

Draft Regulations

Draft Regulations

An Act respecting contracting by public bodies
(chapter C-65.1)

Supply, services, construction and information technologies contracts of public bodies — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting certain supply contracts of public bodies, the Regulation to amend the Regulation respecting certain service contracts of public bodies, the Regulation to amend the Regulation respecting construction contracts of public bodies and the Regulation to amend the Regulation respecting contracting by public bodies in the field of information technologies, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulations require that tenderers furnish a Statement of Integrity in the form in the Schedules to the amended Regulations.

The draft Regulations also provide that for any contract for which a call for tenders is made, no person may be proposed if the person, during the year preceding the time the tender is submitted, was employed by the public body and, as regards the project, took part in any of the activities specified in the Regulations.

A further purpose of the draft Regulations is to determine, for tenders transmitted electronically, the procedure for the affixing of signatures to the tender documents as well as the procedure to ensure a tender transferred to an information technology medium can legally stand in lieu of the tender being reproduced.

The draft Regulation to amend the Regulation respecting certain service contracts of public bodies and the draft Regulation to amend the Regulation respecting construction contracts of public bodies propose including new tender solicitation and contract awarding procedures for contracts of the Ministère des Transports, de la Mobilité durable et de l'Électrification des transports and the Société québécoise des infrastructures.

The draft Regulations have no impact on the public. They should have no negative impact on enterprises, including small and medium-sized businesses.

Further information on the draft Regulations may be obtained by contacting Julie Veillette, Director of public contract regulation, Secrétariat du Conseil du trésor, 875, Grande Allée Est, bureau 2.377, Québec (Québec) G1R 5R8; telephone: 418 643-0875, extension 4949; fax: 418 646-4613; email: julie.veillette@sct.gouv.qc.ca.

Any person wishing to comment on the draft Regulations is requested to submit written comments within the 45-day period to the Minister responsible for Government Administration and Ongoing Program Review and Chair of the Conseil du trésor, 875, Grande Allée Est, Québec (Québec) G1R 5R8.

PIERRE ARCAND,
*Minister responsible for Government Administration
and Ongoing Program Review and Chair of
the Conseil du trésor*

ROBERT POËTI,
*Minister for Integrity in Public Procurement and
for Information Resources*

Regulation to amend the Regulation respecting certain supply contracts of public bodies

An Act respecting contracting by public bodies
(chapter C-65.1, s. 23, par. 1)

1. Section 6 of the Regulation respecting certain supply contracts of public bodies (chapter C-65.1, r. 2) is amended by inserting the following after subparagraph 2 of the first paragraph:

“(2.1) for the contract for which the call for tenders is made, not propose a person who, during the year preceding the time the tender is submitted, was employed by the public body and, as regards the project, took part in any of the following activities:

- (a) need identification;
- (b) cost estimation;
- (c) work schedule determination;
- (d) risk management;
- (e) preparation of the final call for tenders; and”.

2. Section 7 is amended in the first paragraph

(1) by inserting the following after subparagraph 1:

“(1.1) the form in Schedule 0.1 for the statement of integrity has not been complied with;”;

(2) by striking out “, in the case of a tender sent in paper form,” in subparagraph 2.

3. The Regulation is amended by inserting the following after section 7.1:

“7.2. The public body must require a statement of integrity in the form in Schedule 0.1.”.

4. Section 9.2 is amended by adding the following paragraphs:

“If the signature of a person is required on a document and the tender is transmitted electronically, the signature is affixed to the document in paper form, prior to the tender information being transferred to an information technology medium.

The documentation confirming that the tender information has been transferred to an information technology medium in accordance with section 17 of the Act to establish a legal framework for information technology (chapter C-1.1) is transmitted through the electronic tendering system.”.

5. The Regulation is amended by inserting the following after section 9.2:

“9.2.1. Where tender security is required and the tender is transmitted electronically, the tender security must be given in the form of a bond. The public body must so specify in the tender documents.”.

