

## Regulations and other acts

Gouvernement du Québec

**O.C. 332-99, 31 March 1999**

Education Act  
(R.S.Q., c. I-13.3)

### Construction contracts for immovables of school boards — Amendments

Regulation to amend the Regulation respecting construction contracts for immovables of school boards

WHEREAS under section 452 of the Education Act (R.S.Q., c. I-13.3), the Government may, by regulation, determine the norms, conditions and procedure for awarding contracts for the construction, enlargement, equipment, improvement, conversion, demolition, reconstruction or repairs of an immovable of a school board or of the Conseil scolaire de l'île de Montréal and prescribe forms for those purposes;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation attached to this Order in Council was published in Part 2 of the *Gazette officielle du Québec* of 8 July 1998 with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Education:

THAT the Regulation to amend the Regulation respecting construction contracts for immovables of school boards, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

### Regulation to amend the Regulation respecting construction contracts for immovables of school boards\*

Education Act  
(R.S.Q., c. I-13.3, s. 452)

1. The Regulation respecting construction contracts for immovables of school boards is amended in section 1:

(1) by substituting the words “or an urban community” for the words “an urban or regional community” in subparagraph 3 of the second paragraph; and

(2) by adding the following paragraph after the second paragraph:

“(5) where performance of the work by a contractor who did not carry out the original work may void the securities held, in which case the school board shall negotiate with the contractor who carried out the work.”.

2. The following is substituted for section 3:

“3. The call for tenders shall be carried out either:

(1) by a public call for tenders where the estimated value of the contract is \$100 000 or more; or

(2) by a public call for tenders or an invitation to tender where the estimated value of the contract is \$50 000 or more, but less than \$100 000.”.

3. Section 4 is amended

(1) by adding the words “and information obtained” at the end of paragraph 3;

(2) by striking out the words “, where applicable,” and the second word “business” in paragraph 7; and

(3) by inserting the following paragraph after paragraph 7:

\* The Regulation respecting construction contracts for immovables of school boards, made by Order in Council 1015-90 dated 11 July 1990 (1990, *G.O.* 2, 1964) was amended by Order in Council 360-94 dated 16 March 1994 (1994, *G.O.* 2, 1265).

“(7.1) a statement, where applicable, that the contract for which the call for tenders is issued constitutes an exception provided for in an intergovernmental agreement and a statement of the restrictions and practices which do not comply with the call for tender procedures provided for in that agreement or do not grant reciprocal non-discriminatory treatment; and”.

4. The following is substituted for section 6:

“6. A public call for tenders shall be published in French:

(1) in a daily newspaper in the Ville de Montréal or in the Ville de Québec, in a regional daily or weekly newspaper distributed in the region where the work is to be carried out, and in at least one publication specialized in the field of construction; or

(2) by an electronic call for tenders system.”.

5. Section 7 is amended

(1) by substituting the following for the part preceding paragraph 1:

“7. The following documents shall be given to the tenderer upon submission of an application containing the information required in Schedule I, and, where those documents are obtained directly from the school board, accompanied with an amount determined by the school board, but not exceeding \$200, or not exceeding \$500 where the estimated value of the contract is \$10 000 000 or more:”;

(2) by inserting the following after paragraph 6:

“6.1 a specimen of the irrevocable letter of guarantee in the form of Schedule 4.1;”.

6. Section 9 is amended

(1) by substituting the following for the second paragraph of paragraph 1:

“Where the security is in the form of a tender bond, it shall be given by a financial institution legally empowered to provide security, in compliance with the form prescribed in Schedule 4.”;

(2) by substituting the following for the third paragraph of paragraph 1:

“Where the security is not in the form of a tender bond, it shall be given by means of a certified cheque, money order, draft, irrevocable letter of guarantee in

compliance with Schedule 4.1 and issued by a bank, a savings or credit union or a trust or savings company, or a bearer bond 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 does not exceed a five-year period. In such cases, the amount of the security shall be the same as the amount fixed in the call for tenders.”;

(3) by substituting the words “value of” for the words “price indicated in” in the first sentence of the second paragraph of paragraph 2;

(4) by substituting the words “in compliance with the form of Schedule 5 or 6, as the case may be” for the words “in the form of Schedules 5 and 6 to the Regulation furnished by the school board or on similar forms” at the end of the second paragraph of paragraph 2;

