

Regulations and other acts

Gouvernement du Québec

O.C. 294-98, 18 March 1998

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

Surplus immovable property — Terms and conditions for the disposal

Regulation respecting the terms and conditions for the disposal of surplus immovable property of 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 under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of the draft Regulation respecting the terms and conditions for the disposal of surplus immovable property of departments and public bodies was published in Part 2 of the *Gazette officielle du Québec* of 26 November 1997 with a notice that it could be made by the Government upon the expiry of 45 days following the date of that publication;

WHEREAS the Regulation respecting the terms and conditions for the disposal of surplus immovable property of departments and public bodies has been the object of a recommendation by the Conseil du trésor and it is expedient to make it with amendments;

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

THAT the Regulation respecting the terms and conditions for the disposal of surplus immovable property of departments and public bodies, attached to this Order in Council, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation respecting the terms and conditions for the disposal of surplus immovable property of departments and public bodies

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

DIVISION I SCOPE

1. This Regulation enacts the conditions governing the disposal of any surplus immovable property for which no specific power of alienation was granted to a minister or public body under an act.

A surplus immovable property is an immovable property that was declared as such to the Minister of Transport by a department or a public body whose operating budget is voted in whole or in part by the National Assembly.

DIVISION II RESPONSIBILITIES OF THE MINISTER OF TRANSPORT

2. The department or public body referred to in the second paragraph of section 1, which has authority over an immovable property for which no use is contemplated, shall declare it as surplus immovable property to the Minister of Transport. Such declaration results in the transfer of the authority over the immovable property to the Minister of Transport, without the administration of the immovable property and the financial charges related to it being transferred to him.

3. The Minister of Transport shall draw up an inventory of all surplus immovable property and shall make it available for consultation.

4. The Minister of Transport shall dispose of surplus immovable property according to Divisions III to V.

DIVISION III DISPOSAL IN FAVOUR OF A PUBLIC ENTITY

5. The Minister of Transport shall dispose of a surplus immovable property, according to Divisions IV and V, only if no department or public body referred to in the second paragraph of section 1, or none of the following entities, has shown an interest in the immovable property:

(1) a public body not referred to in the second paragraph of section 1;

(2) a school board, a general and vocational college, the Université du Québec or one of its constituent universities, one of its research institutes or one of its schools of higher learning;

(3) a public institution referred to in the Act respecting health services and social services (R.S.Q., c. S-4.2), a regional board established under that Act or the Corporation d'hébergement du Québec; and

(4) a municipality, an urban community or the Kativik Regional Government.

6. Where a department or a public body referred to in the second paragraph of section 1 has shown an interest in a surplus immovable property, the Minister of Transport shall transfer the authority he has over that immovable property to that department or body free of charge or, as the case may be, shall dispose of it in its favour.

Where one of the entities referred to in paragraphs 1 to 4 of section 5 has shown an interest in a surplus immovable property, the Minister of Transport shall dispose of the immovable property in favour of the interested entity in keeping with the prices and conditions of the real estate market.

DIVISION IV DISPOSAL BY AGREEMENT, BY INVITATION TO TENDER OR BY AUCTION

7. The Minister of Transport shall offer successively and by agreement any surplus immovable property to the following people:

(1) to the owner of any contiguous immovable property because the surplus immovable property constitutes or should constitute, in whole or in part, the basis of an easement of passage in favour of the contiguous immovable property;

(2) to the owner of any contiguous immovable property from whom the immovable property or part of the surplus immovable property was acquired; to the spouse, children or grandchildren, in the case of a disposal of the contiguous immovable property in their favour;

(3) to the owner of any contiguous immovable property because the surplus immovable property is enclosed;

(4) to the tenant, farm producer within the meaning of the second paragraph of section 12, who has rented the surplus immovable property for at least one year,

provided that the immovable property is located in an agricultural zone; and

(5) to the owner of any contiguous immovable property because the total or partial configuration of the surplus immovable property allows consolidation only in favour of the immovable property.

If, pursuant to the first paragraph, several owners or tenants are involved, the surplus immovable property is the subject of an invitation to tender with those people.

For the purposes of this section, any contiguous immovable property is a piece of land one side of which touches a surplus immovable property or that would touch it if it were not separated therefrom by a public road, within the meaning of the second paragraph of section 12, a railway or a public utility right of way.

