

## 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*

## 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, 1 st par., subpars. 14 and 15, and s. 24.2)

**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, enters 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 fixed for the closing of tenders related to a contract referred to in the first paragraph of section 40.1, nor after the date on which the subcontract is entered into or, if the contract referred to in the first paragraph of section 40.1 is entered into by mutual agreement, more than 90 days before the date on which the subcontract is 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 attestation from Revenu Québec held by the subcontractor.

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 a third party, 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 the second paragraph of section 40.1, section 40.2, the second paragraph of section 40.3, sections 40.4 to 40.7, section 40.8 in the case of a subcontractor 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 of that Regulation, made by section 1 of this Regulation, committed between 15 September 2011 and 15 March 2012 inclusively will result in the issue of a warning to the offender rather than a statement of offence.

**5.** This Regulation applies only to calls for tenders issued and contracts entered into by mutual agreement by a public body as of 15 September 2011.

**6.** The provisions of this Regulation come into force on 15 September 2011, except the provisions of the first paragraph of section 40.3 of the Regulation respecting construction contracts of public bodies, made by section 1 of this Regulation, which, insofar as they concern the time fixed for receiving tenders, will come into force on 1 December 2011.

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Gouvernement du Québec

### **O.C. 846-2011, 17 August 2011**

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

#### **Supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies**

Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies

WHEREAS, under section 23.1 of the Act respecting contracting by public bodies (R.S.Q., c. C-65.1), the Government may, if of the opinion that the public interest requires it and on the recommendation of the Conseil du trésor, enact a regulation relating to any of the objects set out in subparagraphs 1, 3, 14 and 15 of the first paragraph of section 23 of the Act when the objects relate to a contract of a body described in section 7 of the Act;

WHEREAS, under subparagraph 14 of the first paragraph of section 23 of the Act, 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, 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 respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by 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 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: