

Draft Regulation

An Act respecting contracting by public bodies
(2006, c. 29)

Service contracts of public bodies

- Tariff of fees for professional services rendered to the Government
- Architects' Fees (Services to Government) Regulation
- Tarif d'honoraires pour services professionnels fournis au Gouvernement par des ingénieurs

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting service contracts of public bodies and amending other regulatory provisions, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation determines the conditions governing service contracts entered into by public bodies subject to the Act respecting contracting by public bodies (2006, c. 29). In compliance with all applicable intergovernmental agreements, it aims to promote the objectives set out in section 2 of the Act respecting contracting by public bodies that include transparency in contracting processes, honest and fair treatment of tenderers, and accountability reporting by the chief executive officers of public bodies to verify the proper use of public funds.

The draft Regulation also proposes to revoke the provisions of the following regulations and by-laws currently applicable to service contracts: the Regulation respecting supply contracts, construction contracts and service contracts of government departments and public bodies, made by Order in Council 961-2000 dated 16 August 2000, the By-law respecting special rules governing supply contracts, construction contracts, and services contracts of the Société immobilière du Québec, approved by Order in Council 76-96 dated 24 January 1996, the By-law concerning special rules respecting certain contracts entered into by the Société québécoise d'assainissement des eaux, approved by Order in Council 1229-94 dated 17 August 1994, the Regulation respecting the application of the Act respecting health services and social services (R.R.Q., 1981, c. S-5, r.1) and the Regulation respecting contracts of the Corporation d'hébergement du Québec, approved by Order in Council 972-2001 dated 23 August 2001.

It also amends the Tariff of fees for professional services provided to the Government (R.R.Q., 1981, c. A-6, r.30), the Architects' Fees (Services to Government) Regulation, made by Order in Council 2402-84 dated 31 October 1984, and the Tarif d'honoraires pour services professionnels fournis au Gouvernement par des ingénieurs, made by Order in Council 1235-87 dated 12 August 1987, so that the prescribed tariffs may apply to every public body subject to the Act respecting contracting by public bodies.

The draft Regulation has no significant impact on the public. It will lighten the administrative burden of enterprises since they will be subject to only one regulation, which should also reduce their administrative expenses.

Further information on the draft Regulation may be obtained by contacting Lucien Turcotte, Director, Réglementation en biens et services, Secrétariat du Conseil du trésor, 875, Grande Allée Est, Québec (Québec) G1R 5R8; telephone: 418 644-3421; fax: 418 528-6877; e-mail: lucien.turcotte@sct.gouv.qc.ca

Any interested person wishing to comment on the draft Regulation may do so before the expiry of the 45-day period by writing to the Minister responsible for Government Administration and Chair of the Conseil du trésor, 875, Grande Allée Est, Québec (Québec) G1R 5R8.

MONIQUE JÉRÔME FORGET,
*Minister responsible for
Government Administration and
Chair of the Conseil du trésor*

Regulation respecting service contracts of public bodies and amending other regulatory provisions

An Act respecting contracting by public bodies
(2006, c. 29, s. 23)

CHAPTER I SCOPE

1. This Regulation applies to service contracts referred to in subparagraph 3 of the first paragraph of section 3 of the Act respecting contracting by public bodies (2006, c. 29) and contracts considered as such under the third paragraph of that section.

2. For the purposes of this Regulation, the electronic tendering system is the system approved by the Government under section 11 of the Act.

CHAPTER II

PUBLIC CALL FOR TENDERS

DIVISION I

GENERAL

3. A public call for tenders must be made in accordance with the provisions of this Chapter.

If a public body makes a public call for tenders to award a contract involving an expenditure below the public tender threshold referred to in subparagraph 1 of the first paragraph of section 10 of the Act, the tender closing date set out in subparagraph 6 of the second paragraph of section 4, the requirement as to the place of the establishment set out in subparagraph 2 of the first paragraph of section 6, the time for sending an addendum set out in the second paragraph of section 9 and the composition of the selection committee provided for in the second paragraph of section 26 may differ.

In the case of a contract referred to in Chapter III, the public call for tenders must comply with the special provisions of that chapter.

