measures are put in place:
- Define realistic requirements related to its needs to ensure that the markets are open to a maximum of qualified tenderers.
 - Eligibility and compliance conditions, and the tender quality evaluation criteria, where appropriate, shall not be defined or drafted in a manner that excludes tenderers who could very well satisfy the needs of the College.
 - Product specifications should not unduly limit competition.
 - Where feasible and appropriate, may issue tenders by batches.
 - Properly define the requirements, potentially have a firm understanding of the market corresponding to the need and be able to determine in-house what should be included in the call for tenders. Markets may be monitored to remain abreast of developments, particularly in rapidly evolving sectors that change frequently such as information technology.
 - May issue a notice for expression of interest to explore a new public market and obtain information from the sector in this regard. The notice for expression of interest signals a future call for tender to satisfy a need. The expression of interest should identify the requirements and expectations so that interested enterprises

may answer the College's questions and offer a potential solution. This also allows to gain a better understanding of the market that exists to satisfy its need.

SECTION 11

CONSULTANTS

11.1 To ensure that all employees and management are aware that a consultant is present on the premises, the following measure is put in place:

- Inform the affected employees.

11.2 To restrict access to the premises and vital information in order to carry out consulting duties, the following measures are put in place:

Limit access to restricted documents (physical and electronic) solely to concerned employees in the performance of their duties:

- Specific areas off-limits to consultants could be identified.
- Controls on access to electronic files are restricted.
- Controls on access to physically restricted documents are implemented.

Access rights granted to an external consultant as well as the validity period of their access to the premises:

- Inform concerned directors about the importance of validating access rights granted to external consultants as well as the duration of any such access.
- Regularly verify that access rights granted to external consultants are necessary.
- Ensure that one or several measures are put in place to accompany an external consultant if specific access rights are granted, including when his/her presence is required outside regular business hours.

Remind employees about issues related to information security when external consultants are on the premises of the department.

Require contractors to adopt a code of conduct that will form part of the contract documents. This code could address the consultant's duty to never disclose or use for his/her benefit any information obtained during the performance of his/her mandate, to always identify himself/herself as an external consultant in a given situation, to refrain from trying to obtain or accept any benefit, reward or favour, or granting any benefit, reward or favour to an employee or director of the department.

SECTION 12

PERFORMANCE EVALUATION

12.1 Performance evaluation provisions are set forth in Articles 8.01 to 8.03 of By-law 9, as same may be amended from time to time; the College thereby respecting the Treasury Board requirements.

SECTION 13

DELEGATION

13.1 Article 10 of By-law 9, as same may be amended from time to time, contains delegation provisions; the College thereby respecting the Treasury Board requirements.

SECTION 14

TRANSITIONAL AND FINAL PROVISIONS

14.1 This policy complies with the following laws, regulations and by-laws of the College which are hereby incorporated by reference herein and form an integral part of this policy:

- the ACPB (LCOP);
- Regulation respecting supply contracts of Government departments and public bodies;
- Regulation respecting construction contracts of public bodies;
- Regulation respecting service contracts of public bodies;
- Public Administration Act;
- Market liberalization agreements entered into by the Government of Québec;
- By-law 3;
- By-law 9;
- College Act.

14.2 This policy enters into effect when enacted.