

## Draft Regulation

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

### Certain supply 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, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation relaxes the rules applicable to certain supply contracts of public bodies. To that end, the draft Regulation proposes, in particular, allowing public bodies to use a simplified procedure for requesting a price quotation from suppliers that have previously qualified instead of issuing a call for tenders. The draft Regulation also reviews certain compliance requirements in order to remove them from the mechanism of automatic rejection of tenders. Moreover, with regard to the analysis of tenders with an unusually low price, the draft Regulation provides for a simplified procedure that no longer requires setting up a committee.

The draft Regulation has no impact 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 Robert Villeneuve at the above contact information.

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

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

Act respecting contracting by public bodies  
(chapter C-65.1, s. 23, pars. 1, 3 and 6)

**1.** Section 7 of the Regulation respecting certain supply contracts of public bodies (chapter C-65.1, r. 2) is amended by striking out subparagraph 3 of the first paragraph.

**2.** The following is inserted after section 7.0.1:

“**7.0.2.** Compliance requirements must also indicate that a tender is non-compliant and may be rejected if the tender is conditional or restrictive.”.

**3.** Section 7.1 is amended by striking out “after authorization from the chief executive officer of the public body”.

**4.** Section 8 is amended by adding the following paragraph at the end:

“For the purposes of the first paragraph, supplier also means any person or entity that has, with the supplier, a common director, partner, officer or shareholder that has direct or indirect legal or de facto control of the person or entity and of the supplier.”.

**5.** Section 9 is amended in the fifth paragraph

(1) by inserting “that does not entail an amendment to the tender documents” after “made by a supplier”;

(2) by replacing “less than 3 business days” by “5 business days or less”.

**6.** Section 15 is amended by striking out subparagraph 1 of the second paragraph.

**7.** Section 15.2 is amended by replacing “the committee referred to in section 15.4” by “the public body”.

**8.** Section 15.4 is amended

(1) by replacing “forwards the tender to a committee set up for that purpose for analysis” in the first paragraph by “analyses the tender”;

(2) by striking out the second and third paragraphs.

**9.** Section 15.5 is amended

(1) by replacing “the committee” in the portion before paragraph 1 by “the public body”;

(2) by replacing paragraph 4 by the following:

“(4) the representations made by the supplier concerning the existence of particular facts that have an influence on the tendered price.”.

**10.** Section 15.6 is amended

(1) by replacing “The committee” in the first paragraph by “The public body”;

(2) by striking out the second paragraph;

(3) by replacing “the contract rules compliance monitor” in the third paragraph by “the public body”.

**11.** Section 15.7 is amended by striking out “the contract rules compliance monitor of”.

**12.** Section 15.8 is amended

(1) by replacing “the committee” in the first paragraph by “the public body”;

(2) by replacing the second and third paragraphs by the following:

“If the public body upholds the conclusions of its report, it rejects the tender not later than before the expiry of the period of validity of tenders.”.

**13.** Section 15.9 is revoked.

**14.** The Regulation is amended by inserting the following after section 18.1:

“**18.2.** A delivery order is entered into for a term not exceeding 5 years, including any renewal.”.

**15.** Section 23 is amended by adding the following paragraph at the end:

“Despite section 14, if several suppliers obtain identical results, the public body awards the contract to a supplier according to one of the following rules, which must be specified in the tender documents:

(1) the supplier submitting the tender obtaining the highest score based on the quality criteria having the greatest importance for the carrying out of the contract; that awarding rule cannot be used if there is another criterion of equal importance;

(2) the supplier submitting the tender obtaining the highest final score based on quality;

(3) by a drawing of lots.”.

**16.** Section 25 is revoked.

**17.** Section 26.1 is amended

(1) by replacing “sections 24 and 25” in the first paragraph by “section 24”;

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

“Despite section 14, if several suppliers obtain identical results in the case referred to in the second paragraph or in the second case referred to in the third paragraph, the public body selects a supplier or awards the contract to a supplier according to one of the following rules, which must be specified in the tender documents:

(1) the supplier submitting the tender obtaining the highest score based on the quality criteria having the greatest importance for the carrying out of the contract; that selection or awarding rule cannot be used if there is another criterion of equal importance;

(2) the supplier submitting the tender obtaining the highest final score based on quality; in the case of a contract award, the final score is the highest final score at the second stage;

(3) by a drawing of lots.”.

**18.** Section 32.1 is amended by inserting the following after the first paragraph:

“When the public body plans to make a price request referred to in section 32.3, the public notice referred to in subparagraph 1 of the first paragraph must also indicate, with the necessary modifications, the information required under paragraphs 3 to 6 of section 5 and section 7 applies, with the necessary modifications, to a supplier’s qualification application.”.

