



Institut sur la gouvernance
d'organisations privées et publiques

Contract Management

Policy and Accountability Elements

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This document is intended to help CEGEPs strengthen their institutional governance by providing their governors and managers with guidance on how to draft a policy on contract management and accountability.

General principle

Policies and by-laws are governance levers used by a college Board of Governors (the “Board”) to fulfill its mission and mandate. The Board’s role is therefore to define policies that reflect its public service vision and values, to guide action, and to establish by-laws to support their implementation.

The Board is responsible for ensuring that institutional resources, procedures and other management practices are effective and compliant with the law, its policies and its strategic, financial and budgetary plans. To fully discharge this responsibility, the Board relies on full, honest and clear rendering of accounts by the college’s administration.

The fact that a college administration reports on its activities and budgetary management to the Secrétariat du Conseil du trésor (SCT), the Ministère de l’Éducation et de l’Enseignement supérieur (MÉES) or other government entities according to a pre-established administrative format and schedule in no way releases it from full accountability to the institution’s governing body, the Board of Governors.

When adopting or modifying a policy, the Board should consider the following general accountability and good governance rules:

Implementation accountability requirements

Concerning the implementation of a policy or by-law, should the Director General report to the Board on a regular or ad hoc basis, i.e. monthly, bi-annually or yearly, or only when an event or situation occurs that triggers a mechanism or procedure described in the policy or by-law?

Deviation and risk

When (appropriate time) should the Board be informed of a significant deviation from a plan, budget or procedure and, if applicable, justification provided and/or corrective action taken?

Review calendar

How often will the Board conduct a critical policy review (yearly, in three years or in five years)?

A competent, effective Board is not timid, knows its role, respects management's role and holds it to account.

CONTRACT MANAGEMENT

The *Act respecting contracting by public bodies (c. C-65.1)* provides a framework for the management of college procurement, purchase and construction contracts. To support its administration, the Conseil du trésor (SCT) has published guides and directives, conducted surveys on implementation and provided training to managers.

CEGEPs complete this framework by adopting their own by-laws on purchases and service and construction contracts and by using, where necessary, certain practices such as consolidated procurement.¹

The Act requires colleges to designate a Contract Rules Compliance Monitor (CRCM) to see to its application and to advise the Director General on how to ensure contract compliance. The description of the CRCM role suggests that they are not only compliance monitors; they are also responsible for ensuring the Act is applied² and for advising the college's officers.

An SCT directive on accountability states that public bodies must submit an annual report (by the end of June at the latest) detailing their contract management process, including a statement signed by the head of the public body attesting to the reliability of the information and controls.

¹ See Appendix 1 for templates to track investment projects.

Recommendations of the Auditor General

- 1 Strengthen the needs assessment regarding the definition of needs and deliverables, the estimation of costs and scheduling.
- 2 Adopt control mechanisms to ensure that the solicitation method complies with regulations and internal policies and, in the event of a deviation, ensure that the decisions made are justified and that appropriate approvals are obtained in a timely manner.
- 3 Systematically evaluate the possibility of using consolidated procurement for purchasing goods and services.
- 4 Support the evaluation of tenders with relevant documentation to demonstrate the objective and fair nature of the process.
- 5 Provide for the introduction and application of penalty clauses in contracts, and systematically evaluate the performance of suppliers for large contracts and contracts for which supplier's performance is deemed unsatisfactory.
- 6 Ensure that strategic functions related to construction projects are performed by independent stakeholders, in particular for the evaluation of tenders and the supervision of work, to guarantee the objectivity and integrity of the process.
- 7 Ensure that the work of the contract rules compliance monitor is documented so that it can be determined whether all the responsibilities of the position are being carried out.
- 17 Ensure that governance bodies receive sufficient and timely information so that they can fulfill their role in strategic decision-making and in overseeing the effectiveness of controls pertaining to:
[...]
 - the contract management process;

Findings

All CEGEPs now have a senior staff member designated as CRCM in their organization chart. In some institutions, the Board, on recommendation of the Director General, designated the CRCM, but in others, the Board delegated this responsibility to the Director General.

The colleges assigned the CRCM role to either a senior staff member in the Corporate and Legal Affairs Department or in the Finance and Procurement Department, or to the Director of Administrative Services or the Director of Material Resources.

No senior staff member in a college performs this role full time. In all cases, the task is added to the description of roles and responsibilities. According to our contacts in the colleges, the role is not sufficiently time consuming to assign a full-time manager.

Roles and responsibilities

- ✓ The Board is responsible for designating a CRCM and empowering the compliance monitor with the authority needed to exercise their role with professionalism, autonomy and high ethical standards.
- ✓ The Governance Committee recommends to the Board a candidate (internal or external) with the requisite experience, expertise and professional authority to exercise the role of CRCM.

The CRCM is a strategic governance lever created to provide the Board and the SCT with assurance that contracts are managed effectively, in accordance with the Act (integrity, transparency, accountability and reporting), directives, government regulations and college by-laws.

The Board should not delegate the task of designating a CRCM to the Director General.

CRCMs must have recognized professional authority and be respected for their experience and know-how. CRCMs use their risk analysis and management skills to:

- ✓ identify risks in the contract management process;
- ✓ update the control mechanisms to manage or avoid risks;
- ✓ recommend policies and directives to the college's officers to address these risks;
- ✓ suggest improvements to the contract management process; and
- ✓ recommend, where applicable, additional training for staff assigned to contract management.

The Director General should ensure that all management staff are familiar with the CRCM role and cooperate with the compliance monitor. They should further ensure that the CRCM intervenes when necessary and delivers timely opinions.

CRCMs must work together with senior staff in a spirit of continuous improvement. In carrying out their mandate, they must work with the Board's committees, in particular, the Material and Technological Resources Committee.

At least once a year, CRCMs must submit a report of their activities, observations and recommendations to the Board and the Director General. This reporting should precede the one required for the SCT.

By law, the Board Chair must be an officer of the public body. The Chair is therefore responsible for attesting that the data and information are reliable and reflect the CEGEP'S contract management practices.

Enabling provision

The Act provides that a public body's CRCM may also act in the same capacity in another institution provided both institutions are under the responsibility of the same minister. This provision paves the way for collaboration between colleges, allowing them to share the costs of a professional dedicated to ensuring effective administration and good governance in contract management.

This provision, rarely if ever used in the college network (although it is mentioned in some college by-laws on procurement management) has been applied in the health and social services network. For example, in 2015, the CIUSSS du Centre-Est-de-l'île-de-Montréal transferred a financial operations manager to the CRCM position “for all the establishments” on its territory, which at that time was eleven.

This operating model could be borrowed and successfully adapted to the college system.

APPENDIX

INVESTMENT-PROJECT TRACKING

INFORMATION TO PRESENT TO GOVERNANCE BODIES

Templates

