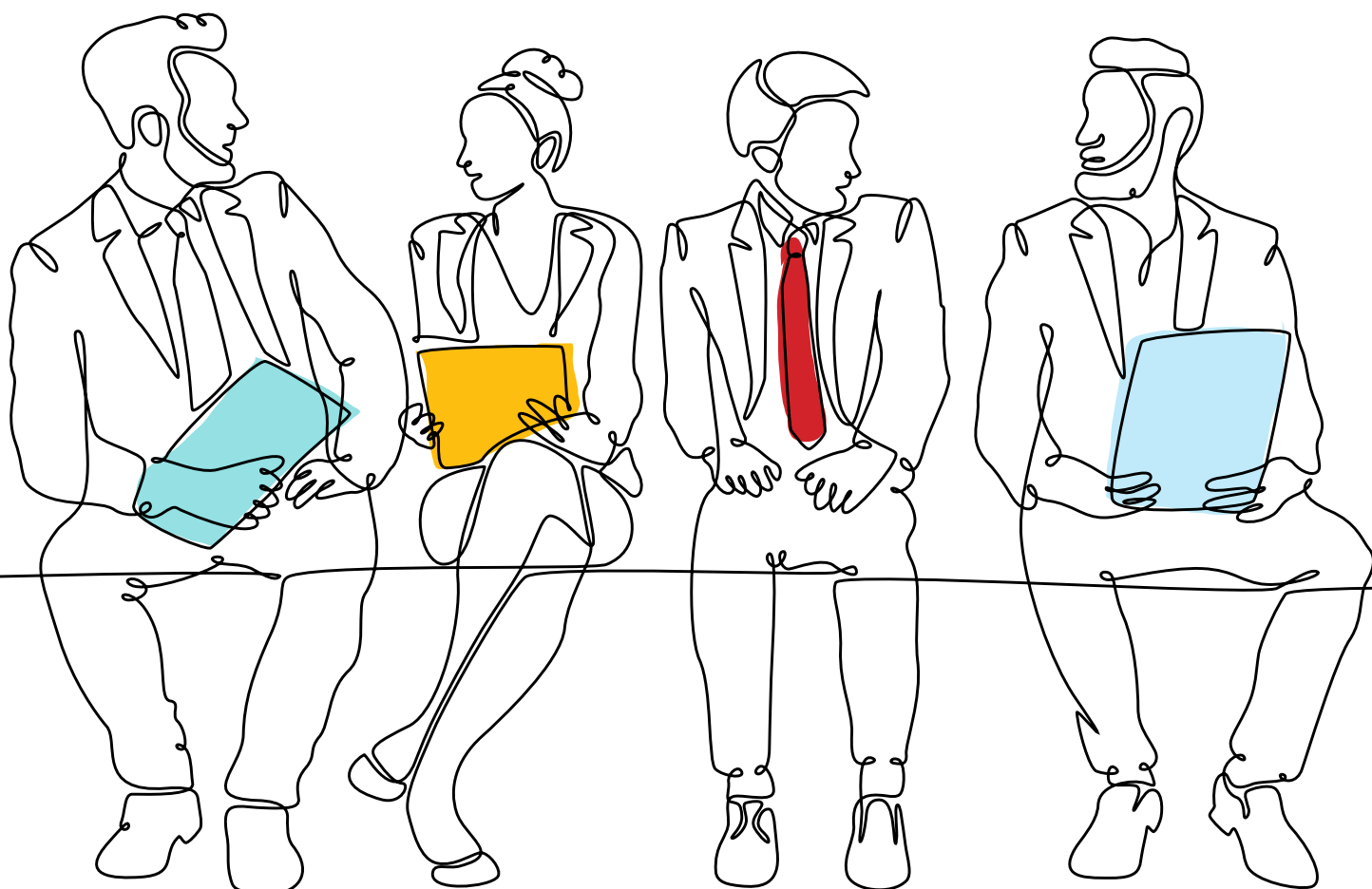


## Summary Report

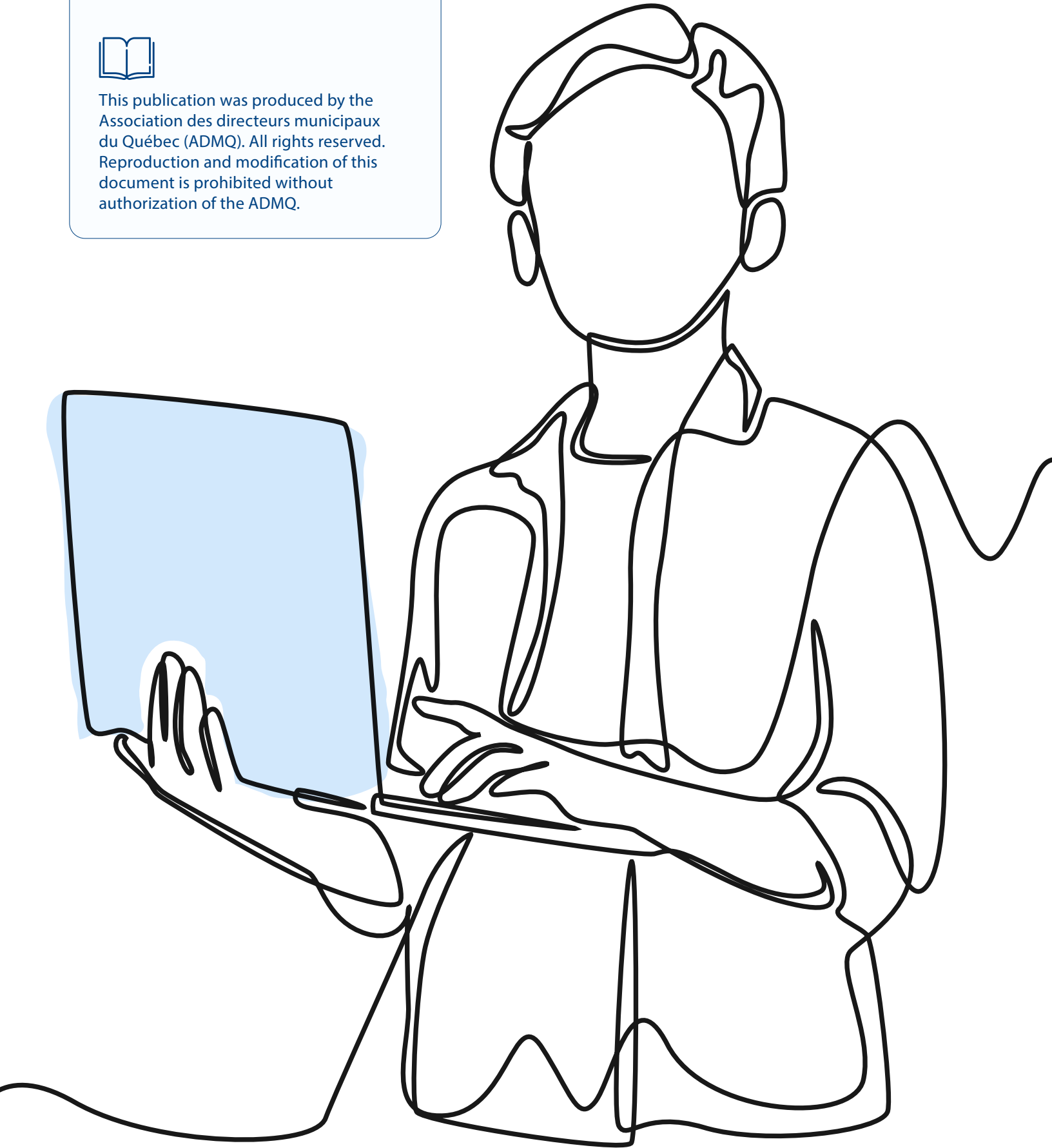
# An Overview of the Realities of the Director General and Clerk-Treasurer Role in its Legal, Political, and Administrative Context

Municipalities with fewer than 5,000 residents | May 2023





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# Introduction

The Association des directeurs municipaux du Québec (ADMQ) has been a reference and source of support for directors general and clerk-treasurers (DGCTs) in Québec for 84 years. The ADMQ has 1,242 members from nearly 918 local municipalities, RCMs, and intermunicipal management boards across Québec. We are the largest group of municipal management professionals in Québec today. Our mission is to help members develop their professional skills and improve their work practices while actively contributing to municipal life.



