

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

9634

Gouvernement du Québec

**O.C. 235-96, 28 February 1996**

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

**Construction contracts of government departments and public bodies  
— Amendments**

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

WHEREAS under section 49 of the Financial Administration Act (R.S.Q., c. A-6), the Government may, by regulation, upon the recommendation of the Conseil du trésor, determine the conditions of contracts made in the name of the Government by a department, a public body whose operating budget is voted wholly or in part by the National Assembly, or any other public body;

WHEREAS by Order in Council 1168-93 dated 18 August 1993, the Government made the Regulation respecting construction contracts of government departments and public bodies, which was amended by the Regulations made by Orders in Council 181-94 dated 2 February 1994 and 1106-94 dated 20 July 1994;

WHEREAS it is expedient to amend the Regulation respecting construction contracts of government departments and public bodies in order in particular to relax or clarify certain rules including those respecting the information contained in the instructions to suppliers, the conditions for registration in the central register and guarantees, and to ensure concordance with every regulation respecting contracts;

WHEREAS under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of a draft of the Regulation to amend the Regulation respecting construction contracts of government departments and public bodies was published in Part 2 of the *Gazette officielle du Québec* of 13 December 1995 with a notice that it could be made by the Government, with or without amendment, upon the expiry of 45 days following the date of that publication;

WHEREAS the Regulation to amend the Regulation respecting construction contracts of government departments and public bodies has been the subject of a recommendation of the Conseil du trésor;

WHEREAS it is expedient to make the Regulation without amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister for Administration and the Public Service and Chairman of the Conseil du trésor:

THAT the Regulation to amend the Regulation respecting construction contracts of government departments and public bodies, attached to this Order in Council, be made.

MICHEL CARPENTIER,  
*Clerk of the Conseil exécutif*

**Regulation to amend the Regulation respecting construction contracts of government departments and public bodies**

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

**1.** The Regulation respecting construction contracts of government departments and public bodies, made by Order in Council 1168-93 dated 18 August 1993 and amended by the Regulations made by Orders in Council 181-94 dated 2 February 1994 and 1106-94 dated 20 July 1994, is further amended by striking out the definition “Estimated amount of the contract” in section 2.

**2.** The Regulation is amended by substituting the following words for the words “formed by the municipalities of Blanc-Sablon, Bonne-Espérance and Côte-Nord-du-Golfe-Saint-Laurent” everywhere they occur in the definition of “Subregion” in section 2 and in paragraph 5 of section 4:

“bounded on the east by the boundary of Québec, on the north and west by the “Minganie” subregion and on the south by the Gulf of St. Lawrence”.

**3.** The following is substituted for section 11:

“**11.** Instructions to tenderers shall

(1) describe the tendering procedure and specify the required supporting documents;

(2) state non-compliance clauses; and

(3) inform the contractors that the call for bids and any contract that may be entered into are subject to the regulatory requirements in respect of the validity of the contracts prescribed in Chapter II of the General Regulation respecting the conditions of contracts of government departments and public bodies.”.

**4.** Section 23 is amended

(1) by substituting the word “for” for the words “where the documents include” in paragraph 1;

(2) by substituting the words “for printed or photocopied documents other than copies of plans” for the words “where the tender documents comprise only printed or photocopied documents” in paragraph 2; and

(3) by substituting “1 to 200” for “less than 200” in paragraph 2.

**5.** Section 30 is amended by inserting the following sentences at the end of that section:

“In addition, where the estimated amount of the contract is less than \$25 000, the invitation and tenders may be made verbally. A written account of all actions taken shall nevertheless be kept.”.

**6.** Section 38 is amended by substituting the words “the securities are” for the words “the security is” in paragraph 2.

**7.** Sections 40, 41, 82, 88, 94, 95 and 96 are revoked.

**8.** Section 42 is amended

(1) by substituting the following for paragraph 1:

“(1) a contract entered into by an owner acting outside Québec for the carrying out of work outside Québec;”;

(2) by substituting the following for paragraph 2:

“(2) where an intergovernmental agreement is applicable, a contract entered into by an owner acting outside the territory covered by that agreement for the carrying out of work outside the territory covered by the agreement.”.

**9.** Sections 52, 63, 85 and 90 are amended by striking out the words “of Supply and Services” everywhere they occur.

**10.** Section 65 is amended by substituting the words “Conseil du trésor” for the words “Minister of Supply and Services”.

**11.** Section 77 is amended by substituting the following words for the words “made up of the municipalities of “Blanc-Sablon”, “Bonne-Espérance” and “Côte-Nord-du-Golfe-Saint-Laurent””:

“bounded on the east by the boundary of Québec, on the north and west by the “Minganie” subregion and on the south by the Gulf of St. Lawrence”.