DIVISION II

TENDER DOCUMENTS

4. Every public call for tenders is made by publishing a notice on the electronic tendering system.

The notice forms part of the tender documents and must specify and contain

- (1) the name of the public body;
- (2) a brief description of the services required;
- (3) the nature and amount of any required tender security;
- (4) whether or not an intergovernmental agreement within the meaning of section 2 of the Act applies;
- (5) the place where the tender documents or information may be obtained;
- (6) the place as well as the closing and opening dates and times, the closing date being not less than 15 days after the date on which the notice is published; and
- (7) the fact that the public body is not bound to accept any tender.

5. In its tender documents, a public body must provide

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

(2) in the case of a joint call for tenders within the meaning of section 15 of the Act, the identity of every public body and legal person established in the public interest that are parties to the joint call for tenders;

(3) the eligibility requirements of service providers and the compliance requirements for tenders;

(4) a list of the documents or other items required from service providers;

(5) the tender opening procedure;

(6) where a quality evaluation of tenders is to be made, the evaluation rules, including the criteria selected and, where applicable, their respective weighting;

(7) the contract award rule, including any calculation to be applied before awarding the contract;

(8) the contract to be signed; and

(9) any other particular required under this Regulation.

In the case referred to in subparagraph 2 of the first paragraph, every party to a joint call for tenders must use the services of the selected provider, on the conditions specified in the tender documents.

6. In order to submit a tender, a service provider must meet the following eligibility requirements:

(1) have all the necessary qualifications, authorizations, permits, licences, registrations, certificates, accreditations and attestations;

(2) have in Québec or in a territory covered by an applicable intergovernmental agreement an establishment where activities are carried on on a permanent basis, clearly identified under the service provider's name and accessible during regular business hours; and

(3) meet any other eligibility requirement specified in the tender documents.

Despite subparagraph 2 of the first paragraph, if competition is insufficient, the public body may make eligible any service provider that has an establishment in a territory not covered by an applicable intergovernmental agreement, provided that the public body so specifies in the tender documents.

A service provider who fails to comply with any of those requirements is ineligible.

7. Compliance requirements must specify the cases that will entail automatic rejection of a tender, namely

- (1) the place or the closing date or time has not been complied with;
- (2) a required document is missing;
- (3) the required signature of an authorized person is missing;
- (4) an erasure of or correction to the tendered price is not initialled;
- (5) the tender is conditional or restrictive;
- (6) the price submitted and the quality demonstration are not presented separately as required by section 16, where applicable; and
- (7) any other compliance requirement stated in the tender documents as entailing automatic rejection of a tender has not been complied with.

8. Provided that it is specified in the tender documents, a public body may refuse to consider any service provider who, in the two years preceding the tender opening date, has been given an unsatisfactory performance report by the public body, failed to follow up on a tender or contract or has had a contract cancelled because of failure to comply with the contract conditions.

9. A public body may amend the tender documents by sending an addendum to the service providers concerned.

If the amendment is likely to affect the prices, the addendum must be sent at least 5 days before the tender closing time; if that 5-day period cannot be complied with, the closing time must be extended by the number of days needed to ensure compliance with the 5-day period.

DIVISION III SERVICE CONTRACTS OF A TECHNICAL NATURE

§1. Calling for and opening of tenders

10. A public body solicits solely a price to award a service contract of a technical nature.

11. Tenders are opened by the public body at a public opening in the presence of a witness at the designated place and on the date and time fixed in the tender documents, unless the tenders are in the form of a price list whose scope or layout does not make it possible to specify a total price.

At the public opening, the names of the service providers and their respective total prices are disclosed, subject to subsequent verifications.

Within 4 business days, the public body must make the tender opening results available on the electronic tendering system.

§2. Evaluation of tenders and contract awarding

12. The public body evaluates the tenders received, ensuring that the service providers are eligible and their tenders are compliant.

If the public body rejects a tender because the provider is ineligible or the tender is non-compliant, it must so inform the service provider and give the reason for the rejection no later than 15 days after awarding the contract.