# Profile of ADMQ Members



Members

1,242

Municipalities

857

RCMs

30

Management boards

31

This means that 89% of municipalities with fewer than 5,000 residents have an ADMQ member<sup>1</sup>.

In terms of roles, **81%** of members are directors general and/or clerk treasurers, while **19%** are assistant directors general, assistant clerks, and/or assistant treasurers.

## The member breakdown is as follows:

Fewer than 1,000 residents	Between 1,001 and 2,000 residents	Between 2,001 and 3,000 residents	Between 3,001 and 4,000 residents	Between 4,001 and 5,000 residents	Between 5,001 and 10,000 residents	10,001 or more residents
49%	25%	13%	5%	3%	4%	1%

The breakdown of ADMQ members by gender shows that

71%

are women



and

29%

are men.



<sup>1</sup> Répertoire des municipalités du Québec, ministère des Affaires municipales et de l'Habitation.

# Context

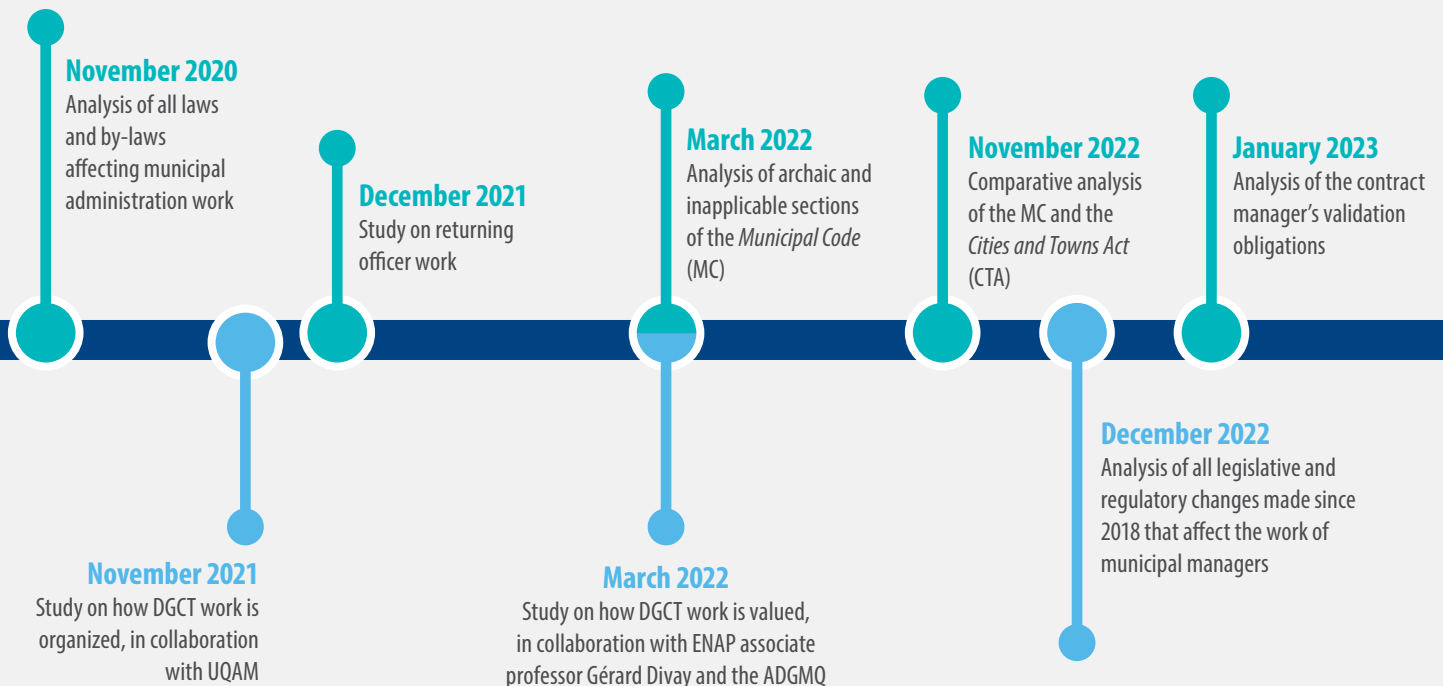
Since 2018, the ADMQ has noticed a significant increase in requests for technical support from its municipal management team. It is also worth noting that these days, members leaving a DGCT position are citing the role’s increasing complexity and a murky political and administrative landscape as reasons for their decision.

Furthermore, according to ADMQ data, over 500 retirements were expected between 2019 and 2023 in addition to the hundred or so regular annual departures. This has resulted in more than half of Québec municipalities needing to find a new DG within a short five-year period.

Faced with the considerable issues affecting many municipal administrations, the ADMQ has spent the past few months compiling an updated overview of the DGCT role in a bid to identify the problem areas and propose possible solutions. To that end, the ADMQ has conducted or actively participated in various studies and analyses, particularly concerning municipal managers in municipalities with fewer than 5,000 residents.

This report presents the ADMQ’s observations, summaries of studies and analyses, highlights, a list of steps taken, and suggested solutions.

## Timeline of studies and analyses



## Lack of awareness about DGCT responsibilities

The DGCT role is required by law, and no municipality can run smoothly without it.

Unfortunately, this important role is not highly valued in the public sphere and usually makes headlines for negative reasons, even though these only represent a tiny minority of municipalities.

