

**MUNICIPALITÉ DE SAINT-AUGUSTIN
MUNICIPALITY OF SAINT-AUGUSTIN
PROVINCE OF QUEBEC**

BY LAW NO. 2021-R004

**ADOPTION OF THE BY-LAW TO REPEAL BY-LAW NO. 2011-R002 AND
REPLACE WITH BY-LAW NO. 2021-R004 REGULATION AND CONTRACT
MANAGEMENT.**

WHEREAS, a Contract Management Policy was adopted by the Municipality of Saint-Augustin on April 12, 2011, in accordance with article 938.1.2 of the Municipal Code of Quebec;

WHEREAS, section 938.1.2 of the Municipal Code of Quebec was replaced on January 1, 2018 requiring municipalities, as of the latter date, to adopt a Contract Management by-law, although the Municipality of Saint-Augustin's current policy is deemed to be such a by-law;

WHEREAS, the by-law must at least provide for measures in respect of six objects identified in the Act;

WHEREAS, these Regulations meet the objective of transparency and sound management of public funds;

WHEREAS, a notice of motion has been given and a draft by-law has been presented at the regular sitting of the Municipal Council on August 10, 2021;

WHEREAS, the General Director mentions that the purpose of this by-law is to provide measures relating to contract management for any contract to be entered into by the Municipality, including certain contracting rules for contracts involving an expenditure of at least twenty-five thousand dollars (\$25,000) and less than one hundred thousand dollars (\$100,000);

CONSEQUENTLY, it is proposed by Iesha Shattler and unanimously resolved by the municipal council that this by-law be ordered and held as follows:

CHAPTER I

DECLARATORY AND INTERPRETATIVE PROVISIONS

SECTION I

1. Purpose of the Regulation

The purpose of this Regulation is:

- a) To provide measures for the awarding and management of contracts awarded by the Municipality of Saint-Augustin, in accordance with section 938.1.2 of the Municipal Code of Quebec;

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- b) Provide for contracting rules that involve an expenditure of at least twenty-five thousand dollars (\$25,000) and less than one hundred thousand dollars (\$100,000).

2. **Scope of application**

This by-law applies to any contract entered into by the Municipality, including a contract that is not referred to in any of the subparagraphs of the first paragraph of paragraph 1 of section 935 or paragraph 1 of section 938.0.2 of the Municipal Code of Quebec.

This by-law regardless of the authority that awards the contract, whether it is the council or any person to whom the council has delegated the authority to spend and enter into contracts on behalf of the Municipality.

SECTION II

INTERPRETATIVE PROVISIONS

3. **Interpretation of the text**

These regulations must be interpreted in accordance with the principles of the Interpretation Act (CQLR, c. 1-16).

It shall not be interpreted as permitting derogation from the mandatory provision of the laws governing the contracts of Municipalities, unless those laws expressly permit derogation from them by this regulation, including, for example, some of the measures provided for in Chapter II of this Regulation.

4. **Other jurisdictions or bodies**

The Municipality recognizes the importance, role and powers granted to other bodies that may inquire into and act with respect to the objects covered by certain measures provided for in this by-law. 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 Lobbyists' code of Conduct adopted under the Act.

5. **Special rules of Interpretation**

This Regulation shall not be interpreted as:

- a) Restrictively or literally
- 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 Regulation must be interpreted as:

- In accordance with the principles set out in the preamble to the Act primarily to recognize municipalities as local governments and to increase their autonomy and powers as such (2017, c.3) (Bill 22) recognizing municipalities as local governments and elected officials.

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among other things, the legitimacy necessary 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 expenditure of the contract to be incurred, having regard to the costs, the time required and the size of the Municipality.

6. Terminology

Unless the context otherwise indicates, the words and expressions used in these regulations have the following meanings:

Call for tenders: public call for tenders or invitation required by sections 935 of the Municipal Code of Quebec.

Invitation to tender: does not include requests for prices that are formulated when no call for tenders is required by law or by this Regulation.

