

From then on, the secretary-treasurer or the clerk of that local municipality may not issue any document certifying the compliance of an agricultural activity project before the date on which the third paragraph of section 68 of that Act ceases to apply.

2. Upon request, the secretary-treasurer of a regional county municipality shall issue to the person whose agricultural activity project complies with the provisions of an interim control by-law having the effect provided for in the third paragraph of section 64 of the Act respecting land use planning and development, amended by section 24 of chapter 35 of the Statutes of 2001, a document certifying such compliance.

Upon request, the clerk or secretary-treasurer of a local municipality shall issue such a document of compliance

(1) to a person who has submitted to the municipality, before 21 June 2003, an agricultural activity project complying with the Guidelines for determining minimum distances to ensure odour management in rural areas (1998, *G.O.* 2, 1286), as amended; and

(2) to the farm operator whose project to expand agricultural activities complies with the provisions of section 79.2.4 or with those of the first paragraph of section 79.2.5 of the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., c. P-41.1), enacted by section 13 of chapter 35 of the Statutes of 2001, and, where applicable, those provided for in subparagraph 2 of the second paragraph of section 40 of that chapter.

The document of compliance shall be attached to every application for a notice, a permit, a certificate, an authorization or approval required for carrying out the project under the Environment Quality Act (R.S.Q., c. Q-2) or under a regulation made under that Act.

3. The clerk or secretary-treasurer of the local municipality shall also issue a document of compliance for a project pertaining to the works referred to in section 79.2.3 of the Act respecting the preservation of agricultural land and agricultural activities, enacted by section 13 of chapter 35 of the Statutes of 2001, if they must be carried out in the conditions provided for in that section. The third paragraph of section 2 shall then apply.

4. This Regulation has effect from 21 June 2001.

5. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

Gouvernement du Québec

O.C. 646-2002, 5 June 2002

Cities and Towns Act
(R.S.Q., c. C-19; 2001, c. 25; 2001, c. 68)

Municipal Code of Québec
(R.S.Q., c. C-27.1; 2001, c. 25; 2001, c. 68)

An Act respecting the communauté métropolitaine de Montréal
(R.S.Q., c. C-37.01; 2001, c. 25; 2001, c. 68)

An Act respecting the communauté métropolitaine de Québec
(R.S.Q., c. C-37.02; 2001, c. 25; 2001, c. 68)

Awarding of contracts for certain professional services

Regulation respecting the awarding of contracts for certain professional services

WHEREAS, under section 573.3.0.1 of the Cities and Towns Act (R.S.Q., c. C-19), article 938.0.1 of the Municipal Code of Québec (R.S.Q., c. C-27.1), section 112.1 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., c. C-37.01) and section 105.1 of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., c. C-37.02) enacted respectively by sections 37, 57, 207 and 488 of the Act to amend various legislative provisions concerning municipal affairs (2001, c. 25) and amended respectively by sections 25, 40, 100 and 210 of the Act to amend various legislative provisions concerning municipal affairs (2001, c. 68), the Government must, by regulation, establish the rules that the metropolitan communities, the municipalities and the intermunicipal boards must comply with when awarding a contract involving an expenditure of \$100,000 or more for the supply of services that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary, except if the service is necessary for the purposes of a proceeding before a tribunal, or a body or person exercising judicial or adjudicative functions, or a contract whose purpose is to obtain energy savings where it involves both the providing of professional services and the performance of work or the supply of equipment, materials or services other than professional services;

WHEREAS, under section 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft regulation may not be made before the expiry of a 45-day period from the date of its publication in the *Gazette officielle du Québec*;

WHEREAS, under sections 12 and 18 of the Regulations Act, a regulation may be made without a draft regulation having been published in the *Gazette officielle du Québec* and it may come into force on the date of its publication in the *Gazette officielle du Québec* if the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS current municipal laws prescribe specific rules to oversee the awarding of the contracts for professional services referred to in the first paragraph which involve an expenditure of \$25,000 or more and less than \$100,000, but do not set out any rules with regard to the awarding of such contracts that involve an expenditure of more than \$100,000;

WHEREAS the double system which currently exists for awarding contracts for professional services causes interpretation problems for municipal bodies and their suppliers regarding the rules to apply and whereas the problems must be solved rapidly;

WHEREAS recent events show that rules must also be made rapidly in order to oversee the practices of municipal bodies regarding the awarding of such contracts;

WHEREAS the Government is of the opinion that the situation justifies that the Regulation respecting the awarding of contracts for certain professional services be made without the prior publication of a draft regulation in the *Gazette officielle du Québec* and that it come into force on the date of its publication in the *Gazette officielle du Québec*;

WHEREAS it is expedient to make the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Municipal Affairs and Greater Montréal:

THAT the Regulation respecting the awarding of contracts for certain professional services, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting the awarding of contracts for certain professional services

Cities and Towns Act

(R.S.Q., c. C-19, s. 573.3.0.1; 2001, c. 25, s. 37; 2001, c. 68, s. 25)

Municipal Code of Québec

(R.S.Q., c. C-27.1, s. 938.0.1 2001; c. 25, s. 57; 2001, c. 68, s. 40)

An Act respecting the Communauté métropolitaine de Montréal

(R.S.Q., c. C-37.0.1, s. 112.1; 2001, c. 25, s. 207; 2001, c. 68, s. 100)

An Act respecting the Communauté métropolitaine de Québec

(R.S.Q., c. C-37.02, s. 105.1; 2001, c. 25, s. 488; 2001, c. 68, s. 210)

CHAPTER I

OBJECT AND INTERPRETATION

1. This Regulation provides for the rules applicable to the awarding of certain professional services contracts by a municipal body.

