

THE CONTRACTOR

 (signature)

 (Witness)

 (Name of signatory in
block letters)

 (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*.

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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

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

Order in Council 1169-93 dated 18 August 1993 and amended by the Regulations made by Orders 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, is further amended in section 2

(1) by substituting the following for the definition of “Services contract”:

“Services contract” means a services contract within the meaning of the General Regulation respecting the conditions of contracts of government departments and public bodies, excluding a travel services contract for an estimated amount of less than \$100 000, within the meaning of the Regulation respecting travel services contract of government departments and public bodies, a snow removal contract within the meaning of the Regulation respecting snow removal services contracts of government departments and public bodies and a services contract entered into with an individual; (*contrat de services*);

(2) by striking out the definition of “Estimated amount of the contract”; and

(3) by substituting the following words for the words “formed by the municipalities of Blanc-Sablon, Bonne-Espérance and Côte-Nord-du-Golfe-Saint-Laurent” in the definition of “subregion”:

“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”.

2. Section 4 is amended

(1) by inserting the following after paragraph 5:

“(5.1) in the case of a contract for repairing an aircraft, where the work to be carried out cannot be evaluated before the repair work begins;”;

(2) by substituting the following words for the words “formed by the municipalities of Blanc-Sablon, Bonne-Espérance and Côte-Nord-du-Golfe-Saint-Laurent” in paragraph 8:

“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”; and

(3) by substituting the following for paragraph 13:

“(13) where the department or body makes the media placement directly; and”.

3. The following is substituted for section 11:

“11. Instructions to suppliers shall

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

(2) state non-compliance clauses;

(3) inform the suppliers of the rules to be followed in evaluating and analysing the tenders;

(4) inform the suppliers that the call for tenders and any contract that may be entered into are subject to the regulatory requirements in respect of the validity of contracts that are prescribed in Chapter II of the General Regulation respecting the conditions of contracts of government departments and public bodies; and

(5) where the purpose of the call for tenders is to draw up a list of suppliers from whom a standing offer will be accepted, specify the procedures for selecting the suppliers to be registered on that list and the awarding procedures prescribed for those contracts.”.

4. Section 19 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 31 is amended by substituting the following for paragraph 1:

“(1) by extending an invitation to tender to at least 3 suppliers of its choice who have a place of business in Québec or, failing that, extending an invitation to tender to the only 2 suppliers who have a place of business in Québec; notwithstanding the foregoing, in the case of a professional services contract, the department or body shall, before the call for tenders is issued, request confirmation from the central register that the required specialty is not provided for therein;”.

6. Section 34 is amended by adding the following at the end:

“Furthermore, where the estimated amount of the contract is less than \$25 000 and the procedure used is a call

for bids, the invitation and the tenders may be made verbally. A written account of all actions taken shall nevertheless be kept.”.

7. The following is substituted for section 49:

“**49.** The selection committee in charge of the evaluation of tenders is composed of

(1) at least 2 members approved 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 members shall come from the personnel of the department or body concerned and at least 1 member shall be from outside the department or body and be an employee of a department or public body accredited.

The secretary and at least 2 of the committee’s members shall be by the Minister;

(3) a secretary and at least 5 members, where the estimated amount of the contract is \$200 000 or more; at least 3 members shall come from the personnel of the department or body concerned and at least 1 member shall be from outside the department or body and be an employee of a department or public body; at least 1 member shall be from outside the Government and his qualification shall be related to the field of activity covered by the contract or, failing that, to a related field of activity.

The secretary and at least 3 of the committee’s members shall be approved by the Minister.”.

8. Sections 50 and 52 to 55 are revoked.

9. The following is substituted for section 60:

“**60.** This Division applies to

(1) a contract entered into by a department or body acting outside Québec for the acquisition of services outside Québec;

(2) where an intergovernmental agreement is applicable, a contract entered into by a department or body acting outside the territory covered by that agreement for the acquisition of services outside the territory covered by the agreement.”.

10. Sections 68, 89, 90, 114 and 180 are amended by striking out the words “of Supply and Services” everywhere they occur.

11. Sections 80 to 82 are revoked.

12. Section 92 of the Regulation is amended by substituting the words “Conseil du trésor” for the words “Minister of Supply and Services”.

13. Section 98 is amended

(1) by substituting the following for the first paragraph:

“Suppliers shall be registered in the central register on subregional lists, except in respect of the specialties in the aircraft chartering group and the biology category, and the specialties of microbiological analysis, bridge engineering and advertising campaign, in which case suppliers shall be registered on regional lists, and in respect of the following specialties, in which case suppliers shall be registered on lists comprising all the suppliers in Québec:”;

(2) by striking out the words “metal quality control, geological consulting,” in paragraph 1.

