

Regulations and other acts

Gouvernement du Québec

O.C. 76-96, 24 January 1996

Financial Administration Act
(R.S.Q., c. A-6)

Société immobilière du Québec

— Spécial rules

— Supply contracts, construction contracts and service contracts

By-law respecting special rules governing supply contracts, construction contracts and services contracts of the Société immobilière du Québec

WHEREAS section 49.1 of the Financial Administration Act (R.S.Q., c. A-6) provides that the Government may exempt all the contracts of a public body or certain categories thereof from the application of government regulations on the condition that the public body has adopted, by by-law, special rules governing the conditions of contracts so exempted;

WHEREAS under section 49.3.2 of that Act, the Corporation may adopt special rules referred to in section 49.1 mentioned above;

WHEREAS the board of directors of the Société immobilière du Québec made the By-law respecting special rules governing supply contracts, construction contracts and services contracts of the Société immobilière du Québec;

WHEREAS under Order in Council 75-96, the Government exempted all supply contracts, construction contracts and services contracts of the Société immobilière du Québec from the application of certain provisions of the government regulations respecting contracts;

WHEREAS under section 49.1 referred to above, the Corporation's By-law has effect only when approved by the Government on the recommendation of the Conseil du trésor;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the By-law respecting special rules governing supply contracts, construction contracts and services contracts of the Société immobilière du Québec was published in Part 2 of the *Gazette officielle du Québec* of 12 July 1995, with a notice that it could be submitted to the

Government for approval, with or without amendment, on the expiry of 30 days following that publication;

WHEREAS the Conseil du trésor made a recommendation concerning the Corporation's By-law;

WHEREAS it is expedient to approve the By-law with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister for Administration and the Public Service, Chairman of the Conseil du trésor and Minister responsible for the administration of the Act respecting the Société immobilière du Québec:

THAT the By-law respecting special rules governing supply contracts, construction contracts and services contracts of the Société immobilière du Québec, attached to this Order in Council, be approved.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

By-law respecting special rules governing supply contracts, construction contracts and services contracts of the Société immobilière du Québec

Financial Administration Act
(R.S.Q., c. A-6, s. 49.3.2)

DIVISION I **SCOPE**

1. This By-law applies to supply contracts, construction contracts and services contracts of the Société immobilière du Québec.

2. The provisions of the General Regulation respecting the conditions of contracts of government departments and public bodies, the Regulation respecting supply contracts of Government departments and public bodies, the Regulation respecting construction contracts of government departments and public bodies and the Regulation respecting services contracts of government departments and public bodies apply to the contracts of the Corporation, except insofar as such contracts are exempted therefrom by the Government and subject to the provisions of this By-law.

DIVISION II GENERAL

3. In this Regulation,

“open contract” means a supply contract, a construction contract or a services contract under which the Corporation, to meet the needs of a defined group of users or a specific project, undertakes for a given period to purchase certain goods or services from a supplier or to have certain work performed by a supplier who in turn undertakes to supply such goods or services or to perform such work as needed for that period and at the prices and conditions agreed to; and

“financial institution” means an insurer holding a licence from the Inspector General of Financial Institutions, a trust company holding a licence from the Inspector General of Financial Institutions, a bank within the meaning of the Bank Act (R.S.C., 1985, c. B-1) and any savings and credit union, federation or confederation referred to in the Savings and Credit Unions Act (R.S.Q., c. C-4.1).

4. The Corporation shall stipulate in its tender documents that non-compliance in one or more of the following forms, will result in the automatic rejection of a tender:

(1) signature by an authorized person or persons is missing on a document;

(2) an erasure of or correction to the tendered price has not been initialed by the authorized person or persons;

(3) the tender is conditional or restrictive;

(4) the place, date and time set for receiving tenders have not been complied with.

(5) any other condition specified as essential in the instructions to tenderers has not been met.

5. The Corporation shall issue a performance report only where it evaluates as unsatisfactory the performance on a contract for an amount of \$10 000 or more.

6. Within 30 days following receipt of the supplier's comments, an administrator appointed by the president of the Corporation, that administrator being someone other than the person who signed the unsatisfactory performance report, shall decide whether to uphold the evaluation and shall inform the supplier of his decision. In the event that the time limit is not respected, the report is deemed to be satisfactory.

DIVISION III AUTHORIZATION

7. The Conseil du trésor exercises the following authorizational powers over the contracts awarded by the Corporation:

(1) authorization to award a contract for an amount equal to or greater than \$1 000 000, unless the contract has been provided for under a contract program or unless the contract pertains to a project whose completion on behalf of a department or public body has already been authorized by the Conseil du trésor;

(2) authorization to grant a supplement of 10 % or more in respect of a contract for \$1 000 000 or more or a supplement that increases to \$1 000 000 or more the overall amount payable under a contract and its supplements;

(3) authorization to pay an amount in respect of a claim if the amount of the claim is \$1 000 000 or more, unless such payment results from a judgment rendered by an ordinary court of law or from an arbitration decision under section 30 of the General Regulation respecting the conditions of contracts of government departments and public bodies; and

(4) authorization to submit a dispute to arbitration after or during a contract where the amount in dispute is \$1 000 000 or more.