**19.** Section 32.3 is amended by inserting “or a price request made to those suppliers” at the end.

**20.** The Regulation is amended by inserting the following after section 32.3:

“**32.4.** A public body making a price request to qualified suppliers sends the suppliers a notice containing the following in particular:

(1) a description of the goods and conditions on which the contract is to be carried out;

(2) if applicable, a description of the options;

(3) the closing date and time for the receiving and opening of documents related to the tendered price;

(4) if applicable, a mention that the document related to the tendered price must be transmitted electronically and that the transmission may only be done through the electronic tendering system.

“**32.5.** The notice to be sent as provided in section 32.4 may be obtained only through the electronic tendering system.

“**32.6.** The tender is automatically rejected in the following cases:

(1) non-compliance with the closing date and time for receiving documents related to the tendered price; despite the foregoing, a document related to the tendered price received after the closing date and time for receiving documents related to the tendered price may not, for that sole reason, be considered non-compliant if the delay is attributable solely to the public body;

(2) the fact that the document related to the tendered price was not transmitted through the electronic tendering system or that it is unintelligible, infected or otherwise illegible once its integrity has been established by the electronic tendering system.

The filing by a supplier of several documents related to the tendered price for the same notice entails automatic rejection of the supplier’s tender. For the purposes of this paragraph, transmitting the same document electronically and in paper form is deemed to a filing of several documents related to the tendered price.

“**32.7.** Sections 7.0.1 and 10.1 apply, with the necessary modifications, to a document related to the tendered price.

“**32.8.** The public body opens the documents related to the tendered price only in the presence of the witness at the designated place and on the date and time set in the price request made to the suppliers.

The public body publishes in the electronic tendering system the names of the suppliers that submitted a document related to the tendered price within 4 business days after awarding the contract.

“**32.9.** The public body evaluates the documents related to the tendered price received, ensuring that the tenders are compliant.

If the public body rejects a tender because the document related to the tendered price is non-compliant, it must so inform the supplier and give the reason for the rejection not later than 15 days after awarding the contract.

“**32.10.** Sections 39 to 39.2 apply, with the necessary modifications, to a contract entered into following a price request.”.

**21.** Division I of Chapter VI, comprising section 33, is revoked.

**22.** Section 38 is amended by replacing “15” in the portion before paragraph 1 by “30”.

**23.** Section 38.1 is amended

(1) by replacing “60” in the first paragraph by “120”;

(2) by inserting “annually” in the second paragraph after “publishes”.

**24.** Section 38.2 is amended by adding the following at the end of the second paragraph:

“(4) the amount of any additional expenditure that has not been published in accordance with section 38.1.”.

**25.** Section 39.1 is amended

(1) by replacing “60” in the first paragraph by “120”;

(2) by inserting “annually” in the second paragraph after “publishes”.

**26.** Section 39.2 is amended by adding the following at the end of the third paragraph:

“(5) the amount of any additional expenditure that has not been published in accordance with section 39.1.”.

**27.** Contract award procedures begun before the coming into force of the provisions of this Regulation that apply to them are continued in accordance with the provisions in force on the date on which the procedures were begun.

In addition, any contract in progress on the date of coming into force of the provisions of this Regulation that apply to the contract is continued in accordance with the provisions in force on the day preceding that date of coming into force.

Despite the first and second paragraphs, a public body may, as regards the award procedures for a contract or contracts referred to in those paragraphs, apply sections 22 to 26 of this Regulation.

**28.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except sections 18 to 20 which come into force on (insert the date that is 6 months after the date of publication of this Regulation in the *Gazette officielle du Québec*).

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## Draft Regulation

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

### Construction 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 construction contracts of public bodies, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation relaxes the rules applicable to construction contracts of public bodies. To that end, the draft Regulation proposes, in particular, allowing public bodies to use a simplified procedure for requesting a price quotation from contractors that have previously qualified instead of issuing a call for tenders. The draft Regulation also reviews certain compliance requirements in order to remove them from the mechanism of automatic rejection of tenders. Moreover, with regard to the analysis of tenders with an unusually low price, the draft Regulation provides for a simplified procedure that no longer requires setting up a committee.

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

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## Regulation to amend the Regulation respecting construction contracts of public bodies

Act respecting contracting by public bodies  
(chapter C-65.1, s. 23, pars. 1, 3 and 6)

**1.** Section 4 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5) is amended by inserting the following after subparagraph 2.1 of the second paragraph:

“(2.2) if applicable, a mention that individual information meetings will be held with the contractors pursuant to sections 22 and 26;”.

**2.** Section 5 is amended by striking out paragraph 7.

**3.** Section 7 is amended in the first paragraph

(1) by replacing subparagraph 2 by the following:

“(2) the absence of required security or the absence of a signature on such security;”;

(2) by striking out subparagraph 4.

**4.** The following is inserted after section 7.0.1:

“**7.0.2.** Compliance requirements must also indicate that a tender is non-compliant and may be rejected if

(1) the security provided does not comply with the form and conditions required, excepting the absence of a signature on the security; or

(2) the tender is conditional or restrictive.”.

**5.** Section 7.1 is amended by striking out “after authorization from the chief executive officer of the public body”.