(5) by substituting the following for the last paragraph of paragraph 2:

“Where the security provided for in the first paragraph is given by means of a certified cheque, money order, draft, or a bearer bond 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 does not exceed a five-year period, each security shall be 10 % of the value of the contract.”;

(6) by substituting the following for items *i* and *ii* of subparagraph *d* of paragraph 5:

i. by a certified copy of the decision of the legal person to that effect;

ii. in the case of a partnership, where the tender documents are not signed by all the partners, by a power of attorney designating the person authorized to sign for the partnership;”;

(7) by inserting the following paragraph at the end of subparagraph *d* of paragraph 5:

“The documents required in this subparagraph may be replaced, where an intergovernmental agreement applies, by an equivalent legally recognized in a province or territory governed by that agreement.”;

(8) by striking out the words “where applicable,” and the parenthesis “(R.S.Q., c. B-1.1)” in subparagraph *h* of paragraph 5; and

(9) by substituting the following for paragraphs 8 and 9:

“8. After opening the tenders and before signing the contract, the school board may require the lowest tenderer to provide a complete list of all the subcontractors to whom he has agreed to entrust part of the work and the prices submitted by each of them.

9. If, on the date the work ends, any apparent defect or faulty workmanship exists in the immovable, the school board shall accept the work with reservations. Upon payment, it may, until repairs or corrections are made, withhold a sum that would satisfy the reservations expressed regarding the defect or the faulty workmanship, unless the contractor provides the school board with sufficient security to guarantee fulfilment of his obligations.

Upon payment, the school board may also withhold the sum required to pay claims by workers and by other persons who may enforce a legal hypothec on the work, unless the contractor provides the school board with sufficient security to guarantee those claims. That withholding shall be maintained until such time as the contractor has remitted to the school board a discharge for those claims.”.

7. The following is substituted for section 10:

“10. The time limit for receipt of tenders shall be calculated from the first publication of the call for tenders and may not be less than:

(1) 28 days for contracts having an estimated value of \$1 500 000 or more;

(2) 21 days for contracts having an estimated value of not less than \$200 000, but less than \$1 500 000; and

(3) 15 days for contracts having an estimated value of less than \$200 000.”.

8. Section 18 is amended in the French text:

(1) by substituting the words “adjudgé” and “adjudger” for the words “accordé” and “accorder” in the first and second paragraphs respectively.

9. The Regulation is amended by inserting the following division after section 21:

## “DIVISION 5

### CONTRACTS THAT SAVE MONEY AS A RESULT OF IMPROVED ENERGY EFFICIENCY

#### §1. Application

21.1 This division applies to any contract to save money as a result of improved energy efficiency, where the contract consists of both the supply of professional services and the carrying out of construction work, and where the cost is covered by those savings. The contract may also contain provisions respecting the supply of material and other services, as well as the project’s financing.

21.2 The other provisions of this Regulation apply to a contract referred to in this division except for section 1, 4, 7 to 10 and 15 to 20.

21.3 For the purposes of this division,

(1) “call for candidacies” means a method of calling for tenders that consists in inviting contractors to submit their candidacy and then in inviting the short-listed candidates to submit a proposal;

(2) “call for proposals” means a method of calling for tenders that consists in inviting contractors to submit a proposal for carrying out a project;

#### §2. Call for tenders

21.4 Under this division, a school board may not enter into a contract where its estimated value is \$50 000 or more unless the school board has extended a call for candidacies or for proposals.

21.5 The notice of a call for candidacies or proposals shall contain at least the following particulars:

(1) the name of the school board;

(2) a brief description of the project and the place where it shall be carried out;

(3) the place where tender documents can be obtained or consulted and information obtained;

(4) the conditions for obtaining the documents required for preparing a candidacy or proposal;

(5) the period of validity of the proposal;

(6) the date, time and place fixed for the submission and opening of tenders;

(7) a statement that only tenders from contractors who have visited the work site will be considered;

(8) a statement that only tenders submitted by contractors having an establishment in Québec, or where an intergovernmental agreement applies, in Québec or in a province or a territory governed by that agreement, and holding the licence required under the Building Act will be considered;

(9) a statement, where applicable, that the contract for which the call for tenders is issued constitutes an exception provided for in an intergovernmental agreement, and a statement of the restrictions and practices which do not comply with the call for tender procedures provided for in that agreement or do not grant reciprocal non-discriminatory treatment;

(10) a statement that the contractor will be selected by the school board on the recommendation of a selection committee and in accordance with the predetermined selection criteria;

(11) a statement that the school board does not undertake to accept any of the tenders; that, if awarded, the contract will be awarded to the qualified contractor whose proposal received the highest weighted financial value; that, where more than one proposal receives the highest weighted financial value, the contract shall be awarded by drawing lots from among the contractors involved.

