



CONSEIL DES COMMISSAIRES COUNCIL OF COMMISSIONERS

Procès-verbal d'une séance **extraordinaire** du Conseil des commissaires de la Commission scolaire Riverside tenue au centre administratif situé au 7525 chemin de Chambly, Saint-Hubert, Québec le 21 mai 2019.

Minutes of the proceedings of a **special session** of the Council of Commissioners for Riverside School Board held at the Administration Centre located at 7525, chemin de Chambly, St. Hubert, Québec on May 21, 2019.

Le secrétaire général a confirmé qu'il y avait quorum et le président a déclaré la séance ouverte à 19 h 30.

The Secretary General established that quorum was met and the Chair called the meeting to order at 7:30 p.m.

COMMISSAIRES PRÉSENTS / COMMISSIONERS PRESENT

D. Lamoureux
L. Llewelyn Cuffling
P. Booth Morrison
D. Smith
A. Capobianco Skipworth
G. Glummarra

C. Horrell
A. Mazur
D. Butler

Commissaires parents / Parent Commissioners

T. Aguiar
C. Courtney

Par appel conférence/By conference call :

C. Craig
P. Michaud (Parent Commissioner)

Ayant prévu leurs absences/Regrets :

P. Dionne (Parent Commissioner)
M. Gour
H. Dumont

Absents/Absences :

Aucune/none

Aussi présents

Sylvain Racette, directeur général
Lucie Roy, directrice générale adjointe et directrice de l'éducation des adultes et de la formation professionnelle
John McLaren, secrétaire général
Michel Bergeron, directeur des ressources financières
Hélène Coupal, directrice des ressources humaines
Jessica Saada, directrice par intérim directrice des services éducatifs
Pierre M. Gagnon, directeur des ressources matérielles

Also present

Sylvain Racette, Director General
Lucie Roy, Assistant Director General and Director of Adult and Continuing Education
John McLaren, Secretary General
Michel Bergeron, Director of Financial Resources
Hélène Coupal, Director of Human Resources
Jessica Saada, Interim, Director of Educational Services
Pierre M. Gagnon, Director of Material Resources

Ayant prévu leurs absences :

Chantale Scroggins, directrice des services complémentaires

Regrets:

Chantale Scroggins, directrice des ressources complémentaires

Présence notée

Membres du public présents.

Presence noted

Members of the public were present.

DÉCLARATION DU CONSEIL DES COMMISSAIRES

Nous aimerions commencer par reconnaître que nous nous réunissons aujourd'hui sur le territoire traditionnel non cédé de la nation Mohawk.

ADOPTION DE L'ORDRE DU JOUR :

IL EST PROPOSÉ par la commissaire Capobianco Skipworth, appuyé par le commissaire Horrell, que l'ordre du jour soit adopté et qu'une copie soit annexée au procès-verbal de cette séance.

ADOPTÉE À L'UNANIMITÉ

Résolution B708-20190521

ADOPTION DE LA PROCÉDURE PORTANT SUR LA RÉCEPTION ET L'EXAMEN DES PLAINTES FORMULÉES DANS LE CADRE DE L'ADJUDICATION OU DE L'ATTRIBUTION D'UN CONTRAT PUBLIC

CONSIDÉRANT que la Loi sur les contrats des organismes publics (RLRQ, C. 65.1) et ses règlements et à la Loi sur l'autorité des marchés publics (RSRQ, c. A-33.2.1) ;

CONSIDÉRANT que la présente procédure est établie dans le but de traiter de façon équitable les plaintes formulées à la Commission scolaire Riverside dans le cadre de l'adjudication ou de l'attribution d'un contrat public ;

CONSIDÉRANT que la présente procédure est aussi établie dans le but de renseigner le public quant à la procédure de réception et d'examen des plaintes ;

IL EST PROPOSÉ par le commissaire Lamoureux, appuyé par la commissaire Llewelyn Cuffling, que la Procédure portant sur la réception et l'examen des plaintes formulées dans le cadre de l'adjudication ou de l'attribution d'un contrat public adoptée; et qu'une copie soit annexée au procès-verbal de cette séance.