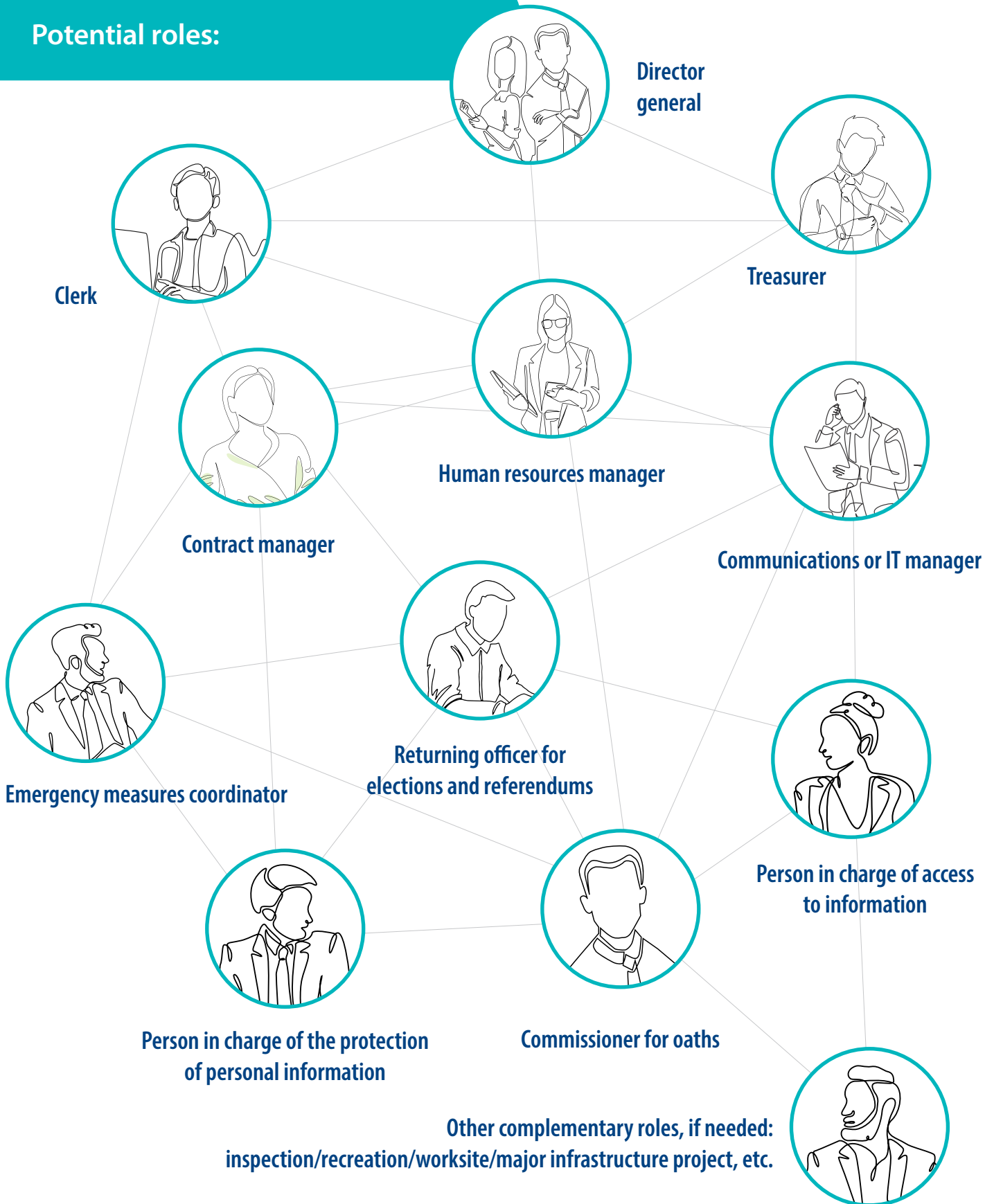
Citizens, elected officials, and DGCT candidates should be more aware of the knowledge and expertise the position requires. People often underestimate the number of responsibilities involved, the magnitude of the task, and the need to be familiar with various laws and by-laws.

On that note, the ADMQ has drawn up a list of at least 42 laws that affect the work of the DGCT, which is available on the MAMH website.

# ADMQ Observations

The lack of awareness about DGCT responsibilities complicates the recruitment process. It becomes particularly problematic when the elected officials making the appointment receive no support from experienced managers in other municipalities who are familiar with the role, or when the council leaves recruitment to a human resources firm with little expertise in the municipal field. In fact, a few times a year, our team receives inquiries from mayors who want to know what skills are required for the DGCT role. That being said, entrusting the mandate to municipal organizations such as the Fédération québécoise des municipalités (FQM) or the Union des municipalités du Québec (UMQ) may be more successful, since they are familiar with the field.

Potential roles:





## Retirements

ADMQ has been able to paint a picture that reveals several particularities of the profile of DGCTs from more than 78% of all Québec municipalities. In 2019, one figure in particular caught the team's attention—the number of retirements expected over the next five years.

Internal data projected a minimum of 500 departures. The hundred or so regular departures that occur every year for various reasons also needed to be accounted for.

The DGCT is the main officer with considerable expertise and knowledge and is one of the only administrative employees in many municipalities. Given that, the projected number of departures was concerning, as it would have a significant impact on more than 50% of Québec municipalities.

The projection has been confirmed, with data showing 391 departures between 2019 and 2021, and 279 in 2022 alone. This already adds up to **670 departures** between 2019 and 2022. Bear in mind that these figures include multiple DGs leaving the same municipality, sometimes two in just a few months.

The problem may reoccur in the next few years—according to data collected during the 2023 membership renewal dating from February 3, 338 people have indicated their intention to retire within the next five years.



## Rigid legal provisions

The description of DGCT responsibilities often differs from one municipality to the next. There is also a lack of flexibility in municipal organization, due in particular to certain titles such as “clerk-treasurer” being required by the laws governing municipalities (CTA and MC). These factors contribute to the lack of clarity about the role and the difficulty of choosing the right candidate. Furthermore, there is no specific educational pathway that leads directly to the DGCT role.

In some municipalities, the “fairly rigid” provisions of the MC are “at odds” with the realities of the positions. The council often tries to separate the “clerk” and “treasury” responsibilities into different roles, but in practice, the MC doesn’t allow for this kind of flexibility. When the “director general” and “clerk-treasurer” roles are split, it often requires some gymnastics to divide the responsibilities of the position.

As there is no provision in the MC for splitting the “clerk” and “treasury” responsibilities (in the “clerk-treasurer” role), municipalities often proceed as follows:

- They split the position (using the procedure provided for by law) so that one person fulfills the role of director general and another, that of clerk-treasurer.
- They then assign the assistant clerk-treasurer role to the director general (which makes the DG legally entitled to attend all council sittings and sign public notices, by-laws, and minutes).
- The clerk-treasurer is left responsible for treasury matters only.

This creates somewhat incongruous situations because it results in the assistant clerk-treasurer being the main person responsible for some of the “clerk-treasurer’s” duties, rather than only performing them in the clerk-treasurer’s absence or at their request.

The MC allows for the “director general and clerk-treasurer” position to be split, but does not include provisions for splitting the “clerk-treasurer” role and assigning the clerk and treasury responsibilities to different people.

This situation makes it very difficult to fill the positions, as they require completely different skills and expertise.

## Onboarding and retention difficulties

Despite good staffing, onboarding for this demanding role is all the more difficult when combined with a lack of organizational memory, insufficient support from human resources and external professions (lawyers, HR, accounting), or a significant backlog of tasks to complete due to the position being left unfilled for weeks.

These problems are exacerbated when the council refuses to carve out time or pay for the DGCT to participate in training and networking activities. The costs are sometimes considered expenses rather than investments.

Retention has become a major issue, since there is fierce competition from both private companies and other municipalities. Larger municipalities and those with a greater financial capacity are able to offer better salaries, making retention even more difficult for other organizations. Despite the salary disparities, DGCTs face the same legal and administrative obligations regardless of the size of the municipality.

## The need for support

The ADMQ has a municipal management team of four former directors general who have between seven and thirty years of experience. This skilled team is dedicated to supporting members in their work. They answer technical questions and assist members with political and administrative issues on a daily basis.

The municipal management team's internal reports show a significant increase in requests for technical and psychological support in recent years.

### Since 2018, requests for technical support have increased by 295%.

There are two main reasons for the increase: multiple legislative and regulatory changes have created new requirements since 2018, and many new DGCTs have started the job with little to no experience.

	2014	2015	2016	2017	2018	2019	2020	2021	2022
<b>Technical</b>	78	79	110	181	335	245	1,084	1,185	1,324
<b>Psychological</b>	48	44	56	70	122*	89	97	75	95

\* Increase in labour law and psychological support consultations in the year following the municipal elections. These figures do not include multiple requests from the same person.

