

5. At least 70 points may be required in respect of any criterion described in the evaluation grid. A tender that does not reach that minimum is rejected.

6. The final score for the quality of a tender is the total of the weighted scores obtained in respect of each criterion; the weighted scores are determined by multiplying the score obtained for a criterion by the weight of that criterion.

7. An acceptable tender in terms of quality is a tender whose final score is at least 70 points.

8. The price of each acceptable tender is adjusted according to the following formula:

$$\text{Adjusted price} = \frac{\text{Price submitted}}{\text{Quality adjustment factor}}$$

The quality adjustment factor is equal to:

$$1 + K \left(\frac{\text{Final score for quality} - 70}{30} \right)$$

where

“K” is the additional percentage that the public body is willing to pay to move from a 70-point tender to a 100-point tender, for all criteria.

9. The public body determines in the tender documents the value of K, which must range from 15% to 30%.

8759

Gouvernement du Québec

O.C. 532-2008, 28 May 2008

An Act respecting contracting by public bodies (2006, c. 29)

Construction contracts of public bodies

Grants for the purposes of construction — Revoking

Regulation respecting the construction contracts of public bodies and revoking the Regulation respecting grants for the purposes of construction

WHEREAS subparagraphs 1 to 7 of the first paragraph of section 23 of the Act respecting contracting by public bodies (2006, c. 29) empower the Government to make regulations on the matters set forth therein;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting construction contracts of public bodies and amending other regulatory provisions was published in Part 2 of the *Gazette officielle du Québec* of 12 December 2007 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS, in accordance with the first paragraph of section 23 of the Act respecting contracting by public bodies, the Minister of Education, Recreation and Sports and the Minister of Health and Social Services have been consulted on the draft Regulation and the Conseil du trésor recommends that it be made;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Government Administration and Chair of the Conseil du trésor:

THAT the Regulation respecting construction contracts of public bodies and revoking the Regulation respecting grants for the purposes of construction, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil executive

Regulation respecting construction contracts of public bodies and revoking the Regulation respecting grants for the purposes of construction*

An Act respecting contracting by public bodies (2006, c. 29, s. 23)

CHAPTER I SCOPE

1. This Regulation applies to construction contracts referred to in subparagraph 2 of the first paragraph of section 3 of the Act respecting contracting by public bodies (2006, c. 29). It also applies to mixed contracts

* The Regulation respecting grants for the purposes of construction (R.R.Q., 1981, c. A-6, r.29) has not been amended since it was made.

for construction work and professional services and to contracts to devise savings from the improvement of energy efficiency, as defined in section 27.

2. For the purposes of this Regulation, the electronic tendering system is the system approved by the Government under section 11 of the Act.

CHAPTER II

PUBLIC CALL FOR TENDERS

DIVISION I

GENERAL

3. A public call for tenders must be made in accordance with the provisions of this Chapter.

If a public body makes a public call for tenders to award a contract involving an expenditure below the public tender threshold referred to in subparagraph 1 of the first paragraph of section 10 of the Act, the tender closing date set out in subparagraph 6 of the second paragraph of section 4, the requirement as to the place of the establishment set out in subparagraph 2 of the first paragraph of section 6 and the time for sending an addendum set out in the second paragraph of section 9 may differ.

In the case of a task order contract or a contract awarded following quality evaluation, the public call for tenders must comply with the special provisions of Chapter III.

DIVISION II

TENDER DOCUMENTS

4. Every public call for tenders is made by publishing a notice on the electronic tendering system.

The notice forms part of the tender documents and must specify and contain

- (1) the name of the public body;
- (2) a brief description of the construction work required and the site of the work;
- (3) the nature and amount of any required tender security;
- (4) whether or not an intergovernmental agreement within the meaning of section 2 of the Act applies;
- (5) the place where the tender documents or information may be obtained;

(6) the place as well as the closing and opening dates and times, the closing date being not be less than 15 days after the date on which the notice is published; and

(7) the fact that the public body is not bound to accept any tender.

5. In its tender documents, a public body must provide

(1) a description of the construction work and conditions on which the contract is to be carried out;

(2) in the case of a joint call for tenders within the meaning of section 15 of the Act, the identity of every public body and legal person established in the public interest that are parties to the joint call for tenders;

(3) the eligibility requirements of contractors and the compliance requirements for tenders;

(4) a list of the documents or other items required from contractors;

(5) the tender opening procedure;

(6) the contract award rule, including any calculation to be applied before awarding the contract;

(7) the contract to be signed; and

(8) any other particular required under this Regulation.