**12.** Section 81 is amended by substituting the words “of specialties” for the words “established by the Minister of Supply and Services”.

**13.** Section 86 is amended by substituting the words “the licence required” for the words “a licence” in paragraph 3.

**14.** Section 87 is amended by striking out the words “or the 36 months preceding the application in the case of the watercourse development specialty”.

**15.** Section 89 is amended by substituting the words “des Ressources naturelles” for the words “de l’Énergie et des Ressources”.

**16.** Section 90 is amended by substituting the figures “86, 87 or 89” for the figures “86, 87, 88 or 89” in paragraph 4.

**17.** Section 92 is amended by substituting the figures “93, 97 and 98” for the figures “93, 94, 95, 97 and 98”.

**18.** Section 99 is amended by substituting the figure “15” for the figure “30”.

**19.** Sections 100 and 101 are amended

(1) by substituting the figure “15” for the figure “30” everywhere it occurs; and

(2) by striking out the words “of Supply and Services” everywhere they occur.

**20.** Section 102 is amended by inserting the words “or renewing” after the words “entering into”.

**21.** The following are substituted for Schedules 1 to 4:

**“SCHEDULE 1**

(s. 37, par. 1)

**TENDER BOND**

1. ...., having its principal place of business in ....., herein represented by .....  
 ....., duly authorized, hereinafter called the “Surety”, having taken cognizance of the tender to be submitted on the ..... day of ..... 19... to the (..... identification of the department or public body .....), hereinafter called the “Owner”, by ..... (name of the contractor) having its principal place of business in ....., herein represented by ....., duly authorized, hereinafter called the “Contractor”, in respect of ..... (description of the work and location) ..... stands surety for the Contractor, to the benefit of the Owner, under the following conditions:

If the Contractor 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 (the Gouvernement du Québec or the Body) a sum of money corresponding to the difference between the tendered price that had been accepted and the tendered price subsequently accepted by the Owner, it being provided that the Surety shall not be required to pay more than ..... dollars (\$.....).

2. The Contractor whose tender has been accepted shall be notified of such acceptance within 45 days following the time limit for the receipt of tenders; failing that, this obligation shall be null and of no effect.

3. This bond shall be governed by the law applicable in Québec and, should it be contested, the courts of Québec shall have sole jurisdiction.

4. Any legal proceedings for the enforcement of this bond shall be instituted within 12 months following the date of these presents.

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 the month of ..... 19.....

**THE SURETY**

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Name of signatory in block letters)

\_\_\_\_\_  
(Title of signatory in block letters)

**THE CONTRACTOR**

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Name of signatory in block letters)

\_\_\_\_\_  
(Title of signatory in block letters)

**SCHEDULE 2**

(s. 37, par. 2)

**IRREVOCABLE LETTER OF GUARANTEE**

Recipient:

Name of department or public body  
Address

Object:

Contractor’s name  
Address  
Summary identification of the call for tenders

..... (name of financial institution and branch), herein represented by ....., duly authorized, guarantees irrevocably the payment of the sums that will be owed to you by the abovementioned client in the event that the client fails to accept a contract conforming to the client’s tender or to provide the required guarantees within ..... days of the date of the notice of acceptance of the tender.

This letter of guarantee may be realized only if the tenderer fails to accept a contract conforming to the tender, or if he fails to furnish the required guarantees.

After receipt of a written application for payment, in which the date of the opening of the tenders shall be stated, ..... (name of financial institution) agrees to pay those sums; notwithstanding the foregoing, ..... (name of financial institution) shall in no case be required to pay more than ..... dollars (\$.....) under this letter of guarantee.

This letter of guarantee shall remain valid for a period of ..... days from the date of the opening of the tenders and any application for payment under this letter of guarantee shall be received by ..... (name of financial institution) no later than ..... days from the date of the opening of the tenders.

Payment is due upon mere application for payment sent to the financial establishment by the recipient.

\_\_\_\_\_  
\_\_\_\_\_  
(Name and address of the financial institution)

Per: \_\_\_\_\_  
(Authorized signatory)

\_\_\_\_\_  
(Authorized signatory)”.  
\_\_\_\_\_

**SCHEDULE 3**  
(s. 38, par. 1)

**PERFORMANCE BOND**

(Work performed for government departments and public bodies)

1. ...., having its principal place of business in....., herein represented by ..... , duly authorized, hereinafter called the “Surety”, after having taken cognizance of the tender and the contract duly issued by ..... (identification of government department or public body), hereinafter called the “Owner”, in respect of ..... (description of work and location) and on behalf of ..... (name of contractor), having its principal place of business in ..... , herein represented by....., duly authorized, hereinafter called the Contractor, binds itself jointly and severally with the Contractor, to the benefit of the Owner, to perform the work described above in conformity with the call for tenders and the contract, it being provided that the Surety shall in no case be required to pay more than ..... dollars (\$.....).