14. Section 108 is amended by substituting the following 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”.

15. The Regulation is amended by inserting the following after section 112:

“**112.1** Where, for a given project, a supplier who is registered for any specialty in the soil and materials engineering category and whose name has been referred from the central register informs the department or body that he considers himself to be in a conflict of interest by reason of his affiliation with the successful tenderer of the civil or mechanical engineering contract, the department or body shall request that the name be replaced, and it shall be put back at the top of the list.”.

16. The Regulation is amended by inserting the following after section 115:

“**115.1** Where it is specified that a supplier must, in order to register for a given specialty and level, hold a registration certificate complying with an ISO standard, that supplier shall also work in the specialty for which he registers and have in his employ the personnel required for that purpose.”.

17. The following is substituted for section 122:

“**122.** To be registered at level 1, 2 or 3 in either of the complex dam engineering or bridge engineering specialties, a supplier shall hold a registration certificate issued by a registrar accredited by the Standards Council of Canada or by an accrediting agency recognized by it, to the effect that he has a quality system for the area concerned by the specialty in question, complying with the ISO 9001 standard.”.

18. Section 123 is revoked.**19.** The following is substituted for section 126:

“**126.** To be registered at level 1, 2 or 3 in any of the specialties in the soil and materials engineering category, a supplier shall hold a registration certificate issued by a registrar accredited by the Standards Council of Canada or by an accrediting agency recognized by it, to the effect that he has a quality system for the area concerned by the specialty in question, complying with the ISO 9002 standard.”.

20. Sections 127 to 133 are revoked.

21. Sections 138 and 139 are amended by substituting the words “des Ressources naturelles” for the words “de l’Énergie et des Ressources” everywhere they occur.

22. Sections 143 and 144 are amended by inserting the words “et de la Faune” after the words “de l’Environnement” everywhere they occur.

23. Section 150 is amended by substituting the following for the first paragraph:

“To be registered in the other specialties in the construction and physical sciences group, excluding the specialties of consultant in fire prevention, consultant in the protection of buildings, property and persons and analysis of the value of construction projects, a supplier shall have in his employ:”.

24. Section 156 is revoked.

25. Section 157 is amended by substituting the figures “120, 121, 124, 125, 134, 136 to 139” for the figures “120 to 127, 134, 136 to 139, 154 and 155”.

26. The following is substituted for section 165:

“**165.** To be registered in the advertising campaign specialty, a supplier shall,

(1) at level 1,

(a) hold the accreditations of the Canadian Radio Common Carriers Association (CRCCA) and the Daily Newspapers Publishers Association (DNPA) or deposit a memorandum of understanding signed with a specialized supplier who has a place of business in Québec and holds those accreditations, whereby the supplier undertakes to make the media placement when required if the registered supplier is awarded a contract; and

(b) have in his employ at least 3 professionals who have jointly accumulated a minimum of 15 years of experience in the specialty;

(2) at level 2,

(a) have carried out in Québec, during the 12 months preceding the application for registration, activities in the specialty corresponding to a minimum gross income of \$600 000 in fees and commissions;

(b) meet the requirements provided for in subparagraph *a* of paragraph 1 of this section; and

(c) have in his employ at least 5 professionals who have jointly accumulated a minimum of 25 years of experience in the specialty.”.

27. Sections 167 to 173 and 177 are revoked.

28. Section 174 is amended by substituting the figures “120, 121, 124, 125, 134, 136, 137, 140, 142 to 144, 146, 147, 149 to 152, 154, 155, 158 to 162 and 164 to 166” for the figures “120 to 127, 134, 136, 137, 140, 142 to 144, 146, 147, 149 to 152, 154 to 156, 158 to 162 and 164 to 173”.

29. Section 182 is amended by substituting the figures “183, 187 and 188” for the figures “183 to 185, 187 and 188”.

30. Sections 184 to 186 are revoked.

31. Section 187 is amended by striking out the following words after the word “contract”:

“after a call for proposals or a call for bids”.

32. Section 189 is amended by substituting the figure “15” for the figure “30”.

33. Sections 190 and 191 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.

34. Section 192 is amended by substituting the words “or renewing a contract” for the words “a contract or standing offer”.

35. Schedule 1 is amended

(1) by substituting the words “(e.g., ISO or other certification, quality plan, verification of results)” for the words “(e.g., plans of action, work organization, verification of results)” in subparagraph 5 of paragraph B “Suggested criteria” of section 1;

(2) by substituting the following for section 12:

“12. Every acceptable proposal shall be retained.”;

(3) by substituting the figure “100” for the figure “50” in section 13; and

(4) by substituting the following for section 15:

“15. For each retained tender, the points obtained in evaluating the quality and the tendered price shall be added together; the selection committee shall determine the supplier who has obtained the highest score.”.