ADOPTÉE À L'UNANIMITÉ

STATEMENT OF THE COUNCIL OF COMMISSIONERS

We would like to begin by acknowledging that the land on which we gather is the traditional unceded territory of the Mohawk people.

ADOPTION OF THE AGENDA:

IT IS MOVED by Commissioner Capobianco Skipworth, seconded by Commissioner Horrell, that the agenda be adopted and that a copy be appended to the Minutes of this meeting.

UNANIMOUS

Resolution B708-20190521

ADOPTION OF THE PROCEDURE FOR RECEIVING AND EXAMINING COMPLAINTS FILED IN THE COURSE OF THE TENDERING OR AWARDED PROCESS FOR A PUBLIC CONTRACT

WHEREAS the Act respecting contracting by public bodies (CQLR, c. 65.1) and its regulations and the Act respecting *the Autorité des marchés publics* (CQLR, c.a-33.2.1);

WHEREAS this present procedure is established to provide equitable resolution complaints filed with Riverside School Board in the course of the tendering or awarding process;

WHEREAS this present procedure is also established to inform the public of the procedure for filing and examining complaints;

IT IS MOVED by Commissioner Lamoureux, seconded by Commissioner Llewelyn Cuffling, that the Procedure for Receiving and Examining Complaints Filed in the Course of the Tendering or Awarding Process for a Public Contract be adopted; and that a copy be appended to the Minutes of this meeting.

UNANIMOUS

LEVÉE DE LA SÉANCE :

IL EST PROPOSÉ par la commissaire Aguiar, appuyé par la commissaire Booth Morrison, que la séance soit levée à 19 h 34.

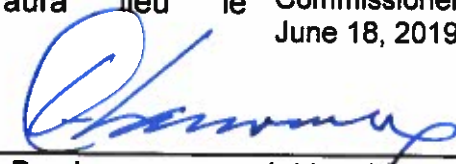
CLOSING:

IT IS MOVED by Commissioner Aguiar, seconded by Commissioner Booth Morrison, at 7:34 p.m. that the meeting be closed.

DATE DE LA PROCHAINE SÉANCE ORDINAIRE : **DATE OF NEXT REGULAR MEETING:**

La prochaine réunion ordinaire du Conseil des commissaires aura lieu le 18 juin 2019.

The next Regular Meeting of the Council of Commissioners will take place on June 18, 2019.



Dan Lamoureux, président / Chairman



John McLaren, secrétaire général / Secretary General

AVIS PUBLIC

Avis est, par la présente, donné qu'une séance **extraordinaire** du Conseil des commissaires est convoquée, le tout, conformément à l'article 163 de la *Loi sur l'instruction publique*.

Cette séance extraordinaire aura lieu le mardi 21 mai 2019 à 19 h 30 au **7525 chemin de Chambly, Saint-Hubert, Québec**.

LE TOUT CONFORMÉMENT à la *Loi sur l'instruction publique*.

PROJET D'ORDRE DU JOUR – SÉANCE EXTRAORDINAIRE

1. Ouverture de la séance
2. Déclaration du Conseil des commissaires
3. Adoption de l'ordre du jour
4. Résolution
 - 4.1 Adoption de la Procédure portant sur la réception et l'examen des plaintes formulées dans le cadre de l'adjudication ou de l'attribution d'un contrat public
5. Clôture de séance
6. Date de la prochaine session ordinaire du Conseil : **le mardi 28 mai 2019 à 19 h 30.**

Donné à Saint-Hubert (Québec) le 17 mai 2019.



John McLaren, secrétaire général

PUBLIC NOTICE

Public notice is hereby given that a **special** meeting of the Council of Commissioners is convened as per the requirement of article 163 of the *Education Act*.

This special meeting will be held on Tuesday, May 21, 2019 at 7:30 p.m. at **7525, chemin de Chambly, Saint-Hubert, Québec.**

In accordance with the *Education Act*.

