



Bylaw Number 10

Concerning Procurement

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Article 1 PREAMBLE & DESIGNATION

1.01 Preamble

The Government of Quebec (the “Government”) is concerned with ensuring that taxpayers get the best value for their tax dollars. To that end, the Government has adopted the Quebec Policy concerning Public Markets (*Politique sur les marchés publics* – (the PMP)) as well as *Loi sur les contrats des organismes publics* (the Contracts Act). Under the budgetary rules set out by the Ministry, public colleges are required to adopt procurement policies that are consistent with the fundamental principles set out in the PMP and the Contracts Act. This Bylaw sets out the Dawson College Procurement Policy and Procedures for the supplies market, the services market and the construction market.

In December 2014, the Government adopted an Act respecting Workforce management and control within government departments, public sector bodies and networks and state-owned enterprises (the Workforce Management Act). This Act contains measures relating to service contracts requiring certain amendments to this Bylaw as proposed in early 2015.

1.02 Designation

The title of this bylaw is “Bylaw concerning Procurement” and is designated as Bylaw Number 10.

Article 2 DEFINITIONS

2.01 In this Bylaw, the following expressions mean:

- a) **Contracts Act:** the Act respecting Contracting by Public Bodies (CQLR ch. C-65.1) and its regulations.
- b) **Administrative Unit:** a directorate, a department, an academic department or a service of the College.
- c) **Chief Executive Officer of the College:** the Board of Governors of the College or the person or body to whom the Board of Governors has delegated by bylaw the powers as determined under the Contracts Act.
- d) **College:** Dawson College, legally known as *Collège Dawson*.
- e) **Construction:** construction work covered by the Building Act (CQLR ch. B-1.1) for which a contractor must have a licence under chapter IV of this same Act.
- f) **Contract:** a written agreement between the College and a vendor that outlines the purpose, compensation and contractual conditions for each of the parties. This agreement may take the form of a purchase order, a procurement contract, a service contract or a construction contract.

- g) **Contract for goods on demand:** a contract with one or more suppliers used when needs are recurrent and the quantity, rhythm or frequency of the goods are uncertain.
- h) **Contract for services on demand:** a contract with one or more service providers used when needs are recurrent and the number of requests, rhythm or frequency of the execution of the service is uncertain.
- i) *Deleted*
- j) **Contract Rules Compliance Officer:** the individual so named by the Board of Governors to this position as required under the Contracts Act.
- k) **Contractor:** in the context of a construction contract, a legal person (other than a non-profit organization), a professional recognized by the *Office des professions* or a self-employed worker.
- l) **Goods:** any physical item having intrinsic value, excluding money, securities and negotiable instruments.
- m) *Deleted*
- n) **Invitation to tender:** a notice to individual vendors inviting them to bid on supplying goods or services or on a construction project.
- o) **Procurement:** Complete process of obtaining goods and services—from preparation and processing of a requisition through to receipt and approval of the invoice for payment. Also called sourcing, it involves (1) purchase planning, (2) standards determination, (3) specifications development, (4) supplier research and selection, (5) value analysis, (6) financing, (7) price negotiation, (8) making the purchase, (9) supply contract administration, (10) inventory control and stores, and (11) disposals and other related functions.
- p) **Proposal:** a bid or quote in response to an invitation to tender or public tender.
- q) **Public tender or public call for tenders:** an open invitation to vendors to bid on the electronic tendering system designated under the Contracts Act. The **public tender threshold**, or the amount from which this system must be used, can be found in the College policy for the procurement and management of contracts.
- r) **Purchase:** the purchase or lease of goods, including their installation, implementation and maintenance.
- s) **Purchasing Agent:** is defined in Article 8, below.
- t) **Purchasing Department:** an administrative unit under the direction of Plant & Facilities, generally responsible for purchasing activities in the College.
- u) **Service:** work, other than that concerning the integration of arts into the architecture and environment of government buildings and sites, performed by persons, be they

physical or legal, who are not employees of the College. Services not covered by an employment contract but performed by employees are also subject to this bylaw.