Technical support needs are very varied and affect all areas of the municipal sector. We notice an upward trend in requests when new legislation is passed and at the times of year when specific tasks and requirements need to be completed (adopting the budget, comparative statements, elections, etc.).

DGCTs regularly turn to the ADMQ team for models and procedural tools of all kinds to help them and save them time, particularly when a law or regulation requires the adoption of a by-law or policy or filing of a report. In addition, many lack access to help from external resources (legal, accounting, urban planning, etc.). As a result, they have to do the writing themselves, on a wide range of specialized subjects.

Other requests mainly involve contract management, council sittings (convocation, minutes, decorum, conflicts of interest), and human resources (disciplinary warnings, job offers, salaries).

The team has also noticed an increase in requests for “step-by-step” support for basic tasks such as convening a special sitting, adopting a by-law, and adopting a budget. In general, new DGCTs with no knowledge of the municipal sector do not know how to carry out these tasks, are unsure which law to refer to, and are not familiar with municipal language. “What is a comparative statement and which column should be included?”

In terms of psychological support needs, the issues raised by our members are mostly related to their roles and responsibilities: interference and incivility towards the DGCT or between elected officials.

These situations place the DGCT in a difficult position. They do not know where to turn to resolve the situation, because they have no power and no support.

The obligation to report wrongdoing and the recommendations in Commission municipale du Québec (CMQ) audits, which always focus on the DGCT, can create or worsen delicate situations.

# Analyses Performed

## Legal framework

The DGCT works within a vast and complex legislative framework. In addition to the many by-laws, the CTA, and the MC, there are over 40 other laws across multiple sectors that govern the activities of the municipal world. Furthermore, regulatory amendments and new laws bring multiple changes and additions to integrate every year. This constantly evolving environment can be daunting for many.

There are also many demanding fields of activity to master:



Housing, social housing, and heritage



Local roads and snow removal



Police, fire protection, and emergency measures



Recreation and community and cultural activities



Parks and green spaces



Local economic development



Power generation and community telecommunications systems



Land use planning, development, and the environment



Public transit and active transportation



Drinking water and wastewater treatment



Waste collection



Sanitation and nuisances



The ADMQ commissioned several analyses to properly assess how the legislation is affecting the DGCT's daily work:

- An analysis of all legislative and regulatory changes made since 2018 that affect the work of municipal managers
- An analysis of the contract manager's validation obligations
- A comparative analysis of the MC and CTA



## The impact of legislative and regulatory changes

In addition to the growing need for support and guidance our team has noticed, the majority of our members have reported on various occasions that they have difficulty keeping up with legislative and regulatory changes. These changes come from both the Ministère des Affaires municipales and other ministries, usually by omnibus, which makes it difficult for the DGCT to get a complete picture of the requirements to obey, implement, and supervise.

The ADMQ is on hand to analyze new requirements or procedures and communicate them to members. However, the changes are often complex for a number of reasons, such as references to numerous sections of law, transitional measures, different time frames for entry into force, additions to existing procedures, and references to external tools.

Take, for example, the possibility that the government may exempt some or all public bodies from establishing a committee under section 8.1 of the *Act respecting access to documents held by public bodies and the protection of personal information*. Bill 64 came into force on September 22, 2022, without the regulation being adopted by the government. Municipalities have had to establish a committee even though many of them will probably not be obliged to do so. The same goes for the *Regulation respecting confidentiality incidents*—the provision of the law was in force on September 22, 2022, but the *Regulation respecting confidentiality incidents* was only enacted on December 14, 2022.

Also, as of June 1, 2022, municipalities must face a new eligibility requirement regarding the francization of companies seeking municipal contracts. *The Charter of the French Language* lays out multiple situations that render a company ineligible for municipal contracts. The eligibility requirement applies to all municipal contracts, regardless of their nature or value. This requirement is unenforceable under current conditions. It also places the DGCT in a vulnerable position, because there is no way to ensure that the eligibility information they obtain is in compliance with the law.

These measures are often difficult to understand and apply without a legal background. Yet if the requirements are not met, there can be serious consequences for municipalities. In addition to mastering a variety of specialized subjects, the DGCT must be adept at summarizing information and reporting it to the municipal council and employees.

Despite plenty of training being available, DGCTs' busy schedules often prevent them from participating. And we cannot forget the new directors general who start their jobs with no knowledge of the changes that came into force in the year or months prior to their arrival.

Finally, it is important not to underestimate the impact on the DGCT's work when the law requires the adoption of a by-law or policy or filing of a report. Considering the wide range of subjects and the fact that DGCT is the writer in most cases, the research and writing time required affect their other work and increase the risk of errors.



## Legislative and regulatory changes in recent years

The ADMQ has made an inventory of recent legislative and regulatory changes to measure their impact on the work of DGCTs and other municipal resources. **Between 2018 and 2022, we were able to identify at least 60 topics\* that directly affect the municipal sector, each of which has been the subject of numerous legislative and regulatory amendments.** Although other team members are responsible for certain provisions, the DGCT must at least be familiar with the changes and how they impact the municipal administration, as well as overseeing their implementation.

For example, between 2009 and 2022, 15 laws were passed amending a variety of legislative provisions related to contract management. The sheer number of changes makes it virtually impossible to comprehend the rules, despite the many documents prepared by the MAMH (and others) on the subject.

For example, here are a number of topics that have undergone major changes that affect the municipal sector.



Religious neutrality

*Education Act*

Access to information

Elections and referendums

Organizations – control

Law on real estate transfers

Ethics and professional conduct

Agricultural zoning

Council sittings

Labour relations

Power to provide aid and grants

Land use planning and development

Online publications

Contract management

\*Pandemic-related issues have not been taken into account.

## Due diligence before awarding a municipal contract

The DGCT needs to have in-depth knowledge of the legal aspects of many topics, and contract management is one of the most complex.

The vast majority of the municipalities our members work for have no internal resources that specialize in contract-awarding rules (lawyers, engineers, etc.) or resources dedicated to the task.

The DGCT is responsible for ensuring compliance with these rules, both for lower-value contracts (a few hundred or thousand dollars for things like groceries, office equipment, or the services of professionals such as surveyors) and for contracts that must be subject to a public call for tenders (and that involve an expenditure of over \$121,200). It is important to remember that, by law, any transaction between a municipal body and a company constitutes a contract, regardless of the amount (see section 1378 of the *Civil Code of Québec*).

Furthermore, as previously mentioned, the provisions of the MC and CTA that apply to municipalities on the subject of contract management have been amended by at least 15 bills and regulations since 2009.

There are also numerous rules to follow in at least nine other laws and regulations:

- The *Building Act*
- The *Act respecting contracting by public bodies*
- The *Environment Quality Act*
- The *Regulation respecting construction contracts of municipal bodies*
- The *Regulation ordering the expenditure threshold for a contract that may be awarded only after a public call for tenders, the minimum time for the receipt of tenders and the expenditure ceiling allowing the territory from which tenders originate to be limited*
- The *Regulation respecting the awarding of contracts for certain professional services*
- The municipal body's contract management by-law
- The municipal body's by-law delegating the authority to commit expenditures
- The by-law delegating the power to establish selection committees to the director general and clerk-treasurer

There are several factors that add to the complexity, because the awarding process differs depending on the type of contract and its estimated value. For example, there are differences in solicitation methods, eligibility requirements for tenderers, and agreements and discrimination by territory.

The contract manager must jump through hoops and carry out the necessary technical verifications, all without any legal training. They enforce compliance with the municipality's contract management rules and must ensure that all suppliers and contractors who enter into a contract with the municipality obey them. It is a huge responsibility.