13. A public body awards the contract to the service provider who submits the lowest price.

14. If several service providers obtain identical results following a call for tenders, the contract is awarded by a drawing of lots.

15. The public body awards the contract on the basis of the procurement requirements described and the rules established in the tender documents and according to the price submitted.

The public body may, however, negotiate the price submitted and the price stipulated in the contract may be less than the price submitted if

- (1) only one service provider submitted a compliant tender;
- (2) the service provider agreed to a new price; and
- (3) it is the only change made to the conditions set out in the tender documents or to the tender in the course of the negotiation.

DIVISION IV PROFESSIONAL SERVICE CONTRACTS

§1. Calling for and opening of tenders

16. A public body must evaluate the quality of a tender to award a professional service contract; the public body must request a price, if required, and a quality demonstration based on predetermined evaluation criteria.

The price and the quality demonstration must be presented separately so that the first paragraph of section 26 may apply.

17. The provisions of the first paragraph of section 11 apply to a professional service contract. At the public opening of tenders, only the names of the service providers are disclosed and the results of the opening are made available in accordance with the third paragraph of that section.

§2. Evaluation of tenders and contract awarding

18. The provisions of section 12 apply to professional service contracts.

19. The public body must evaluate quality as provided in Schedule 1 or Schedule 2, as the case may be.

20. Where an evaluation is based on a minimum level of quality, the public body must apply the evaluation conditions in Schedule 1 and award the contract to the service provider who submitted the lowest price.

21. Where an evaluation is based on measurement of the level of quality followed by calculation of the price-quality ratio, the public body must apply the evaluation conditions in Schedule 2 and award the contract to the service provider who submitted the lowest adjusted price.

22. Where an evaluation is based solely on measurement of the level of quality, the public body must apply the evaluation conditions in sections 1 to 7 of Schedule 2 and award the contract to the service provider whose acceptable tender obtained the highest final score.

23. A public body may solicit only a quality demonstration if a tariff applicable to the contract concerned exists and has been established under an Act or approved by the Government or the Conseil du trésor.

24. Despite section 23, a public body may solicit only a quality demonstration to award an architecture or engineering contract, excluding a forest engineering contract.

If such a contract, excluding a contract for soils and materials engineering, involves an expenditure below \$250,000 and a regionalized public call for tenders is issued, the project manager must be a permanent resource of the service provider. The workplace of the permanent resource must be an establishment of the provider that has been in the region specified in the tender documents for at least 2 months before the tender closing date.

For the purposes of the second paragraph, permanent resource means a natural person who, on an annual basis, devotes at least 75% of his or her working time to the service provider and at least 1,100 hours.

25. A public body may make a public call for tenders in two stages in order to award a contract.

At the first stage, the public body selects service providers by soliciting only a quality demonstration. The tender documents must indicate whether every selected service provider or only a limited number of them will be invited to take part in the second stage.

The selection committee evaluates the quality of a tender according to the following conditions and procedure:

(1) if all the selected service providers are invited to take part in the second stage, the quality of a tender is evaluated in accordance with the evaluation conditions in Schedule 1 and all the providers who meet at least the minimum quality level are retained;

(2) if only a limited number of service providers are invited to take part in the second stage, the quality of a tender is evaluated in accordance with the evaluation conditions in sections 1 to 7 of Schedule 2 and only those who obtain the highest final scores are retained.

At the second stage, the public body invites the selected service providers to submit a tender that includes only a price or a quality demonstration with or without a price.

If only a price is required, sections 10 to 15 apply and, where the quality level of a tender is evaluated, sections 16 to 24 and 26 to 28 apply.

26. Tenders are to be evaluated by a selection committee set up for that purpose by the public body. If a price is submitted, the committee must evaluate quality without knowing the price submitted.

The selection committee must be composed of a secretary in charge of coordinating activities and of at least three members.

27. The provisions of sections 14 and 15 apply to a professional service contract, except that the condition in subparagraph 1 of the second paragraph of section 15 is that only one service provider must have submitted an acceptable tender.

28. The public body must inform each tenderer of the results of the tender quality evaluation within 15 days after awarding the contract.