### §3. Call for tender documents

**21.6** The following documents and information shall be given to the applicant upon filing an application accompanied, where the documents and information are obtained directly from the school board, with an amount determined by the school board but not exceeding \$200, or not exceeding \$500 where existing building plans are included:

- (1) a list of the documents and information provided;
- (2) a copy of the written text of the call for tenders;
- (3) a description of the project;
- (4) instructions to contractors;
- (5) a specimen of the contract;

(6) a specimen of the performance bond and the contractor's indemnity bond for wages, materials and services, in compliance with the forms respectively prescribed in Schedules 5 and 6;

(7) a copy of this Regulation;

(8) the period of reference for the calculation of the energy savings;

(9) the other contract conditions including any condition relative to financing, the general conditions and the relevant addenda.

**21.7** The instructions to contractors shall indicate how to submit the tender, the supporting documents and information required, the procedure to be followed by the contractor, as well as the selection criteria for the tenders and the weighting of the criteria.

**21.8** The instructions to contractors shall also contain the following provisions, which constitute the conditions for the awarding of the contract and the undertakings to be given by tenderers:

1. the school board shall reject any tender received after the deadline.

2. the school board shall reject any tender that does not meet the following conditions:

(a) the tender shall be signed;

(b) an authorization for the signing of the documents shall accompany the tender, where the contractor is a legal person, a person who conducts business under a name other than his own or who conducts business under his own name but is not the signatory. The authorization shall be as follows:

i. a certified copy of the decision of the legal person to that effect;

ii. a power of attorney designating the person authorized to sign on behalf of a partnership where the documents are not signed by all the partners;

iii. a notarized power of attorney in which the natural person who conducts business under his own name has authorized someone to sign on his behalf.

The documents required in this subparagraph may be replaced, where an intergovernmental agreement applies, by an equivalent legally recognized in another province or territory referred to in that agreement;

(c) the documents shall be signed, where specified, by the authorized person;

(d) the tender shall contain no conditions or restrictions;

(e) the contractor shall hold the licence required under the Building Act;

(f) the documents shall be written in French.

Where an instruction or condition other than those provided for in this section is not complied with and the instructions to contractors stipulate that the instruction or condition is essential, or state that failure to comply entails a rejection of the tender, the tender shall be rejected.

3. The contractor shall provide, before the beginning of the work, a performance bond for the work and an indemnity bond for the wages, materials and services.

Where the security is in the form of bonds, the amount of each bond shall be 50 % of the value of the work, provided by a financial institution legally empowered to provide security. The bonds are thus provided in accordance with the forms prescribed in Schedule 5 or 6, as the case may be.

Where the security provided for in the first paragraph is given by means of a certified cheque, money order, draft, or 0-a bearer bond 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 does not exceed a five-year period, each security shall be 10 % of the value of the work.

4. The contractor is responsible for obtaining the information on the condition of the work site, the nature of the services to be provided and the work to be carried out, and the conditions relative to the contract and its execution.

5. Before the work begins, the school board may require the contractor to provide a complete list of all the subcontractors to whom he has agreed to entrust part of the work and the prices submitted by each of them.

6. If, on the date the work ends, any apparent defect or faulty workmanship exists in the immovable, the school board shall accept the work with reservations. Upon payment, it may, until repairs or corrections are made, withhold a sum that would satisfy the reservations expressed regarding the defect or the faulty workmanship, unless the contractor provides it with sufficient security to guarantee fulfilment of his obligations.

Upon payment, the school board may also withhold the sum required to pay claims by workers and by other persons who may enforce a legal hypothec on the work,

unless the contractor provides it with sufficient security to guarantee those claims. That withholding shall be maintained until such time as the contractor has remitted to the school board a discharge for those claims.