DRAFT AGENDA –SPECIAL MEETING

1. Call to Order and Quorum
2. Statement of the Council of Commissioners
3. Adoption of the Agenda
4. Resolution
 - 4.1 Adoption of the Procedure for Receiving and Examining Complaints Filed in the Course of the Tendering or Awarding Process for a Public Contract
5. Close of Meeting
6. Date of Next Regular Meeting: **Tuesday, May 28, 2019 at 7:30 p.m.**

Given at Saint-Hubert, Québec, on May 17, 2019.



John McLaren, Secretary General



PROCEDURE FOR RECEIVING AND EXAMINING COMPLAINTS FILED IN THE COURSE OF THE TENDERING OR AWARDED PROCESS FOR A PUBLIC CONTRACT

Adopted by the Council of Commissioners on May 28, 2019 by resolution no BXXX-20190528.

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7.	Complaints regarding the process of against a contract involving an expenditure equal or above the applicable threshold for a public call for tender, an ongoing call for tender, the certification process of goods or an enterprise qualification process..... E rror! Bookmark not defined.		
8.	Complaints against a contract involving an expenditure equal or above the public tender threshold in accordance with section 10 of the LCOP entered into by mutual agreement pursuant to subparagraph 4 of section 13 of the LCOP since the School Board considers it will be able to prove, in accordance with the principles set out in section 2 of the LCOP that a public call for tenders would not serve the public interest..... Error! Bookmark not defined.		

- 9. Complaints against the tendering or awarding process for a public contract other than those referred to in sections 7 and 8 of the present procedure**Error! Bookmark not defined.**
- 10. Other provisions.....**Error! Bookmark not defined.**

I. REFERENCE

This present procedure is established in accordance with the Act respecting contracting by public bodies (CQLR, c. 65.1) (hereinafter referred to as “LCOP”) and regulations passed thereunder and the Act respecting the Autorité des marchés publics (CQLR, c. a-33.2.1) (hereinafter referred to as “LAMP”).

2. OBJECTIVES

This present procedure is established to:

- Provide equitable resolution of complaints filed with the Riverside School Board (hereinafter referred as the “School Board”) in the course of the tendering or awarding process;
- Inform the public of the procedure for filing and examining complaints.

3. APPLICATION

In this present procedure, the complaint examination process is divided into three categories:

- 3.1. Complaints filed in the course of the tendering process for a public contract involving an expenditure equal or above the applicable public tender threshold;
- 3.2. Complaints against a contract involving an expenditure equal or above the public tender threshold in accordance with section 10 of the LCOP entered into by mutual agreement pursuant to subparagraph 4 of section 13 of the LCOP if the School Board considers it will be able to prove, in accordance with the principles set out in section 2 of the LCOP, that a public call for tenders would not serve the public interest;
- 3.3. Complaints against the tendering or awarding process for a public contract other than those referred to in sections 3.1 and 3.2 of the present procedure.

4. DEFINITIONS

- 4.1. **Complaint:** Action to denounce a decision or condition not compliant with the normative framework against the tendering or awarding process for a public contract.
- 4.2. **Normative framework:** Legislative and regulatory framework to set standards for main aspect of the management policies and administrative framework to determine internal rules in this matter.
- 4.3. **Complainant:** Enterprise or group of enterprises or their representative interested in participating in the tendering process or who have manifested their interest in carrying out the contract following publication of a notice of intention.
- 4.4. **Interested party:** Enterprise or group of enterprises capable of participating in the tendering process or carrying out the contract following the publication of the notice of intention.
- 4.5. **Enterprise:** Legal person established for a private interest, a general, limited or undeclared partnership or a natural person who operates a sole proprietorship (section 13.1 art. 2 LCOP).

5. CONTRACT RULES COMPLIANCE MONITOR

5.1. Complaint must be submitted electronically to rarc@rsb.qc.ca Contract Rules Compliance Monitor.

5.2. In the absence of, or the inability to act of the Contract Rules Compliance Monitor, the Contract Rules Compliance Monitor Substitute is the Secretary General.