6. The Regulation is amended by inserting the following Schedule after section 47:

“SCHEDULE 0.1

(s. 7.2)

STATEMENT OF INTEGRITY

1. This Statement of Integrity is provided by, _____
 _____ in relation to
 (Name of tenderer)
 the call for tenders launched by _____

 (Name of public body)

2. For the purposes of this Statement, “competitor” means any partnership or other person, other than the tenderer, whether or not associated with the tenderer,

(a) who has submitted a tender;

(b) who could potentially submit a tender in response to the call for tenders based on their qualifications, abilities or experience.

For the same purposes, “associate” means an associate within the meaning of the second paragraph of section 21.2 of the Act respecting contracting by public bodies.

3. The tenderer has arrived at this tender independently from and without agreement or arrangement with any competitor that is in contravention of the Competition Act (R.S.C. 1985, c. C-34), in particular as regards

—prices;

—methods, factors or formulas used to calculate prices;

—a decision to submit, or not to submit, or withdraw a tender; or

—the submitting of a tender that knowingly does not meet the specifications of the call for tenders.

4. Except as concerns a subcontract possibly being entered into, the terms of the tender have not been, and will not be, knowingly disclosed by the tenderer, directly or indirectly, to any competitor, prior to the date and time set for the tender opening, unless otherwise required by law.

5. Neither the tenderer, nor any associate of the tenderer, has had any discussion concerning the tender that would compromise the integrity of the contractual relationship with the State.

IN WITNESS WHEREOF, the tenderer, through the tenderer’s duly authorized representative, hereby declares that the information given in this Statement is true and accurate, and signs the Statement on _____.

(Date)

 (Signature of tenderer’s representative)

 (Name of tenderer’s representative in block letters)”.

7. Sections 1 to 6 apply only to public calls for tenders appearing in notices published on or after (*insert the date of coming into force of this Regulation*).

8. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

Regulation to amend the Regulation respecting certain service contracts of public bodies

An Act respecting contracting by public bodies (chapter C-65.1, s. 23, pars. 1 and 3)

1. Section 6 of the Regulation respecting certain service contracts of public bodies (chapter C-65.1, r. 4) is amended by inserting the following after subparagraph 2 of the first paragraph:

“(2.1) for the contract for which the call for tenders is made, not propose a person who, during the year preceding the time the tender is submitted, was employed by the public body and, as regards the project, took part in any of the following activities:

- (a) need identification;
- (b) cost estimation;
- (c) work schedule determination;
- (d) risk management;
- (e) preparation of the final call for tenders; and”.

2. Section 7 is amended in the first paragraph

- (1) by inserting the following after subparagraph 1:

“(1.1) the form in Schedule 0.1 for the statement of integrity has not been complied with;”;

- (2) by striking out “, in the case of a tender sent in paper form,” in subparagraph 2.

3. The Regulation is amended by inserting the following after section 7.1:

“7.2. The public body must require a statement of integrity in the form in Schedule 0.1.”.

4. Section 9.2 is amended by adding the following paragraphs:

“If the signature of a person is required on a document and the tender is transmitted electronically, the signature is affixed to the document in paper form, prior to the tender information being transferred to an information technology medium.

The documentation confirming that the tender information has been transferred to an information technology medium in accordance with section 17 of the Act to establish a legal framework for information technology (chapter C-1.1) is transmitted through the electronic tendering system.”.

5. The Regulation is amended by inserting the following after section 9.2:

“9.2.1. Where tender security is required and the tender is transmitted electronically, the tender security must be given in the form of a bond. The public body must so specify in the tender documents.”.

6. Section 24 is amended by inserting “other than the Ministère des Transports, de la Mobilité durable et de l’Électrification des transports and the Société québécoise des infrastructures” after “public body” in the first paragraph.