DIVISION IV SUPPLY CONTRACTS

8. A supply contract shall be awarded through a call for tenders, except in the cases provided for in section 8 of the General Regulation respecting the conditions of contracts of government departments and public bodies and in section 7 of the Regulation respecting supply contracts of Government departments and public bodies, as well as in the following cases:

(1) where it is more economical to negotiate directly with the supplier without acting through distributors, subject to the application of an intergovernmental agreement; or

(2) where the Corporation cannot issue a call for tenders because immediate, prompt intervention is necessary to avoid jeopardizing the Corporation's activities or those of the government departments or public bodies dealing with it.

9. Sections 22, 46 and 47 of the Regulation respecting supply contracts of Government departments and

public bodies apply to the Corporation, but the Corporation may issue a public call for tenders in all instances in which an invitation to tender is issued. In such case, subject to the application of an intergovernmental agreement, the time limit for receiving tenders may not be less than 3 days from the date of the first publication of the call for tenders in a daily newspaper or a regional weekly newspaper distributed in the region in which the goods must be supplied.

DIVISION V **CONSTRUCTION CONTRACTS**

10. A construction contract shall be awarded through a call for tenders, except in the cases provided for in section 8 of the General Regulation respecting the conditions of contracts of government departments and public bodies and in section 4 of the Regulation respecting construction contracts of government departments and public bodies, as well as in the following cases:

(1) where a contract for less than \$50 000 is to be carried out in the municipality of Fermont, Schefferville or Radisson (LG-2) or in the territory covered by Manic V, in which case the Corporation may negotiate with a Native corporation, a band council or a local contractor;

(2) where work is entrusted to a firm acting within its field of activities in the area of public utilities;

(3) where the performance of work is entrusted to a band council and the band council performs most of the work;

(4) where the Corporation cannot issue a call for tenders because immediate, prompt intervention is necessary to avoid jeopardizing the Corporation's activities or those of the government departments or public bodies dealing with it; or

(5) where the Corporation enters into a construction contract as the mandatary of a third party who is not subject to the Regulation respecting construction contracts of government departments and public bodies.

11. A contract may not be entered into unless it is

(1) a "fixed-price contract": where the work required of the contractor is set out accurately and in detail and a price is agreed on for the entire project, in which case the tenders shall pertain to that price;

(2) a "unit price contract": where the specifications provided in the description of the work are drawn up accurately and in detail, but where all or some quantities are indicated as estimates only, in which case the ten-

ders shall pertain to the overall price, which is the sum of the products of each unit price multiplied by the estimated quantity, plus any fixed prices;

(3) a "cost-plus contract": where the nature of the work is such that the prices cannot be determined, or where the urgency of the work is such that work must begin prior to completion of the plans and specifications, in which case the tenders shall pertain to the rate of increase; or

(4) an "hourly-rate and cost-plus contract": where the scope of the work cannot be determined accurately, where a certain number of hours is indicated as an estimate only and where, to the extent that the tender documents do not provide for an alternative method for supplying materials, the cost of the materials is increased by a percentage indicated in the tender documents. In such case, the tenders shall pertain to the overall cost of labour, which is the sum of the products of each hourly rate, including overhead, administrative costs and profits, multiplied by the estimated number of hours.

12. Section 28 of the Regulation respecting construction contracts of government departments and public bodies applies to the Corporation, but the Corporation may issue a public call for tenders in all instances in which an invitation to tender is issued.

13. The time set for receiving tenders is calculated from the date of the first publication of the call for tenders and may not be less than

(1) 3 days following that publication in a daily newspaper a regional weekly newspaper distributed in the region in which the work must be carried out, for work whose estimated amount is \$5000 or more but less than \$25 000;

(2) 7 days following that publication in a daily newspaper or a regional weekly newspaper distributed in the region in which the work must be carried out, for work whose estimated amount is \$25 000 or more but less than \$100 000;

(3) 15 days for work whose estimated amount is \$100 000 or more but less than \$3 000 000; or

(4) 21 days for work whose estimated amount is \$3 000 000 or more.

