



Date: 2020-07-22

Subject: Procedure regarding the submission of complaints to the Office of Inspector General of Ville de Montréal pursuant to Sections 37 through 52 of the *Act Respecting the Autorité des marchés publics*

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Office of Inspector General of Ville de Montréal

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**Complaint submitted to
the Inspector General**

1. Legal framework

Under Section 68 of the *Act Respecting the Autorité des marchés publics*, the Inspector General exercises the functions and powers conferred on the Autorité des marchés publics in respect of Ville de Montréal or any of its related bodies. The Inspector General replaces the Autorité for the enforcement of the provisions of the *Act Respecting the Autorité des marchés publics*.

Under Section 45 of the *Act Respecting the Autorité des marchés publics*, the Office of Inspector General must establish and publish a procedure on its website regarding the submission and handling of complaints.

2. No reprisals

The *Act Respecting the Autorité des marchés publics* prohibits taking reprisals of any kind, or the threat of reprisals, against a person who submits a complaint to the Inspector General of Ville de Montréal.

A complainant who believes to be the victim of reprisals may file a complaint with the Inspector General, who will determine whether the complaint is founded. In such a case, recommendations may be made to the manager against whom the complaint is made.

If you believe you are a victim of reprisals regarding a complaint submitted to the Inspector General, please contact us at: (514) 280-2800.

Lastly, the Act states that no civil action may be brought against a person who submits a complaint to the Inspector General in good faith.

3. Purpose of the procedure

The purpose of this procedure is to ensure fair treatment of complaints submitted to the Inspector General of Ville de Montréal.

Save for some exceptions, before contacting the Office of Inspector General, the complainant must first have filed a complaint with Ville de Montréal or one of its related bodies. The Inspector General acts primarily as a reviewer of decisions that have been made.



4. Interpretation

Unless specifically stated to the contrary or resulting from the context or provision, the following expressions, terms and words shall have the meaning and application attributed to them in this section:

Assignment process (to a single supplier identified as such):

Any process involving assigning, by mutual agreement, a specific contract with a supplier that is the only one capable of supplying the requested goods or services, in accordance with Section **573.3.0.0.1 of the Cities and Towns Act (CTA)**.

Award process:

Any ongoing public tender process leading to the award of a specific contract

SEAO (Electronic Tendering System):

Electronic tendering system under Section 11 of the *Act Respecting Contracting by Public Bodies*.

Specific contract:

An insurance or procurement contract, or contract for the performance of work or the provision of services, including professional services, which Ville de Montréal or any of its related bodies may enter into that involves an expenditure equal to or greater than the applicable minimum public tender threshold.

5. Application

The Deputy Inspector General – Analysis and Preliminary Investigations is responsible for the application of this procedure.

He or she is responsible for receiving complaints, conducting the appropriate verifications and analyses, and responding within the regulatory time periods.

6. Interest required to file a complaint

Only a person, a partnership or a group of persons with an interest in participating in an ongoing award or assignment process, or their representative, may submit a complaint with regard to said process.

To be considered an interested party, the complainant must intend to perform the contract, and be capable of bidding and meeting the needs expressed by Ville de Montréal or one of its related bodies.



7. Reasons, time limits and content of a complaint submitted to the Inspector General

7.1. Complaint resulting from a decision by a municipal body with regard to an award or assignment process

A complaint results from a decision by Ville de Montréal or one of its related bodies when the complainant first complained to the municipal body and disagrees with the latter's decision upon receiving said decision.

After complaining to Ville de Montréal or one of its related bodies, an interested party, partnership or group may file a complaint with the Office of Inspector General concerning an ongoing public contract award process where the public tender documents:

- Provide for conditions that do not ensure honest and fair treatment of tenderers;
- Do not allow tenderers to participate even though they are qualified to meet the expressed needs;
- Do not otherwise comply with the regulatory framework,

and disagrees with the municipal body's decision.

Filing deadline

The complaint must be received by the Inspector General no later than three (3) days after receiving the municipal body's decision.

Content of the complaint

Complaints must include the following information:

- A copy of the initial complaint sent to the municipal body
- The municipal body's decision
- Reasons supporting the disagreement with the municipal body's decision
- Any other information or documentation the complainant deems relevant for the purposes of analyzing the complaint.

7.2. Complaint not resulting from a decision by a municipal body with regard to an award or assignment process

A complaint does not result from a decision by Ville de Montréal or one of its related bodies when the complainant did not receive the decision related to a specific contract.



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For such a complaint not resulting from a decision, an interested party, partnership or group may submit a complaint to the Office of Inspector General regarding an ongoing public contract award process where the public tender documents:

- Provide for conditions that do not ensure honest and fair treatment of tenderers;
- Do not allow tenderers to participate even though they are qualified to meet the expressed needs;
- Do not otherwise comply with the regulatory framework.

There are only two types of situations where a complainant can file a complaint not resulting from a decision of Ville de Montréal or one of its related bodies:

- 1) No decision was made: After complaining to the municipal body with regard to an award or assignment process, the complainant did not receive a response from the body;
- 2) Addendum published late: An amendment is made to the public tender documents with regard to an award process during the period commencing two (2) days prior to the complaint filing deadline indicated in SEAO.