Sometimes, particularly for high-value contracts, the DGCT may need a professional to validate certain technical or legal clauses in order to prevent errors that could lead to disputes between the municipality and the tenderers. Many other verifications are also needed to determine whether a tenderer is in compliance.

The type of contract and its estimated value influence the conditions for compliance. Furthermore, several different platforms must be used to carry out the extensive verifications.

Main tenderer compliance verifications			
Description	All contracts	Depending on type of contract	Depending on estimated value
Register of firms authorized to practise		✓	✓
RENA	✓		
Revenu Québec tax certificate		✓	✓
RBQ		✓	
Any other licence or authorization required to carry out the work: professional order, CNESST, CCQ, etc.		✓	
Tenderer's declaration under the municipality contract management by-law			✓
Francization requirements	✓ * Depending on number of employees		
Environmental authorization		✓	
Financial guarantees and insurance	✓	✓	✓

Unfortunately, recent legislative changes have not made this task any easier. Just think of the requirements resulting from the adoption of Bill 96 and the recent changes to the *Charter of the French Language*.

In short, this DGCT responsibility is of paramount importance, because failure to comply with contract-awarding rules can have serious consequences, including:

- a complaint to the Autorité des marchés publics (AMP), which is responsible for ensuring that public bodies comply with the contract management rules that apply to them
- a legal challenge, resulting in high costs for the municipality
- a complaint or dispute that causes delays in carrying out the work or acquiring the goods

## Comparative analysis of the MC and CTA

The various laws and regulations that affect the municipal sector are the source of many difficulties. Let’s take a look at the two main laws that govern the day-to-day work of DGCTs: the MC and the CTA.

As stated in the report entitled *Portrait des municipalités de moins de 100 000 habitants* published by the CMQ in December 2019, “The *Municipal Code of Québec* governs municipalities that were originally rural (878 municipalities in Québec), as well as RCMs. The *Cities and Towns Act* governs municipalities that are designated as towns and a few others (230 municipalities in Québec).” [translated from French]

This differentiation is no longer clear-cut and evident for citizens, elected officials, and municipal officers. Many smaller municipalities are now governed by the CTA, while some larger ones fall under the MC.

Looking back through history, it is easier to understand how the legislative framework governing municipalities evolved and why it is the way it is. However, since the introduction of these two major pieces of legislation (particularly the MC), the legal environment, roles, responsibilities, requirements, and rendering of accounts to citizens and ministries have expanded and become more complex.

The ADMQ has carried out comparative analyses in an effort to document the significant differences between the two laws and any archaic or inapplicable provisions.

The results show that recent bills affecting the CTA and the MC have harmonized certain provisions of the two laws to some extent, making them easier to apply. However, many differences remain that we believe there is no reason for, since all Québec municipalities have the same responsibilities. The fact that municipalities are governed by two different laws creates plenty of confusion for municipal councils, managers, and citizens alike.

**While there should not be two different “classes” of municipal councils, managers, and citizens, we have found that the CTA and the MC differ significantly on several points, including:**



**Convocation time frames**



**Jurisdiction over assessment rolls**



**Publication methods**



**Mayoral powers**



**Time frame for adjourning a municipal council sitting**



**Time frame for the right to veto**



**Right to inspect properties**



**Director general's human resources responsibilities**



**Description of the director general's role and responsibilities**



**Sales for taxes**



### Furthermore, the MC includes a number of archaic provisions:

- The right to a receipt for any document filed (MC section 89)
- Every notification, filing, or deposit to be made at the office of the municipality may be made with equal validity to the clerk-treasurer personally or **at their domicile by speaking to a reasonable member of their family** (MC section 93)
- The certificate of publication must include the name, **residence**, official capacity, and signature of the person who has given it (MC section 420)
- The council and committees' right to summon any person residing in the territory of the municipality, examine the parties and their witnesses under oath, and have one of their members or the clerk-treasurer administer an oath to each one (MC sections 86 and 87)
- Every person who hinders or prevents or attempts to hinder or prevent an officer in the execution of their duties incurs a **fine of not less than \$2 nor more than \$10** for each offence (MC section 173).

In short, when it comes to applying and understanding the current provisions, being governed by two different laws greatly complicates the work of municipal managers. It also causes difficulties when making changes and preparing training content for management.

## Studies and Reports

### Serving as returning officer

#### From director general and clerk-treasurer to returning officer: a dual role

The election of the municipal council is, without a doubt, one of the most important moments in municipal democracy. Due to the front-line support it offers its members, the ADMQ has seen first-hand the key role DGCTs play in this major undertaking by serving as returning officer (RO).

However, the fact is that this mandatory assignment creates major challenges for DGCTs and can sometimes lead to significant repercussions for the municipal administrative system. With each election and referendum, the dual role of RO and DGCT proves to be full of complications that highlight a certain incompatibility between the two.

**The ADMQ represents over 1,200 members, more than 604 of whom are DGCTs and are therefore required to serve as RO. The ADMQ made the most of the 2021 municipal election period to produce a report with several major goals in mind:**

- Assess the overlap that comes with the dual role of director general and clerk-treasurer and returning officer
- Assess the impact on municipal organization
- Assess the logistics of an election and referendum period
- Compile standard data on technical operations for the 2021 election period
- Present findings and recommendations

## Context and challenges

Under section 70 of the *Act respecting elections and referendums in municipalities* (AERM), the clerk or clerk-treasurer of a municipality is the returning officer *ex officio*, unless an exemption is authorized by the Commission municipale du Québec (CMQ).

**No legislative changes have been made to this section since 1987**, when the AERM was first adopted. However, numerous laws and legislative amendments have been introduced since 1987, profoundly affecting the municipal world and the work of the DGCT in particular.

In municipalities where a single person performs the dual role of DGCT, they are forced to wear several hats and do not necessarily have enough of a team to compensate for the additional tasks. **Each additional task or responsibility can make it more difficult to balance their obligations and the way their work hours are allocated.**

*The whole organization needs to have a **great deal of knowledge** in order to prevent any errors, since even honest mistakes can have a significant impact on the elections or referendum process. Unfortunately, **it is difficult to develop the required expertise** when it can only be gained and used once every four years.*

***There is no room for improvisation**, and in-depth understanding of the organization is an invaluable asset, if not a requirement.*

*Organizing an election keeps many people busy for weeks, or even months at a time for a general election. The planning process must start early enough to ensure that the election is well organized. This responsibility falls to the RO.*

## Incompatible roles

Although they are forced to overlap, **DGCT and RO duties can be incompatible** in some situations, particularly when it comes to perception, due to the RO's obligation to remain impartial and neutral. If nothing else, it affects credibility, which can be called into question for any of these roles. This negative perception can change the way citizens, candidates, and current elected officials see the electoral process as a whole. Here are some examples.

- A DGCT may be asked to give a statement explaining a by-law or a project during a council sitting, even though that by-law or project may become a point of contention during the election campaign.
- Some projects are fast-tracked for completion before an election. For others, the municipal council will request a ribbon-cutting ceremony or official announcement, for which the DGCT will be responsible.
- The problem of ambiguous overlapping roles arises when candidates address access-to-information requests to the DGCT during the election campaign. If the request is denied, a candidate may call the RO's impartiality into question.
- In applying the AERM, the RO's responsibilities include establishing guidelines and sorting out the logistics of the election campaign. In doing so, they can be put in tricky situations when dealing with candidates who fail to follow the rules.
- If a volunteer firefighter runs in an election, the RO finds themselves addressing both an employee and a candidate who may become their superior.