14. Tender security shall be valid for the period of validity of the tenders and shall be in an amount equal to

(1) 10 % of the estimated amount of the contract, where the security is in the form of a bond issued by a financial institution and complies with Schedule 1; or

(2) 5 % of the estimated amount of the contract up to a maximum amount of \$500 000 where the security is in the form of a certified cheque, money order, draft, irrevocable letter of guarantee issued by a bank, a savings or credit union or a trust or savings company, or bearer bonds issued or guaranteed by the Gouvernement du Québec, the Government of Canada or, where an intergovernmental agreement is applicable, the government of a province or territory covered by the agreement, and whose due date falls within a 5-year period.

15. Where tender security is submitted in a form other than a tender bond, it may be used in whole or in part, depending on the circumstances, as performance security and as security for obligations with respect to wages, materials and services.

16. Where the Corporation requires performance security and security for the contractor's obligations with respect to wages, materials and services, such security shall be submitted in an amount equal to

(1) 50 % of the amount of the contract for each security, if the securities are in the form of a bond issued by a financial institution and complying with Schedules 2 and 3; or

(2) 10 % of the amount of the contract and, in the case of work other than work pertaining to a building and where the contractual documents provide that sums representing 10 % will be held back, 5 % of the amount of the contract, if the securities are in the form of a certified cheque, money order, draft or bearer bonds issued or guaranteed by the Gouvernement du Québec, the Government of Canada or, where an intergovernmental agreement is applicable, the government of a province or territory covered by the agreement, and whose due date falls within a 5-year period, or in the form of an irrevocable letter of guarantee, payable without conditions and issued by a bank in favour of the Corporation in the form of the Corporation's "Irrevocable letter of guarantee" appearing in Schedule 4.

17. Where the Corporation alters the work in accordance with section 53 of the Regulation respecting construction contracts of government departments and public bodies, the value of any change shall be established through one of the following procedures:

(1) the estimation, negotiation and acceptance of a lump sum;

(2) where the nature of the change in the work is such that a lump sum cannot be estimated, the value of the change shall be determined on the basis of the unit prices indicated in the contract or subsequently agreed on; or

(3) where the nature of the change is such that a lump sum or unit prices cannot be estimated, the value of the change shall be determined using the following method:

The cost of labour, materials and equipment shall be increased by the following percentages:

(a) contractors: 12 %, including overhead, administrative costs and profits on work carried out by contractors or 6 %, including overhead, administrative costs and profits on work carried out by subcontractors;

(b) subcontractors: 12 %, including overhead, administrative costs and profits on work carried out by subcontractors.

The cost of labour corresponds to all the costs, charges and wage rates imposed by the construction decree in force, increased by the amount of the statutory benefits.

The cost of materials and equipment corresponds to the lowest price awarded to the contractor and subcontractors.

18. Performance security and security for the contractor's obligations with respect to wages, materials and services shall be remitted to the contractor only after final acceptance of the work by a person authorized under the Regulation respecting the delegation of signature by the Société immobilière du Québec.

Notwithstanding the foregoing, the Corporation may remit performance security to the contractor after provisional acceptance of the work where a warranty of fitness of a duration at least equal to that of the performance security has been submitted to and accepted by the Corporation in lieu of the performance security. In such case, the amount of the performance security may not be reduced by more than 50 % of its original value, and the warranty of fitness shall be submitted in the form of a bond issued by a financial institution, a certified cheque, money order, draft or bearer bonds issued or guaranteed by the Gouvernement du Québec, the Government of Canada or, where an intergovernmental agreement is applicable, the government of a province or territory covered by such an agreement, and whose due date falls within a 5-year period, or an irrevocable letter of guarantee payable without conditions and issued by a bank in favour of the Corporation.

DIVISION VI SERVICES CONTRACTS

19. A services contract shall be awarded through a call for tenders, except in the cases provided for in section 8 of the General Regulation respecting the conditions of contracts of government departments and pub-

lic bodies and in section 4 of the Regulation respecting services contracts of government departments and public bodies, as well as in the following cases:

(1) where a contract for auxiliary services for an amount less than \$50 000 is to be carried out in the municipality of Fermont, Schefferville or Radisson (LG-2) or in the territory covered by Manic V, in which case the Corporation may negotiate with a Native corporation, a band council or a local contractor;

(2) where a contract for professional services is entrusted to the designer of the plans and specifications or to the person who supervised the work, in order to protect the Corporation's interests as regards a claim submitted to the ordinary courts of law or to an arbitration procedure;

(3) where auxiliary services work is entrusted to a firm acting within its field of activities in the area of public utilities;

(4) where the performance of a contract is entrusted to a band council and the band council performs most of the contract;

(5) where, in the case of the expansion of a building for which the legal guarantee under article 1688 of the Civil Code of Lower Canada or article 2118 of the Civil Code of Québec, whichever applies, has not expired, a contract for professional services is awarded to the designer of the construction plans and specifications and where such choice results in economic benefits for the Corporation or greater efficiency in the carrying out of the project;

(6) where performance of work by a professional other than the professional who carried out the original work may entail cancellation of the securities provided, in which case the Corporation shall negotiate with the professional who carried out the work; or

(7) where the Corporation cannot issue a call for tenders because immediate, prompt intervention is necessary to avoid jeopardizing the Corporation's activities or those of the government departments or public bodies dealing with it.