Bidder: any person who submits a bid during a tendering process.

CHAPTER II

CONTRACTING RULES AND ROTATION

7. General

The Municipality complies with the contracting rules provided for in the acts that govern it, including the Municipal Code in particular:

- a) It shall proceed by invitation to tender where the Act or the regulation made under section 938.0.1 of the Municipal Code of Quebec requires such a call for tenders, unless there is a special provision to the contrary provided for in the regulation;
- b) It shall proceed by public calls for tenders in all cases where a public call for tenders is required by law or by regulation made under section 938.0.1 of the Municipal Code of Quebec;
- c) It may proceed by mutual agreement in cases where the law or this regulation allow it to do so.

Nothing in this By-Law may have the effect of limiting the possibility for the Municipality to use any method of calling for the competition for the award of a contract, whether by public call for tenders, by invitation or by request for prices, even if it may legally proceed by mutual agreement.

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8. **Contracts that may be concluded by mutual agreement**

Subject to section 13, any contract involving an expenditure of at least twenty-five thousand dollars (\$25,000), but equal to or less than the expenditure shown in the following table, may be entered into by mutual agreement by the Municipality of Saint- Augustin:

TYPE OF CONTRACT	AMOUNT OF EXPENDITURE
Insurance	49,999 ^{Threshold}
Execution of works or supply of equip/materials	99,999 & up ^{fu}
Provision of services (inc. professional services)	99,999 & up

9. **Rotation - Principles**

The Municipality shall, where possible, encourage rotation among potential suppliers with respect to contracts that may be entered to by mutual agreement under the section 8. The Municipality, in making this decision in this regard, considers, in particular, the following principles:

- The degree of expertise required;
- The quality of the work, services or materials already provided or delivered to the Municipality;
- The time limits inherent in the execution of the works, the supply of equipment or materials or the provision of services;
- The quality of goods, services or works sought;
- The terms of delivery;
- Maintenance services;
- The required experience and financial capacity;
- Price competitiveness, taking into account all market conditions;
- The fact that the supplier has an establishment in the territory of the Municipality;
- Other criteria directly related to the market

10. **Rotation – Measurements**

For the purpose of ensuring implementation of the rotation provided for in Section 9, the Municipality shall, to the extent possible and unless there are special circumstances, apply the following measures:

- Potential suppliers are identified before awarding the contract. If the territory of the Municipality has more than one supplier, such identification may be limited to the latter territory or, where applicable, the territory of the MRC or any other geographical region that will be deemed relevant given the nature of the contract to be concluded;
- Once the supplier has been identified and taking into account the principles listed in Article 9, rotation between them must be encouraged, unless there are reasons of sound administration;
- The Municipality may make a call for interest in order to know the suppliers likely to meet its needs;

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- d) Unless there are special circumstances, the person in charge of managing the contract completes, to the extent possible, the analysis form found in appendix 4;
- e) For the categories of contracts it determines, for the purpose of identifying potential suppliers, the Municipality may also establish a list of suppliers. Rotation among the suppliers appearing on the list, where applicable, shall be encouraged, subject to what is provided for in paragraph (b) of this Article.

CHAPTER III

SECTION 1

11. General

For some contracts, the Municipality is not subject to any special competitive bidding procedure (public call for tenders or by invitation). This By-Law may not have the effect of restricting the possibility for the Municipality to proceed by mutual agreement for such contracts. These include, in particular, contracts:

- a) Who, by their nature, are not subject to any tendering process (contracts other than insurance contracts, supply of equipment or materials, services and execution of works);
- b) Expressly exempted from the tendering process (in particular those listed in article 938 of the Municipal Code of Quebec and contracts for professional services necessary in the context of a remedy before a court, body or person exercising judicial or jurisdictional functions;
- c) Insurance, for the performance of work, for the supply of equipment or materials or services (including professional services) involving an expenditure of less than twenty-five thousand dollars (\$25,000).

