

## Draft Regulations

### Draft Regulation

An Act respecting contracting by public bodies (R.S.Q., c. C-65.1, amended by S.Q. 2011, c. 18)

#### Construction contracts of public bodies — Amendment

Notice is hereby given, in accordance with section 10 of the Regulations Act (R.S.Q., c. R-18.1) and section 318 of the Act respecting mainly the implementation of certain provisions of the Budget Speech of 17 March 2011 and the enactment of the Act to establish the Northern Plan Fund (2011, c. 18), that the Regulation to amend the Regulation respecting construction contracts of public bodies, appearing below, may be made by the Government on the expiry of 15 days following this publication.

The draft Regulation amends the Regulation respecting construction contracts of public bodies to replace the existing division concerning the attestation from the Ministère du Revenu with a new division entitled “Attestation from Revenu Québec”. It sets out the requirements for obtaining, holding and submitting an attestation from Revenu Québec that apply to a contractor interested in entering into a contract with a public body or a subcontractor interested in entering into a subcontract with that contractor, and the related cases, conditions and procedures. The attestation must show, in particular, that they have filed the returns and reports that they had to file under fiscal laws.

The draft Regulation also adds penal measures to the Regulation to punish offences under the provisions listed. During a three-month grace period, beginning on the date of coming into force of the Regulation, warnings will be issued instead of statements of offence. Lastly, the draft Regulation indicates that the Minister of Revenue will be charged with the application and enforcement of the provisions concerning the attestation from Revenu Québec and of the penal offences.

The draft Regulation will have no impact on the public. In addition, it should have no negative impact on enterprises, including small and medium-sized businesses.

Further information concerning the draft Regulation may be obtained by contacting Robert Villeneuve, Director, Réglementation et politiques de gestion contractuelle, Secrétariat du Conseil du trésor, 875, Grande

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Any person wishing to comment on the draft Regulation may submit written comments within the 15-day period to the Chair of the Conseil du trésor and Minister responsible for Government Administration, 875, Grande Allée Est, Québec (Québec) G1R 5R8.

MICHELLE COURCHESNE,  
*Chair of the Conseil du trésor and  
Minister responsible for Government Administration*

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

An Act respecting contracting by public bodies (S.Q. 2011, c. 18, ss. 50 and 53)

1. The Regulation respecting construction contracts of public bodies (R.R.Q., c. C-65.1, r. 5) is amended by replacing Division III of Chapter V by the following:

#### “DIVISION III ATTESTATION FROM REVENU QUÉBEC

**40.1.** Every contractor interested in entering into a construction contract with a public body involving an expenditure equal to or greater than \$25,000 must hold an attestation from Revenu Québec.

Similarly, every contractor who, as a subcontractor, is interested in entering into a construction contract of a value equal to or greater than \$25,000 with another contractor must hold an attestation from Revenu Québec when the subcontract is directly connected with a contract referred to in the first paragraph that has been entered into by that other contractor.

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

**40.3.** The attestation of a contractor referred to in the first paragraph of section 40.1 must not have been issued more than 90 days before the date and time fixed for the closing of tenders, or after that date and time, or, in the case of a contract entered into by mutual agreement, more than 90 days before the contract award date. The fact that the contractor holds an attestation is considered to be an eligibility requirement within the meaning of section 6.

The attestation of a subcontractor referred to in the second paragraph of section 40.1 must not have been issued more than 90 days before the date on which the subcontract was entered into.

**40.4.** The contractor referred to in the first paragraph of section 40.1 must, before entering into a contract with a subcontractor referred to in the second paragraph of section 40.1, obtain a copy of the subcontractor's attestation and ensure that it complies with the second paragraph of section 40.3.

**40.5.** A contractor referred to in the first paragraph of section 40.1 to whom a construction contract has been awarded by a public body must, before beginning the construction work, forward to the body a list giving the following information for each subcontract referred to in the second paragraph of section 40.1:

- (1) the name and address of the subcontractor;
- (2) the amount and date of the subcontract;
- (3) the number and date of issue of the subcontractor's attestation from Revenu Québec.

A contractor who, after beginning the construction work, contracts with a subcontractor as part of a contract referred to in the first paragraph must advise the body and forward an amended list before the work entrusted to that subcontractor begins.

**40.6.** A contractor referred to in section 40.1 may not submit an attestation from Revenu Québec that contains false or inaccurate information, produce on the contractor's own behalf the attestation of another contractor or subcontractor, or falsely declare that the contractor does not hold the required attestation.

**40.7.** No person may help another person, by an act or omission, to contravene the provisions of the second paragraph of section 40.1 or of any of sections 40.4 to 40.6, or encourage, advise, allow, authorize or order the person to contravene those provisions.

**40.8.** Section 40.1 does not apply to a contractor who does not have in Québec an establishment where activities are carried on on a permanent basis, clearly identified under the contractor's name and accessible during regular business hours.

It does not apply either where a construction contract, or a construction subcontract referred to in the second paragraph of section 40.1, must be entered into by reason of an emergency that threatens human safety or property.”

**2.** The following is inserted after section 58:

**“CHAPTER VII.1  
OFFENCES**

**58.1.** A violation of the second paragraph of section 40.1 or of any of sections 40.4 to 40.7 constitutes an offence.”

**3.** The following is inserted after section 61:

**“61.1.** The Minister of Revenue is charged with the application and enforcement of Division III of Chapter V and section 58.1.”

**4.** A violation of the second paragraph of section 40.1 or of any of sections 40.4 to 40.7, enacted by section 1 of this Regulation, that is noted between 1 September 2011 and 30 November 2011 inclusively will result in the issue of a warning to the offender rather than a statement of offence.

**5.** This Regulation comes into force on 1 September 2011 and applies only to calls for tenders issued and contracts entered into by mutual agreement by a public body on or after that date.

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## Draft Regulation

An Act respecting contracting by public bodies  
(R.S.Q., c. C-65.1, amended by S.Q. 2011, c. 18)

### Supply contracts and service contracts of public bodies — Amendment

Notice is hereby given, in accordance with section 10 of the Regulations Act (R.S.Q., c. R-18.1) and section 318 of the Act respecting mainly the implementation of certain provisions of the Budget Speech of 17 March 2011 and the enactment of the Act to establish the Northern Plan Fund (2011, c. 18), that the Regulation to amend the Regulation respecting supply contracts of public bodies and the Regulation to amend the Regulation respecting service contracts of public bodies, appearing below, may be made by the Government on the expiry of 15 days following this publication.