20. Division 3 of Chapter III of the Regulation respecting services contracts of government departments and public bodies applies to the Corporation but, in all instances in which an invitation to tender is issued the Corporation may issue a public call for tenders or, in the case of a contract relating to architecture or engineering, a regionalized public call for tenders. In such instance, the time set for receiving tenders for a contract whose

estimated amount is \$5 000 or more but less than \$50 000 may not be less than 5 days following the date of the first publication of the call for tenders in a daily newspaper or a regional weekly newspaper distributed in the region in which the services must be rendered.

21. A call for proposals with prices or a call for bids shall be issued for every professional services contract, subject to sections 40 to 42 of the Regulation respecting services contracts of government departments and public bodies and section 22 and 23 of this Regulation.

22. For every professional services contract relating to architecture, engineering, soil and materials engineering or forest engineering tenders shall be solicited by any of the followings means.

(1) a call for candidacies without prices, in which case, the selection committee shall evaluate the candidacies in accordance with the provisions of Schedule 6;

(2) a call for candidacies with prices;

(3) a call for proposal s with prices;

(4) a call for candidacies without prices followed by a call for bids, in which case, the selection committee shall evaluate the tenders in accordance with the provisions of Schedule 7;

(5) a call for proposal without prices followed by a call for bids, in which case, the selection committee shall evaluate the tenders in accordance with the provisions of Schedule 7; or

(6) a call for bids, in the case of a contract for which the estimated amount is less than \$25 000.

23. In the case of a contract for construction project management, tenders shall be solicited by any of the means provided for in paragraphs 2 to 5 of section 22 or by means of a call for bids.

24. Section 10 of the General Regulation respecting the conditions of contracts of government departments and public bodies applies to the Corporation, except where a call for bids for the purposes of entering into a contract referred to in sections 22 and 23 of this Regulation is preceded by a call for candidacies without prices or a call for proposals without prices, in which case the following provisions apply;

(1) the contract shall be awarded to the supplier habing submitted the lowest qualifying bid, as calculated in accordance with the methods provided for in the tender documents;

(2) if identical bids are submitted, the contract shall be awarded to the supplier whose candidacy or proposal deemed acceptable on evaluation obtained the highest score;

(3) if identical candidacies and bids or identical proposals and bids are submitted, the contract shall be awarded by drawing lots among the suppliers concerned; and

(4) the amount of the contract shall not exceed the price tendered.

25. The selection committee in charge of the evaluation of tenders shall be composed of

(1) at least 2 members accepted by the Minister, where the estimated amount of the contract is \$10 000 or more but less than \$25 000;

(2) a secretary and at least 3 members, where the estimated amount of the contract is \$25 000 or more but less than \$200 000, at least 2 of whom must be from the staff of the Corporation and at least 1 of whom must be from outside the Corporation and must be employed by a government department or public body;

(3) a secretary and at least 5 members, where the estimated amount of the contract is \$200 000 or more, at least 3 of whom must be from the staff of the Corporation, at least 1 of whom must be from outside the Corporation and must be employed by a government department or public body, and at least 1 of whom must be from outside the Government and must have expertise in the field of activities covered by the contract or, failing that, in a related field of activities.

In the case provided for in subparagraphs 2 and 3 of the first paragraph, the secretary and at least 2 members of the selection committee shall be accepted by the Minister responsible for the administration of the Act respecting government services to departments and public bodies and amending various legislative provisions (S.Q., 1994, c. 18).

26. Tender security shall be valid for the period of validity of the tenders and shall be in an amount specified by the Corporation as follows in the call for tenders:

(1) between 10 % and 25 % of the estimated amount of the contract or standing offer, where the security is in the form of a bond issued by a financial institution and complies with Schedule 5; or

(2) between 5 % and 15 % of the estimated amount of the contract or standing offer, where the security is in

the form of a certified cheque, money order, draft, irrevocable letter of guarantee issued by a bank, a savings or credit union or a trust or savings company and complies with Schedule 6 to the Regulation respecting services contracts of government departments and public bodies, or bearer bonds issued or guaranteed by the Gouvernement du Québec, the Government of Canada or, where an intergovernmental agreement is applicable, the government of a province or territory covered by that agreement, and whose due date falls within a 5-year period.