- v) **Service provider:** in the context of a service contract, a legal person (other than a non-profit organization), a professional recognized by the *Office des professions* or a self-employed worker.
- w) **Specifications (specs):** the document outlining the general conditions and technical requirements of the College when it issues a public tender or an invitation to tender.
- x) **Supplier:** in the context of a procurement contract, a legal person (other than a non-profit organization), a professional recognized by the *Office des professions* or a self-employed worker.
- y) **Vendor:** a contractor, a service provider or a supplier.
- z) **Workforce Management Act:** the Act respecting Workforce management and control within government departments, public sector bodies and networks and state-owned enterprises (Bill 15, LQ 2014, ch. 17).

Article 3 LEGAL CONTEXT AND SCOPE OF APPLICATION

- 3.01 Subject to clause 3.02, this Bylaw applies to all contracts by which the College procures goods, services, or construction, including contracts for goods or services on demand.
- 3.02 This Bylaw does not apply to hiring contracts, the purchase of books covered by the Act respecting the Development of Québec Firms in the Book Industry (CQLR D-8.1), and contracts covered by the Business Expense Policy.
- 3.03 This Bylaw is applied in accordance with applicable laws, bylaws, regulations and policies, including, without limitation:
 - Colleges Act (CQLR C-29)
 - The Ministry's Régime budgétaire et financier des cégeps
 - Act respecting contracting by public bodies (CQLR C-65.1), and its applicable regulations
 - Act respecting workforce management and control within government departments, public sector bodies and networks and state-owned enterprises (CQLR G-1.011)

In the event of any inconsistency, provisions of laws and government policies take precedence over the provisions of this Bylaw.

Article 4 POLICY

4.01 General Policy on Procurement

The College acquires goods and services at the best overall price while meeting the following requirements:

- I. Preference is given to:
 - a. goods and services that are consistent with the Dawson College Sustainability Policy;
 - b. local suppliers, to the extent permitted by agreements entered into by the Government;
 - c. group purchasing agreements;
 - d. partnerships and exchanges of services with other public bodies.
- II. Competition amongst suppliers is fostered; and
- III. Procurement is transparent, allowing potential suppliers to have ready access to timely information on business opportunities, criteria for assessment of bids and competition results.

4.02 Responsibility for Implementation

The Director General and the Contract Rules Compliance Officer are responsible for ensuring compliance with this Policy. The Director, Plant & Facilities is responsible for ensuring observance of procedures specifically under his/her jurisdiction as the Director in charge of the College's Purchasing Department as well as being the Director responsible for Accountability Reporting under the Contracts Act. Directors of services are responsible for the application of this Policy within their jurisdictions. Directors are expected to delegate the responsibility of purchasing agents (see Article 8, below) to members of their staff, as appropriate.

Article 5 SIGNING AUTHORITIES

5.01 Responsibility

Subject to clause 5.02, the purchase and leasing of goods and services is the responsibility of the Purchasing Department.

5.02 Signing Authorities

Unless expressly indicated otherwise herein, all transactions subject to this Bylaw are also subject to the limits on signing authorities set by clause 1.07 of Bylaw Number 5. Furthermore, clause 1.08 of said Bylaw, concerning personal liability for unauthorized commitments or expenses, also applies to these transactions.

The authorization of the Chief Executive Officer is required for every procurement contract or service contract of a repetitive nature whose duration, including renewals, exceeds three (3) years. However, in the case of contracts by mutual agreement for goods or services on demand, the Chief Executive Officer may not approve a contract whose duration, including renewals, exceeds five (5) years.

Article 6 THRESHOLDS FOR COMPETITIVE AND DIRECTED BIDS

6.01 General Procedures

The rules for tendering set forth in the Contracts Act are followed. Specific rules may apply for services, supply or construction contracts, as defined in the corresponding regulations.

A **public call for tender** is required when the estimated value of a contract exceeds the public tender threshold. The electronic tendering system designated by the Contracts Act is used, except for contracts with engineers and architects under \$250,000, where the College may use a regionalised call for public tenders. The College may also choose to give a mandate to a Group Purchase agent rather than conduct its own call for tenders.