#### §4. Receipt and opening of tenders

**21.9** The deadline for receiving tenders is calculated from the date of the first publication of the call for tenders and may not be less than:

- (1) 21 days for a call for candidacies;
- (2) 28 days for a call for proposals.

**21.10** Upon opening the tenders, the school board's representative shall ascertain and read aloud the name of each contractor and state whether an authorization for the signature of the tender is attached, where required.

Those statements shall be recorded in the minutes with the name of the witness.

The school board shall state that the contractor will be selected after the selection committee's review of the proposals.

**21.11** A proposal shall be void upon expiry of the period of validity stated in the call for tender documents unless the parties agree in writing to an extension.

**21.12** Before the expiry of the period provided for in section 21.11, the school board shall provide the selected contractor with a notice for signature of the contract, giving the time and place of signature.

If the school board does not provide the notice within the prescribed period, it may, after that deadline, invite the selected contractor to sign by sending him the proposed contract.

Should the contractor fail to sign the contract and return it to the school board within ten days of the mailing date of the invitation, it shall cease to have effect.

#### §5. Selection procedure — General

**21.13** A selection committee shall evaluate the candidacies and the proposals and submit a written report with its recommendations to the school board.

**21.14** The entire selection criteria shall be considered in the study of the tenders. The evaluation shall be based on actual needs that pertain to the carrying out of the project; any additional element submitted by the contractor shall not be considered.

The total weighting of the criteria shall be equal to 25. Each compulsory criterion shall have a weighting of five and no criterion may have a weighting greater than five. Each tender shall be evaluated individually and each criterion shall receive a mark between zero and five. Three is the mark given for a tender that, for a given criterion, is considered satisfactory.

A contractor who fails to provide in his tender any information on a given criterion shall receive a mark of zero.

**21.15** Only the proposals that obtain a mark of at least 50 % for each criterion and at least 60 % for the overall criteria, that is, 75 points out of a total of 125, will be considered.

**21.16** The selection committee shall then determine the financial value of each proposal that obtained the required passing marks.

The financial value of a proposal shall be the net updated savings resulting from the project, that is, the current amount of the savings less the current amount of the costs incurred by the project.

**21.17** The selection committee shall weight the financial value of each proposal according to the following formula: the project's financial value multiplied by the percentage obtained for the overall criteria.

The selection committee shall recommend the contractor whose proposal obtained the highest weighted financial value.

#### SPECIFIC PROVISIONS FOR CALLS FOR CANDIDACIES

**21.18** In the case of a call for candidacies, contractors shall be selected in two stages:

(1) a minimum of three contractors shall be short-listed, following the call for candidacies;

(2) the short-listed contractors shall be required to make within a prescribed time limit of not less than 28 days a proposal based on the study of the buildings and their systems.

**21.19** At the short-list stage, the selection committee shall evaluate the candidacies by means of the evaluation chart developed by the school board, which shall contain a minimum of five criteria including the two compulsory criteria below:

#### A. COMPULSORY CRITERIA

##### (1) Contractor's experience

Evaluation of the contractor's relevant experience in the specific field of that project and in similar projects carried out, particularly in regard to:

— management of construction sites and energy efficiency projects;  
— engineering;

##### (2) Contractor's financial situation

Evaluation of the contractor's financial statements or other relevant financial information and, if the project is financed by the contractor, his ability to contribute to its financing;

#### B. SUGGESTED CRITERIA

##### (1) Quality control

Evaluation of the mechanisms put into place to guarantee the quality of the goods and services to be provided.

##### (2) Project management

Evaluation of the contractor's expertise in managing projects whose scale and complexity compare to that of the project, particularly in regard to organizational structure, project management methods and tools and compliance with budgets and deadlines;

##### (3) References

Evaluation of client satisfaction in regard to the contractor's contribution to the projects supporting his candidacy.

**21.20** The quality of the proposals put forth by the short-listed contractors is determined by the selection committee, by means of the evaluation chart developed by the school board, which shall contain a minimum of five criteria including the compulsory criterion below:

#### A. COMPULSORY CRITERION

##### (1) Proposed measures and savings

Evaluation of the trustworthiness of the proposed measures and savings, of the ingenuity of the measures, as well as the assessment of their impact on the occupants' comfort and on maintenance costs;

## B. SUGGESTED CRITERIA

(1) **Management**

Evaluation of the organization and planning of the project, and cost control;

(2) **Employee training and user awareness**

Evaluation of the approach recommended, experience and past performance in training;

(3) **Financing**

Evaluation of the relevance and flexibility of the proposed financing.