**The blurred lines between roles do not end after an election, either. For instance, when a register is kept ahead of a referendum, the DGCT is responsible for the referendum process and often has to answer citizens' questions even though they have a duty to remain neutral.**

## Findings

### Impact on the municipality

- From an administrative standpoint, the election period slows down the municipal administration for several weeks and takes time that DGCTs are already lacking.
- There are few internal resources available to ensure everything runs smoothly when the extra tasks associated with an election or referendum are added.
- When a municipality has to repeat an election (due to a lack of candidates or a quick resignation), the situation can become even more fraught as repeat elections typically happen during one of the busiest times of the year.
- After an election, relationships with the new municipal council and the DGCT may also suffer. This significantly impacts workflow and, consequently, the administration as a whole.

### Potentially problematic situations with candidates and elected officials

- There is greater pressure to finalize matters before elections begin.
- Enforcing laws with candidates and elected officials (use of the municipal logo, management of texts in the municipal newsletter/newspaper, use of municipal property, election signage, candidates' presence at the polling station, complaint management, etc.) can be delicate.
- Candidates who are elected by acclamation are sworn in so they can attend the October sitting.
- People may request information on potential/interested candidates.
- There may be disputes during the count when the RO has to intervene.

### Relationships with external stakeholders

- Élections Québec provides little support when it comes to aiding with decision-making and providing information on the application of the law.
- There is a lot of back-and-forth between Élections Québec and the MAMH.
- The Élections Québec website makes it hard to find the plethora of forms required by the process.
- If the DGCT has been exempted (as authorized by the CMQ), Élections Québec stops communicating with the person who acted as returning officer once the election period ends.<sup>1</sup> Surveys, assessments, and reports are sent to the DGCT even if they have been exempted from serving as the RO.
- It is impossible to apply for an exemption in the year before the election is to be held, even if certain returning officer duties must be fulfilled during that year.
- If a new DGCT/RO is named after the training that Élections Québec gives in the spring, they will likely lack knowledge.

<sup>1</sup> Under section 364 of the AERM, the election period begins on the 44th day before polling day and ends once polls close on polling day.

### Dual role of the DGCT and RO

- Work overload, backlogs, and management slowdowns are common, especially around budget time.
- DGCTs and ROs may struggle to process access-to-information requests related to the election.
- The person presiding over the public meeting may request that the DGCT and RO explain certain matters during the September and October meetings.
- There is a significant workload associated with electing wardens by universal suffrage, even if there are no local elections.
- New DGCTs who have never served as ROs (and especially DGCTs with little or no experience in municipal governance) lack the knowledge and perspective they need to reconcile the two roles.
- DGCTs may fear reprisals when making decisions about the application of laws.
- DGCTs may misunderstand the RO's requirement to accept a candidacy because it is complete, even if it may seem ineligible to another candidate.

### Exemption from serving as an RO

- For the most part, DGCTs did not have a role during the election period, instead remaining available for the appointed RO if needed.
- Some ROs who were appointed late were unable to take the municipal elections training, which raised a number of issues related to lack of knowledge.
- DGCT resignations and illness shortly before the election created problems that left the RO position vacant.
- There was no budgetary impact.
- DGCTs who were exempted from the RO position reported that they were able to keep the municipality running as usual. Election-related work did not affect their workload; on the contrary, it lowered their stress around budget time and helped the files they had to produce, the deadlines they had to meet, and the relationships they had with candidates/elected officials.
- The DGCTs that did not serve as ROs, and therefore remained outside the electoral process, said that they had not encountered any problems with elections compared to the times when they did serve as ROs.

## Enhancing the role of municipal DG

This study was carried out jointly by the Association des directeurs généraux des municipalités du Québec (ADGMQ) and the ADMQ, in collaboration with the Ministère des Affaires municipales et de l'Habitation (MAMH). It was conducted by Gérard Divay, associate professor at the École nationale d'administration publique (ENAP).

### Objectives

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New directors general are becoming harder to find. Every year, some 10% of positions (around 100 in total) remain unfilled as directors general retire or leave their roles. Given the tight job market, recruitment difficulties are becoming more common.

This situation has prompted the ADMQ and ADGMQ, in collaboration with the MAMH, to attempt to better define the sources of these difficulties and identify potential solutions. The project was piloted by a working committee made up of the CEOs of the two associations and an MAMH representative.

### Key findings

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The information they gathered clearly revealed three main sources of issues:

- Lack of understanding of the position and its challenges
- Belief that relationships with elected officials are unpredictable
- Lack of support for DGs, especially in smaller municipalities

### Potential solutions

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- **Promote the position by:**
  - Highlighting the professional opportunities of the role
  - Developing marketing strategies
- **Make relationships with elected officials more predictable by:**
  - Better defining roles and responsibilities
  - Promoting the evaluation of DGs' performance using a brief, standardized procedure
  - Reinforcing the DG's role in personnel management in all municipalities
- **Better support the practice of the profession and give DGs more tools for the different aspects of their role by:**
  - Giving training
  - Educating them on general and technical subjects
  - Improving support from the associations and mentors, as well as peer-to-peer networking
  - Providing better support in difficult times
  - Sharing professional resources



## Work organization: a look at management tools and the activities of directors general in small Québec municipalities

The ADMQ had already done work to list all of the legal and regulatory obligations that a director general, clerk, or treasurer must fulfill. However, it also took part in a research project orchestrated by two professors from the Université du Québec à Montréal's school of management that examined the management tools and activities of the directors general of small municipalities (DGSMs). For the purposes of the project, "small municipalities" were defined as those with fewer than 5,000 residents.

### Objectives

The overall aim of this study was to understand and model the tasks carried out by DGs of municipalities with fewer than 5,000 residents. These tasks fell into three categories: administrative, operational, and political support.

The aim was also to determine whether all these legal and regulatory obligations could be carried out by a single DGSM in addition to their other responsibilities (that are not related to producing legislation).

### Specific objectives

- Improve our understanding of the way DGSMs work by identifying and describing the tasks they perform (other than regulatory work)
- Understand and quantify the workload associated with these tasks
- Analyze the obstacles that DGSMs encounter in their day-to-day work, and the strategies they develop to deal with them

### Key findings

#### Non-regulatory workload

Most (around 75%) of the non-regulatory workload appears to consist of around four tasks:

- Operational planning
- Budget management and strategic planning
- Preparing and leading working committees (caucuses and council sittings)
- Following up on issues and tasks

### Variations in the amount of time devoted to non-regulatory work, depending on the municipality's characteristics

According to the study:\* "While an average of 1,350 hours is devoted to non-regulatory work, this number can vary by almost 35% depending on the municipality's characteristics. DGSMs in municipalities with fewer than 1,000 residents spend an average of 1,150 hours a year on these tasks, while those in municipalities with more than 1,000 residents spend an average of 1,530 hours a year. This difference of 380 hours represents a variation of about 35%."

\* [translated from French]

### Complete workload and the breakdown between “regulatory” and “non-regulatory” work

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The researchers note that “adding this average annual regulatory workload to that identified in the questionnaire survey (n=191) gives an approximate total average annual workload of 2,800 hours, or a weekly average of approximately 57 hours over 49 weeks worked (excluding three weeks off).”

While Gravel and Pétrelli (1994) found that DGSMs devoted around 47 hours a week to their duties, recent studies have highlighted an increase in daily responsibilities and a struggle to meet the new requirements around the legal aspects of sound municipal management (Trahan, 2018), which translates into a large daily workload (Laurent, 2016).

