

Regulations and other Acts

Gouvernement du Québec

O.C. 353-2010, 21 April 2010

An Act respecting contracting by public bodies
(R.S.Q., c. C-65.1)

Supply contracts of public bodies — Amendments

Regulation to amend the Regulation respecting supply contracts of public bodies

WHEREAS, under subparagraph 3 of the first paragraph of section 23 of the Act respecting contracting by public bodies (R.S.Q., c. C-65.1), the Government may, by regulation, determine bid solicitation procedures and the contract award rules applicable to them;

WHEREAS, by Order in Council 531-2008 dated 28 May 2008, the Government made the Regulation respecting supply contracts of public bodies;

WHEREAS it is expedient to amend the Regulation;

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 supply contracts of public bodies was published in Part 2 of the *Gazette officielle du Québec* of 4 November 2009 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 to amend the Regulation respecting supply contracts of public bodies, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting supply contracts of public bodies*

An Act respecting contracting by public bodies
(R.S.Q., c. C-65.1, s. 23, 1st par., subpar. 3)

1. The Regulation respecting supply contracts of public bodies is amended by inserting the following after section 37:

“DIVISION IV ATTESTATION FROM THE MINISTER OF REVENUE

37.1. Every supply contract involving an expenditure equal to or greater than \$25,000 must be entered into with a supplier who has obtained an attestation from the Minister of Revenue of Québec.

The attestation is issued to every supplier who, on the date indicated in the attestation, has filed the returns and reports that the supplier had to file under fiscal laws and who has no overdue account payable to the Minister of Revenue of Québec, in particular when its recovery has been legally suspended or arrangements have been made with the supplier to ensure payment and the supplier has not defaulted.

The supplier must send the attestation to the public body with the supplier’s tender if the contract is awarded following a call for tenders, or before the contract is entered into if it is awarded by mutual agreement. The attestation must neither have been issued more than 90 days before the tender closing time nor after tender closing time or, in the case of a contract by mutual agreement, more than 90 days before the contract award date.

* The Regulation respecting supply contracts of public bodies, made by Order in Council 531-2008 dated 28 May 2008 (2008, *G.O.* 2, 2079), was amended once, by Order in Council 694-2009 dated 18 June 2009 (2009, *G.O.* 2, 1861A).

An attestation held by the supplier is considered as an eligibility requirement within the meaning of section 6.

37.2. Section 37.1 does not apply to a supplier that does not have an establishment in Québec where activities are carried on on a permanent basis, clearly identified under the supplier's name and accessible during regular business hours.

It does not apply either where a supply contract must be entered into by reason of an emergency that threatens human safety or property.”.

2. Despite the third and fourth paragraphs of section 37.1 of that Regulation, a supplier remains eligible to submit a tender for a call for tenders whose tender closing time is prior to 1 October 2010 even if the supplier's attestation is issued after tender closing time.

3. The Chair of the Conseil du trésor is to report to the Government about the first year of application of section 37.1 of that Regulation.

4. This Regulation comes into force on 1 June 2010 and applies only to call for tenders issued and contracts entered into by mutual agreement as of that date.

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Gouvernement du Québec

O.C. 354-2010, 21 April 2010

An Act respecting contracting by public bodies (R.S.Q., c. C-65.1)

Construction contracts of public bodies — Amendments

Regulation to amend the Regulation respecting construction contracts of public bodies

WHEREAS, under subparagraph 3 of the first paragraph of section 23 of the Act respecting contracting by public bodies (R.S.Q., c. C-65.1), the Government may, by regulation, determine bid solicitation procedures and the contract award rules applicable to them;

WHEREAS, by Order in Council 532-2008 dated 28 May 2008, the Government made the Regulation respecting construction contracts of public bodies and revoking the Regulation respecting grants for the purposes of construction;

WHEREAS it is expedient to amend the Regulation;

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 construction contracts of public bodies was published in Part 2 of the *Gazette officielle du Québec* of 4 November 2009 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 to amend the Regulation respecting supply construction of public bodies, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting construction contracts of public bodies*

An Act respecting contracting by public bodies (R.S.Q., c. C-65.1, s. 23, 1st par., subpar. 3)

1. The Regulation respecting construction contracts of public bodies is amended by inserting the following after section 40:

“DIVISION III ATTESTATION FROM THE MINISTER OF REVENUE

40.1. Every construction contract involving an expenditure equal to or greater than \$25,000 must be entered into with a contractor who has obtained an attestation from the Minister of Revenue of Québec.

* The Regulation respecting construction contracts of public bodies, made by Order in Council 532-2008 dated 28 May 2008 (2008, *G.O.* 2, 2086), was last amended by the regulation made by Order in Council 695-2009 dated 18 June 2009 (2009, *G.O.* 2, 1862A).