7. The Regulation is amended by inserting the following Schedule after section 63:

“SCHEDULE 0.1 (s. 7.2)

STATEMENT OF INTEGRITY

1. This Statement of Integrity is provided by, _____
_____ in relation to
(Name of tenderer)
the call for tenders launched by _____
(Name of public body)

2. For the purposes of this Statement, “competitor” means any partnership or other person, other than the tenderer, whether or not associated with the tenderer,

- (a) who has submitted a tender;

- (b) who could potentially submit a tender in response to the call for tenders based on their qualifications, abilities or experience.

For the same purposes, “associate” means an associate within the meaning of the second paragraph of section 21.2 of the Act respecting contracting by public bodies.

3. The tenderer has arrived at this tender independently from and without agreement or arrangement with any competitor that is in contravention of the Competition Act (R.S.C. 1985, c. C-34), in particular as regards

- prices;
- methods, factors or formulas used to calculate prices;
- a decision to submit, or not to submit, or withdraw a tender; or
- the submitting of a tender that knowingly does not meet the specifications of the call for tenders.

4. Except as concerns a subcontract possibly being entered into, the terms of the tender have not been, and will not be, knowingly disclosed by the tenderer, directly or indirectly, to any competitor, prior to the date and time set for the tender opening, unless otherwise required by law.

5. Neither the tenderer, nor any associate of the tenderer, has had any discussion concerning the tender that would compromise the integrity of the contractual relationship with the State.

IN WITNESS WHEREOF, the tenderer, through the tenderer's duly authorized representative, hereby declares that the information given in this Statement is true and accurate, and signs the Statement on _____
(Date)

(Signature of tenderer's representative)

(Name of tenderer's representative in block letters)".

8. Section 9 of Schedule 2 is amended by adding "or, for an architecture or engineering contract, excluding a forest engineering contract of the Ministère des Transports, de la Mobilité durable et de l'Électrification des transports or the Société québécoise des infrastructures, 75%" at the end.

9. Sections 1 to 8 apply only to public calls for tenders appearing in notices published on or after (*insert the date of coming into force of this Regulation*).

10. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

Regulation to amend the Regulation respecting construction contracts of public bodies

An Act respecting contracting by public bodies (chapter C-65.1, s. 23, pars. 1 and 3)

1. Section 5 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5) is amended by inserting the following after paragraph 5:

"(5.1) where an evaluation of the quality of a tender is to be made, the evaluation rules to be used, including the evaluation criteria and, for the purposes of Schedule 5, their respective weighting;"

2. Section 6 is amended by inserting the following after subparagraph 2 of the first paragraph:

"(2.1) for the contract for which the call for tenders is made, not propose a person who, during the year preceding the time the tender is submitted, was employed by the public body and, as regards the project, took part in any of the following activities:

- (a) need identification;
- (b) cost estimation;
- (c) work schedule determination;
- (d) risk management;
- (e) preparation of the final call for tenders; and"

3. Section 7 is amended in the first paragraph

- (1) by inserting the following after subparagraph 1:

"(1.1) the form in Schedule 0.1 for the statement of integrity has not been complied with;"

- (2) by striking out "in the case of a tender sent in paper form," in subparagraph 3;

- (3) by inserting the following after subparagraph 5:

"(5.1) the fact that the price submitted and the quality demonstration were not presented separately as required by this Regulation, if applicable; and"

4. The Regulation is amended by inserting the following after section 7.1:

"7.2. The public body must require a statement of integrity in the form in Schedule 0.1."

5. Section 9.2 is amended by adding the following paragraphs:

“If the signature of a person is required on a document and the tender is transmitted electronically, the signature is affixed to the document in paper form, prior to the tender information being transferred to an information technology medium.

The documentation confirming that the tender information has been transferred to an information technology medium in accordance with section 17 of the Act to establish a legal framework for information technology (chapter C-1.1) is transmitted through the electronic tendering system.”

