

**PROCEDURE FOR PROCESSING COMPLAINTS REGARDING THE TENDER OR AWARD
OF A PUBLIC CONTRACT AND DURING A PROCESS FOR THE CERTIFICATION OF
GOODS AND QUALIFICATION OF ENTERPRISES**

Department responsible : General Administration	Approved by : _____ Director general
Effective date : May 25, 2019	Amended :
References : Education Act for Cree, Inuit and Naskapi Native Persons, CQLR, c. I-14 Education Act, CQLR, c. I-13.3 Act respecting the Autorité des marchés publics, CQLR, c. A-33.2.1 Act respecting contracting by public bodies, CQLR, c. C-65.1	

In accordance with section 21.0.3 of the *Act respecting contracting by public bodies*, CQLR, c. C-65.1 (ACPB), public bodies covered by the *Act respecting the Autorité des marchés publics*, CQLR, c. A-33.2.1 are required to have a procedure in place to receive and examine complaints.

In order to preserve the complainants' rights of recourse, any complaint sent to Kativik Iisarniliriniq (KI) must be made in accordance with this procedure.

1. OBJECTIVES

1.1 [objectives](#) The purpose of the procedure is to provide for fair processing of complaints made in connection with the tender or award of a public contract by KI. It defines the steps for receiving and examining the complaint as well as the communication procedures.

2. SCOPE

2.1 [scope](#) This procedure is intended for all KI employees involved in contract management processes.

3. GUIDING PRINCIPLES

- 3.1 [guiding principles](#) The guiding principles for processing KI's complaints are the following :
- The complainant will be welcomed and treated in a diligent, respectful and timely manner.
 - The complaint will be handled promptly and in accordance with the rules of confidentiality.
 - The Complaints Officer will be fair and impartial in the handling of complaints.
 - A follow-up will be conducted with the complainant following the submission of his or her complaint. The information provided will be clear, precise and complete.
 - KI staff is involved in this process and will help resolve the issues raised in the complaints.

4. DEFINITIONS OF A COMPLAINT AND ADMISSIBILITY OF THE COMPLAINANT

- 4.1 [definitions](#) A complaint is an expression of dissatisfaction for which damages can be invoked and corrective action requested. A comment or request for information does not constitute a complaint.
- An expression of interest in a notice of intent required by the ACPB constitutes a complaint in relation to a public contract award process.
- In the context of a public call for tenders, only an interested enterprise or group of enterprises interested in participating in the tendering process or its representative may lodge a complaint.
- 4.2 [ongoing public call for tenders](#) An interested enterprise or group of enterprises interested in participating in the award process or its representative may lodge a complaint in the context of an ongoing public call for tenders if it considers that the tender documents contain conditions that do not ensure fair and equitable treatment of competitors, that do not allow competitors to participate, notwithstanding their qualifications to meet the expressed needs, or that are otherwise not in compliance with the regulatory framework. The complaint must be submitted within the deadline published in the Système électronique d'appel d'offres (SEAO).



4.3 [certification of goods and qualification of enterprises](#) An interested enterprise or group of enterprises interested in participating in an ongoing process of certification of goods or qualification of enterprises may also file a complaint if it considers that the documents contain conditions that do not ensure fair and equitable treatment of competitors, that do not allow competitors to participate, notwithstanding their qualifications to meet the expressed needs, or that are not otherwise in compliance with the regulatory framework.

4.4 [notice of intent](#) As part of a process of awarding a contract by mutual agreement pursuant to paragraph 4 of the first subsection of section 13 of the ACPB, any enterprise that is able to carry out the contract may express its interest.

In this case, the expression of interest is equivalent to a complaint. If KI decides to maintain its intention to sign the contract by mutual agreement with the enterprise listed in the notice, the enterprise that has expressed its interest may file a complaint with the Autorité des marchés publics (AMP), in accordance with section 38 of the *Act respecting the Autorité des marchés publics*.

5. ELIGIBILITY AND ADMISSIBILITY OF A COMPLAINT

5.1 [minimum applicable public tender thresholds](#) To be admissible, the complaint must relate to a draft contract whose expenditure is equal to or greater than the minimum tender threshold.

The applicable threshold amounts are the following (with applicable indexations where appropriate):

Procurement contract	\$101,100
Technical or professional services contract	\$101,100
Construction work contract	\$101,100

5.2 [types of government contracts covered](#) A complaint must relate to the following types of public contracts. The following contracts, which involve an outlay of public funds and which involve an expenditure equal to or greater than the applicable minimum public tender threshold :

- 1) Procurement contracts, including contracts for the purchase or lease of movable property, which may include installation, operating or maintenance costs of the assets, to the extent that they are not intended to acquire goods for sale or resale in commerce or to be used for the production or supply of goods or services for sale or resale in commerce;



- 2) Construction work contracts covered by the *Building Act*, CQLR, c. B-1.1 for which the contractor must hold the licence required under Chapter IV of that Act;
- 3) Service contracts, other than a contract to integrate the arts into the architecture and environment of government buildings and sites.

