

**37.** Section 42.2 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 42.1.”

**38.** Section 48 is revoked.

**39.** Section 55 is amended by adding the following paragraph at the end:

“The situation of a contractor whose rank has been modified by a public body or from whom a public body no longer solicits task order contracts is not to be considered unsatisfactory performance pursuant to the second paragraph of section 20.1.”

**40.** Section 60 is revoked.

**41.** Schedule 5 is amended in section 8

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

(2) by inserting the following paragraphs at the end:

“K is the additional percentage that the public body is willing to pay to move from a 70-point tender to a 100-point tender, for all criteria.

For a contract for construction work referred to in section 24 or 26 of this Regulation, the public body determines the value of K in the public tender documents; that value cannot be less than 15% nor more than 30%;

For a mixed contract for construction work and professional services referred to in section 24 or 26 of this Regulation, the public body determines the value of K in the public tender documents; that value cannot be less than 15% nor more than 40%.”

**42.** 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 33 to 37 of this Regulation.

**43.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except sections 27 to 29 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*).

106776

## 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 on the expiry of 45 days following this publication.

The draft Regulation relaxes the rules applicable to contracting by public bodies in the field of information technologies. To that end, the draft Regulation proposes, in particular, allowing public bodies to use a simplified procedure for requesting a price quotation from suppliers or service providers 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 contracting by public bodies in the field of information technologies**

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

**1.** Section 7 of the Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1) is amended by adding the following paragraph at the end:

“For the purposes of the first paragraph, tenderer also means any person or entity that has, with the tenderer, 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 tenderer.”

**2.** Section 8 is amended by striking out subparagraph 3 of the first paragraph.

**3.** The following is inserted after section 9:

“**9.1.** Compliance requirements must also indicate that a tender is non-

compliant and may be rejected if the tender is conditional or restrictive.”

**4.** Section 10 is amended by striking out “after authorization from the chief executive officer of the public body”.

**5.** Section 11 is amended in the fifth paragraph

(1) by inserting “that does not entail an amendment to the tender documents” after “as the case may be,”;

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

**6.** Section 17 is amended by adding the following paragraph at the end:

“Despite section 29, if several tenderers obtain identical results, the public body awards the contract to a tenderer according to one of the following rules, which must be specified in the tender documents:

(1) the tenderer 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 tenderer submitting the tender obtaining the highest final score based on quality;

(3) by a drawing of lots.”

**7.** Section 18 is amended by adding the following paragraph at the end:

“Despite section 29, if several tenderers 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 tenderer or awards the contract to a tenderer according to one of the following rules, which must be specified in the tender documents:

(1) the tenderer 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 tenderer 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.”

**8.** Section 20 is amended by adding the following paragraph at the end:

“If several tenderers obtain identical results, the public body invites a tenderer to take part in the competitive dialogue according to one of the following rules, which must be specified in the tender documents:

(1) the tenderer 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 rule cannot be used if there is another criterion of equal importance;

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

(3) by a drawing of lots.”

**9.** Section 22 is amended by adding the following paragraph at the end:

“Despite section 29, if several tenderers obtain identical results, the public body awards the contract to a tenderer according to one of the following rules, which must be specified in the tender documents:

(1) the tenderer 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 tenderer submitting the tender obtaining the highest final score based on quality;

(3) by a drawing of lots.”.

**10.** Section 28 is amended by striking out subparagraph 1 of the second paragraph.

**11.** Section 33 is amended by replacing “the committee referred to in section 35” by “the public body”.

**12.** Section 35 is amended

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

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

**13.** Section 36 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 tenderer concerning the existence of particular facts that have an influence on the tendered price.”.

**14.** Section 37 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”.

**15.** Section 38 is amended by striking out “the contract rules compliance monitor of”.

**16.** Section 39 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.”.

**17.** Section 40 is revoked.

**18.** Section 47 is amended by adding the following paragraph at the end:

“If a service provider has refused to perform several task order contracts awarded, the public body may modify the service provider’s rank or no longer solicit the service provider for subsequent task order contracts. The tender documents must provide for that possibility and the duration of its validity, and specify the number of refusals that gives rise to that eventuality.”.