A **tender by invitation** shall be used:

- For service and goods contracts valued above \$10,000 and under \$25,000, written invitations should be issued to at least three suppliers.
- For contracts valued at \$25,000 or more but under the public tender threshold, written invitations should be sent to at least three suppliers for service and construction contracts, and five for goods.

6.02 Workforce-related control measures

Under the stipulations of the Workforce Management Act, the College may not enter into a service contract if it eludes the workforce-related control measures taken under that Act. Service contracts including stipends or honoraria valued at \$10,000 or more with a natural person must be approved by the Chief Executive Officer and service contracts valued at \$25,000 or more with a legal person must be approved by the Chief Executive Officer.

6.03 Contract Splitting or Segmenting

The College does not split or segment its needs nor modify a contract in order to avoid issuing a call for tenders or invitation to tender.

6.04 Amendments to a Contract

A contract may be amended as long as the amendment is accessory and does not change the nature of the contract. For contracts over the public tender threshold, all amendments must be approved by the Chief Executive Officer or delegate. Nevertheless, the Chief Executive Officer may delegate, in writing and to the extent specified, the power to authorize such an amendment. Additional expenditures authorized under a given delegation may not total more than 10% of the initial amount of the contract.

Notwithstanding the above, an amendment does not require authorization if it is due to a variation in the amount to which a predetermined percentage is to be applied or to a variation in a quantity for which a unit price has been agreed.

The College may not amend a contract for the purpose of avoiding the obligation to make a public call for tenders or any other obligation under the Contracts Act.

In all cases, an explanatory note by the requisitioning administrative unit or by the Purchasing department must be included in the purchasing file for audit purposes.

6.05 Contracts by Mutual Agreement

Notwithstanding clause 6.01, a contract by **mutual agreement** may be entered into in the following situations:

- .01 The value is under \$10,000 for goods and services contracts, or under \$25,000 for construction contracts;
- .02 In cases included in Article 13 of the Contracts Act. Specific examples and guidance on these cases are provided in the College policy for the procurement and management of contracts. All cases are justified in writing and included with the documentation presented for approval of the contract to the relevant signing authority.

6.06 Taxes

All values expressed in this Bylaw exclude applicable taxes.

6.07 Exclusions

The following are excluded from the tendering rules described in this Article:

- Group purchases
- Purchase from another public organisation
- Library books

Article 7 ANALYSIS OF PROPOSALS, AWARDING OF CONTRACTS AND PUBLICATION OF INFORMATION

7.01 Responsibility

The Purchasing Department is responsible for assuring the analysis of all proposals.

7.02 Integrity

The Purchasing Department is responsible for maintaining healthy relationships with vendors and ensuring that their integrity and that of College employees cannot be called into question. Relationships between vendors and College employees are marked by courtesy, diligence, good faith and justice and any conflict of interest or any situation susceptible to becoming a conflict of interest is avoided.

7.03 Rotation of Vendors

The Purchasing Department ensures a rotation of vendors for all purchases.

7.04 Disclosing Personal Interests

Participants in the analysis of a proposal who learn that they have an interest in relation to one or the other of the bidders must notify the Purchasing Department in writing immediately, indicating the nature of the interest.

7.05 Cancellation of a Call for Tenders

The College is not required to accept any proposal and may cancel a call for tenders at any time. No bidder, for whatever reason, has any right of recourse against the College following a decision by the College to cancel a call for tenders.

7.06 Failure to Quote

Depending on the value of the contract for goods or services to be purchased and the type of quote required by the College, suppliers are asked to respond to a request for quotes within a reasonable period of time. Failure to quote within such time period is nonetheless recorded as a quote in the purchasing file.

7.07 Criteria for Awarding Contracts

The College applies the following criteria to award contracts:

For procurement of goods contracts:

- On price alone (according to the lowest price);
- On a minimum standard of quality and price (according to the lowest price).

For contracts for services:

- On price alone (according to the lowest price);
- On a minimum standard of quality and price (according to the lowest price);
- On quality and price (according to the lowest adjusted price);
- On quality alone (according to the highest final mark).

For construction contracts:

- On price alone (according to the lowest price).