A leasing contract is deemed a procurement contract.

Contracts deemed to be service contracts, namely charter contracts, transportation contracts other than those subject to the *Education Act*, CQLR, c. I-13.3, damage insurance contracts and business contracts other than construction work contracts.

- 5.3 [time-limit for receipt](#) To be admissible, a complaint must be submitted within the prescribed time limits. When the complaint concerns an ongoing public call for tenders or the certification of goods and the qualification of enterprises, the deadline for receipt of the complaint by KI is indicated in the SEAO. The complaint may only relate to the content of documents accessible no later than two days before that date.

When the enterprise expresses an interest in a notice of intent required by the ACPB, the date of receipt of the complaint by KI is also indicated in the SEAO.

6. RECEPTION OF A COMPLAINT

- 6.1 [reception of a complaint](#) As provided for in the ACPB, the complaint must be delivered electronically in order to be admissible.

Any complaint must be sent to the following address :

plainte@kativik.qc.ca

A complaint concerning an ongoing public call for tenders must be submitted on the form determined by the Autorité des marchés publics :

https://www.amp.quebec//porter-plainte/plainte-organisme-public/?utm_source=Cyberimpact&utm_medium=email&utm_campaign=Re



7. WITHDRAWAL OF A COMPLAINT

- 7.1 [withdrawal of a complaint](#) The withdrawal of a complaint by the complainant must also be sent to the following address: plainte@kativik.qc.ca. KI will enter the date of withdrawal of the complaint in the SEAO.

8. PROCESSING A COMPLAINT

- 8.1 [acknowledgement of receipt](#) An electronic acknowledgement of receipt shall be sent to the complainant within three working days.
- 8.2 [analyzing the complaint](#) The complaint is reviewed by the "Contract Rules Compliance Monitor" (CRCM) [*responsable de l'application des règles contractuelles (RARC)*] or by the "Monitor of Public Calls for Tenders". If necessary, they shall seek the cooperation of the department for which the contractual agreement is to be entered into.

A complaint may be rejected if :

- It is deemed frivolous or vexatious ;
- It is submitted by a complainant who does not have the required interest ;
- It is submitted by a complainant who is pursuing, or has pursued, legal proceedings for the same facts set out in his complaint.

The Monitor first checks the interest of the complainant. If the complainant has the required interest, the date of receipt of the complaint is recorded in the SEAO. If this is not the case, the complainant is informed electronically.

The Monitor then analyses the admissibility of the complaint by the complainant with the required interest, the conditions of which are listed in this procedure.

When an enterprise expresses its interest in a notice of intent, it must demonstrate that it is able to carry out the contract in accordance with the obligations and needs set out in the notice. The Monitor's analysis will only focus on the documents sent by the enterprise within the required time frame.

- 8.3 [decision of the contract rules compliance monitor \(CRCM\)](#) The review of the complaint is forwarded to the CRCM for a decision.
- The CRCM's decision is conveyed to the complainant electronically. The reason(s) for the decision shall be communicated to the complainant. The latter is also informed in writing of possible remedies available at the AMP.



8.4 [response times](#) In the case of a complaint to the effect that the public tender documents do not provide for conditions that ensure a fair and equitable treatment of competitors, that do not allow competitors to participate, notwithstanding their qualifications to meet the expressed needs, or that do not comply with the regulatory framework, KI 's decision must be disclosed no later than **seven days** (calendar days) **before the bidding deadline** set by KI.

In the case of a notice of intent required by the ACPB, KI must also notify the complainant of its decision no later than **seven days** (calendar days) **before the expected signing date of the contract**. This date is recorded in the SEAO.

8.5 [follow-up](#) Where corrective action is required as a result of a decision in favour of the complainant, it must be taken as soon as possible.

8.6 [accountability](#) Every complaint is recorded in a register maintained by the CRCM, which ensures adequate accountability.

9. COMPLAINT TO THE AUTORITÉ DES MARCHÉS PUBLICS

9.1 [complaint to the Autorité des marchés publics](#) In the event of disagreement or dissatisfaction with regard to the decision rendered by KI, a complaint can also be lodged with the AMP. The complaint must be submitted on the form determined by the Autorité.

Information regarding this recourse is available on the AMP website.

10. FINAL PROVISIONS

10.1 [review](#) This procedure will be updated when changes to the regulatory framework need to be taken into account or when additional requirements are deemed necessary.

10.2 [effective date](#) This procedure shall come into effect on May 25, 2019.