**19.** Section 54 is amended by inserting the following after the first paragraph:

“Where the public body plans to make a price request referred to in section 56, the public notice referred to in subparagraph 1 of the first paragraph must also indicate, with the necessary modifications, the information required in paragraphs 3 to 7 of section 5 and section 8 applies, with the necessary modifications, to a supplier’s or service provider’s qualification application.”.

**20.** Section 56 is amended by inserting “or a price request made to those suppliers or service providers” at the end.

**21.** The Regulation is amended by inserting the following after section 56:

“**56.1.** A public body making a price request to qualified suppliers or service providers sends them a notice containing the following in particular:

(1) a description of the goods or services 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.

“**56.2.** The notice to be sent as provided in section 56.1 may be obtained only through the electronic tendering system.

“**56.3.** 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 or service provider of several documents related to the tendered price for the same notice entails automatic rejection of the supplier’s or service provider’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.

“**56.4.** Sections 9 and 23 apply, with the necessary modifications, to a document related to the tendered price.

“**56.5.** 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 or service providers.

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

“**56.6.** 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 or service provider and give the reason for the rejection not later than 15 days after awarding the contract.

“**56.7.** Sections 73 to 75 apply, with the necessary modifications, to a contract entered into following a price request.”

**22.** Division I of Chapter VIII, comprising section 57, is revoked.

**23.** Section 68 is amended by replacing “15” in the portion before paragraph 1 by “30”.

**24.** Section 70 is amended

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

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

**25.** Section 71 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 70.”

**26.** Section 74 is amended

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

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

**27.** Section 75 is amended by adding the following at the end of third paragraph:

“(5) the amount of any additional expenditure that has not been published in accordance with section 74.”

**28.** Section 79 is amended by adding the following paragraph at the end:

“The situation of a service provider whose rank has been modified by a public body or from whom a public body no longer solicits task order contracts is not to be considered unsatisfactory performance pursuant to the second paragraph of section 47.”

**29.** 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 23 to 27 of this Regulation.

**30.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except sections 19 to 21 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*).

106779

## Draft Regulation

Cities and Towns Act  
(chapter C-19)

Municipal Code of Québec  
(chapter C-27.1)

Act respecting elections and referendums in municipalities  
(chapter E-2.2)

### Types of businesses from which goods may be acquired or leased

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation determining, for the purposes of section 116.0.1 of the Cities and Towns Act, article 269.1 of the Municipal Code of Québec and section 305.0.1 of the Act respecting elections and referendums in municipalities, the types of businesses from which goods may be acquired or leased, appearing below, may be made by the Minister of Municipal Affairs, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation determines the types of businesses from which goods may be acquired or leased, for the purposes of section 116.0.1 of the Cities and Towns Act (chapter C-19), article 269.1 of the Municipal Code of Québec (chapter C-27.1) and section 305.0.1 of the Act respecting elections and referendums in municipalities (chapter E-2.2).

Further information on the draft Regulation may be obtained by contacting Marc-André Bélanger, 10, rue Pierre-Olivier-Chauveau, Aile Chauveau, 3<sup>e</sup> étage, Québec (Québec) G1R 4J3; telephone: 418 691-2015, extension 83866; email: marc-andre.belanger@mamh.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Marc-André Bélanger at the above contact information.

ANDRÉE LAFOREST  
*Minister of Municipal Affairs*

## Regulation determining, for the purposes of section 116.0.1 of the Cities and Towns Act, article 269.1 of the Municipal Code of Québec and section 305.0.1 of the Act respecting elections and referendums in municipalities, the types of businesses from which goods may be acquired or leased

Cities and Towns Act  
(chapter C-19, s. 116.0.1, 2nd par.)

Municipal Code of Québec  
(chapter C-27.1, art. 269.1, 2nd par.)

Act respecting elections and referendums in municipalities  
(chapter E-2.2, s. 305.0.1, 2nd par.)

**1.** For the purposes of section 116.0.1 of the Cities and Towns Act (chapter C-19), article 269.1 of the Municipal Code of Québec (chapter C-27.1) and section 305.0.1 of the Act respecting elections and referendums in municipalities (chapter E-2.2), the types of businesses from which goods may be acquired or leased are the following:

- (1) food and catering businesses;
- (2) service stations;
- (3) pharmacies;
- (4) hardware stores;
- (5) businesses offering mechanical parts for sale; and
- (6) businesses offering machinery or tools for lease.

**2.** 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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