6. GENERAL PROVISIONS

6.1 Application

The present procedure applies to contracts involving a public expenditure and to public-private partnership contracts.

6.2 Protection against reprisals

Complaints in compliance with the present procedure must be filed without the fear of reprisals from the School Board.

Section 51 of the LAMP stipulates specifically that it is forbidden to threaten a person or a group of persons of retaliation so that they abstain from filing a complaint to the Autorité des marchés publics (hereinafter referred as the "MP"). Any person or group of persons who believes to have been a victim of a retaliation may file a complaint with the AMP in order that it may determine if the complaint is substantiated and make any recommendations it considers appropriate to the chief executive officer of the School Board. When the examination is concluded, the AMP informs the complainant of its findings and, if applicable, its recommendations.

6.3 Preservation of your recourse rights

To preserve your rights to recourse with the AMP in accordance with the provisions provided by sections 37, 38, 39 and 41 of the LAMP, a complaint must be filed with the School Board in compliance with the present procedure.

6.4 Withdrawal of a complaint

In the case of a complaint against an ongoing public tender or certification process of goods or enterprise qualification process, the withdrawal of a complaint must be sent before the deadline for filing a complaint.

For this purpose, the Complainant must send an email to the School Board at rarc@rsb.qc.ca and indicate the reasons for the withdrawal of complaint.

Once the email is received, the School Board will enter the date of the complaint withdrawal in the electronic tendering system (hereafter referred as "SEAO").

In the case of a complaint against a contract entered into by mutual agreement pursuant to subparagraph 4 of first paragraph of section 13 of the LCOP for which an enterprise wishes to express its interest in carrying out the contract, the enterprise may withdraw its demonstration document without compromising its right to present a new document within the deadline.

6.5 Dismissal of a complaint

In the case of a complaint against an ongoing public tender or certification process of goods or enterprise qualification process, the School Board will dismiss a complaint for one of the following reasons:

- The complaint does not include the required criteria of admissibility;
- The Complainant is filing or has filed for a judicial remedy which includes the same evidence as the one presented in the application for judicial remedy.

6.6 Decision or action

In the case of a complaint regarding a public call for tender, a qualification process, or a certification of goods process, the School Board will amend by Addendum the documents involved in the complaint if it deems it necessary following a thorough analysis of the complaint.

7. COMPLAINTS REGARDING THE AWARDING PROCESS OF A CONTRACT INVOLVING AN EXPENDITURE EQUAL OR ABOVE THE APPLICABLE THRESHOLD FOR A PUBLIC CALL FOR TENDER, AN ONGOING CALL FOR TENDER, THE CERTIFICATION PROCESS OF GOODS OR AN ENTERPRISE QUALIFICATION PROCESS

7.1. Complaint filing and verification of required interest

7.1.1. A complaint must be filed electronically with the AMP in the form it determined (hereafter referred as the “AMP Form”);

7.1.2. A complaint must be filed electronically with the Contract Rules Compliance Monitor, at the following address rarc@rsb.qc.ca. The Complaint must be transmitted simultaneously to the AMP for information purposes.

- 7.1.3. A complaint must be filed no later than the deadline for filing complaints provided for and in accordance with the LCOP and its regulations, a period corresponding to half the time for receiving tenders but which may not be less than ten (10) days;
- 7.1.4. The School Board will make an entry to that effect on the SEAO without delay, the time the complaint was filed, after having ascertained the Complainant's interest. An acknowledgement of receipt will be sent to the Complainant.

7.2. Admissibility Analysis

7.2.1. Admissibility conditions of a complaint:

7.2.1.1. A complaint should be filed in accordance with the provisions of section 7.1 of the present procedure;

7.2.1.2. A complaint should refer to one of the following:

- Ongoing call for tender
- Certification process of goods
- Enterprise qualification process

7.2.1.3. Complaint must establish that the tender documents include:

- Conditions that do not ensure the honest and fair treatment of competitors or;
- Conditions that do not allow competitors to compete although they are qualified to meet the stated procurement requirements or;
- Conditions not compliant with the normative framework.