8. Disposal by agreement is carried out in keeping with the prices and conditions of the real estate market.

The disposal subsequent to an invitation to tender is carried out in favour of the tenderer who presented the highest conforming tender. The Minister of Transport may, following the invitation to tender, raise the price of the highest conforming tender.

Sections 14 and 15 apply to an invitation to tender *mutatis mutandis*.

9. Any surplus immovable property that was not the subject of a disposal according to section 7 and whose estimated value is less than \$5 000 may be the subject of a disposal by agreement, if there is only one prospective acquirer, or of an invitation to tender, if there are several prospective acquirers.

In such a case, the disposal of the surplus immovable property may be carried out at a price less than the estimated value if it makes it possible to avoid paying the costs related to conservation of the immovable property and its subsequent disposal.

10. The Minister of Transport may, at an auction, dispose of a surplus building and its accessories, whose estimated value is \$25 000 or less.

DIVISION V DISPOSAL BY PUBLIC CALL FOR TENDERS

11. Any surplus immovable property that was not disposed of by the Minister of Transport in accordance with Divisions III and IV is the subject of a public call for tenders.

12. Notwithstanding section 11, any surplus immovable property, of 5 hectares or more, located in an agricultural zone and including an access to a public road, is, first, the subject of a public call for tenders with the farm producers.

For the purposes of this section,

“public road” means any road that has become the property of a municipality in accordance with section 422 of the Cities and Towns Act (R.S.Q., c. C-19), any street or road opened pursuant to a municipal by-law, resolution or procès-verbal, any road referred to in section 6 of the Act respecting roads (R.S.Q., c. V-9) and any road referred to in sections 51 and 52 of that Act, provided that abutters have a right of access to it;

“farm producer” means any person referred to in subparagraph *j* of the first paragraph of section 1 of the Farm Producers Act (R.S.Q., c. P-28), whose agricultural operation is the subject of a valid registration in accordance with the Regulation respecting the registration of agricultural operations and the reimbursement of real estate taxes and compensations made by Order in Council 340-97 dated 19 March 1997.

13. The public call for tenders is published through an electronic tendering system or in a newspaper.

14. When making a public call for tenders, the tenderers must be informed of the conditions and rules applicable. To that end, the instructions to the tenderers must, notably,

(1) state non-compliance clauses of tenders, according to section 15;

(2) determine the period of validity of tenders;

(3) give the rules which will be followed during the opening and analysis of tenders; and

(4) mention that the Minister of Transport does not undertake to accept any of the tenders received.

15. Provisions relating to non-compliance clauses of tenders shall stipulate that a tender will be automatically rejected where:

(1) a required document is missing;

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

(3) an erasure of or correction to the tendered price is not initialed by the authorized person or persons;

(4) the tender is conditional or restrictive;

(5) the place and time limit fixed for receiving tenders has not been complied with; or

(6) any other condition specified as essential in the instructions to tenderers has not been abided by.

16. Any disposal subsequent to a public call for tenders is carried out in favour of the tenderer who presents the highest conforming tender.

17. The Minister of Transport may, following a public call for tenders, raise the price of the highest conforming tender where that price is less than 85 % of the estimated value of the immovable property.

DIVISION VI DISPOSAL OF CERTAIN IMMOVABLE PROPERTY IN AN AGRICULTURAL ZONE

18. The disposal of surplus immovable property located in an agricultural zone, for which an authorization for non-agricultural use was issued by the Commission de protection du territoire agricole du Québec, under sections 26 to 29 of the Act to preserve agricultural land (R.S.Q., c. P-41.1), for which an operating permit was issued in accordance with section 70 of that Act or for which an acquired right is recognized under sections 101 to 105 of that Act, is carried out without taking the location of the immovable property into account.

DIVISION VII TRANSITIONAL AND FINAL PROVISIONS

19. Offers to buy or sell surplus immovable property made by any party before 16 April 1998 shall remain governed by the Règlement sur les conditions de disposition des immeubles excédentaires made by Decision of the Conseil du trésor bearing number C.T. 154599 dated 29 January 1985 and amended by Decision C.T. 165331 dated 25 August 1987, if the offer is accepted within a period of not more than 120 days from that date.

20. This Regulation comes into force on 16 April 1998.