2. The Surety agrees that the Owner and the Contractor may amend the contract at any time, subject to the right of the Surety to be informed thereof, upon request, and consents to the Owner’s granting any time period required to complete the work.

3. 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 Owner, failing which the Owner may have such work completed and the Surety shall pay the Owner for any excess over the price agreed upon with the Contractor for performance of the contract.

4. This bond shall be governed by the law applicable in Québec and, should it be contested, the courts of Québec shall have sole jurisdiction. All 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.

5. 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 the month of ..... 19....

**THE SURETY**

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Name of signatory in block letters)

\_\_\_\_\_  
(Title of signatory in block letters)

**THE CONTRACTOR**

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Name of signatory in block letters)

\_\_\_\_\_  
(Title of signatory in block letters)

**SCHEDULE 4**

(s. 38, par. 1)

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

(Work performed for government departments and public bodies)

1. ...., having its principal place of business in ....., herein represented by ..... duly authorized, hereinafter called the “Surety”, after having taken cognizance of the tender and contract duly issued by ..... (identification of the government department or public body), hereinafter called the “Owner”, for ..... (description of the work and location) and on behalf of ..... (name of contractor), having its principal place of business in ....., herein represented by ....., duly authorized, hereinafter called the “Contractor”, binds itself jointly and severally with the Contractor, to the benefit of the Owner, to pay directly the creditors hereinafter defined, it being provided that the Surety shall in no case be required to pay more than ..... dollars (\$.....).

2. Creditor means

(a) any subcontractor of the Contractor;

(b) any natural or legal person having sold or leased services, materials or equipment intended exclusively for the work to the Contractor or to the Contractor’s subcontractors. Equipment leasing 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 Owner and the Contractor may amend the contract at any time, subject to the right of the Surety to be informed thereof, upon request, and consents to the Owner’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 an application for payment to the Surety and to the Contractor within 120 days of the date on which the work was completed or the last services, materials or equipment were 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 sent notice in writing of the 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 department or body concerned;

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

5. Any creditor may institute 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 instituted 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 the month of ..... 19....

THE SURETY

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Name of signatory in block letters)

\_\_\_\_\_  
(Title of signatory in block letters)

## THE CONTRACTOR

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 (signature)

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 (Witness)

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 (Name of signatory in  
block letters)

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 (Title of signatory in  
block letters)".

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

9625

Gouvernement du Québec

**O.C. 236-96, 28 February 1996**

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

An Act respecting the Service des achats du gouvernement  
(R.S.Q., c. S-4)

**Services contracts of government departments and public bodies**  
— Amendments

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

WHEREAS under section 49 of the Financial Administration Act (R.S.Q., c. A-6), the Government may, by regulation, upon the recommendation of the Conseil du trésor, determine the conditions of contracts made in the name of the Government by a department, a public body whose operating budget is voted wholly or in part by the National Assembly or any other public body;

WHEREAS by Order in Council 1169-93 dated 18 August 1993, the Government made the Regulation respecting services contracts of government departments and public bodies, which was amended by the Regulations made by Order in Council 1810-93 dated 15 December 1993, 557-94 dated 20 April 1994, 1107-94 dated 20 July 1994 and 783-95 dated 14 June 1995;

WHEREAS it is expedient to amend the Regulation respecting services contracts of government departments and public bodies in order in particular to replace the

criteria for registration in the central register for certain specialties by a requirement to comply with standards in the ISO international system for quality management, to relax certain rules, including those concerning the selection and evaluation of suppliers in the area of advertising, the information contained in the instructions to suppliers and the composition of selection committees, and to ensure adequate application of the intergovernmental agreements entered into by the Government and the consistency with all the regulations respecting contracts;

WHEREAS under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of a draft regulation to amend the Regulation respecting services contracts of government departments and public bodies was published in Part 2 of the *Gazette officielle du Québec* of 13 December 1995 with a notice that it could be made by the Government, with or without amendments, upon the expiry of 45 days following the date of that publication;

WHEREAS the Regulation to amend the Regulation respecting services contracts of government departments and public bodies has been the subject of a recommendation of the Conseil du trésor;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister for Administration and the Public Service, Chairman of the Conseil du trésor:

THAT the Regulation to amend the Regulation respecting services contracts of government departments and public bodies, attached to this Order in Council, be made.

MICHEL CARPENTIER,  
*Clerk of the Conseil exécutif*

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**Regulation to amend the Regulation respecting services contracts of government departments and public bodies**

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

An Act respecting the Service des achats du gouvernement  
(R.S.Q., c. S-4)

**1.** The Regulation respecting services contracts of government departments and public bodies, made by