7.3. Examination of complaint and decision

7.3.1. The Contract Rules Compliance Monitor will analyze the issue the Complainant raised and indicated on the AMP form in relation to the documents involved for a specific tender process. To proceed with this analysis, the Contract Rules Compliance Monitor must comply with the following conditions provided by the LCOP regulations¹ :

7.3.1.1. The complaint regarding a call for tenders must be filed with the public body no later than the complaint filing deadline indicated on the SEAO;

¹ Regulation respecting certain supply contracts of public bodies (sections 9.3 to 9.9), Regulation respecting construction contracts of public bodies (sections 12.1 to 12.7), Regulation respecting contracting by public bodies in the field of information technologies (sections 13.1 to 13.7).

- 7.3.1.2. The complaint may pertain only to the content of the tender documents available no later than two days before the deadline;
- 7.3.1.3. On receiving a first complaint, the School Board must make an entry to that effect on the SEAO, after having ascertained the Complainant's interest;
- 7.3.1.4. The Contract Rules Compliance Monitor must send the Complainant its decision electronically after the complaint filing deadline but no later than three days before the tender closing date it has determined. If necessary, the Monitor must defer the tender closing date;
- 7.3.1.5. The Contract Rules Compliance Monitor must also, if applicable, inform the Complainant of their right to file a complaint under section 37 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision;
- 7.3.1.6. If the Contract Rules Compliance Monitor has received two or more complaints about the same call for tenders, it must send both or all of its decisions at the same time;
- 7.3.1.7. The Contract Rules Compliance Monitor must, when sending his or her decision about a complaint filed with him or her, make an entry to that effect in the SEAO without delay;
- 7.3.1.8. The School Board must defer the tender closing date by the number of days needed to allow a minimum period of seven days to remain from the date its decision is sent;
- 7.3.1.9. If two days before the tender closing date, the School Board has not indicated on the ENT that it has sent its decision regarding a complaint, the system operator must, without delay, defer the tender closing date by four days;
- 7.3.1.10. If the defer date falls on a holiday, it must again be deferred to the second next working day. If the day preceding the deferred date is not a working day, that date must be deferred to the next working day;

7.4 Complaint filed with the AMP

- 7.4.1 If not satisfied with the decision, the Complainant can file a complaint with the AMP. In that case, the complaint must be filed no later than three (3) days after receiving the decision in accordance with Section 37 of the LAMP.

If the Complainant has not received a decision three (3) days before the tender closing date, a complaint may be filed with the AMP. In that case, the complaint

must be filed with the AMP no later than the tender closing date in accordance with Section 39 of the LAMP.

8. COMPLAINTS AGAINST A CONTRACT INVOLVING AN EXPENDITURE EQUAL OR ABOVE THE PUBLIC TENDER THRESHOLD IN ACCORDANCE WITH SECTION 10 OF THE LCOP ENTERED INTO BY MUTUAL AGREEMENT PURSUANT TO SUBPARAGRAPH 4 OF SECTION 13 OF THE LCOP SINCE THE SCHOOL BOARD CONSIDERS IT WILL BE ABLE TO PROVE, IN ACCORDANCE WITH THE PRINCIPLES SET OUT IN SECTION 2 OF THE LCOP, THAT A PUBLIC CALL FOR TENDERS WOULD NOT SERVE THE PUBLIC INTEREST

8.1. If the School Board published a notice of intention

The enterprise must express its interest electronically to the Contract Rules Compliance Monitor at rar@rsb.gc.ca no later than the deadline for the receiving of the enterprise demonstration.

The School Board will transmit electronically its decision to maintain or not its intention to enter into a contract by mutual agreement to the enterprise that has manifested its interest under subparagraph 5 of the first paragraph of section 13.1 of the LCOP.