## SPECIFIC PROVISIONS FOR CALLS FOR PROPOSALS

**21.21** The selection committee shall evaluate the proposals following a call for proposals, by means of the evaluation chart developed by the school board, which shall contain a minimum of five criteria including the three compulsory criteria below:

## A. COMPULSORY CRITERIA

(1) **Contractor's experience**

Evaluation of the contractor's relevant experience in the specific field of that project and in similar projects, particularly in regard to:

- management of construction sites and energy efficiency projects;
- engineering;

(2) **Contractor's financial situation**

Evaluation of the contractor's financial statements or other relevant financial information and, if the project is financed by the contractor, his ability to contribute to its financing;

(3) **Proposed measures and savings**

Evaluation of the trustworthiness of the recommended measures and savings, on the ingenuity of the measures, as well as the assessment of their impact on the occupants' comfort and on maintenance costs;

## B. SUGGESTED CRITERIA

(1) **Quality control**

Evaluation of the mechanisms put into place to guarantee the quality of the goods and services to be provided;

(2) **References**

Evaluation of client satisfaction in regard to the contractor's contribution to the projects supporting his candidacy.

(3) **Management**

Evaluation of the organization and planning of the project, and cost control;

(4) **Employee training and user awareness**

Evaluation of the approach recommended, experience and past performance in training;

(5) **Financing**

Evaluation of the relevance and flexibility of the proposed financing.

**10.** The following is substituted for the Schedules to the Regulation:

**“SCHEDULE 1**  
(s. 7)

## APPLICATION FOR DOCUMENTS

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(Name of the Owner)

---

(Identification of project)

1. Documents provided:

Specifications \_\_\_\_\_  
Plans \_\_\_\_\_

2. Date: \_\_\_\_\_

3. Name and address of tenderer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Name and address of the person \_\_\_\_\_  
to whom communications, letters \_\_\_\_\_  
and addenda should be sent: \_\_\_\_\_

5. Signature of the person to whom \_\_\_\_\_  
the plans and specifications were \_\_\_\_\_  
provided: \_\_\_\_\_

\_\_\_\_\_  
Signature of the applicant

Received the amount of \$ \_\_\_\_\_

\_\_\_\_\_  
Signature of the person  
issuing the tender  
documents

## SCHEDULE 2

(s. 7, par. 4)

### TENDER FORM

PROJECT: \_\_\_\_\_  
\_\_\_\_\_

OWNER: \_\_\_\_\_

TENDERER: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Number and street) (City or town)

\_\_\_\_\_  
(Province) (Postal code)

LICENCE OF THE  
RÉGIE DU BÂTIMENT  
DU QUÉBEC

\_\_\_\_\_  
(File No. and expiration date)

1. I declare, on my own behalf or on behalf of the business that I represent:

(1) that I have received and taken cognizance of the complete specifications, the plans, the general conditions and all the addenda issued, as well as the instructions to tenderers and other tender documents concerning the project referred to above;

(2) that I have obtained all the necessary information on the condition of the work site, the nature of the services to be supplied and the requirements of the contract;

(3) that I am satisfied with the documents made available to me, that I have understood them thoroughly and that, to the best of my knowledge, there is no other relevant or decisive information in the Owner's possession.

2. In consequence thereof, I undertake:

(1) to respect all the conditions and specifications appearing in the call for tender documents and to carry out all the work required by the plans and specifications as well as any work which, although not specifically mentioned, is required in keeping with the spirit of the plans and specifications;

(2) to carry out all the work for the lump sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in legal tender of Canada, including the costs of permits (except the construction permit), bonuses, royalties and municipal, provincial and federal taxes;

(3) to complete all the work within \_\_\_\_\_ weeks following authorization to begin construction;

(4) to hire only subcontractors having a place of business that includes, in Québec or, where an intergovernmental agreement applies, in Québec or in a province or territory governed by that agreement, permanent installations and the staff required to carry out the work entrusted to them, except for specialized work specifically exempted from that obligation in the call for tender documents.

3. I certify that the price tendered is valid for a period of \_\_\_\_\_ days from the time limit fixed for the return of tenders.

