

## 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, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies — Attestation from Revenu Québec

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 respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies, appearing below, may be made by the Government on the expiry of 15 days following this publication.

The draft Regulation applies to supply contracts, service contracts and construction contracts entered into by the public bodies referred to in section 7 of the Act respecting contracting by public bodies, namely the public bodies at least half of whose members or directors are appointed or elected by the Government or by a minister. The draft Regulation introduces a requirement, as a prior condition for entering into a contract, for obtaining, holding and submitting an attestation from Revenu Québec that applies to a contractor interested in entering into a contract with a public body, and the related cases, conditions and procedures. The draft Regulation extends the same requirements to a subcontractor interested in entering into a construction contract with a contractor when the contract is directly connected to a construction contract entered into by the contractor with the body. The attestation shows, in particular, that they have filed the returns and reports that they had to file under fiscal laws.

The draft Regulation also provides penal measures 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 Allée Est, bur. 2.339, Québec (Québec) G1R 5R8; telephone: 418 643-0875, extension 4936; fax: 418 528-6877; email: robert.villeneuve@sct.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written within the 15-day period comments 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 respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies

An Act respecting contracting by public bodies (S.Q. 2011, c. 18, ss. 51 and 53)

#### CHAPTER I APPLICATION

**1.** This Regulation applies to supply contracts, service contracts and construction contracts referred to in the first paragraph of section 3 of the Act respecting contracting by public bodies (R.S.Q., c. C-65.1) that are entered into by a public body referred to in section 7 of that Act with a contractor referred to in section 1 of that Act.

#### CHAPTER II CONDITIONS FOR ENTERING INTO A CONTRACT

**2.** Every contractor interested in entering into a supply contract, service contract or construction contract with a 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 where the contract is directly connected with a construction contract referred to in the first paragraph that has been entered into by that other contractor.

**3.** 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 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 to ensure payment and the contractor has not defaulted.

**4.** The attestation of a contractor referred to in the first paragraph of section 2 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 for tendering.

The attestation of a subcontractor referred to in the second paragraph of section 2 must not have been issued more than 90 days before the date on which the subcontract was entered into.

**5.** A contractor referred to in the first paragraph of section 2 must, before entering into a contract with a subcontractor referred to in the second paragraph of section 2, obtain a copy of the subcontractor's attestation and ensure that it complies with the second paragraph of section 4.

**6.** A contractor referred to in the first paragraph of section 2 to whom a construction contract has been awarded by a 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 2:

- (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.

**7.** A contractor referred to in section 2 may not submit an attestation from Revenu Québec that contains false or inaccurate information, submit on the contractor's own behalf the attestation of another contractor, or falsely declare that the contractor does not hold the required attestation.

**8.** No person may help another person, by an act or omission, to contravene the provisions of the second paragraph of section 2 or of any of sections 5 to 7, or encourage, advise, allow, authorize or order the person to contravene those provisions.

**9.** Section 2 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 supply contract, service contract or construction contract, or a construction subcontract referred to in the second paragraph of section 2, must be entered into by reason of an emergency that threatens human safety or property.

### CHAPTER III OFFENCES

**10.** A violation of the second paragraph of section 2 or of any of sections 5 to 8 constitutes an offence.

### CHAPTER IV APPLICATION BY THE MINISTER OF REVENUE

**11.** The Minister of Revenue is charged with the application and enforcement of Chapters II and III.

### CHAPTER V TRANSITIONAL AND FINAL

**12.** Despite the first paragraph of section 4, a contractor remains eligible to submit a tender for a call for tenders whose tender closing time is prior to 1 December 2011 even if the contractor's attestation is issued after tender closing time.

**13.** A violation of the second paragraph of section 2 or of any of sections 5 to 8 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.

**14.** 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 body on or after that date.