6. Section 11 is amended by inserting the following after the first paragraph:

“Where tender security is required and the tender is transmitted electronically, the tender security must be given in the form of a bond.”

7. The Regulation is amended by inserting the following subdivision after the heading of Division II of Chapter III:

“§0.1. Call for tenders by the Ministère des Transports, de la Mobilité durable et de l’Électrification des transports or the Société québécoise des infrastructures in one stage

21.1. Despite sections 13 and 16, the Ministère des Transports, de la Mobilité durable et de l’Électrification des transports or the Société québécoise des infrastructures may evaluate the quality of a tender to award a construction contract. In such a case, it solicits a price and quality demonstration based on predetermined evaluation criteria.

The price and quality demonstration must be presented separately so that the first paragraph of section 31 may apply.

The public body concerned evaluates the quality of a tender in accordance with Schedule 4 or Schedule 5, as applicable.

If an evaluation is based on the minimum level of quality being attained, the public body concerned must apply the quality evaluation conditions in Schedule 4 and award the contract to the contractor that submits the lowest adjusted price.

If an evaluation is based on level of quality and calculation of value for money, the public body concerned must apply the quality evaluation conditions in Schedule 5 and award the contract to the contractor that submits the lowest adjusted price.”

8. Section 22 is amended by striking out the third paragraph.

9. Section 24 is amended by striking out the second paragraph and the second sentence in the third paragraph.

10. The Regulation is amended by inserting the following Schedule after section 62:

“SCHEDULE 0.1

(s. 7.2)

STATEMENT OF INTEGRITY

1. This Statement of Integrity is provided by, _____
 _____ in relation to
 (Name of tenderer)
 the call for tenders launched by _____
 _____.
 (Name of public body)

2. For the purposes of this Statement, “competitor” means any partnership or other person, other than the tenderer, whether or not associated with the tenderer,

(a) who has submitted a tender;

(b) who could potentially submit a tender in response to the call for tenders based on their qualifications, abilities or experience.

For the same purposes, “associate” means an associate within the meaning of the second paragraph of section 21.2 of the Act respecting contracting by public bodies.

3. The tenderer has arrived at this tender independently from and without agreement or arrangement with any competitor that is in contravention of the Competition Act (R.S.C. 1985, c. C-34), in particular as regards

— prices;

— methods, factors or formulas used to calculate prices;

— a decision to submit, or not to submit, or withdraw a tender; or

— the submitting of a tender that knowingly does not meet the specifications of the call for tenders.

4. Except as concerns a subcontract possibly being entered into, the terms of the tender have not been, and will not be, knowingly disclosed by the tenderer, directly or indirectly, to any competitor, prior to the date and time set for the tender opening, unless otherwise required by law.

5. Neither the tenderer, nor any associate of the tenderer, has had any discussion concerning the tender that would compromise the integrity of the contractual relationship with the State.

IN WITNESS WHEREOF, the tenderer, through the tenderer's duly authorized representative, hereby declares that the information given in this Statement is true and accurate, and signs the Statement on _____.

(Date)

(Signature of tenderer's representative)

(Name of tenderer's representative in block letters)”.

11. Schedule 5 is amended

(1) in section 8

(a) by replacing “15%” in the formula for the quality adjustment factor by “K”;

(b) by adding the following paragraph at the end:

“The value of K is 15% and it expresses as a percentage the increase in what the public body is prepared to pay to move from a 70 point tender to a 100 point tender, for all the criteria.”;

(2) by inserting the following after section 8:

“9. Despite the third paragraph of section 8, where the Ministère des Transports, de la Mobilité durable et de l'Électrification des transports or the Société québécoise des infrastructures awards a contract in accordance with section 21.1, it must specify in the tender documents the value of the parameter K; that value cannot be less than 15% nor greater than 30%.”.

12. Sections 1 to 11 apply only to public calls for tenders appearing in notices published on or after (*insert the date of coming into force of this Regulation*).

13. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

Regulation to amend the Regulation respecting contracting by public bodies in the field of information technologies

An Act respecting contracting by public bodies (chapter C-65.1, s. 23, par. 1)

1. Section 6 of the Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1) is amended by inserting the following after subparagraph 2 of the first paragraph:

“(2.1) for the contract for which the call for tenders is made, not propose a person who, during the year preceding the time the tender is submitted, was employed by the public body and, as regards the project, took part in any of the following activities:

- (a) need identification;
- (b) cost estimation;
- (c) work schedule determination;
- (d) risk management;
- (e) preparation of the final call for tenders; and”.

2. Section 8 is amended in the first paragraph

(1) by inserting the following after subparagraph 1:

“(1.1) the form in Schedule 0.1 for the statement of integrity has not been complied with;”;

(2) by striking out “, in the case of a tender sent in paper form,” in subparagraph 2.

3. The Regulation is amended by inserting the following after section 10:

“**10.1.** The public body must require a statement of integrity in the form in Schedule 0.1.”.

4. Section 13 is amended by adding the following paragraphs:

“If the signature of a person is required on a document and the tender is transmitted electronically, the signature is affixed to the document in paper form, prior to the tender information being transferred to an information technology medium.

The documentation confirming that the tender information has been transferred to an information technology medium in accordance with section 17 of the Act to establish a legal framework for information technology (chapter C-1.1) is transmitted through the electronic tendering system.”

5. The Regulation is amended by inserting the following after section 13:

“**13.0.1.** Where tender security is required and the tender is transmitted electronically, the tender security must be given in the form of a bond. The public body must so specify in the tender documents.”

6. The Regulation is amended by inserting the following Schedule after section 89:

“**SCHEDULE 0.1**
(s. 10.1)

STATEMENT OF INTEGRITY

1. This Statement of Integrity is provided by, _____
_____ in relation to
(Name of tenderer)
the call for tenders launched by _____
(Name of public body)

2. For the purposes of this Statement, “competitor” means any partnership or other person, other than the tenderer, whether or not associated with the tenderer,

(a) who has submitted a tender;

(b) who could potentially submit a tender in response to the call for tenders based on their qualifications, abilities or experience.

For the same purposes, “associate” means an associate within the meaning of the second paragraph of section 21.2 of the Act respecting contracting by public bodies.

3. The tenderer has arrived at this tender independently from and without agreement or arrangement with any competitor that is in contravention of the Competition Act (R.S.C. 1985, c. C-34), in particular as regards

—prices;

—methods, factors or formulas used to calculate prices;

—a decision to submit, or not to submit, or withdraw a tender; or

—the submitting of a tender that knowingly does not meet the specifications of the call for tenders.

4. Except as concerns a subcontract possibly being entered into, the terms of the tender have not been, and will not be, knowingly disclosed by the tenderer, directly or indirectly, to any competitor, prior to the date and time set for the tender opening, unless otherwise required by law.

5. Neither the tenderer, nor any associate of the tenderer, has had any discussion concerning the tender that would compromise the integrity of the contractual relationship with the State.

IN WITNESS WHEREOF, the tenderer, through the tenderer’s duly authorized representative, hereby declares that the information given in this Statement is true and accurate, and signs the Statement on _____
(Date)

(Signature of tenderer’s representative)

(Name of tenderer’s representative in block letters)”.

7. Sections 1 to 6 apply only to public calls for tenders appearing in notices published on or after (insert the date of coming into force of this Regulation).

8. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

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Draft Regulation

Youth Protection Act
(chapter P-34.1)

An Act respecting health services and social services
(chapter S-4.2)

An Act respecting health services and social services for Cree Native persons
(chapter S-5)

Financial assistance to facilitate the adoption and Aboriginal customary adoption of a child

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting financial assistance to facilitate the adoption and Aboriginal customary adoption of a child, appearing below, may be made by the Government on the expiry of 45 days following this publication.