7.2.1. Reason #1: No decision was made

An interested party, partnership or group may submit a complaint to the Office of Inspector General when, following a complaint to the municipal body, they have not received the municipal body's decision three (3) days before the bid closing date.

Submission times related to the award process

The complaint may be submitted to the Inspector General at the earliest three (3) days before the bid closing date and no later than this same date.

Submission times related to the assignment process

The complaint must be submitted to the Inspector General at the earliest three (3) days before the contract execution date and no later than one (1) day after this date.

7.2.2. Reason #2: Addendum published late

An interested party, partnership or group may also file a complaint when the municipal body amends the tender documents during the period starting two (2) days before the complaint submission deadline indicated on SEAO.



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Filing deadline

When changes have been made to the call for tenders documents as indicated above, the complaint must be submitted to the Office of Inspector General no later than two (2) days before the bid closing date indicated on SEAO.

Content of a complaint

Complaints must include the following information:

- Date
- Complainant's identification and contact information:
 - Name
 - Address
 - Phone number
 - Email address
- Identification of award or assignment application referred to in the complaint:
 - Call for tenders number
 - SEAO reference number
 - Title
- A copy of the initial complaint sent to the municipal body for which no response was obtained, where applicable;

Or

Identification of the changes made to the tender documents during the period starting two (2) days prior to the complaint filing deadline.

- Reasons supporting the complaint.



8. Transmission methods

8.1. Submitting a complaint

All complaints must be sent by email to the Deputy Inspector General – Analysis and Preliminary Investigations to: big@bigmtl.ca.

The complaint must be presented on the form provided by the Autorité des marchés publics available on the website of the Office of Inspector General at www.bigmtl.ca.

8.2. Withdrawal of a complaint

The complainant may withdraw the complaint submitted to the Inspector General at any time after submitting it. The complainant must confirm his or her decision in writing or electronically, and written confirmation is sent to the complainant upon receiving the confirmation of withdrawal. The Inspector General then stops processing the complaint and closes the file.

9. Complaint admissibility criteria

For a complaint to be reviewed, it must meet the following conditions:

- a) Submitted by an interested party, as defined in Section 4 of this procedure;
- b) Submitted electronically, in accordance with Section 6 of this procedure;
- c) Submitted on the form provided by the Autorité des marchés publics under the *Act Respecting the Autorité des marchés publics*;
- d) Must not be submitted past the deadline;
- e) The complainant must have submitted a complaint or expression of interest to the municipal body where required by the *Act Respecting the Autorité des marchés publics*;
- f) Relate to a specific contract;
- g) The complainant must not seek or have sought legal recourse for the same facts set out in the complaint.

The Inspector General shall reject any complaints that do not meet any of the above conditions.

10. Complaint submission and processing

Upon receiving a complaint, the Inspector General reviews its admissibility by ensuring that it meets the admissibility criteria in Section 8 of this procedure.

When the Inspector General considers a complaint to be admissible, she notifies the municipal body, which must submit its observations and, where applicable, send her a copy of the reasons supporting its decision regarding the complaint or expression of interest.



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For a complaint concerning an award process, the Inspector General must, if necessary, request that bid submission be postponed until a new bid closing date is set by the municipal body.

For a complaint concerning an assignment process, the Inspector General must, if necessary, postpone the contract execution date.

If necessary, the municipal body concerned and the complainant are notified of the postponement, and SEAO shall be required by the Office of Inspector General to publish an indication to this effect immediately.

Upon receiving the municipal body's comments, the Inspector General reviews the complaint and the reasons invoked by the complainant.

11. Decision

11.1. Time limits

The Office of Inspector General has ten (10) days after receiving the municipal body's comments to make a decision.

If the complaint cannot be processed within the timeframe stated in the first paragraph because of the complexity of the elements mentioned in the complaint, the Inspector General shall set an additional time period that is sufficient to finish processing the complaint.

However, if the municipal body proves to the Inspector General's satisfaction that the additional established time would prevent it from adequately fulfilling its mission, affect services to the public, companies or other municipal bodies, result in a violation of laws and regulations, or otherwise involve any other reason of public interest, the Inspector General would then have only five (5) more days to render her decision, unless a longer time period can be agreed upon with the municipal body.

If the Office of Inspector General fails to render a decision before the end of the established additional time period, it will be deemed to have decided that with regard to the elements raised in the complaint, the contract award or assignment process conforms to the regulatory framework.

11.2. Transmission of decision

After reviewing the complaint, the Office of Inspector General shall send a reasoned decision in writing to the complainant as well as to Ville de Montréal or the related body concerned by the complaint.

The Office of Inspector General's reasoned decision is public and will be made available on its website.



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If necessary, the Office of Inspector General shall also require the SEAO operator to immediately publish a summary description of the decision.

12. Effective date and accessibility

This procedure shall take effect on July 22, 2020 and shall replace the existing procedure at that time.

When it becomes effective, the Office of Inspector General shall make it accessible at all times by publishing it on its website.

The Inspector General

Ms Brigitte Bishop

ORIGINAL SIGNED