In the case referred to in subparagraph 2 of the first paragraph, every party to a joint call for tenders must use the services of the selected contractor, on the conditions specified in the tender documents.

6. In order to submit a tender, a contractor must meet the following eligibility requirements:

(1) have all the necessary qualifications, authorizations, permits, licences, registrations, certificates, accreditations and attestations;

(2) have in Québec or in a territory covered by an applicable intergovernmental agreement an establishment where activities are carried on on a permanent basis, clearly identified under the contractor's name and accessible during regular business hours; and

(3) meet any other eligibility requirement specified in the tender documents.

Despite subparagraph 2 of the first paragraph, if competition is insufficient, the public body may make eligible any contractor that has an establishment in a territory not

covered by an applicable intergovernmental agreement, provided that the public body so specifies in the tender documents.

A contractor that fails to comply with any of those requirements is ineligible.

7. Compliance requirements must specify the cases that will entail automatic rejection of a tender, namely

(1) the place or the closing date or time has not been complied with;

(2) a required document is missing;

(3) the security provided does not comply with the form and conditions required;

(4) the required signature of an authorized person is missing;

(5) an erasure of or correction to the tendered price is not initialled;

(6) the tender is conditional or restrictive; and

(7) any other compliance requirement stated in the tender documents as entailing automatic rejection of a tender has not been complied with.

8. Provided that it is specified in the tender documents, a public body may refuse to consider any contractor that, in the 2 years preceding the tender opening date, has been given an unsatisfactory performance report by the public body, failed to follow up on a tender or contract or had a contract cancelled because of failure to comply with the contract conditions.

9. A public body may amend the tender documents by sending an addendum to the contractors concerned.

If the amendment is likely to affect the prices, the addendum must be sent at least 7 days before the tender closing time; if that 7-day period cannot be complied with, the closing time must be extended by the number of days needed to ensure compliance with the minimum period.

10. The public body must specify in the tender documents what guarantees are required and the form and conditions to be complied with.

11. Tender security is required by a public body if the estimated amount of the contract is equal to or greater than \$500,000, and may be required in all other cases.

Where tender security is required, the contractor must also provide, prior to the signing of the contract, performance security and security for the contractor's obligations with respect to wages, materials and services.

12. Tender security in the form of a bond must be submitted in accordance with the requirements of Schedule 1.

Performance security or security for the contractor's obligations with respect to wages, materials and services in the form of a bond must be submitted in accordance with the requirements of Schedule 2 or Schedule 3, as the case may be.

The bond referred to in the first or second paragraph must be issued by a financial institution that is an insurer holding a licence issued under the Act respecting insurance (R.S.Q., c. A-32) authorizing the financial institution to transact guarantee insurance, a trust company having a licence issued under the Act respecting trust companies and savings companies (R.S.Q., c. S-29.01), a financial services cooperative to which the Act respecting financial services cooperatives (R.S.Q., c. C-67.3) applies or a bank within the meaning of the Bank Act (S.C., 1991, c. 46).

DIVISION III CALLING FOR AND OPENING OF TENDERS

13. A public body solicits solely a price in order to award a construction contract.

14. Tenders are opened by the public body at a public opening in the presence of a witness at the designated place and on the date and time fixed in the tender documents.

The names of the contractors and their respective total prices are disclosed, subject to subsequent verifications.

Within 4 business days, the public body must make the results of the public opening of tenders available on the electronic tendering system.

DIVISION IV EVALUATION OF TENDERS AND CONTRACT AWARDING

15. The public body evaluates the tenders received, ensuring that the contractors are eligible and their tenders are compliant.

If the public body rejects a tender because the contractor is ineligible or the tender is non-compliant, it must so inform the contractor and give the reason for the rejection not later than 15 days after awarding the contract.

16. A public body must award the contract to the contractor that submits the lowest price.

17. If several contractors obtain identical results following a call for tenders, the contract is awarded by a drawing of lots.

18. The public body awards the contract on the basis of the work described and the rules established in the tender documents and according to the price submitted.

The public body may, however, negotiate the price submitted and the price stipulated in the contract may be less than the price submitted if

- (1) only one contractor submitted a compliant tender;
- (2) the contractor agreed to a new price; and
- (3) it is the only change made to the conditions set out in the tender documents or to the tender in the course of the negotiation.