27. Where the Corporation requires performance security for the duration of the contract, the security is calculated on the amount of the contract or on the estimated amount of the open contract or standing offer and shall be in an amount equal to 10 % of the amount of the contract. The Corporation may require that security be submitted as

(1) a bond issued by a financial institution; or

(2) a certified cheque, money order, draft or bearer bonds issued or guaranteed by the Gouvernement du Québec, the Government of Canada or, where an intergovernmental agreement is applicable, the government of a province or territory covered by that agreement, and whose due date falls within a 5-year period, or an irrevocable letter of guarantee payable without conditions and issued by a bank in favour of the Corporation.

DIVISION VII TERMS AND CONDITIONS OF THE TENDERING PROCESS

28. Any addenda shall be sent to the contractors to whom tender documents have been forwarded. If the addenda cannot be sent at least 7 days before the deadline for receiving tenders in the case of a public call for tenders, the closing date shall be postponed accordingly, unless the only purpose of the addenda is to provide further information or to make corrections having no foreseeable effect on the tendered prices.

29. A tender in respect of a construction contract or a services contract is valid from the date set for submitting tenders and for the period of time specified in the instructions to suppliers. The parties may agree to extend that period of validity.

DIVISION VIII TRANSITIONAL AND FINAL

30. Procedures for awarding a contract undertaken before the coming into force of this By-law shall be continued in compliance with the provisions of this By-law.

31. Any contract under performance at the time of the coming into force of this By-law shall be continued in compliance with the provisions of this By-law, unless this By-law is incompatible with a provision of the contract under performance, in which case the latter provision shall prevail.

32. This By-law replaces the By-law respecting special rules governing supply contracts, construction contracts and services contracts of the Société immobilière du Québec, approved by Order in Council 908-94 dated 22 June 1994.

33. The provisions of this By-law come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE 1

TENDER BOND
(s.14, par. 1)

1., having its principal office at , herein represented by , duly authorized, and hereinafter called the Surety, having taken cognizance of the tender to be submitted on the day of, 19.... to the Société immobilière du Québec, hereinafter called the Corporation, by , having its principal office at , herein represented by , duly authorized, hereinafter called the Contractor or Tenderer, in respect of.....
.....
(description and location of work), stands Surety for the Contractor, to the benefit of the Corporation, under the following conditions:

If the Tenderer fails to sign a contract in keeping with the tender submitted or fails to provide the required guarantees within 15 days following the date of acceptance, the Surety binds itself to pay to the Corporation a sum of money corresponding to the difference between the tendered price that had been accepted and the tendered price subsequently accepted by the Corporation, it being provided that the Surety shall not be required to pay more than dollars (\$.....).

2. A Contractor whose tender has been accepted shall be notified of such acceptance before the expiry of the period of validity of the tenders, failing which, this obligation shall be null and of no effect.

3. This bond is governed by the laws applicable in Québec, and the courts of Québec have sole jurisdiction in case of dispute.

4. Any legal proceedings for the enforcement of this bond shall be instituted within 12 months following the date of these presents and may be brought in the judicial district of Québec.

5. The Surety waives the benefit of discussion.

6. The Contractor intervenes in these presents to consent thereto; should the Contractor fail to do so, this obligation shall be null and of no effect.

IN WITNESS WHEREOF, the Surety and the Contractor, by their duly authorized representatives, have signed these presents in..... this..... day of..... 19.....

_____ Witness	_____ Surety
_____ Witness	_____ Contractor

SCHEDULE 2

PERFORMANCE BOND
(s. 16, par. 1)

1., having its principal office at , herein represented by , duly authorized, hereinafter called the Surety, having taken cognizance of the tender duly accepted on by the Société immobilière du Québec, hereinafter called the Corporation, in respect of
.....
(description and location of work) with a view to a contract between the Corporation, herein represented by its president and chief executive officer or its duly authorized representative, and (name of Contractor), having its principal office at , herein represented by....., duly authorized, and hereinafter called the Contractor, binds itself jointly and severally with the Contractor, to the benefit of the Corporation, to perform the contract, it being provided that the Surety shall not in any case be required to pay more than dollars (\$.....).

2. The Surety agrees that the Corporation and the Contractor may amend the contract at any time, waives notification of such amendments and consents to the Corporation's granting any time period required to complete the work.

3. This bond is governed by the laws applicable in Québec, and the courts of Québec have sole jurisdiction in case of dispute.

4. If the Contractor fails to perform the contract, including work covered by the guarantees, the Surety shall undertake and continue the work required within 15 days after receiving notice to that effect from the Corporation, failing which the Corporation may have such work completed and the Surety shall pay the Corporation for any excess over the price agreed upon with the Contractor for performance of the contract.

5. Any legal proceedings for the enforcement of this bond may be brought in the judicial district of Québec. Such proceedings shall be instituted before the expiry of the year following the date of the final estimate of the work done in performance of the contract or the date of completion of the work covered by the guarantees.

