



# MUNICIPALITÉ DE KAZABAZUA

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## POLICY OF CONTRACTUAL MANAGEMENT

### PRESENTATION

The Present “Policy of contractual management” is adopted under the terms of article 938.1.2 of the Municipal Code.

Under the terms of this provision, any municipality must adopt a policy of contractual management applying to the municipal contracts and foreseen measures to ensure a healthy competition between the people contracting or wanting to contract with the municipality. The measures in question must aim at seven (7) topics of concern clearly specified in this legislative provision. These themes must contain two specific minimal measures.

It should be noted that the present policy does not aim to replace to modify or improve any legislative provision or regulate jurisprudence applicable with regard to granting or management of municipal contracts.

### MEASURES OF MAINTENANCE OF A HEALTHY COMPETITION

- 1. Measures aiming at ensuring that any tenderer or one of his representatives did not communicate or did not try to communicate, with or aim at influencing, any of the members of the selection committee relative to the request of tender for which they presented a tender;**
  - a) With the approval of Municipal Council the Director-general may form a selection committee necessary to receive, study the received tenders and to draw the conclusions which are essential.
  - b) Any selection committee must be made up before the launching of the invitation to tender and be composed of at least three members.
  - c) Any member of the council, employees and any agent of the Municipality must preserve, at all times, the confidentiality of the identity of the members of any selection committee.
  - d) At the time of any invitation to tender requiring the creation of a selection committee, the documents of invitation to tender must contain provisions with the following:
    - All tenderers must join to his tender a declaration attesting that neither he/she nor none of their representatives communicated or tried to communicate, with aim of exerting an influence, with one of the members of the selection committee.
    - If a tenderer or one of his/her representatives communicates or tries to communicate, with an aim of influencing, with one of the members of the selection committee, their tender will be automatically rejected.
- 2. Measures supporting the respect of the applicable laws which aim at fighting against the falsifying of offers;**
  - a) All tenderers must join to his/her tender a declaration attesting that their tender was prepared and deposited without there being collusion, communication, agreement or arrangement with any other tenderer or anyone privy to the prices to be subjected or to influence the subjected prices.
  - b) In the documents of invitation to tender a provision must be inserted providing that if a tenderer devoted him/herself to a collusion, communicated or agreed on an agreement or an arrangement with another tenderer or a competitor to influence or fix the subjected prices, their tender will be automatically rejected.
- 3. Measures aiming at ensuring the respect of the Law of the transparency and ethics with regard to lobbyism and of the Code of ethics of the lobbyists adopted under the terms of this law;**

- a) Any member of council or any employee must make sure that any person who communicates with him/her for the purpose of obtaining a contract must be registered with the Register of the lobbyists as foreseen by the Law on the transparency and ethics with regard to lobbyism.
- b) All tenderers must join to his/her tender a declaration attesting that neither him/her nor none of their representatives was devoted to a communication of influence for the purpose of obtaining the contract, or, if such communication of influence took place, to join to their tender a declaration with the effect that this communication was made after any inscription required under the terms of the law with the Register of the lobbyists was made.

**4. Measures having the goal to prevent gestures of intimidation, corruption or trading of favours;**

- a) The municipality must, in the case of the invitations to tender by written invitation, to as far as possible support the invitation of different companies. The identity of the persons thus invited can be made public only at the time of the opening of the tenders.
- b) All tenderers must join to his/her tender a declaration attesting that neither him/her nor none of his/her collaborators or employees was devoted to gestures of intimidation, of corruption or trading of favours.
- c) Any invitation to tender must indicate that if a person delivered him/herself to one or the other of the acts mentioned in the paragraph which precedes, the tender of this person is automatically rejected.

**5. Measures having a goal to prevent the situations of conflicts of interests;**

- a) Any person taking part in the development, the execution or the follow-up of an invitation to tender or a contract, as well as the Director General and the members of a selection committee if necessary, must declare any conflict of interests and any situation of potential conflict of interests.
- b) No person in conflict of interest can take part in the development, the fulfilment or the follow-up of an invitation to tender or a contract.
- c) Any tenderer must join to his/her tender a declaration attesting that there was not any bond causing or likely to cause a conflict of interest because of its bonds with a member of the council or a civil servant.

**6. Measures having the goal to prevent any other situation likely to compromise the impartiality and the objectivity of the process of request for tenders and the management of the contract which results from it;**

- a) For the purpose of any invitation to tender, a person in charge of the invitation to tender is identified with which he/she is entrusted the mandate to provide any information concerning the invitation to tender and any information concerning the invitation to tender and or any document of invitation to tender that any potential tenderer or any tenderer must address to only this person in charge relative to obtain any details with the invitation to tender.
- b) At the time of any invitation to tender, it is prohibited for any member of council and any employee of the municipality to answer any request for detail or information relative to any invitation to tender differently than by referring the applicant with the responsible person.

**7. Measures aiming at the framework of any decision resulting in authorizing the modification of a contract;**

- a) The municipality must, in any contract, establish a framework procedure for any authorization of the modification of the contract and to provide that such modification is not possible that even if it is additional to the contract that it does not change the nature of it.
- b) The municipality must foresee in the documents of invitation to tender, a schedule of meetings of the building site regularly during the execution of work in order to ensure the follow-up of the execution of the contract.

## POLICY OF CONTRACTUAL MANAGEMENT

### “DECLARATION”

I \_\_\_\_\_ do hereby declare that;

1. Neither I nor any of my representatives communicated or tried to communicate, with aim of exerting an influence, with one of the members of the selection committee.
2. My tender was prepared and deposited without there being collusion, communication, agreement or arrangement with any other tenderer or anyone privy to the prices to be subjected or to influence the subjected prices.
3. Neither I nor any of my representatives was devoted to a communication of influence for the purpose of obtaining the contract.
4. Neither I nor any of my collaborators or employees was devoted to gestures of intimidation, of corruption or trading of favours.
5. There is no bond causing or likely to cause a conflict of interest because of bonds with a member of Municipal council or a civil servant or selection committee.
6. If any communication of influence has taken place, I will join an additional declaration with the effect that this communication made after any inscription required under the terms of the law with the Register of the lobbyists.

Signed at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Signature of tenderer