

Draft Regulations

Draft Regulation

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

Conditions of contracts of government departments and public bodies — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the General Regulation respecting the conditions of contracts of government departments and public bodies, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

This draft Regulation makes provision for additional conditions for the validity of contracts that will help fight undeclared labour in the construction industry in Québec.

The draft Regulation provides that no construction contract of a department of public body may be awarded to a supplier, unless he holds the licence required under the Building Act and, if he intends to act as an employer, he is registered with the Commission de la construction du Québec. It also provides that no construction contract of \$10 000 or more may be awarded to a supplier who, during the 2 years preceding the awarding of the contract, has contravened certain obligations resulting from the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20).

Furthermore, a supplier will have to undertake to grant any subcontract only to a subcontractor who meets the above-mentioned conditions and to require from his subcontractors that they also grant any subcontract only to subcontractors who meet the same conditions.

The draft Regulation will have a direct impact on suppliers who, for instance, refuse to give access to a place where construction work is being carried out to a representative of the Commission de la construction du Québec or who hire employees who do not hold adequate competency certificates.

Further information may be obtained by contacting Mrs. Marie-Josée Linteau, Secrétariat du Conseil du trésor, 875, Grande-Allée Est, Québec (Québec), G1R 5R8, tel. (418) 643-2755, fax (418) 646-8103.

Any interested person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to the Minister for Administration and the Public Service, Chairman of the Conseil du trésor, 875, Grande Allée Est, Québec (Québec), G1R 5R8.

JACQUES LÉONARD,
*Minister for Administration and the Public Service,
Chairman of the Conseil du trésor*

Regulation to amend the General Regulation respecting the conditions of contracts of government departments and public bodies

Financial Administration Act
(R.S.Q., c. A-6, s. 49)

1. The General Regulation respecting the conditions of contracts of government departments and public bodies, made by Order in Council 1166-93 dated 18 August 1993 and amended by the Regulations made by Orders in Council 1565-94 dated 9 November 1994 and 492-95 dated 12 April 1995, is further amended by inserting the following after section 7.2:

“**7.3** No construction contract may be awarded to a supplier unless he holds the licence required under the Building Act (R.S.Q., c. B-1.1) and, if he intends to act as an employer, he is registered with the Commission de la construction du Québec, in accordance with the Regulation respecting the keeping of a register and the sending of a monthly report, approved by Order in Council 875-93 dated 16 June 1993.

7.4 No construction contract of \$10 000 or more may be awarded to a supplier who, during the 2 years preceding the awarding of the contract,

(1) has been the subject of an enforceable work suspension order under section 7.4 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20), as enacted by section 6 of Chapter 8 of the Statutes of 1995;

(3) has been found guilty or, in the case of a partnership or legal person, one of its partners or directors has been found guilty

(a) of an offence against any of sections 83, 83.1, 83.2, 84 or subsection 4 of section 122 of the Act respecting labour relations, vocational training and manpower management in the construction industry;

(b) of 3 offences, committed on different dates, against paragraph 3 of section 119.1 of the Act respecting labour relations, vocational training and manpower management in the construction industry;

(3) has been found guilty of 2 offences against any provision of the Regulation respecting the keeping of a register and the sending of a monthly report, except for an offence that consists in the late transmission of a monthly report;

(4) has paid a claim based on subparagraph c.2 of the first paragraph of section 81 of the Act respecting labour relations, vocational training and manpower management in the construction industry, as enacted by section 38 of Chapter 8 of the Statutes of 1995, or has been condemned by a final judgment to pay such a claim.”

2. The following is inserted after section 13:

“**13.1** Every construction contract shall contain a clause whereby the supplier undertakes

(1) to grant any subcontract only to a subcontractor who holds the licence required under the Building Act and, if that subcontractor intends to act as an employer, who is registered with the Commission de la construction du Québec, in accordance with the Regulation respecting the keeping of a register and the sending of a monthly report; and

(2) to require from his subcontractors that they also grant any subcontract only to subcontractors who meet the conditions provided for in paragraph 1.

13.2 Every construction contract of \$10 000 or more shall contain a clause whereby the supplier undertakes

(1) to grant any subcontract of \$10 000 or more only to a subcontractor who declares to him in writing that he meets the conditions provided for in section 7.4; and

(2) to require from his subcontractors that they also grant any subcontract of \$10 000 or more only to subcontractors who declare to them in writing that they meet the conditions provided for in section 7.4.”

3. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

Draft Regulation

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

Construction contracts of government departments and public bodies — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting construction contracts of government departments and public bodies, the text of which appears below, may be made by the Government which may approve it, with or without amendment, upon the expiry of 45 days following this publication.

This draft regulation complements the amendments presently proposed to the General Regulation respecting the conditions of contracts of government departments and public bodies, which are intended to fight undeclared labour in the construction industry in Québec.

This draft regulation will have a direct impact on building contractors since they will be required, where the estimated contract amount is \$10 000 or more, to include an affidavit in their tender, certifying that they meet the conditions prescribed in section 7.4 of the General Regulation respecting the conditions of contracts of government departments and public bodies, in respect of certain obligations resulting from the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20).

Moreover, a department or body will not be allowed to remit any sum held back on the price of the contract to the contractor where it is informed by the Commission de la construction du Québec of a failure, on the part of the contractor or his subcontractors, to fulfil the obligations giving rise to a recourse based on subparagraphs a, c, c.1 and c.2 of section 81 of the Act respecting labour relations, vocational training and manpower management in the construction industry, in relation to the work provided for in the contract, unless the contractor provides sufficient security to guarantee the fulfilment of his obligations and those of his subcontractors, where applicable.

Further information may be obtained by contacting Mrs. Marie-Josée Linteau, Secrétariat du Conseil du trésor, 875, Grande-Allée Est, Québec (Québec), G1R 5R8, tel. (418) 643-2755, fax (418) 646-8103.