6. The Contractor intervenes in these presents to consent thereto; should the Contractor fail to do so, this obligation shall be null and of no effect.

IN WITNESS WHEREOF, the Surety and the Contractor, by their duly authorized representatives, have signed these presents in..... this..... day of..... 19.....

_____	_____
Witness	Surety
_____	_____
Witness	Contractor

SCHEDULE 3

BOND FOR THE CONTRACTOR'S OBLIGATIONS WITH RESPECT TO WAGES, MATERIALS AND SERVICES

(s. 16, par. 1)

1., having its principal office at, herein represented by, duly authorized, and hereinafter called the Surety, having taken cognizance of the tender duly accepted on by the Société immobilière du Québec, hereinafter called the Corporation, in respect of (description and location of work) with a view to a contract between the Corporation, herein represented by its president and chief executive officer or its duly authorized representative, and (name of Contractor), having its principal office at, herein represented by....., duly authorized, hereinafter called the Contractor, binds itself jointly and solidarily with the Contractor, to the benefit of the Corporation, to pay directly the creditors hereinafter defined, it being provided that the Surety shall not in any case be required to pay more than dollars (\$.....).

2. Creditor means:

(a) any subcontractor of the Contractor;

(b) any person, partnership or corporation having sold or leased to the Contractor or to the Contractor's subcontractors services, materials or equipment intended exclusively for the work. Equipment rental prices are determined solely on the basis of current construction industry standards;

(c) any supplier of materials specially prepared for that work;

(d) the Commission de la santé et de la sécurité du travail, with respect to its contributions.

3. The Surety agrees that the Corporation and the Contractor may amend the contract at any time, waives notification of such amendments and consents to the Corporation's granting any time period required to complete the work.

4. (1) Subject to clause 3 above, no creditor shall have direct recourse against the Surety unless the creditor has sent a request for payment to the Surety and to the Contractor within 120 days following the date on which the work was completed or the last services, material or equipment was supplied.

(2) A creditor who has contracted other than directly with the Contractor shall have no direct recourse against the Surety unless the creditor has given notice in writing of its contract to the Contractor within 60 days of the commencement of the leasing or delivery of the services, materials or equipment; such notice shall indicate the work concerned, the nature of the contract, the name of the subcontractor and the Corporation's name.

(3) No subcontractor shall have direct recourse against the Surety in respect of sums held back by the Contractor unless the subcontractor has sent a request for payment to the Surety and to the Contractor within 120 days following the date on which the sums held back became exigible.

5. Any creditor may bring proceedings against the Surety upon the expiry of 30 days following the giving of the notice prescribed in clause 4, provided that

(1) the proceedings are not brought before the expiry of 90 days from the date on which the work was performed or on which the last services, materials or equipment were supplied; and

(2) the proceedings are served before the expiry of one year from the date on which the Contractor ceased work in performance of the contract, including work performed pursuant to guarantees under the contract.

6. Any payment made in good faith by virtue of these presents operates a corresponding reduction in the amount of this bond.

7. The Contractor intervenes in these presents to consent thereto; should the Contractor fail to do so, this obligation shall be null and of no effect.

IN WITNESS WHEREOF, the Surety and the Contractor, by their duly authorized representatives, have signed these presents in..... this..... day of..... 19.....

_____	_____
Witness	Surety
_____	_____
Witness	Contractor

SCHEDULE 4

IRREVOCABLE LETTER OF GUARANTEE
(Performance security)
(s. 16, par. 2)

Beneficiary: Société immobilière du Québec

Address:

Object:

Tenderer's name:

Address:

Project No.:

Description:

The..... (name of financial institution and branch), herein represented by....., duly authorized, establishes on this day, to the benefit of the recipient, and on behalf of the abovementioned tenderer, this irrevocable letter of guarantee, payable without conditions, in the amount of.....dollars (\$.....).

The amount payable under this irrevocable and unconditional guarantee shall be immediately remitted to

the beneficiary when the beneficiary's president or one of its vice-presidents first makes an application in writing to that effect upon presentation of this document to the place of business of the (name of financial institution), located at..... (address), without the..... (name of the financial institution) considering the reasons for such an application and notwithstanding any objection or dispute between the aforementioned beneficiary and tenderer.

This irrevocable and unconditional guarantee shall remain in force until the end of the contract..... (number and description of contract), after which it shall be remitted upon request by the beneficiary to the aforementioned client.

IN WITNESS WHEREOF, the..... (name of financial institution), by its duly authorized representatives, has signed these presents at..... this..... day of.....199....