This decision shall be sent at least seven (7) days prior to the projected contract date for the mutual agreement. If needed, the projected contract date of the mutual agreement must be deferred by the number of days needed to ensure compliance with that minimum period.

The School Board will proceed with a public call for tenders if, after analysis, it deems that at least one enterprise has expressed its interest and has demonstrated that it ~~will~~ **be is** able to carry out the contract in accordance with the needs and obligations expressed in the notice of intention.

If the School Board decides to proceed with the conclusion of a contract entered into by mutual agreement, the enterprise that has expressed its interest may file a complaint under Section 38 of the LAMP.

8.2. If the School Board did not publish a notice of intention

If the School Board has not published a notice of intention in the SEAO at least 15 days before entering into a contract by mutual agreement under Section 13.1 of the LCOP allowing any enterprise to express its interest in carrying out the contract, then the Complainant may file a complaint in accordance with the procedure provided in Section 42 of the LAMP.

8.3 Complaint filed with the AMP

If not satisfied with the decision, the Complainant can file a complaint with the AMP. In that case, the complaint must be filed no later than three (3) days after receiving the decision in accordance with Section 38 of the LAMP.

If the Complainant has not received a decision three (3) days before the projected contract date, then the Complainant may file a complaint with the AMP. In that case, the complaint must be filed with the AMP no later than one day before the projected contract date indicated in the SEAO under Section 41 of the LAMP.

9. COMPLAINTS AGAINST THE TENDERING OR AWARDING PROCESS FOR A PUBLIC CONTRACT OTHER THAN THOSE REFERRED TO IN SECTIONS 7 AND 8 OF THE PRESENT PROCEDURE

9.1. Complaint filing and expression of required interest

9.1.1. The complaint must be filed electronically on the form provided by the School Board.

9.1.1.1. In the even of a complaint concerning the tendering process, the complaint must be filed on the form provided by the AMP;

9.1.2. A complaint must be filed electronically with the Contract Rules Compliance Monitor, at the following address rarc@rsb.qc.ca.

9.1.3. The complaint must be filed no later than:

9.1.3.1. The business day corresponding to at least half the time for receiving tenders, for a complaint concerning the tendering process or invitation;

9.1.3.2. The working day prior to the awarding of the contract, for a complaint concerning a contract entered into by mutual agreement.

9.2. Admissibility Analysis

9.2.1. Admissibility conditions of a complaint:

9.2.1.1. A complaint should be filed in accordance with the provisions of section 9.1 of the present procedure;

9.2.1.2. A complaint should refer to one of the following:

- Ongoing call for tender or invitation
- A contract to be entered into by mutual agreement.

9.2.1.3. Complaint must establish that the tendering or awarding process include:

- Conditions that do not ensure the honest and equitable treatment of competitors or;
- Conditions that do not allow competitors to compete although they are qualified to meet the stated requirements or;
- Conditions not compliant with the normative framework.

9.3. Examination of complaint and decision

9.3.1. The Contract Rules Compliance Monitor will analyze the issue raised by the Complainant and indicated on the AMP form in relation to a specific tendering or awarding process;

9.3.2. The Contract Rules Compliance Monitor must ensure the equitable treatment of the complaint in an equitable manner in light of the contractual management framework, and to that end, take any action deemed necessary;

9.3.2.1. In the case of an ongoing public call for tenders, only an enterprise or group of enterprises or their representative interested in participating in the awarding process for a public contract can file a complaint because the conditions in the tender documents do not ensure the honest and fair treatment of competitors, do not allow competitors to partake although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the normative framework.

- 9.3.3. The Contract Rules Compliance Monitor must submit his or her decision to the Complainant within a reasonable period of time in view of the circumstances and decision will be final.

10. OTHER PROVISIONS

- 10.1. The delays indicated in the present procedure and resulting from legislative or regulatory provisions will be modified automatically further to a legislative or regulatory amendment upon its entry into force.
- 10.2. This present procedure comes into force on May 25, 2019.