2. For the purposes of this Regulation

(1) “municipal body” means a metropolitan community, a municipality or an intermunicipal board;

(2) a reference to the second paragraph of section 573.1 of the Cities and Towns Act (R.S.Q., c. C-19) also constitutes, in some cases, a reference to the second paragraph of article 936 of the Municipal Code of Québec (R.S.Q., c. C-27.1), the second paragraph of section 107 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., c. C-37.01) or the second paragraph of section 100 of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., c. C-37.02).

CHAPTER II

AWARDING OF CONTRACTS FOR THE SERVICES OF AN ARCHITECT, ENGINEER, LAND SURVEYOR OR CHARTERED ACCOUNTANT

DIVISION I

GENERAL

3. A contract for services that can be provided only by an architect, engineer, land surveyor or chartered accountant under an Act or regulation, may only be awarded after a call for public tenders published in the

electronic tendering system approved by the Government and available to suppliers that have an establishment in Québec, if the contract involves an expenditure of \$100,000 or more, except if it is required for the purposes of a judicial proceeding, or a body or a person carrying out judicial or adjudicative functions.

4. The call for public tenders may provide that only tenders from suppliers who have an establishment in Québec will be considered.

5. The deadline for receipt of tenders may not be less than fifteen days.

6. Paragraphs 3 to 6 and 8 of section 573, the second paragraph of section 573.1 and sections 573.1.0.1 to 573.1.0.3 of the Cities and Towns Act shall apply to the awarding of contracts referred to in section 3, adapted as required and namely as follows :

(1) the municipal body council must use a system of bid weighting and evaluating ;

(2) the municipal body council may adopt a qualification process that discriminates as permitted under section 4; and

(3) where a qualification process is established in order to award a single contract, the municipal body council may provide that it will declare eligible a maximum number of suppliers or services, in which case the maximum may not be less than five.

DIVISION II **SPECIFIC RULES FOR CONTRACTS** **UNDER \$500,000**

§1. Interpretation

7. For the purposes of this division, “specified territory” means

(1) for a local municipality whose territory is part of a regional county municipality, the latter’s territory ;

(2) for an intermunicipal board with jurisdiction over local municipalities that are part of the same regional county municipality, the latter’s territory ;

(3) for an intermunicipal board with jurisdiction over local municipalities that are part of several regional county municipalities, the combined territories of those regional county municipalities ;

(4) for a municipal body that is party to an agreement and where the parties’ territories are part of the same regional county municipality, the latter’s territory ;

(5) for a municipal body that is party to an agreement and where the parties’ territories are part of several regional county municipalities, the combined territories of those regional county municipalities ;

(6) for a metropolitan community that is acting as an intermunicipal board referred to in subparagraph 2 or 3 or is party to an agreement referred to in subparagraph 4 or 5, the community’s territory combined with the territory specified in the applicable subparagraph ;

(7) for a metropolitan community that is party to an agreement with another metropolitan community, the combined territories of those communities ;

(8) for all other instances, the municipal body’s territory.

For the purposes of the first paragraph, the territory of a local municipality that is not part of a regional county municipality is considered the territory of a regional county municipality.

§2. Discrimination

8. A call for public tenders for a contract referred to in section 3 that involves an expenditure of less than \$500,000 may provide that only the suppliers who have an establishment in the specified territory shall be considered.

The first paragraph does not apply where fewer than three suppliers have an establishment in the specified territory.

9. The municipal body may, for the purposes of awarding a contract referred to in the first paragraph of section 8, establish a qualification process to discriminate as permitted in that section.

§3. Register of suppliers

10. A municipal body may, for the purposes of awarding a contract referred to in the first paragraph of section 8, use a register of suppliers whose establishment and operations comply with the minimal rules prescribed in this subdivision.

In such a case, the municipal body shall be responsible for establishing, managing and financing the suppliers register.

11. The municipal body shall establish directories of suppliers according to specialties or categories of services to select suppliers who may tender. The directories shall be published in the electronic tendering system provided for in section 3.

12. The municipal body shall invite suppliers to register by publishing a notice published in the electronic tendering system provided for in section 3.

The notice shall specify, namely,

(1) the specialties or categories of services for which the suppliers may register; and

(2) the place where registration information may be obtained or consulted or additional information obtained.

The municipal body shall publish the notice provided for in the first paragraph every year in the same trimester so that suppliers that are not registered may do so.

13. The information referred to in subparagraph 2 of the second paragraph of section 12 shall specify the registration requirements, the rules relating to the establishment of the suppliers register and to the referral of the suppliers' names for the purposes of awarding contracts.