Per: _____
Authorized signatory(ies)

SCHEDULE 5

TENDER BOND
(s. 24, par. 1)

1., having its principal office at, herein represented by, duly authorized, and hereinafter called the Surety, having taken cognizance of the tender to be submitted on the day of, 19.. to the Société immobilière du Québec, hereinafter called the Corporation, by, having its principal office in Québec at, herein represented by, duly authorized, hereinafter called the Supplier or Tenderer, in respect of (description and location of work) stands Surety for the Supplier, to the benefit of the Corporation, under the following conditions:

If the Tenderer fails to sign a contract in keeping with the tender submitted or fails to provide the required guarantees within 15 days following the date of acceptance, the Surety binds itself to pay to the Corporation a sum of money corresponding to the difference between the tendered price that had been accepted and the tendered price subsequently accepted by the Corporation, it being provided that the Surety shall not be required to pay more than dollars (\$.....).

2. A Supplier whose tender has been accepted shall be notified of such acceptance before the expiry of the period of validity of the tenders, failing which, this obligation shall be null and of no effect.

3. This bond is governed by the laws applicable in Québec, and the courts of Québec have sole jurisdiction in case of dispute.

4. Any legal proceedings for the enforcement of this bond shall be instituted within 12 months following the date of these presents and may be brought in the judicial district of Québec.

5. The Surety waives the benefit of discussion.

6. The Supplier intervenes in these presents to consent thereto; should the Supplier fail to do so, this obligation shall be null and of no effect.

IN WITNESS WHEREOF, the Surety and the Supplier, by their duly authorized representatives, have signed these presents in..... this..... day of..... 19.....

Witness	Surety
Witness	Supplier

SCHEDULE 6

EVALUATION OF CANDIDACIES WITHOUT PRICES
(s. 22, par. 1)

**DIVISION I
EVALUATION CHECKLIST**

1. The selection committee shall evaluate candidacies by means of the evaluation checklist drawn up by the Corporation, which shall comprise at least the following criteria:

A Criteria pertaining to the firm

(1) the firm’s experience in the type of project in question;

(2) the firm’s previous performance;

B Criteria pertaining to project completion

(3) the project manager and his experience;

(4) the team assigned to the project and its experience;

(5) the organization of work and technical resources.

The Corporation’s tender documents shall explain each of the criteria applied, as well as its conditions of application.

2. The Corporation may add other criteria, provided that they pertain solely to the analysis of the candidacies.

3. The Corporation shall fix a weighting factor for each criterion applied, except the criterion “the project manager and his experience”, for which the weighting factor shall be at least 4. Where the Corporation includes the criterion “proximity to the place where the work is carried out”, its weighting factor shall be 3.

4. The total weighting of the criteria shall be equal to 20, and no criterion may have a weighting greater than 5.

5. The evaluation shall be made on the basis of actual needs that pertain to the carrying out of the project. Any additional item included by the supplier, in respect of human and physical resources, shall not be considered.

6. The project manager shall be a permanent resource of the supplier at the time the offer of services is submitted. All the resources assigned to the project shall be domiciled in Québec.

7. Where the tender documents so provide, the selection committee shall consider, in respect of the evaluation of the criteria respecting staff and if the supplier deems it appropriate, resources who are not part of the supplier’s resources, up to a limit of 2 persons or 25 % of the total staff assigned to the project.

**DIVISION 2
ALLOCATION OF POINTS**

8. Each candidacy shall be evaluated individually, and a score of between 0 and 5 shall be applied to each criterion.

9. A score of 0 shall be applied to a criterion for which a supplier has failed to provide information.

10. To be acceptable, a candidacy shall obtain at least 70 % of the points for the overall criteria and at least 75 % of the points for the criteria pertaining to project completion.

11. At the end of this process, the selection committee shall determine which supplier has obtained the highest score.

SCHEDULE 7

EVALUATION OF CANDIDACIES WITHOUT PRICES OF PROPOSALS WITHOUT PRICES FOLLOWED BY A CALL FOR BIDS

(s. 22, pars. 2 and 3)

DIVISION I

EVALUATION OF CANDIDACIES OR PROPOSALS

§1. Evaluation checklist

1. The selection committee shall evaluate candidacies or proposals by means of the evaluation checklist drawn up by the Corporation, which shall comprise at least the following criteria:

A. Criteria pertaining to the firm

(1) the firm's experience in the type of project in question;

(2) the firm's previous performance.

B. Criteria pertaining to project completion

(3) the project manager and his experience;

(4) the team assigned to the project and its experience;

(5) the approach recommended by the firm in respect of the work to be completed, including follow-up;

(6) the organization of work and technical resources.

The Corporation's tender documents shall explain each of the criteria applied, as well as its conditions of application.

2. Notwithstanding section 1, where the Corporation uses a call for candidacies without prices, the criterion "approach recommended by the firm in respect of the work to be completed, including follow-up" does not apply.