CHAPTER III SPECIAL RULES FOR AWARDING CONTRACTS

DIVISION I TASK ORDER CONTRACTS

19. A public body may enter into a task order contract when the procurement requirements are recurrent and the monetary value of the construction work, the rate or frequency are uncertain.

20. The public body must indicate in the tender documents the approximate monetary value of the construction work that the public body intends to have performed.

21. A task order contract is entered into for a term not exceeding 3 years, including any renewal.

DIVISION II CONTRACTS AWARDED FOLLOWING QUALITY EVALUATION

§1. Call for tenders in 2 stages

22. Despite section 13, a public body may decide to evaluate the quality of a tender by making a call for tenders in 2 stages.

The first stage consists in selecting contractors by soliciting only a quality demonstration in accordance with the evaluation conditions in Schedule 4. The second stage consists in inviting the selected contractors to submit a tender that includes only a price.

The public body must specify in the tender documents the rules to be used to evaluate the quality of tenders, including the evaluation criteria.

23. The public body awards the contract to the contractor that submits the lowest price.

§2. Mixed contracts for construction work and professional services

24. In order to award a mixed contract for construction work and professional services, a public body may consider the quality of a tender. To that end, the public body applies the evaluation conditions in Schedule 5.

In that case, the public body must specify in the tender documents the rules to be used to evaluate the quality of tenders, including the evaluation criteria selected and their respective weighting.

The price and the quality demonstration must be presented separately so that the first paragraph of section 31 may apply. In addition to the cases referred to in section 7, the compliance requirements must state that failure to comply with the requirement will entail automatic rejection of a tender.

25. Pursuant to section 24, the public body awards the contract to the contractor that submits the lowest adjusted price.

26. A public body may make a public call for tenders in 2 stages in order to award a contract.

At the first stage, the public body selects contractors by soliciting only a quality demonstration. The tender documents must indicate whether every selected contractor or only a limited number of them will be invited to take part in the second stage.

The selection committee evaluates the quality of a tender according to the following conditions and procedure:

- (1) if all the selected contractors are invited to take part in the second stage, the quality of a tender is evaluated in accordance with the evaluation conditions in Schedule 4 and all the contractors that meet at least the minimum quality level are retained; or

(2) if only a limited number of selected contractors are invited to take part in the second stage, the quality of a tender is evaluated in accordance with the evaluation conditions in sections 1 to 7 of Schedule 5 and only those who obtain the highest final scores are retained.

At the second stage, the public body invites the selected contractors to submit separately a price and a quality demonstration in conformity with the evaluation conditions in Schedule 5.

§3. Contracts to devise savings from the improvement of energy efficiency

27. This subdivision applies to contracts to devise savings from the improvement of energy efficiency, if the contracts involve both professional services and construction work and are paid for directly out of the savings.

28. To award a contract to devise savings from the improvement of energy efficiency, a public body must consider the quality of a tender. To that end, it must describe, in the tender documents, the contractor selection process including the tender evaluation process and in particular the evaluation grid, the criteria used and the weighting.

29. The public body awards the contract to the contractor that submits the tender with the highest weighted financial value.

For the purposes of the first paragraph, the financial value of a tender is the net discounted savings resulting from the project, namely the current value of the savings less the current value of the costs incurred by the project. The weighted financial value is obtained by multiplying the project's financial value by the final percentage obtained for quality.

§4. Disclosure of tenderers' names

30. At the public opening of tenders under section 14 for a contract awarded following quality evaluation, only the names of the contractors are disclosed and the results of the opening are made available in accordance with the third paragraph of that section.

§5. Evaluation of tenders

31. Tenders are to be evaluated by a selection committee set up for that purpose by the public body. The committee evaluates quality without knowing the price submitted.

Where the tender evaluation is to award a contract involving an expenditure equal to or above the public tender threshold, the selection committee must be composed of a secretary in charge of coordinating activities and of at least 3 members.

32. The public body must inform each tenderer of the results of the quality evaluation within 15 days after awarding the contract.

If Schedule 4 applies, the particulars sent to tenderers are

(1) confirmation that their tender was accepted or not; and

(2) the name of and price submitted by the successful tenderer.

If Schedule 5 applies, the particulars sent to tenderers are

(1) confirmation that their tender was accepted or not;

(2) their quality score, their adjusted price and their rank according to the adjusted prices, where applicable; and

(3) the name, quality score and price of the successful tenderer, and the resulting adjusted price.