36. Schedule 2 is amended by substituting the words “(e.g., ISO or other certification, quality plan, verification of results)” for the words “(e.g., plans of action, work organization, verification of results)” in subparagraph 3 of paragraph B “Suggested criteria” of section 1.

37. Schedule 3 is amended

(1) by deleting subparagraph 2 of the “Compulsory criteria” paragraph of section 1;

(2) by substituting the following for subparagraph 4 of the “Compulsory criteria” paragraph of section 1:

“(4) Value of contracts awarded, except if an inter-governmental agreement is applicable, in which case that criterion may not be used: the value of contracts awarded by the department or body in the specialty, during the 4 years preceding the forming of the selection committee;”;

(3) by substituting the following for section 4:

“4. The total weighting of the criteria shall be equal to 20 and no criterion may have a weighting greater than 5. The weighting applied to compulsory criteria shall represent at least 50 % of the total mark.”.

(4) by substituting the following for section 17:

“17. The total weighting of the criteria shall be equal to 20 and no criterion may have a weighting greater than 5. The weighting applied to compulsory criteria shall represent at least 50 % of the total mark.”.

38. Schedule 4 is amended

(1) by substituting the words “(e.g., ISO or other certification, quality plan, verification of results)” for the words “(e.g., plans of action, work organization, verification of results)” in subparagraph 5 of paragraph B “Suggested criteria” of section 1;

(2) by substituting the following for section 9:

“9. Each candidacy shall be evaluated separately and each criterion shall be given a mark from 0 to 5.”;

(3) by striking out section 10;

(4) by substituting the following for section 13:

“13. Every acceptable candidacy shall be retained.”;

(5) by substituting the figure “100” for the figure “50” in section 14; and

(6) by substituting the following for section 16:

“16. For each retained tender, the points obtained in evaluating the quality and the tendered price shall be added together; the selection committee shall determine the supplier who has obtained the highest score.”.

39. The following Schedules are substituted for Schedules 5 and 6:

“SCHEDULE 5

(s. 58., 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 “Minister” or the “Body”), by (name of the supplier), having its principal place of business in, herein represented by, duly authorized, hereinafter called the “Supplier”, in respect of (description of the services to be rendered)

..... stands surety for the Supplier, to the benefit of (the Minister or the Body), under the following conditions:

If the Supplier 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 Minister or the Body), it being provided that the Surety shall not be required to pay more than dollars (\$.....).

2. The Supplier 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 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 the month of 19.....

THE SURETY

(signature)

(Witness)

(Name of signatory in block letters)

(Title of signatory in block letters)

THE SUPPLIER

(signature)

(Witness)

(Name of signatory in block letters)

(Title of signatory in block letters)

SCHEDULE 6
(s. 58, par. 2)

IRREVOCABLE LETTER OF GUARANTEE

Recipient:

Name of department or public body
Address

Object:

Supplier'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 with 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 with 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) undertakes 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 institution by the recipient.

 (Name and address of the financial institution)

Per: _____

(Authorized signatory)

 (Authorized signatory)”.

40. Schedule 7 is amended by striking out section 5.

41. Schedule 8 is amended

(1) 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” in the first paragraph of section 6:

“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”; and

(2) by inserting the following after section 11:

“12. Professional services related to the advertising campaign specialty:

The application for suppliers’ names shall be processed, as the department or body may choose, from a regional list or from the list comprising all the suppliers in Québec.”.

42. Schedule 9 is revoked.

43. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except sections 17, 18, 19, 20 and 42, which come into force on 1 April 1996.

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Gouvernement du Québec

O.C. 237-96, 28 February 1996

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

Snow removal services contracts of government departments and public bodies
 — Amendments

Regulation to amend the Regulation respecting snow removal 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, upon the recommendation of the Conseil du trésor, determine the conditions of contracts made in the name of the Government by a department, by a public body whose operating budget is voted wholly or in part by the National Assembly or by any other public body;

WHEREAS by Order in Council 1170-93 dated 18 August 1993, the Government made the Regulation respecting snow removal services contracts of government departments and public bodies, which was amended by the Regulations made by Orders in Council 448-94 dated 30 March 1994, 222-95 dated 22 February 1995 and 784-95 dated 14 June 1995;

WHEREAS it is expedient to amend the Regulation respecting snow removal services contracts of government departments and public bodies in order in particular to specify certain provisions, including that concerning the information contained in the instructions to tenderers and those pertaining to guarantees, and to ensure 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 snow removal 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 snow removal 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 without amendments;