Per \_\_\_\_\_ Date \_\_\_\_\_  
(Signature)

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

## SCHEDULE 3

(s. 7, par. 5)

### FIXED-PRICE CONSTRUCTION CONTRACT

Contract in two copies (or duplicate) dated \_\_\_\_\_

BETWEEN \_\_\_\_\_  
Owner

AND \_\_\_\_\_  
Contractor

PROJECT \_\_\_\_\_

DATE \_\_\_\_\_

This contract witnesses that the Owner and the Contractor have undertaken as follows:



1. The parties agree that this contract is a fixed-price contract within the meaning of article 2109 of the Civil Code of Québec.

2. The Contractor shall:

(1) supply all the materials and carry out all the work indicated in the plans, specifications and addenda for the project entitled:

\_\_\_\_\_  
(Name of the project)

which were signed in duplicate by both parties and prepared by:

\_\_\_\_\_  
hereinafter called the "Person responsible for the work" and acting in that capacity herein;

(2) perform all that is indicated in this contract;

(3) complete, in accordance with the certificate of the Person responsible for the work, all the work not later than

\_\_\_\_\_, failing which the Contractor will be held liable for damages resulting from that delay, as provided in the general conditions contained in the tender documents.

3. CONTRACTUAL DOCUMENTS

The documents used to establish the price are listed hereafter and form an integral part of this contract. Those documents are signed or initialled in duplicate by the parties.

LIST

4. The Owner shall pay:

(1) to the Contractor, in legal tender of Canada, on account of the work, as described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (\$\_\_\_\_\_)

subject to supplements and deductions, as provided in the general conditions contained in the tender documents;

(2) that sum is paid to the Contractor in accordance with the terms and conditions stipulated in the general conditions contained in the tender documents.

5. The Contractor has furnished and the Owner has accepted a performance bond, namely:

\_\_\_\_\_

and an indemnity bond for wages, materials and services, namely:

\_\_\_\_\_

The Contractor undertakes to post on the work site a notice indicating that security for the payment of the labour and materials is in force, with the name and address of the Surety, the persons covered by the security and the procedures for submitting a claim.

6. The Contractor undertakes to furnish, upon each request for payment, a statement of the sums paid to subcontractors and to suppliers of materials, accompanied with copies of receipts signed by the subcontractors and suppliers, and a statement of the sums he still owes in order to complete the project.

7. For any communication respecting the contract,

the address of the Contractor is:

\_\_\_\_\_

the address of the Owner is:

\_\_\_\_\_

the address of the Person responsible for the work is:

\_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have signed at \_\_\_\_\_

\_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Witness Contractor

\_\_\_\_\_  
Witness Owner

**SCHEDULE 4**

(s. 7, par. 6)

**TENDER BOND**

1. \_\_\_\_\_,  
(Name of the Surety)

whose principal office is situated at \_\_\_\_\_,  
herein represented by \_\_\_\_\_, duly authorized,  
hereinafter called the SURETY.

After having taken cognizance of the tender to be submitted on the \_\_\_\_\_ day of \_\_\_\_\_,  
to \_\_\_\_\_

(Name of the Owner)  
hereinafter called the Recipient, by \_\_\_\_\_,

(Name of the Contractor)  
whose principal office is situated at \_\_\_\_\_,  
here represented by \_\_\_\_\_, duly authorized,  
hereinafter called the Contractor, for \_\_\_\_\_

\_\_\_\_\_  
(Description of work and place)

will act as surety to the Recipient for the Contractor, on the following conditions:

– should the tenderer fail to sign a contract in accordance with his tender or should he fail to provide the required guarantees within 15 days following the date of acceptance, the Surety binds itself to pay the Recipient a sum of money equal to the difference between the amount of the tender which had been accepted and the amount of the tender subsequently accepted by the Recipient,

the liability of the Surety being limited to \_\_\_\_\_ dollars (\$\_\_\_\_\_).

2. Where the Contractor’s tender is accepted, he must be notified of its acceptance within \_\_\_\_\_ days following the last day fixed for receipt of tenders; otherwise, this obligation shall be null and void.

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 based on this bond may be instituted in the judicial district of the Recipient.

5. The Surety waives the benefit of discussion and division.

6. The Surety declares that it has taken cognizance of all the information relevant to the principal obligation and that it is satisfactory.