More specifically, the study shows that this workload has increased by 10 hours a week since Gravel and Pétrelli’s study 28 years ago. At that time, there were fewer legal requirements (Trahan, 2018) and modern means of communication (cell phones, email, social media), which now feature prominently—and intrusively—in the daily life and work of municipal DGs, did not exist.

However, as the focus groups in this study point out, “DGSMs are characterized by their closeness with citizens (cell phone numbers and email addresses are known to many citizens, and they have profiles on the identified social media platforms). This very often spills over into DGSMs’ private time. These factors are likely to be the main difference between DGSMs and DGs of medium-sized and large municipalities.”

The researchers added that “DGSMs have a heavy workload; in fact, in many respects, they are overworked and this can be harmful for their health. This is especially true in municipalities that have fewer resources and managers to help the DGSMs with their work.” [all quotes translated from French]

### Advantages and obstacles

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- Wide variety of DGSM and advisory structures
- Fundamental relationships between DGSMs and elected officials
- Fragmented, perpetual multitasking that requires a good knowledge of everything
- Professional and social isolation for DGSMs
- Need for DGSMs to adapt and adjust existing tools; they regularly find themselves in need of new ones
- Difficulty recruiting competent staff, especially in a remote area

### Potential solutions

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- Address the issues surrounding the poor relationships a DGSM may have with the municipal council
- Strengthen the means of communicating the DGSM’s roles and responsibilities
- Refine the available support and training
- Develop practice-based training programs, with a dual approach involving both elected officials and DGSMs
- Set up a forum for DGSMs to share and discuss their experiences with task prioritization, strategies, HR issues, etc.
- Provide flexible basic tools
- Develop an informal network for DGSMs to share tools



## Actions Taken

Thanks to the studies and analyses, the ADMQ has been able to implement several actions to follow up on some of the proposed recommendations.

### Training and tools for new DGs

- Creation of ABC/DG introductory training for all new directors general with zero to three years of experience. This training aims to train 500 managers between November 2019 and December 2023.
- A Certified Municipal Manager (CMM) course is included in each new member's first membership fee.

### Training

- Specific training for the clerk and treasurer roles will be offered in 2023.
- In collaboration with the MAMH, a contract management course has been created and released.

### Improving understanding of the responsibilities of the DGCT position

- Meetings were held with HR agencies involved in municipal staffing.

### Support and coaching

- Practical tools, models, and procedure guides have been developed and made available for free.
- A monthly legal bulletin is sent to members.
- A private Facebook group has been created for municipal managers to share sample documents, tips, and best practices.
- Training on new legislation has been developed.
- Specialized support and coaching is available for DGCTs working in English-speaking communities.
- Numerous free training courses and discussion groups have been created.
- Three new positions have been created on the ADMQ municipal management team.
- Analysis has begun in preparation for a personalized coaching or mentoring service for new DGCTs.

### Enhancing the role

- A working committee (MAMH, ADMQ, ADGMQ, FQM, and UMQ) has been formed.
- The ADMQ will launch a communications campaign in the fall of 2023 to clarify the role and responsibilities of DGCTs.
- The ADMQ will prepare a guide to explain the role and responsibilities of DGCTs in 2023.

### Legal

- Proposals for legislative amendments have been filed.



# Municipal Management in Numbers

The DGCT must have in-depth knowledge of

at least **10** pieces of legislation related to contract management

A director general may have

more than **10** roles, with many obligations to fulfill and a lot to understand in the current municipal organization.



Between 2019 and 2022.

**670** people left their role as director general and clerk-treasurer.

As of January 2023,

**338** people were planning to retire in the next five years (2027).

**42** laws affect the DGCT's job.



There are at least

**12**



fields and a multitude of skills to master.

For example, between 2009 and 2022,

**15**



laws were passed amending a variety of legislative provisions related to contract management.

Between 2018 and 2022, we identified at least

**60**

topics that directly affect the municipal sector, each of which has been the subject of numerous legislative and regulatory changes.



Since 2018, the ADMQ has seen a

**295%**

increase in demand for technical support due to numerous legislative and regulatory changes and new requirements, as well as the many DGCTs who enter the role without any experience.





A DGCT needs to work

**57** hours on average over 49 weeks (3 weeks' vacation), to fulfill all of their legal, regulatory, and managerial responsibilities.

Since 1994, DGCTs' weekly workload has increased by an average of

**10** hours.



DGCTs have access to a limited training budget, which in many cases (and especially for new employees) does not allow them to learn everything they need to carry out their many duties. 25% of ADMQ members have an annual training budget of less than \$1,000.



Citizens, elected officials, and even candidates are often unaware of the laws and regulations that must be understood, the responsibilities associated with the position, the heavy workload, and the expertise required of the DGCT.



The fact that municipalities are governed by two different laws creates plenty of confusion for municipal councils, managers, and citizens alike.

What's more, much of the MC is archaic, and the differences between the CTA and the MC make the DGCT's work and research more complex. It also creates "two classes" of municipal councils, managers, and citizens.



The MC's current requirement for a clerk-treasurer title creates incongruities and makes recruitment more difficult.



The dual role of DGCT and RO is incompatible in many ways, and the increased responsibilities impede the preparation, progress, and delivery of ongoing projects, as well as on obligations.

Exemptions from the RO position have proven beneficial to municipalities when it comes to seeking and preparing projects and complying with the requirements for which DGCTs are responsible.



DGCTs are professionally and socially isolated.



Many DGCTs feel that their relationships with elected officials are unpredictable, and both parties struggle to understand each other's roles and responsibilities.

# Potential Solutions

## 1 — **Bring all municipalities under a single law.**

The government could make a general provision declaring that as of a certain date, all local municipalities governed by the *Municipal Code* will be governed by the *Cities and Towns Act* instead.

Only RCMs would remain governed by the *Municipal Code*.

## 2 — **Adopt interim legislative amendments until all municipalities can be subject to a single law.**

The MAMH could propose certain legislative amendments to improve municipal operations through a regime change:

- Amend the MC to have the same terms as the CTA (separation of the roles of “director general,” “clerk,” and “treasurer,” with the option for one person to fulfill all three roles).
- Repeal the sections of the MC dealing with the roles and responsibilities of the director general and use the same sections as the CTA (112 to 114.1.1).
- Standardize the legislation (CTA and MC) to extend the deadline for the adoption of the three-year capital expenditures program (PTI) to January 31 of the year after the general election.
- Amend the provisions on intermunicipal management boards to also allow the designation of a clerk-treasurer rather than a simple “secretary” (see MC s. 587, para. 1 and the equivalent in the CTA).
- Allow the adoption of the budget, the PTI, and the taxation by-law to be dealt with at the same sitting (regular or special) while continuing to require prior notice, and provide for a *dedicated* question period for these matters.
- Amend section 13 of the *Municipal Ethics and Good Conduct Act* concerning the adoption of the code of ethics and professional conduct for elected municipal officials, which currently requires the code to be adopted during a regular sitting before the March 1 following a general election, to allow the code to be adopted **during a sitting held at any time during the March following an election.**

## 3 — **Amend the section of the law dealing with disclosure of wrongdoings.**

The government could amend the 9<sup>th</sup> paragraph of section 114.1 of the *Cities and Towns Act* (and its equivalent, section 212, in the *Municipal Code*) by “qualifying” the nature of the wrongdoings the director general must disclose.

## 4 — **Reorganize the sections of the law dealing with contract management.**

The government could group together all of the sections regarding contract management under a single chapter.

