

Draft Regulations

Draft Regulation

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

Contracting by public bodies in the field of information technologies — 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 contracting by public bodies in the field of information technologies, appearing below, may be made by the Government, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation sets out the conditions under which the Centre d'acquisitions gouvernementales may enter into a delivery order contract by mutual agreement for software for the benefit of joint public bodies or public bodies using common support system services provided by the Minister of Cybersecurity and Digital Technology.

The draft Regulation provides that a delivery order contract must relate to a software already held by the public body and it must seek the update or upgrade, the delivery of additional copies or the procurement of an additional software.

The draft Regulation provides that the chief information officer or a member of its staff designated by the chief information officer for that purpose must be of the opinion that the contract relates to software that is likely essential to the functioning of a system used to carry out a mission of the State.

The draft Regulation also provides that a software covered by a delivery order contract must be necessary for the public body to avoid one or more of the following prejudicial effects: being unable to fulfil its mission, adversely affecting the services offered to citizens, enterprises or other public bodies, contravening laws and regulations or substantially duplicating the costs for the common support system services provided by the Minister of Cybersecurity and Digital Technology.

In addition, the draft Regulation provides for an authorization from the chief executive officer of a public body before entering into a delivery order contract by mutual agreement and prior approval for each order.

Lastly, the draft Regulation imposes new accountability measures by adding an annual publication during the term of the contract and a publication at the end of the contract on the electronic tendering system.

The draft Regulation has no impact on the public and on enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained by contacting Robert Villeneuve, Director General, Direction générale de l'encadrement, Sous secrétariat aux marchés publics, Secrétariat du Conseil du trésor, 875, Grande-Allée Est, Québec (Québec) G1R 5R8; telephone: 418 643-0875, extension 4938; email: robert.villeneuve@sct.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister Responsible for Government Administration and Chair of the Conseil du trésor, 875, Grande Allée Est, Québec (Québec) G1R 5R8; email: robert.villeneuve@sct.gouv.qc.ca.

SONIA LEBEL
*Minister Responsible for Government Administration
and Chair of the Conseil du trésor*

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

Act respecting contracting by public bodies
(chapter C-65.1, s. 23, pars. 1 and 5 to 7)

1. 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 section 48:

“DIVISION 1.1 DELIVERY ORDER CONTRACTS RELATING TO CERTAIN SOFTWARE

48.1. A delivery order contract relating to software may be entered into by mutual agreement with a supplier, through the Centre d'acquisitions gouvernementales, where the contract

(1) is for the benefit of joint public bodies or public bodies using common support system services provided by the Minister of Cybersecurity and Digital Technology;

(2) relates to software already held by the public body and whose object is, as the case may be,

(a) the update or upgrade of the software;

(b) the delivery of additional copies of the software for a maximum quantity equal to that held by the public body before entering into the contract except for software used for common support system services provided by the Minister of Cybersecurity and Digital Technology; or

(c) the procurement of software in addition to the software held by the public body where no other interoperable software offering the functionalities and requirements sought exists; and

(3) concerns software that, in the opinion of the chief information officer or a staff member designated by the chief information officer for that purpose, further to a global assessment, is likely essential to the operation of a system used to support the carrying out of the State's mission.

In addition, the software referred to in the first paragraph must be necessary for the public body to avoid

(1) being unable to fulfil its mission;

(2) adversely affecting the services offered to citizens, enterprises or other public bodies;

(3) contravening laws and regulations; or

(4) substantially duplicating the costs for the common support system services provided by the Minister of Cybersecurity and Digital Technology.

48.2. An authorization from the chief executive officer of the public body is required before entering into the contract provided for in section 48.1. The authorization must indicate the object or objects applicable to the situation and the prejudicial effect or effects to be avoided, among those stated respectively in the first and second paragraphs of that section.

The chief executive officer of the public body or the staff member authorized for that purpose must, before the delivery of the software, approve each order placed under the contract. The first paragraph applies to the approval.”.

2. The following is added after section 75:

“**75.1.** At least once a year and at the end of the contract, the Centre d'acquisitions gouvernementales publishes in the electronic tendering system, on behalf of each public body for the benefit of which a contract referred to in section 48.1 has been entered into,

(1) the name of the software;

(2) the name of the supplier;

(3) the number of copies of the software ordered; and

(4) the total amount paid.”.

TRANSITIONAL AND FINAL

3. The second paragraph of section 48.2 of the Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1), as made by section 1 of this Regulation, applies to orders placed under a contract entered into under Décret 1118-2017 dated 22 November 2017, Décret 1195-2019 dated 4 December 2019 or Décret 529-2021 dated 7 April 2021.

4. Section 75.1 of the Regulation respecting contracting by public bodies in the field of information technologies, as made by section 2 of this Regulation, applies to contracts referred to in section 3 provided they are ongoing. Despite the foregoing, the Centre d'acquisitions gouvernementales must not publish the information referred to in paragraph 1 of section 75.1.

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

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