If Subdivision 3 applies, the particulars sent to tenderers are

(1) the weighted financial value of their tender and their rank; and

(2) the name of the successful tenderer and the weighted financial value of the tender.

33. For the purposes of section 18 with respect to a contract awarded following quality evaluation, the condition in subparagraph 1 of the second paragraph of that section is that only one contractor must have submitted an acceptable tender.

**DIVISION III
COMPENSATION**

34. Where it is decided after tenders are opened that a contract is not to be awarded following a public call for tenders or, if a quality evaluation is to be made, after a meeting of the selection committee, the tenderer that

would have been awarded the contract receives as compensation and final settlement for expenses incurred the amount of

(1) \$2,000, if the tender is equal to or greater than \$500,000 but less than \$1,000,000; or

(2) \$5,000, if the tender is equal to or greater than \$1,000,000.

DIVISION IV CONSTRUCTION CONTRACTS FOR ACTIVITIES ON FOREIGN SOIL

35. A construction contract for the activities on foreign soil of a delegation general, a delegation or another form of representation of Québec abroad, established pursuant to section 28 of the Act respecting the Ministère des Relations internationales (R.S.Q., c. M-25.1.1), may be entered into by mutual agreement even if it involves an expenditure equal to or above the public tender threshold provided for in section 10 of the Act. The contract is awarded in a manner consistent with the principles stated in section 2 of the Act.

CHAPTER IV QUALIFICATION OF CONTRACTORS

36. A public body may qualify contractors prior to entering into construction contracts pertaining to transport infrastructures if

(1) the qualification of contractors is preceded by a public notice to that effect on the electronic tendering system;

(2) a list of the qualified contractors is published on the electronic tendering system and every contractor is informed of entry on the list or the reason for refusal if entry is denied; and

(3) a public notice of qualification is published again at least once a year, even though the public body may qualify contractors at intervals varying from 1 to 3 years.

37. Where the public body evaluates the quality of applications for qualification, it must set up a selection committee within the meaning of section 31 and apply the evaluation conditions in Schedule 4 or in sections 1 to 7 of Schedule 5.

38. Except in the cases described in section 13 of the Act, every contract subsequent to the qualification of contractors is limited to the qualified contractors only and, if such a contract involves an expenditure equal to or above the public tender threshold, it must be awarded through a public call for tenders.

CHAPTER V CONDITIONS TO BE MET PRIOR TO ENTERING INTO CONTRACTS

DIVISION I REQUIRED AUTHORIZATION

39. Authorization from the chief executive officer of the public body is required before a notice of the call for tenders is published if the tender validity period is greater than 45 days.

That authorization is also required before entering into a contract involving an expenditure equal to or above the public tender threshold if

(1) only one contractor submitted a compliant tender; or

(2) only one contractor submitted an acceptable tender following a quality evaluation in accordance with Division II of Chapter III.

In the case provided for in subparagraph 2 of the second paragraph and in the case of a mixed contract for construction work and professional services, the selection committee must not know the price and the chief executive officer of the public body is to determine whether or not the awarding process should be continued.

DIVISION II QUALITY ASSURANCE

40. A public body may require a quality assurance system, including the ISO 9001:2000 standard, for the carrying out of a contract. The public body must specify the requirement in the tender documents.

If such a requirement unduly reduces competition, the public body must allow any contractor to submit a tender and grant to a contractor that fulfils the requirement referred to in the first paragraph a preferential margin not exceeding 5%. In the latter case, the price submitted by such a contractor is, for the sole purpose of determining the successful tenderer, reduced by the preferential margin, without any effect on the price for contract awarding purposes.

The percentage of the preferential margin to be applied must be indicated in the tender documents.

CHAPTER VI INFORMATION TO BE PUBLISHED

41. Following a public call for tenders, the public body must publish on the electronic tendering system, within 15 days of the awarding of the contract, the name

of the successful tenderer and the amount of the contract or, in the case of a task order contract, the estimated amount of the expenditure. In addition, if a contract involves renewal options, the public body also publishes the total amount of the expenditure that would be incurred if all options were exercised.

42. The public body must publish on the electronic tendering system, at least once every 6 months, a list of the contracts involving an expenditure greater than \$25,000 entered into by mutual agreement or following an invitation to tender, except contracts involving confidential or protected information within the meaning of subparagraph 3 of the first paragraph of section 13 of the Act.

