

Draft Regulation

Cities and Towns Act
(R.S.Q., c. C-19)

Municipal Code of Québec
(R.S.Q., c. C-27.1)

An Act respecting the Communauté métropolitaine de Montréal
(R.S.Q., c. C-37.01)

An Act respecting the Communauté métropolitaine de Québec
(R.S.Q., c. C-37.02)

An Act respecting public transit authorities
(R.S.Q., c. S-30.01)

Construction contracts of municipal bodies

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 (S.Q., 2011, c. 18), that the Regulation respecting construction contracts of municipal bodies, appearing below, may be made by the Government on the expiry of 15 days following this publication.

The draft Regulation prescribes the requirements for obtaining, holding and submitting an attestation from Revenu Québec, which must be fulfilled by a contractor interested in entering into a contract with a municipal body, or by a subcontractor interested in entering into a contract with that contractor, in the cases and on the terms and conditions specified therein. The attestation indicates, among other things, that they have filed the returns and reports required under fiscal laws.

The draft Regulation determines, from among the provisions of the Regulation, those the violation of which constitutes an offence. The Regulation provides for a 3-month grace period, starting on the date of coming into force of the Regulation, during which a warning will be issued instead of a statement of offence. Lastly, the draft Regulation identifies the Minister of Revenue as the person responsible for the application and enforcement of the provisions regarding the attestation from Revenu Québec and of penal offences.

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

Further information may be obtained by contacting Marie Pelletier, 10, rue Pierre-Olivier-Chauveau, 3^e étage, Québec (Québec) G1R 4J3; telephone: 418 691-2022; fax: 418 644-6725; email: marie.pelletier@mamrot.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 15-day period to the Minister of Municipal Affairs, Regions and Land Occupancy, 10, rue Pierre-Olivier-Chauveau, Québec (Québec) G1R 4J3.

LAURENT LESSARD,
*Minister of Municipal Affairs,
Regions and Land Occupancy*

Regulation respecting construction contracts of municipal bodies

Cities and Towns Act
(R.S.Q., c. C-19, s. 573.3.1.1; 2011, c. 18, s. 41)

Municipal Code of Québec
(R.S.Q., c. C-27.1, s. 938.1.1; 2011, c. 18, s. 43)

An Act respecting the Communauté métropolitaine de Montréal
(R.S.Q., c. C-37.01, s. 113.1; 2011, c. 18, s. 45)

An Act respecting the Communauté métropolitaine de Québec
(R.S.Q., c. C-37.02, s. 106.1; 2011, c. 18, s. 47)

An Act respecting public transit authorities
(R.S.Q., c. S-30.01, s. 103.1; 2011, c. 18, s. 58)

DIVISION I SCOPE

1. In this Regulation, “municipal body” means a metropolitan community, a municipality, an intermunicipal board or a public transit authority.

This definition also includes any body which, under any provision, is deemed to be a municipality or municipal body for the purposes of this Regulation.

DIVISION II ATTESTATION FROM REVENU QUÉBEC

2. Every contractor wishing to enter with a municipal body into a construction contract involving an expenditure of \$25,000 or more must hold an attestation from Revenu Québec.

Every contractor that, as a subcontractor, wishes to enter into a construction contract with another contractor for an amount of \$25,000 or more must hold an attestation from Revenu Québec where that contract is directly related to a contract referred to in the first paragraph and entered into by that other contractor.

3. The attestation of Revenu Québec is issued to every contractor that, on the date indicated therein, has filed the returns and reports that the contractor had to file under fiscal laws and that 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 supplier 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 neither have been issued more than 90 days before the time limit fixed for receiving tenders nor after that time limit or, in the case of a contract by mutual agreement, more than 90 days before the day on which the contract is entered into.

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 day on which the subcontract is entered into.

5. Before entering into a contract with a subcontractor referred to in the second paragraph of section 2, a contractor referred to in the first paragraph of section 2 must obtain a copy of the subcontractor's attestation and make sure 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 was awarded by a municipal body must, before the beginning of the work, send the body a list indicating 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 contract; and

(3) the number and date of issue of the subcontractor's attestation from Revenu Québec.

A contractor that, after the beginning of the work, enters into a contract with a subcontractor in connection with the performance of a contract referred to in the first paragraph must so inform the municipal body by filing with it an amended list before the beginning of the work entrusted to that subcontractor.

7. Contractors referred to in section 2 may not forward an attestation from Revenu Québec that contains false or inaccurate information, use the attestation of another contractor or subcontractor as their own or falsely declare that they do not have the required attestation.

8. No one may, by performing or omitting to perform an act, assist another person in contravening the provisions of the second paragraph of section 2 or those of any of sections 5 to 7 or, by encouragement, advice or consent, or by an authorization or an order, induce another person to contravene those provisions.

9. Section 2 does not apply to contractors that do not have an establishment in Québec where they carry on their activities on a permanent basis, clearly identified to their name and accessible during regular business hours.

It does not apply either where a construction contract or 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.

DIVISION III

PENAL

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

DIVISION IV

MINISTER OF REVENUE

11. The Minister of Revenue is responsible for the application and enforcement of sections 2 to 10.

DIVISION V

TRANSITIONAL AND FINAL

12. Any violation of the provisions of the second paragraph of section 2 or those of any of sections 5 to 8 of this Regulation, observed between 1 January 2012 and 31 March 2012 inclusively, will give rise to the issue of a warning to the offender instead of a statement of offence.

13. This Regulation applies only to calls for tenders issued and contracts entered into by mutual agreement as of 1 January 2012.

14. This Regulation comes into force on 1 January 2012.