7. The Contractor intervenes in these presents to consent thereto.

IN WITNESS WHEREOF, the Surety and the Contractor, through their duly authorized representatives, have signed these presents at this

day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness Surety

\_\_\_\_\_  
Witness Contractor

**SCHEDULE 4.1**

(s. 7, par. 6.1)

**IRREVOCABLE LETTER OF GUARANTEE**

Recipient: \_\_\_\_\_  
Name of the Owner

\_\_\_\_\_  
Address

Object: \_\_\_\_\_  
Name of the Contractor

\_\_\_\_\_  
Address

\_\_\_\_\_  
Summary identification of the call for tenders

The \_\_\_\_\_  
Name of the financial institution and branch

herein represented by \_\_\_\_\_, duly authorized, guarantees irrevocably the payment of the sums that will be owed to you by the above-mentioned 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 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 the financial institution undertakes to pay those sums; notwithstanding the foregoing, \_\_\_\_\_

\_\_\_\_\_ Name of the 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 the 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

**SCHEDULE 5**

(s. 7, par. 7)  
(s. 21.6, par. 6)

**PERFORMANCE BOND**

1. \_\_\_\_\_,  
(Name of the Surety)

whose principal office is situated at \_\_\_\_\_,  
herein represented by \_\_\_\_\_, duly authorized, hereinafter called the Surety, after having taken cognizance of the tender accepted on \_\_\_\_\_  
by \_\_\_\_\_

(Name of the Owner)  
hereinafter called the Recipient, for \_\_\_\_\_

\_\_\_\_\_  
(Description of work and place)

with a view to a contract between the Recipient and \_\_\_\_\_,  
(Name of the Contractor)

whose principal office is situated at \_\_\_\_\_,

herein represented by \_\_\_\_\_, duly authorized, hereinafter called the Contractor, binds itself jointly and severally with the Contractor to the Recipient to perform the work described above in accordance with the contract, and the Surety may in no case be required to pay more than \_\_\_\_\_ dollars (\$\_\_\_\_\_).

2. This bond covers a period of one year starting on the date of completion of the work covered by the contract.

3. The Surety declares:

(1) that it has taken cognizance of all the information relevant to the principal obligation and is satisfied with it;

(2) that it has informed itself of any cause likely to affect the Contractor's capacity and waives exoneration from its obligations in case of the Contractor's incapacity;

(3) that it has availed itself of the Contractor's intervention so that the Contractor releases the Owner from all liability that may be related to the disclosure of information relevant to the principal obligation;

(4) that it has taken cognizance of the external clauses to which the obligation refers.

4. The Surety agrees that the Recipient and the Contractor may make changes to the contract at any time, waives notification of such changes and also consents to the Recipient's granting any extension necessary for completion of the work.

5. If the Contractor fails to execute the contract, including work covered by the guarantees, the Surety will undertake and continue the required work within 15 days after being notified to that effect by the Recipient or his representative, failing which the Recipient may have the work completed and the Surety shall pay the Recipient any excess over the price agreed upon with the Contractor for the execution of the contract.

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

7. Any proceedings for the enforcement of this bond may be instituted in the judicial district of the Recipient.

8. The Surety waives the benefit of discussion and division.

9. The Contractor intervenes in these presents to consent thereto.

IN WITNESS WHEREOF, the Surety and the Contractor, through their duly authorized representatives, have signed these presents at

\_\_\_\_\_ this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness Surety

\_\_\_\_\_  
Witness Contractor

### SCHEDULE 6

(s. 7, par. 7)

(s. 21.6, par. 6)

#### CONTRACTOR'S INDEMNITY BOND FOR WAGES, MATERIALS AND SERVICES

1. \_\_\_\_\_,  
(Name of the Surety)  
whose principal office is situated at \_\_\_\_\_,  
herein represented by \_\_\_\_\_, duly authorized, hereinafter called the Surety, after having taken cognizance of the tender duly accepted, on \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_,  
(Name of the Owner)  
hereinafter called the Recipient, for \_\_\_\_\_

\_\_\_\_\_  
(Description of work and place)  
with a view to a contract between the Recipient and \_\_\_\_\_,

\_\_\_\_\_  
(Name of the Contractor)  
whose principal office is situated at \_\_\_\_\_,  
herein represented by \_\_\_\_\_, duly authorized, hereinafter called the Contractor, binds itself jointly and severally with the Contractor to the Recipient to directly pay the creditors hereinafter defined, and the Surety may in no case be required to pay more than a total of \_\_\_\_\_ dollars (\$\_\_\_\_\_).