43. The list to be published pursuant to section 42 must contain at least the following information:

(1) the name of the contractor, the date and the amount of the contract or, in the case of a task order contract, the estimated amount of the expenditure;

(2) in the case of a contract that involves renewal options, in addition to the information required in paragraph 1, the total amount of the expenditure that would be incurred if all options were exercised;

(3) the nature of the construction work to be performed under the contract; and

(4) in the case of a contract by mutual agreement involving an expenditure above the public tender threshold, the provision in the Act or Regulation under which the contract was awarded.

CHAPTER VII CONTRACT MANAGEMENT CONDITIONS

DIVISION I CHANGE ORDERS

44. A public body may make changes to the work by issuing a change order.

45. The value of a change is determined as follows:

(1) estimation, negotiation and acceptance of a detailed lump sum that takes into account, for the contractor's overhead, administrative costs and profits, the markup percentage, as the case may be, in subparagraph *a* or *b* of subparagraph 3;

(2) if the nature of the change in the work is such that a lump sum cannot be estimated, application of the unit prices indicated in the contract or subsequently agreed on; or

(3) if the nature of the change is such that a lump sum or unit prices cannot be estimated, addition of the cost of labour, materials and equipment relating to the change and increased

(a) by 15% if the work is performed by the contractor; or

(b) by 10% for the contractor and 15% for the subcontractor if the work is performed by a subcontractor.

For the purposes of subparagraph 3 of the first paragraph, the cost of labour, materials and equipment corresponds to the actual costs of the items listed in Schedule 6. The increase includes the contractor's overhead, administrative costs and profits.

46. If the public body and the contractor cannot agree on the value of a change at the first negotiation, the detailed estimate of the change required is then determined by the public body and paid according to the conditions stipulated in the contract.

47. The contractor may file a dispute over the value of a change in writing to the public body within 15 days of the issue of the change order pursuant to section 46. In such a case, the parties must pursue the negotiations as follows:

(1) in the case of work relating to a building, the negotiations are pursued in accordance with sections 50 to 52; or

(2) in the case of civil engineering work other than work relating to a building, the parties pursue the negotiations with a manager representing the public body and an officer of the contractor with a view to settling the dispute in whole or in part.

If the public body and the contractor cannot settle the dispute in accordance with subparagraph 2 of the first paragraph, the contractor may submit a claim to the public body. In the absence of an agreement between the public body and the contractor, the parties retain all their rights and remedies, in particular those under section 54.

48. If a contract related to a building involves an expenditure equal to or greater than \$3,000,000 and the proposed change order increases the total value of the change by more than 10% of the initial value of the contract, the public body may issue the change order or any subsequent change order only if the public body confirms to the contractor that the public body has the money necessary to perform the change.

49. No change may be required after the work has been accepted with reservation.

DIVISION II **SETTLEMENT OF DISPUTES**

§1. Work relating to a building

50. The public body and the contractor must attempt to settle amicably any difficulty arising from a contract by following the following steps and procedures:

(1) having a manager representing the public body and an officer of the contractor attempt to settle the dispute in whole or in part within 60 days after receipt of the notice of dispute from the contractor; the parties may agree to extend that period; and

(2) if the negotiations do not enable the dispute to be settled in full, the public body or the contractor may, by sending a written notice to the other party within 10 days after the end of the preceding step, require mediation of the unsettled issues, which must be carried out within 60 days following receipt of the notice of mediation; the parties may agree to extend that period.

If a notice of mediation is not sent within the time specified in subparagraph 2 of the first paragraph, the negotiation process is then terminated.

51. The mediator is chosen by mutual agreement between the public body and the contractor. The function of the mediator is to assist the parties in clarifying the dispute and defining their positions and interests, and to discuss and explore mutually satisfying solutions to settle the dispute.

The parties, along with the mediator, define the rules applicable to the mediation and set its duration, specify their commitments, expectations and needs as well as the role and duties of the mediator. The fees and expenses of the mediator are to be paid in equal parts by the parties, unless a different sharing arrangement has been agreed upon.

The representative of each party must be duly authorized by the officer of the public body or contractor, as the case may be, to proceed with the mediation.

52. In the absence of an agreement between the public body and the contractor following mediation, the parties retain all their rights and remedies, in particular those under section 54.

§2. Civil engineering work order than work relating to a building

53. The public body and the contractor must attempt to settle amicably any difficulty arising from a contract by resorting to the dispute resolution clauses in the contract, if any.