**5 — Produce and distribute templates and procedure guides.**

The MAMH could publish templates and procedure guides when a legislative or regulatory change requires the adoption of a by-law or policy, the filing of a report, etc.

**6 — Further educate elected officials, directors general, and clerk-treasurers about municipalities' legislative and regulatory obligations.**

The MAMH, in collaboration with the associations (of DGs and elected officials), could develop a tool that lists all of the legal, regulatory, and accountability obligations that need to be fulfilled each year.

This tool would be updated annually and sent to municipalities.

**7 — Consider changes in the schedule of obligations to improve work organization.**

The MAMH, in collaboration with its municipal advisory committee, could consider potential changes to the schedule of obligations to improve work organization.

**8 — Stop requiring directors general and clerk-treasurers to serve as returning officers.**

Élections Québec could take over the role of all returning officers for RCM territories, nominating one deputy per municipality.

**or**

**1- Remove the RO requirement for all DGCT roles.**

This removal would not affect clerks or clerk-treasurers who are not directors general. In other words, clerks and clerk-treasurers would still be required to serve as returning officers.

**2- Require DGCTs to designate an RO.**

If DGCTs are relieved of the obligation to serve as ROs themselves, their list of responsibilities during elections and referendums should include the designation of an RO.

The designated person may be internal or external to the municipality.

This would allow the designation to be scheduled and formalized with Élections Québec and the CMQ.

**3- If the designated RO is external to the municipality, make it mandatory to designate an internal deputy.**

Logistical responsibilities are important to make sure that elections and referendums run smoothly. For that reason, an internal deputy should be assigned so that logistics are not affected.

9

— **Balance the training schedule for ROs or anyone acting as a deputy RO**

Training for new and experienced ROs should be spread throughout the year to meet needs at all times, regardless of the RO's level of expertise.

10

— **Have the Chief Electoral Officer (CEO) verify certain candidacies.**

At the RO's request, the CEO should confirm the compliance of a given candidacy. If an RO suspects that a candidacy is irregular, the CEO should verify and confirm it. This would prevent non-compliant elections and re-elections, and all the associated hassle.

11

— **Require training for new directors general and clerk-treasurers.**

A legislative provision should be added to require municipal management training for new DGCTs within the first six months of taking office. Those who acquired the skills as assistant directors general would not be required to take the training.

The content would be approved by the MAMH and the training itself would be offered by directors general associations.

Whereas elected officials (who have ethics training) and many other professions require previous and/or ongoing training, new DGCTs do not despite their many obligations and responsibilities. This type of training would ensure that they have a baseline level of knowledge.

12

— **Examine the municipal administrative structure.**

The MAMH could create a working group, in collaboration with municipal associations (of DGs and elected officials), with a mandate to examine the municipal structure and determine the minimum human resources needed to ensure smooth, efficient administrative operations as well as legal and regulatory compliance.

13

— **Identify the accountability reports that have been added since the publication of the Perreault report.**

The Ministry, in collaboration with the associations (of DGs and elected officials), should take stock of the accountability measures added since the Perreault report was published.

Preliminary analyses have largely found that ministries other than the MAMH are requiring significantly more reporting. This affects the organization of work for the DGCT, and therefore the efficiency of the municipal administration.

14

— **Ensure that municipal managers, employees, and elected officials have access to funds for training.**

To ensure that DGCTs receive ongoing training (especially in light of the new legislation and regulations introduced each year) and that employees and elected officials are able to sufficiently develop their skills, municipalities that are not subject to the Skills Act should be required to invest 1% of their payroll each year in training activities to develop staff skills.

Since training is essential for all municipalities, this option would allow smaller municipalities to budget for it in the same way as larger ones, which are already subject to this 1% rule.

or

Make all municipalities subject to the 1% requirement under the Skills Act.

## 15 — Include annual training on legislative and regulatory developments for all ADMQ members.

The ADMQ should offer a free annual training session on legislative and regulatory changes for all of its members.

## 16 — Include the director general's responsibilities and obligations, as well as explanations on their role, in MAMH documents.

The MAMH should make sure to include explanations of the director general's role, responsibilities, and obligations in its official documents and communication tools.

The ministry should consider the possibility of releasing tools that explain the roles and responsibilities of elected officials and the DGCT.

## 17 — Reassert the importance of technical consultations with the MAMH before making any legislative or regulatory changes that affect municipalities.

The government should give the MAMH, in collaboration with its municipal advisory committee, the opportunity to examine new obligations for municipalities before their adoption, as described in the *Politique gouvernementale de consultation et de simplification administrative à l'égard des municipalités* (government policy on administrative consultation and simplification for municipalities).

## 18 — Coordinate all requests from government bodies to municipalities.

The government should require the MAMH to coordinate the requests that Québec ministries and bodies make of municipalities throughout the year (contact list updates, surveys, and mandatory forms).

## 19 — Draft a guide to relations between mayors, councillors, and the DGCT.

An explanatory guide on the relationships between the mayor, the councillors, and the DGCT should be produced in collaboration with the municipal associations (of DGs and elected officials) and the MAMH.

## 20 — Draft an explanatory guide to the mayor's supervisory and control powers.

The MAMH, in collaboration with the CMQ and municipal associations (of DGs and elected officials), should contribute to an explanatory guide to the mayor's supervisory and control powers.

# 2023 Investments in Supporting and Enhancing the Position of Director General and Clerk-Treasurer

## **Municipal management dashboard and tools (addresses solutions 5 and 6 and supports solution 7)**

The ADMQ has been preparing a monthly legal bulletin since 1980 and a calendar of the legal and regulatory obligations for directors general and clerk-treasurers since 1988. In light of the significant increase in the number of obligations, as well as its desire to support municipal managers in their duties, the ADMQ will be investing in a municipal management dashboard in the coming months.

This major project aims to develop an electronic tool that covers all of the annual legal and regulatory obligations, as well as an array of related tools, templates, and procedure guides.

## **Document explaining the role of the director general and clerk-treasurer (supports solution 16)**

The ADMQ will produce a document explaining the roles, responsibilities, and obligations of directors general and clerk-treasurers. The document will educate the general public, elected officials, and management candidates about this important position.

## **Communications campaign to demystify the role of director general and clerk-treasurer**

At the end of 2023, the ADMQ will launch a communications campaign to address bullying and demystify the role of the director general and clerk-treasurer.

## **Annual training on legislative and regulatory developments for all ADMQ members (addresses solution 15)**

The ADMQ will be offering a free annual training session on legislative and regulatory amendments to all of its members.

## Priority Solutions to Streamline Municipal Organization

- 1** Stop requiring directors general and clerk-treasurers to serve as returning officers.
- 2** Bring all municipalities under a single law.
- 3** Require training for new directors general and clerk-treasurers.
- 4** Consider changes in the schedule of obligations to improve work organization.
- 5** Examine the municipal administrative structure.
- 6** Reorganize the sections of the law dealing with contract management.

# Conclusion

To conclude, this report is a collection of observations, summaries of various studies and analyses, and overviews of the important issues that directors general and clerk-treasurers face.

The municipal sector is complex and changes yearly. However, this report puts forth several potential solutions that deserve consideration and debate. They could be used to develop an action plan that enhances the profession, provides better support for DGCTs in the exercise of their many responsibilities, clarifies municipal obligations, improves the legislative and regulatory framework, and streamlines municipal administration.

Further actions and solutions could be added following additional studies and analyses.

Finally, with this report, the ADMQ wished to exclusively explore the technical and administrative aspects of municipal management while opening the door to collaboration with all municipal partners to achieve the objectives it proposes.







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