2. Creditor means:

(1) any subcontractor of the Contractor;

(2) any natural or legal person having sold or leased to the Contractor or to his subcontractors services, materials or equipment intended exclusively for the work. Equipment rental prices will be determined solely in accordance with current construction industry standards;

(3) any supplier of materials specially prepared for the project;

(4) the Commission de la santé et de la sécurité du travail with respect to its assessments.

3. This bond covers a period of one year starting on the date on which the work referred to in the contract is completed.

4. The Surety agrees that the Recipient and the Contractor may make changes to the contract at any time, waives notification of such changes and also consents to the Recipient's granting any extension necessary for completion of the work.

5. (1) Subject to subsection 3 below, no creditor shall have direct recourse against the Surety unless he has sent a request for payment to the Surety and to the Contractor within 120 days following the date on which he completed his work or supplied the last services, materials or equipment.

(2) Any creditor who does not have a contract directly with the Contractor shall have no direct recourse against the Surety unless he has given notice in writing of his contract to the Contractor within 60 days following the commencement of the leasing or the delivery of services, materials or equipment; such notice must indicate the work in question, the nature of the contract and the name of the subcontractor.

(3) No subcontractor shall have direct recourse against the Surety for amounts that the Contractor has withheld from him unless he has sent a request for payment to the Surety and to the Contractor within 120 days following the date on which the withholdings were due.

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

7. Any creditor may bring suit against the Surety once 30 days have elapsed after the notice stipulated in section 5 above has been given, provided that the proceedings are instituted no earlier than 90 days after the date on which the work was carried out or the date on which the last services, materials or equipment were supplied;

8. Any payment made in good faith under these presents will entail a corresponding reduction in the amount of this bond.

9. The Surety waives the benefit of discussion and division.

10. The Surety declares:

- (1) that it has taken cognizance of all the information relevant to the principal obligation and is satisfied with it;
- (2) that it has informed itself of any cause likely to affect the Contractor's capacity and waives exoneration from its obligations in case of the Contractor's incapacity;
- (3) that it has availed itself of the Contractor's intervention so that the Contractor releases the Owner from all liability that may be related to the disclosure of information relevant to the principal obligation;
- (4) that it has taken cognizance of the external clauses to which the obligation refers.

11. The Contractor intervenes in these presents to consent thereto.

IN WITNESS WHEREOF, the Surety and the Contractor, through their duly authorized representatives, have signed these presents at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Witness	Surety
Witness	Contractor ”.

11. 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. 375-99, 31 March 1999

Health Insurance Act  
(R.S.Q., c. A-29)

### Visual aids insured — Amendments

Regulation to amend the Regulation respecting visual aids insured under the Health Insurance Act

WHEREAS under subparagraph *h.1* of the first paragraph of section 69 of the Health Insurance Act (R.S.Q., c. A-29), the Government may, after consultation with the Board or upon its recommendation, make regula-

tions to give a definition of “visually handicapped person” and determine the visual aids which are to be considered insured services for the purposes of the sixth paragraph of section 3, fix the cost of purchase, fitting, replacement or repair thereof, determine the cases, circumstances and conditions in and on which the Board reimburses the cost of those insured services and the cases, circumstances and conditions in and on which such services are furnished, prescribe the cases, circumstances and conditions in and on which such visual aids may be recovered, fix the age of the visually handicapped persons who may benefit thereby and determine classes of such persons;

WHEREAS the Government made the Regulation respecting visual aids insured under the Health Insurance Act by Order in Council 1403-96 dated 13 November 1996;

WHEREAS it is expedient to amend the Regulation;

WHEREAS the Régie de l'assurance-maladie du Québec has been consulted concerning the amendments;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Regulation respecting visual aids insured under the Health Insurance Act was published in Part 2 of the *Gazette officielle du Québec* of 7 October 1998, on page 4179, with a notice that it could be made by the Government upon the expiry of 45 days following the date of that publication;

WHEREAS it is expedient to make the Regulation to amend the Regulation respecting visual aids insured under the Health Insurance Act, with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Health and Social Services and Minister of Health and Social Services:

THAT the Regulation to amend the Regulation respecting visual aids insured under the Health Insurance Act, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*