In the absence of an agreement between the public body and the contractor, the parties retain all their rights and remedies, in particular those under section 54.

§3. Civil engineering work and work relating to a building

54. The public body or the contractor may also settle any difficulty through a court of justice or an adjudicative body, as the case may be, or an arbitrator. In the latter case, general or special authorization from the Minister of Justice is required for public bodies referred to in subparagraph 1 or 2 of the first paragraph of section 4 of the Act.

DIVISION III **PERFORMANCE EVALUATION**

55. A public body must record in a report the evaluation of any contractor whose performance is considered to be unsatisfactory.

56. The public body must complete its evaluation not later than 60 days after the end of the contract and send a copy of the evaluation to the contractor.

57. A contractor may forward comments in writing on the report to the public body within 30 days following receipt of a report of unsatisfactory performance.

58. Within 30 days after the expiry of the time in section 57 or following receipt of the contractor's comments, as the case may be, the chief executive officer of the public body is to uphold or cancel the evaluation and inform the contractor of the decision. If the chief executive officer fails to act within the prescribed time, the contractor's performance is considered to be satisfactory.

CHAPTER VIII **TRANSITIONAL AND FINAL**

59. A public body must implement the provisions of subparagraph 2 of the first paragraph of section 5 within 2 years after the coming into force of this Regulation. Within that period, the public body must at least state, in the tender documents, the public bodies and legal persons established in the public interest that are or are likely to be parties to the joint call for tenders.

In that case, the present and future parties to the joint call for tenders must deal with the selected contractor, on the conditions set out in the tender documents.

60. For construction work related to work relating to a building, the chief executive officer of the public body is to give an account of the application of Division II of Chapter VII to the Minister every year for the following 2 years.

61. The Regulation respecting grants for the purposes of construction (R.R.Q., 1981, c. A-6, r.29) is revoked.

62. This Regulation comes into force on 1 October 2008.

SCHEDULE 1

(s. 12)

TENDER BOND Construction Work

1. _____
(name of the SURETY)

having its principal establishment at

(address of the SURETY)

herein represented by _____
(name and title)

duly authorized, hereinafter called the SURETY, having taken cognizance of the tender to be submitted on the ____ day of _____ 20__ to

(name of the PUBLIC BODY)

hereinafter called the PUBLIC BODY, by

(name of the CONTRACTOR)

having its principal establishment at

(address of the CONTRACTOR)

herein represented by _____
(name and title)

duly authorized, hereinafter called the CONTRACTOR, in respect of

(description of the work and location)

stands surety for the CONTRACTOR, to the benefit of the PUBLIC BODY, on the following conditions:

If the CONTRACTOR fails to sign a contract in conformity with the tender submitted or fails to provide the guarantees or any other document required following the date of acceptance of the tender, the SURETY binds itself to pay to the PUBLIC 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 PUBLIC BODY, it being provided that the SURETY is not required to pay more than, as specified in the tender documents:

– ____ percent of the tendered price (____ %),

or

– the lump sum determined by the PUBLIC BODY

dollars

(\$ _____).

2. The CONTRACTOR whose tender is accepted must be notified in writing of such acceptance before the expiry of the tender validity period or any other time period agreed on by the PUBLIC BODY and the CONTRACTOR; failing that, this obligation is null and void.

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

4. The SURETY waives the benefit of discussion and division.

5. The CONTRACTOR intervenes in these presents to consent thereto; should the CONTRACTOR fail to do so, this obligation is null and void.

IN WITNESS WHEREOF, the SURETY and the CONTRACTOR, by their duly authorized representatives, have signed these presents in

_____, this ____ day of _____ 20__

	The SURETY	and on behalf of
_____	_____	_____
(witness)	(signature)	(name of the CONTRACTOR)
	_____	_____
	(name of signatory in block letters)	having its principal establishment at
	_____	_____
	(title of signatory in block letters)	(address of the CONTRACTOR)
	The CONTRACTOR	herein represented by _____
_____	_____	(name and title)
(witness)	(signature)	
	_____	duly authorized, hereinafter called the CONTRACTOR,
	(name of signatory in block letters)	binds itself jointly and solidarily with the CONTRAC-
	_____	TOR, to the benefit of the PUBLIC BODY, to perform
	(title of signatory in block letters)	the contract including, without limitation, the obliga-
		tions covered by the guarantees, for the carrying out of
		the work described above in conformity with the call for
		tenders, it being provided that the SURETY in no case
		may be required to pay more than
		_____ dollars
		(\$ _____).