12. Measurements

Where the Municipality elects to grant by mutual agreement, one or other of the contracts mentioned in section 13, the following measures apply, unless those measures are incompatible with the nature of the contract:

- a) Lobbying
 - Measures provided for in articles 16 (duty to inform elected officials and employees and 167 (training);
- b) Intimidation, influence or corruption
 - Measure provided in Article 19 (denunciation);
- c) Conflict of Interest
 - Measure provided in Article 21 (denunciation);

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- d) Modification of a contract
- Measure provided for in Article 27 (amendment of a contract).

13. Backgrounder

The Municipality shall publish, on its website internet, the information document relating to the contract management attached to schedule 1, in order to inform the population and potential contractors of the measures taken by it within the framework of this by-law.

SECTION II

BID-RIGGING

14. Sanction if collusion

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

15. Declaration

Every tenderer must attach to his tender, or at the latest before the contract is awarded, a declaration affirming that his tender has been prepared and filed without there having been collusion, communication, agreement or arrangement with any person in contravention of any law to combat bid-rigging. This declaration must be made on the form attached to schedule 2.

SECTION III

LOBBYING

16. Duty to inform elected officials and employees

Every member of the Council or any officer or employee must remind any person who takes the initiative to contact him in order to obtain a contract of the existence of the Lobbying Transparency and Ethics Act, when he considers that there is a contravention of that Act.

17. Formation

The Municipality favors the participation of council members and public servants and employees in training designed to inform them about the legislative and regulatory provision applicable to lobbying.

18. Declaration

Every tenderer must attach to his tender or, at the latest before the contract is awarded, a declaration solemnly affirming that neither he nor any of his collaborators representatives or employees has engaged in a communication

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of influence for the purpose of obtaining the contract in contravention of the *Lobbying Transparency and Ethics Act* or, if such communication of influence has taken place, that is has been made after any resignation has been made in the registry of lobbyists where it is required under the act. This declaration must be made on the form attached to schedule 2.

SECTION IV

INTIMIDATION, INFLUENCE PEDDLING OR CORRUPTION

19. Denunciation

Every member of Council, officer 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 has witnessed in the course of his duties. This measure should not be interpreted as limiting the right of data subject to lodge a complaint with a police service or other public authority.

A member of the Board shall make the denunciation to the Executive Director; the Executive Director to the Mayor; the other officers and employees as well as any person working for the Municipality, to the General Director. Where the denunciation directly or indirectly involves the Mayor the General Director, the denunciation is made to the person who is not involved. The General Director or the Mayor must deal with the report diligently and take appropriate measures according to the nature of the situation complained of, including reporting the situation to any other competent authority.

20. Declaration

Every tenderer must attach to his tender, at the latest before the contract is awarded, a solemn declaration affirming that neither he nor any of his collaborators, representatives or employees has engaged, in the context of the call for tenders, in acts of intimidation, influence peddling or corruption, against a member of council, an officer or employee or any other person working in the Municipality. This declaration must be made on the form attached (schedule 2).

SECTION V

CONFLICTS OF INTERESTS

21. Denunciation

Every member of the council, officer or employee, as well as any other person working for the Municipality, involved in the preparation of contractual documents or in the award of the contracts, must denounce, as soon as possible, the existence of pecuniary interests in a legal person, partnership or enterprise likely to enter into a contract with the Municipality.

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A member of the board shall make the denunciation to the Executive Director, the Executive Director to the Mayor; other officers and employees and any other person working for the Municipality, to the General Director. Where the denunciation directly or indirectly involves the Mayor or the General Director, the denunciation is made to the person who is not involved. If they are both involved, the denunciation is made to the deputy mayor or to another member of the municipal council not involved. The person receiving the report must deal with it diligently and take appropriate measures according to the nature of the situation complained of.

