

Regulations and other Acts

Gouvernement du Québec

O.C. 841-2011, 17 August 2011

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

Regulation respecting construction contracts of municipal bodies

WHEREAS, under section 573.3.1.1 of the Cities and Towns Act (R.S.Q., c. C-19), section 938.1.1 of the Municipal Code of Québec (R.S.Q., c. C-27.1), section 113.1 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., c. C-37.01), section 106.1 of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., c. C-37.02) and section 103.1 of the Act respecting public transit authorities (R.S.Q., c. S-30.01), the Government may make regulations to

— determine the documents relating to compliance with certain Acts and regulations that a person interested in entering into a contract with a municipal body or a subcontract related to such a contract must hold, and the cases, conditions and manner in or on which they are to be obtained, held and filed;

— determine the regulatory provisions the violation of which constitutes an offence;

— indicate the regulatory provisions for which the Minister of Revenue is responsible for the administration and carrying out;

WHEREAS, in accordance with section 10 of the Regulations Act (R.S.Q., c. R-18.1) and section 318 of chapter 18 of the Statutes of 2011, a draft of the Regulation respecting construction contracts of municipal bodies was published in Part 2 of the *Gazette officielle du Québec* of 6 July 2011 with a notice that it could be made by the Government on the expiry of 15 days following that publication;

WHEREAS comments have been received following that publication;

WHEREAS the 15-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs, Regions and Land Occupancy, the Minister of Finance and the Minister of Revenue:

THAT the Regulation respecting construction contracts of municipal bodies, attached to this Order in Council, be made.

GILLES PAQUIN,
Clerk of the Conseil exécutif

Regulation respecting construction contracts of municipal bodies

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

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

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

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

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

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, enters 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 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 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 date fixed for the closing of tenders related to a contract referred to in the first paragraph of section 2, or after that date and time, or, in the case of a contract entered into by mutual agreement, 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 attestation from Revenu Québec held by the subcontractor.

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 a third party 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 the second paragraph of section 2, section 3, the second paragraph of section 4, sections 5 to 8, section 9 in the case of a subcontractor and section 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, committed between 1 January 2012 and 30 June 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.

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Gouvernement du Québec

O.C. 845-2011, 17 August 2011

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

Construction contracts of public bodies — Amendment

Regulation to amend the Regulation respecting construction contracts of public bodies

WHEREAS, under subparagraph 14 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 the documents relating to compliance with certain Acts and regulations that a contractor referred to in the first paragraph of section 1 of the Act who is interested in entering into a contract with a public body or into a subcontract related to such a contract must hold, and the cases, conditions and manner in or on which they are to be obtained, held and filed;

WHEREAS, under subparagraph 15 of the first paragraph of section 23 of the Act, the Government may, by regulation, determine the regulatory provisions made under that section 23 the violation of which constitutes an offence;

WHEREAS section 24.2 of the Act provides that the Minister of Revenue is responsible for the administration and carrying out of the regulatory provisions made under subparagraphs 14 and 15 of the first paragraph of section 23 and of section 23.1 of the Act if so provided in the regulation;

WHEREAS the Government made the Regulation respecting construction contracts of public bodies (R.R.Q., c. C-65.1, r. 5) which already provides certain measures relating to the attestation from Revenu Québec;

WHEREAS it is expedient to amend the Regulation;

WHEREAS, 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), 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 25 June 2011 with a notice that it could be made by the Government on the expiry of 15 days following its publication;

WHEREAS the 15-day period has expired;

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 were consulted on the draft Regulation and the Conseil du trésor recommends that it be made;

WHEREAS it is expedient to make the Regulation with amendments;

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

THAT the Regulation to amend the Regulation respecting construction contracts of public bodies, attached to this Order in Council, be made.

GILLES PAQUIN,
Clerk of the Conseil exécutif