GQ-01

SCHEDULE 2

(s. 12)

PERFORMANCE BOND
Construction Work

1. _____
(name of the SURETY)

having its principal establishment at

(address of the SURETY)

herein represented by _____

(name and title)

duly authorized, hereinafter called the SURETY, having
taken cognizance of the tender duly accepted by

(name of the PUBLIC BODY)

hereinafter called the PUBLIC BODY, in respect of

(description of the work and location)

2. The SURETY agrees that the PUBLIC BODY and the CONTRACTOR may amend the contract at any time, subject to the right of the SURETY to be informed thereof on request, pursuant to article 2345 of the Civil Code of Québec, and consents to the PUBLIC BODY granting any time period necessary to complete the work.

3. If the CONTRACTOR fails to perform the contract, including work covered by the guarantees, the SURETY assumes the CONTRACTOR'S obligations and, where applicable, undertakes and continues the work required within 15 days after receiving written notice to that effect from the PUBLIC BODY, failing which the PUBLIC BODY may have the work completed and the SURETY must pay the PUBLIC BODY for any excess amount over the price agreed on with the CONTRACTOR for performance of the contract.

4. This bond covers any fault indicated by the PUBLIC BODY to the CONTRACTOR in a written notice before the end of the second year following acceptance of the work within the meaning of article 2110 of the Civil Code of Québec.

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

6. The CONTRACTOR intervenes in these presents to consent thereto; should the CONTRACTOR fail to do so, this obligation is null and void.

IN WITNESS WHEREOF, the SURETY and the CONTRACTOR, by their duly authorized representatives, have signed these presents in

_____, this ___ day of _____ 20 _____

The SURETY

(witness)

(signature)

(name of signatory
in block letters)

(title of signatory in
block letters)

The CONTRACTOR

(witness)

(signature)

(name of signatory in
block letters)

(title of signatory
in block letters)

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SCHEDULE 3

(s. 12)

BOND FOR THE CONTRACTOR'S OBLIGATIONS WITH RESPECT TO LABOUR, MATERIALS AND SERVICES

Construction Work

1. _____
(name of the SURETY)

having its principal establishment at

(address of the SURETY)

herein represented by _____
(name and title)

duly authorized, hereinafter called the SURETY, having taken cognizance of the tender duly accepted by

(name of the PUBLIC BODY)

hereinafter called the PUBLIC BODY, in respect of

(description of the work and location)

and on behalf of

(name of the CONTRACTOR)

having its principal establishment at

(address of the CONTRACTOR)

herein represented by _____
(name and title)

duly authorized, hereinafter called the CONTRACTOR, binds itself jointly and solidarily with the CONTRACTOR, to the benefit of the PUBLIC BODY, to pay directly the creditors hereinafter defined, it being provided that the SURETY in no case may be required to pay more than

_____ dollars

(\$ _____).

2. Creditor means

(1) any subcontractor of the CONTRACTOR;

(2) any natural or legal person having sold or leased services, materials or equipment intended exclusively for the work to the CONTRACTOR or to the CONTRACTOR'S subcontractors, equipment leasing prices being determined solely on the basis of current construction industry standards;

(3) any supplier of materials specially prepared for that work and contract;

(4) the Commission de la santé et de la sécurité du travail, with respect to the contributions resulting from the contract; and

(5) the Commission de la construction du Québec, with respect to the contributions resulting from the contract.

3. The SURETY agrees that the PUBLIC BODY and the CONTRACTOR may amend the contract at any time, subject to the right of the SURETY to be informed thereof, on request, pursuant to article 2345 of the Civil Code of Québec, and consents to the PUBLIC BODY granting any time period necessary to complete the work.

4. Subject to clause 3 above, no creditor has direct recourse against the SURETY unless the creditor has sent an application for payment to the SURETY and to the CONTRACTOR within 120 days of the date on which the contractor completed the work or supplied the last services, materials or equipment.

A creditor who has contracted other than directly with the CONTRACTOR has no direct recourse against the SURETY unless the creditor has notified the CONTRACTOR in writing of the contract within 60 days of the commencement of the leasing or delivery of the services, materials or equipment; the notice must indicate the work concerned, the subject of the contract, the name of the subcontractor and the PUBLIC BODY concerned.