22. Declaration

Where the Municipality uses a system of weighting and evaluating tenders, every member of the selection committee must solemnly declare in writing, before beginning the evaluation of tenders, that he has no particular pecuniary interest, direct or indirect, in the contract that is the subject of the evaluation. He must also undertake not to disclose the mandate entrusted to him by the Municipality, nor to use, communicate, attempt to use or communicate, both during his mandate and after his mandate, the information obtained in the exercise or in the exercise of his functions as a member of the selection committee. This declaration must be made on the form attached to Schedule 3.

23. Minimal monetary interest

Minimal pecuniary interest is not covered by the measures described in sections 21 and 22.

SECTION VI

IMPARTIALITY AND OBJECTIVITY OF THE TENDERING PROCESS

24. Responsible for the call for tenders

Any call for tenders shall identify a person in charge and shall provide that any potential **bidder** shall apply to that a sole person in charge to obtain any information or clarification relating to the invitation to tender.

25. Questions from bidders

The tender authority compiles the questions asked by each bidder during the bidding process and issues an addendum if deemed necessary, so that all bidders receive answers to the questions asked by the others.

The tender authority has full discretion to judge the relevance of the questions asked and those that require an answer may group and reformulate certain questions for the purpose of transmitting the answers to the bidders.

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26. Denunciation

Every member of the board shall make the denunciation to the Executive Director; the Executive Director to the Mayor; the other officers and employees, as well as any other person working for the Municipality, to the General Director. Where the denunciation is made to the person who is not involved. If they are both involved, the denunciation is made to the deputy mayor or to another member of the municipal council not involved. The person receiving the report must deal with it diligently and take appropriate measures according to the nature of the situation complained of.

SECTION VII

27. Modification of contract

Any modification made to a contract which has the effect of increasing its price must be justified by the person responsible for managing the contract, considering the rules applicable to authorize such a modification.

The Municipality may not modify a contract awarded following a call for tenders, except where the amendment is an accessory to the contract and does not change its nature.

28. Site meetings

Where justified by the nature of the work, the Municipality shall encourage the holding of regular site meetings to monitor the performance of the contract.

CHAPTER IV

ADMINISTRATIVE AND FINAL PROVISIONS

29. Application of the Regulation

The application of this by-law is under the responsibility of the General Director of the Municipality. The latter is responsible for the preparation of the report that must be filed annually with the council concerning the application of this regulation, in accordance with section 938.1.2 of the Municipal Code of Quebec.

30. Repeal of the Contract Management Policy

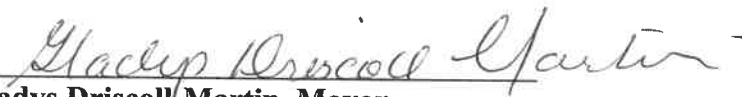
This regulation replaces and repeals the Contract management Policy adopted by the Municipal Council on April 12, 2011 and deemed since January 1, 2018, to be a regulation on contract management under section 278 P.L. 122.

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31. **Entry into force and publication**

This by-law comes into force in accordance with the law and is published on the website of the Municipality. In addition, a copy of this regulation is sent to MAMOT.

- NOTICE OF MOTION GIVE ON AUGUST 10, 2021.
- ADOPTED BY THE MUNICIPAL COUNCIL ON SEPTEMBER 28, 2021.
- PUBLISHED ON SEPTEMBER 29, 2021.


Gladys Driscoll-Martin, Mayor


Corain Driscoll, General Director

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**MUNICIPALITÉ DE SAINT-AUGUSTIN
MUNICIPALITY OF SAINT-AUGUSTIN
PROVINCE OF QUEBEC**

CERTIFICATE OF PUBLICATIONS

I, the undersigned, certify under my oath of office that I published the within public notice hereunto annexed, by posting a copy thereof, at each of the following places:

Municipal Conference Hall
Canada Post Corporation
Caisse Populaire de la Tabatière

Saint-Augustin
Saint-Augustin
Saint-Augustin

IN TESTIMONY WHEREOF, I GIVE THIS CERTIFICATE, this twenty-ninth day of September, two thousand twenty-one.

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Corain Driscoll
Corain Driscoll, General Director