The information may specify that, in order to register for a specialty or category of services, a supplier must have certain equipment or an establishment in the specified territory.

14. The register shall contain a list of suppliers' names for each specialty or category of services.

However, where a supplier is required to have an establishment in a specified territory in order to register, the register shall include another list for each specialty or category of services in respect of which the requirement must be met.

15. A supplier may not be registered more than once on a list of specialties or categories of services.

16. A supplier's registration shall be cancelled if one of the following occurs:

(1) the supplier is bankrupt;

(2) the supplier cannot be contacted at the address provided;

(3) the supplier has ceased to provide services;

(4) the supplier no longer fulfils one of the required registration conditions.

17. A supplier shall be struck from the list in the specialty or category of services concerned if the following occurs:

(1) the supplier made a false statement upon registration or with respect to the registration itself;

(2) the supplier made a false statement upon tendering; or

(3) the supplier withdrew or turned down a contract after the tenders were opened.

Before striking a supplier from the list, the municipal body shall notify the supplier in writing of its intention to do so and state its grounds for doing so.

The supplier may reply with a written statement to the municipal body within fifteen days of the date the written notice provided for in the second paragraph was sent.

The municipal body shall render its decision as soon as possible after receiving the supplier's written response as provided for in the third paragraph, or, if no statement was received within the prescribed deadline, after expiry of the deadline. The municipal body shall notify the supplier in writing of its decision.

A supplier who has been struck off may not be registered for the same specialty or category of services before the expiry of a two-year period from the date of the striking-off.

18. A list of suppliers established in accordance with sections 11 to 17 may not be used to award a contract unless it contains at least three names.

19. For the purposes of awarding any contract, at least three suppliers shall be selected.

Where a list contains more than three names, the selection shall be made at random. It shall also be public with at least two witnesses present, at a time, date and place specified in a notice published in the electronic tendering system provided for in section 3, at the latest three days before the date specified.

20. A selected supplier may not be selected again until the list has been exhausted.

Where the last name on a list has been selected, a new list shall be established.

21. If it is decided not to award the contract, the selected suppliers shall be considered not to have been selected.

22. All the selected suppliers shall be given a written invitation to tender.

23. Within fifteen days of awarding the contract, the municipal body shall publish in a newspaper circulating in the specified territory, a notice that contains the following information, namely:

- (1) the name of all the selected suppliers invited to tender for that contract;
- (2) the name of the supplier who was awarded the contract; and
- (3) the amount and object of the contract.

The municipal body may, instead of publishing the notice provided for in the first paragraph, either send the notice simultaneously to all the suppliers registered or post the information it contains on its Internet site.

CHAPTER III AWARDING OF CONTRACTS FOR THE SERVICES OF AN ADVOCATE OR NOTARY

24. A contract for services that can be provided only by an advocate or notary under an Act or regulation, may only be awarded after a written invitation to tender to at least three suppliers, if the contract involves an expenditure of \$100,000 or more, except if it is required for the purposes of a judicial proceeding, or a body or a person carrying out judicial or adjudicative functions.

25. The deadline for receipt of tenders may not be less than eight days.

26. Paragraphs 3 to 6 and 8 of section 573, the second paragraph of section 573.1 and sections 573.1.0.1 to 573.1.0.3 of the Cities and Towns Act shall apply to the awarding of contracts referred to in section 24, adapted as required and particularly with respect to the requirement that the municipal body use a system of bid weighting and evaluating.

CHAPTER IV AWARDING OF CONTRACTS FOR THE SERVICES OF A DENTIST, NURSE, PHYSICIAN, VETERINARY SURGEON OR PHARMACIST

27. A municipal body may award a contract for services that can be provided only by a dentist, nurse, physician, veterinary surgeon or pharmacist under an Act or regulation without a call for tenders.

CHAPTER V FINAL AND TRANSITIONAL

28. The electronic tendering system known as “Système Merx” is deemed to have been approved by the Government, for the purposes of this Regulation, until the Government replaces it with another system it has approved.

29. This Regulation does not apply to a contract for which the awarding procedure began before the coming into force of this Regulation.

30. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

O.C. 650-2002, 5 June 2002

Food Products Act
(R.S.Q., c. P-29)

Dairy products — Composition, packing and labelling — Amendments

Regulation to amend the Regulation respecting the composition, packing and labelling of dairy products

WHEREAS, under paragraph *a.0.1* of section 40 of the Food Products Act (R.S.Q., c. P-29), the Government may, by regulation, regulate the preparation processes, in particular pasteurization, canning, aseptic packaging and sterilization;

WHEREAS, under paragraph *e* of section 40, the Government may, by regulation, establish classes, categories, appellations, qualifiers or designations of products and prohibit any unlawful use thereof, require the grading of products and set standards of composition, form, quality, wholesomeness, colour, proportion of constituents, presentation and uniformity;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation to amend the Regulation respecting the composition, packing and labelling of dairy products was published in the *Gazette officielle du Québec* of 20 March 2002 with a notice that it could be made by the Government upon the expiry of a 45-day period from that publication;