7.08 Disclosure of Qualitative Selection Criteria

When the College uses criteria for awarding contracts other than price alone, the criteria and means of evaluating the proposals are described in the call for tenders documentation. The College applies the conditions and quality assessment measures listed in the annexes to the regulations adopted under the Contracts Act.

7.09 Quality Assessment Committee

For a quality assessment, the College forms a selection committee of at least three (3) members plus a certified secretary to coordinate the committee's work. Whenever possible, one of the committee members will be from outside the College.

7.10 Publication of Contracts – Public Tenders

Contracts concluded following a public call for tenders must be published in the electronic tendering system designated by the Contracts Act within the deadline determined by regulations of the Contracts Act following the awarding of the contract. Further, all amendments to these contracts exceeding 10% of the initial value and a final description of the contract including the total amount actually paid must also be published in the electronic tendering system designated by the Contracts Act within the deadlines determined by regulation of the Contracts Act.

7.11 Publication of Contracts - Others

All contracts, including contracts for goods or services on demand, valued at \$25,000 or more must be published in the electronic tendering system designated by the Contracts Act within the deadline determined by regulation of the Contracts Act following the awarding of the contract. Further, all amendments to these contracts exceeding 10% of the initial value and a final description of the contract including the total amount actually paid must also be published in the electronic tendering system designated by the Contracts Act within the deadlines determined by regulation of the Contracts Act. In addition, any contract with an initial value of less than \$25,000 that by virtue of amendments subsequently exceeds \$25,000 must be similarly published within the deadline determined by regulation of the Contracts Act.

The Facilities Management Department is responsible for the publication of this information and of that in clause 7.10 above. Further, any obligation under the Contracts Act or the Workforce Management Act requiring the College to inform the *Secretariat du Conseil du Trésor* of any transaction or contract is the responsibility of the Director of Facilities Management..

7.12 Publication of Bids

At the time of the opening of proposals pursuant to a public call for tenders, the name of the bidders as well as their respective total bids (excluding all taxes) are announced subject to later validation. The results of this public opening of proposals must be published in the electronic system designated by the Contracts Act in the four (4) working days following the opening of proposals.

When an evaluation of quality is a required element of the call for tenders only the name of the bidders need be published in the electronic system designated by the Contracts Act in the four (4) working days following the opening of proposals.

7.13 Information to Bidders

The College informs each bidder of the results of the quality assessment for its proposal in the fifteen (15) days following the awarding of the contract.

7.14 Performance evaluation

The College shall, in compliance with the Contracts Act, record in a written report, the evaluation concerning a supplier, contractor or service provider whose performance is unsatisfactory. The College must proceed with this evaluation no later than 60 days

after the end of the contract and transmit a copy to the supplier, contractor or service provider concerned. If the College does not proceed within the prescribed deadline, the performance of the supplier, contractor or service provider will be considered satisfactory.

The College can, if included in its tender documents, refuse the submission of a supplier, contractor or service provider who, during the last two (2) years preceding the date on which tenders are opened, was the subject of an unsatisfactory performance evaluation, who omitted to follow-up on a tender or contract, or whose contract was cancelled because of failure to observe the conditions agreed to.

Article 8 RESPONSIBILITIES OF ADMINISTRATIVE UNITS

8.01 Requisitions for Goods and Services

The College's purchase requisitioning system must be used to request goods and services, including service agreements, with an estimated value of \$100 or more.

Acquisitions of goods and services with an estimated value of less than \$100 are managed by departments and paid for through Petty Cash or by using a Cheque Requisition Form.

8.02 Role of the Department Requisitioning Goods and Services

When ordering materials or services, departments must:

- .01 ensure budget availability;
- .02 communicate to the purchasing agent all specifications of the product or service, including any special requirements, such as: suggested suppliers, delivery, warranties or guarantees, renewals, location or proximity to the College, availability of product or service, deadlines, quality, reliability, previous experience with a supplier to the College, etc.;
- .03 verify delivered goods against the items listed on the packing slip, sign for the delivery and advise the purchasing agent immediately of any discrepancy;
- .04 notify the purchasing agent when requisitioned services have been rendered.

8.03 Role of the Purchasing Agent

Purchasing agents are mandated to sign for or on behalf of the College any order for the purchase, rental or lease of goods or services within their jurisdictions.