3. The Corporation may add other criteria, provided that they pertain solely to the analysis of the candidacies.

4. The Corporation shall fix a weighting factor for each criterion applied, except the criterion "the project

manager and his experience", for which the weighting factor shall be at least 4 and, where applicable, the criterion "approach recommended by the firm in respect of the work to be completed, including follow-up", for which the weighting factor shall be at least 3.

5. The total weighting of the criteria shall be equal to 20, and no criterion may have a weighting greater than 5.

6. Criteria shall be evaluated by the members of the selection committee, prior to the stage of the call for bids, without the committee members knowing the tendered price, which is to be submitted in a separate envelope.

7. The evaluation shall be made on the basis of actual needs that pertain to the carrying out of the project. Any additional item included by the supplier, in respect of human and physical resources, shall not be considered.

8. The project manager shall be a permanent resource of the supplier at the time the offer of services is submitted. All the resources assigned to the project shall be domiciled in Québec, except where an intergovernmental agreement applies, in which case the resources shall be domiciled in a province or territory covered by the agreement.

9. Where the tender documents so provide, the selection committee shall consider, in respect of the evaluation of the criteria respecting staff and if the supplier deems it appropriate, resources who are not part of the supplier's resources, up to a limit of 2 persons or 25 % of the total staff assigned to the project.

§2. Allocation of points

10. Each candidacy or proposal shall be evaluated individually, and a score of between 0 and 5 shall be applied to each criterion.

11. A score of 0 shall be applied to a criterion for which a supplier has failed to provide information.

12. To be acceptable, a candidacy or proposal shall obtain at least 70 % of the points for the overall criteria and at least 75 % of the points for the criteria pertaining to project completion.

13. All acceptable candidacies and proposals shall be set aside pending the stage of the call for bids.

14. The price tendered for an unacceptable candidacy or proposal shall not be considered, and the envelope containing that price shall be returned unopened to the supplier.

DIVISION 2 **CALL FOR BIDS**

15. The envelopes containing the prices submitted by the suppliers whose candidacies or proposals are acceptable shall be opened.

16. At the end of this process, the selection committee shall determine which acceptable candidacy or proposal has the lowest price.

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Gouvernement du Québec

O.C. 101-96, 24 January 1996

Environment Quality Act
(R.S.Q., c. Q-2)

Environmental impact assessment and review **— Amendments**

Regulation to amend the Regulation respecting environmental impact assessment and review

WHEREAS under subparagraphs *a* and *c.1* of the first paragraph of section 31.9 of the Environment Quality Act (R.S.Q., c. Q-2), amended by section 1 of Chapter 45 of the Statutes of 1995, the Government is empowered to make regulations respecting the matters set out therein;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 124 of the Environment Quality Act, a draft regulation to amend the Regulation respecting environmental impact assessment and review was published in Part 2 of the *Gazette officielle du Québec* of 12 July 1995, with a notice that it could be made by the Government at the expiry of 60 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments, to take into account comments received following the publication in the *Gazette officielle du Québec*;

IT IS ORDERED, therefore, on the recommendation of the Minister of the Environment and Wildlife:

THAT the Regulation to amend the Regulation respecting environmental impact assessment and review, attached to this Order in Council, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting environmental impact assessment and review

Environment Quality Act
(R.S.Q., c. Q-2, s. 31.9, 1st par., subpars. *a* and *c.1*;
1995, c. 45, s. 1)

1. The Regulation respecting environmental impact assessment and review (R.R.Q., 1981, c. Q-2, r. 9), amended by the Regulations made by Orders in Council 1002-85 dated 29 May 1985, 879-88 dated 8 June 1988, 586-92 dated 15 April 1992 and 1529-93 dated 3 November 1993, is further amended, in section 2:

(1) by substituting the following for the second paragraph of subparagraph *j* of the first paragraph:

“the construction of a gas pipeline more than 2 kilometres in length. Excluded are the construction of such a gas pipeline in an existing right of way used for the same purposes, and the installation of gas mains less than 30 centimetres in diameter designed for a pressure of less than 4 000 KPa;”;

(2) by substituting the following for subparagraph *n* of the first paragraph:

“(n) the construction of an oil refinery, of a petrochemical plant, of a liquid petroleum gas fractionating plant, of a plant that processes or synthesizes energy-producing gas, or of a plant that processes or synthesizes coal products.

Excluded is the construction of a facility mentioned above, where such facility would be located on the premises of an existing oil refinery or petrochemical plant;

(n.1) the construction of a mill within the meaning of the Regulation respecting pulp and paper mills, made by Order in Council 1353-92 dated 16 September 1992.

Excluded is the construction of a de-inking plant on the premises of an existing mill;

(n.2) the construction of a dismembering plant;