A subcontractor has no direct recourse against the SURETY in respect of sums held back by the CONTRACTOR unless the subcontractor has sent an application for payment to the SURETY and to the CONTRACTOR within 120 days of the date on which the sums held back became payable.

5. Any creditor may institute proceedings against the SURETY on the expiry of 30 days after the notice required by clause 4 has been sent, provided that the proceedings are not instituted before the expiry of 90 days after the date on which the creditor's work was performed or the date of supply of the last services, materials or equipment.

6. Any payment made in good faith by virtue of these presents reduces the amount of this bond by a corresponding amount.

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

8. The CONTRACTOR intervenes in these presents to consent thereto; should the CONTRACTOR fail to do so, this obligation is null and void.

IN WITNESS WHEREOF, the SURETY and the CONTRACTOR, by their duly authorized representatives, have signed these presents in

_____, this ____ day of _____ 20 ____

The SURETY

(witness)

(signature)

(name of signatory
in block letters)

(title of signatory in
block letters)

The CONTRACTOR

(witness)

(signature)

(name of signatory in
block letters)

(title of signatory
in block letters)

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SCHEDULE 4

(ss. 22, 26, 32, 37)

QUALITY EVALUATION CONDITIONS
for a contract award based on the lowest price

1. At least 3 criteria are required for quality evaluation.
2. The public body must specify in the tender documents, for each criterion, the elements of quality required to reach an "acceptable level of performance", which corresponds to the public body's minimum expectations for the criterion.

3. An acceptable tender in terms of quality is a tender that, for each criterion, meets the "acceptable level of performance". A tender that does not reach that level of performance in respect of any criterion is rejected.

SCHEDULE 5

(ss. 24, 26, 32, 37)

QUALITY EVALUATION CONDITIONS
for a contract award based on the lowest adjusted price

1. The evaluation grid must have at least 3 quality evaluation criteria.

2. The public body must specify in the tender documents, for each criterion, the elements of quality required to reach an “acceptable level of performance”, which corresponds to the public body’s minimum expectations for the criterion.

3. Each criterion in the evaluation grid is weighted on the basis of its importance for the carrying out of the contract. The total weight of the criteria is 100%.

4. Each criterion is evaluated on a scale of 0 to 100 points, the “acceptable level of performance” corresponding to 70 points.

5. At least 70 points may be required in respect of any criterion described in the evaluation grid. A tender that does not reach that minimum is rejected.

6. The final score for the quality of a tender is the total of the weighted scores obtained in respect of each criterion; the weighted scores are determined by multiplying the score obtained for a criterion by the weight of that criterion.

7. An acceptable tender in terms of quality is a tender whose final score is at least 70 points.

8. The price of each acceptable tender is adjusted according to the following formula:

$$\text{Adjusted price} = \frac{\text{Price submitted}}{\text{Quality adjustment factor}}$$

The quality adjustment factor is equal to:

$$1 + 15\% \left(\frac{\text{Final score for quality} - 70}{30} \right)$$

SCHEDULE 6

(s. 45)

COST OF LABOUR, MATERIALS AND EQUIPMENT

The contractor must prove each expense relating to a change. The cost of labour, materials and equipment attributable to making the change to the work corresponds to the actual costs of the contractor and subcontractors, in the following categories:

(1) wages and employment benefits paid to workers under an applicable collective agreement and to the foreman and, where applicable, the superintendent supervising the employees on the construction site;

(2) the travel and accommodation expenses of the additional employees required;

(3) the cost of all materials, products, supplies, including materials incorporated into the work by reason of the change to the work, including transportation, storage and handling expenses, the whole corresponding to the lowest price granted to the contractor and subcontractors;

(4) taxes and other duties imposed by any competent authority on the labour, materials and equipment required and to which the contractor is subject, excluding the goods and services tax (GST) and the Québec sales tax (QST) if the public body is exempt from those taxes;

(5) the cost for transporting and using additional equipment and tools that are required, other than hand tools used by the employees;

(6) the cost of additional quality control performed by the person responsible for quality assurance or the superintendent on the work relating to the change;

(7) applicable patent royalties and rights;

(8) additional insurance and security premiums that the contractor must pay as a result of the increase in the contract price;

(9) energy and heating expenses directly attributable to the change;

(10) the cost for the removal and disposal of waste and debris attributable to the change;

(11) the necessary additional protections, temporary installations and security devices; and

(12) any other required additional labour, materials or equipment cost not specified in the preceding paragraphs and attributable to performing the change.

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