Their responsibilities are:

- .01 receiving requests for purchases;
- .02 verifying signing authority and budget availability;
- .03 researching suppliers;
- .04 obtaining quotes where necessary and the best possible price;
- .05 committing the College to the purchase;
- .06 ensuring timely delivery;
- .07 collecting and filing all relevant documents;
- .08 issuing authorization numbers.

8.04 Authorized Purchasing Agents

The following are authorized purchasing agents for the College:

- .01 Director, Human Resources: legal advice pertaining to labour relations matters; Director, Corporate Affairs: for all other legal matters;
- .02 Director, AFacilities Management or delegated signing authority: insurance premiums for fire, theft and liability, construction, renovation contracts, books and other items purchased for resale in the Bookstore;
- .03 Director, Student Services or delegated signing authority: library books, periodicals and, in the case of the student activities budgets, sports supplies not for resale;
- .04 Director General or delegated signing authority for Public Relations: newspaper, print and other media ads including employment ads;
- .05 Director, Facilities Management or delegate: all other purchases, including purchase orders relating to the improvement or maintenance and repair of equipment.

8.05 Conflicts of Interest

An employee may not have a direct or indirect interest in a contract that is subject to this Bylaw if in the exercise of his/her functions the employee is directly or indirectly involved in the acquisition process, the preparation of tendering documentation, the evaluation of proposals or the decision to award the contract.

Employees involved in contract management abide to the principles set forth in the Conflict of Interest and Nepotism policy and the measures listed in the policy for the Procurement and Management of Contracts.

8.06 Additional approvals

Some expenditures may be subject to additional approvals, for example to ensure technical compliance and compatibility.

Article 9 CHIEF EXECUTIVE OFFICER AND DELEGATION OF AUTHORITY

9.01 Dawson College is a public body in accordance with the Contracts Act and certain powers and responsibilities are invested with the Chief Executive Officer of the public body. In accordance with article 8 of the Contracts Act, the Board of Governors is the Chief Executive Officer of the College; however, this same article of the Contracts Act empowers the Board of Governors, by bylaw, to delegate all or some of the responsibilities exercised by the Chief Executive Officer to the Executive Committee or to the Director General.

9.02 For contracts with an initial value of \$100,000 up to \$300,000, the authority of the Chief Executive Officer under the Contracts Act and under the Workforce Management Act is delegated to the Executive Committee of the Board of Governors.

- 9.03 For contracts with an initial value of up to \$100,000, the authority of the Chief Executive Officer under the Contracts Act and under the Workforce Management Act is delegated to the Director General.
- 9.04 Notwithstanding clauses 9.02 and 9.03 and provided the amount of the potential contract is \$500,000 or less, the Director General is delegated the authority to sign any mandate on behalf of the College to participate in any joint call for tenders with other public bodies. This includes any mandate to group purchasing agents, such as the Service des achats regroupés of the Fédération des cégeps. The Director General will report on all mandates given at the subsequent Executive Committee and Board of Governors meetings.
- 9.05 Approvals of amendments within 10% of the original contract value, and under \$300,000, are delegated to the Director General.
- 9.06 The representative designated to appoint selection committee secretary and members, and ensure member rotation is the Director General.
- 9.07 The rejection of a tender with an unusually low price, as well as the appointment of the members to a committee formed for that purpose, is delegated to the Director General.
- 9.08 The authorisation to proceed with the tendering of a contract after only one tender was found compliant or acceptable after quality evaluation, is the delegated to the Director General.
- 9.09 In the case where the supplier has responded to an unsatisfactory performance evaluation, the decision to maintain or not the evaluation is delegated to the Director General.
- 9.10 Signing authority for reporting documents related to accountability for contract management is delegated to the Director General.

Article 10 AMENDMENTS AND COMING INTO EFFECT

- 10.01 All amendments including the repeal of this Bylaw must be adopted by the Board of Governors of Dawson College in accordance with the Act and its regulations and the College's bylaws.
- 10.02 This Bylaw comes into effect on the date of its adoption by the Board of Governors of Dawson College.