If Schedule 1 applies, the particulars sent to tenderers are

(1) confirmation that their tender was accepted or not; and

(2) the name of and price submitted by the successful tenderer.

If Schedule 2 applies, the particulars sent to tenderers are

(1) confirmation that their tender was accepted or not;

(2) their quality score, their adjusted price and their rank according to the adjusted prices, where applicable; and

(3) the name, quality score and price of the successful tenderer, and the resulting adjusted price.

29. Except for contracts for financial or banking services, sections 16 to 28 apply where the public body evaluates the quality of a tender following an invitation to tender. However, the composition of the selection committee provided for in the second paragraph of section 26 may differ.

CHAPTER III SPECIAL RULES FOR AWARDING CONTRACTS

DIVISION I TASK ORDER CONTRACTS

30. A public body may enter into a task order contract with one or more service providers when the procurement requirements are recurrent and the number of requests and the rate or frequency at which they are to be performed are uncertain.

31. The public body must indicate in the tender documents the approximate monetary value of the services that the public body intends to request.

32. If the task order contract is entered into with more than one service provider, the performance requests are made to the service provider who submitted the lowest price, unless the provider cannot perform the service, in which case the other providers are solicited according to their respective rank.

DIVISION II SERVICE CONTRACTS OF A TECHNICAL NATURE

33. Despite section 10, a public body may decide to evaluate the quality of a tender in order to award a service contract of a technical nature and must then apply the provisions of Division IV of Chapter II.

DIVISION III PROFESSIONAL SERVICE CONTRACTS

34. Despite section 16, a public body may, except in the cases provided for in section 24, decide to solicit only a price in order to award a professional service contract; the public body must then apply the provisions of Division III of Chapter II.

CHAPTER IV SPECIAL CONTRACTS

DIVISION I LEGAL SERVICE CONTRACTS

35. A legal service contract may be entered into by mutual agreement.

36. For the public bodies referred to in subparagraph 1 of the first paragraph of section 4 of the Act, a legal service contract is entered into by the Minister of Justice or with the Minister's consent.

DIVISION II FINANCIAL OR BANKING SERVICE CONTRACTS

37. A financial or banking service contract may be entered into by mutual agreement.

38. For the public bodies referred to in subparagraph 1 or 2 of the first paragraph of section 4 of the Act, a financial or banking service contract is entered into by the Minister of Finance or with the Minister's consent.

DIVISION III ADVERTISING CAMPAIGN CONTRACTS

39. A public body may solicit only a quality demonstration to award an advertising campaign contract.

The amount indicated in the contract may not be greater than the amount predetermined in the tender documents.

DIVISION IV TRANSPORT INFRASTRUCTURE CONTRACTS

40. In the case of professional services for engineering or land surveying relating to transport infrastructures for which only a quality demonstration is solicited in accordance with section 23 or 24, the special awarding rules below may be applied with the authorization of the Minister of Transport if

(1) following a public call for tenders, contracts are awarded to more than one service provider, despite section 22; or

(2) a delivery order contract is awarded to more than one service provider, despite section 32.

For the purposes of subparagraph 1 of the first paragraph, contracts are awarded to the service providers whose acceptable tenders obtained the highest final scores. If the monetary value of the contracts differs, the contract with the highest value is awarded to the service provider whose acceptable tender obtained the highest final score, and so on.

For the purposes of subparagraph 2 of the first paragraph, the tender documents must indicate whether all or a limited number of the service providers who submitted an acceptable tender will be retained. If the case of a limited number, the service providers retained are those who obtained the highest final scores. Performance requests are then distributed among the service providers retained in a fair manner that takes into account the objectives set out in subparagraphs 2 and 6 of the first paragraph of section 2 of the Act.

DIVISION V TRAVEL SERVICE CONTRACTS

41. A public body may solicit only a quality demonstration to award a travel service contract involving an expenditure equal to or above the public tender threshold.

In that case, the public body negotiates the amount of the contract with the service provider whose acceptable tender obtained the highest score for quality.

CHAPTER V QUALIFICATION OF SERVICE PROVIDERS

42. A public body may qualify service providers prior to the acquisition process if

(1) the qualification of service providers is preceded by a public notice to that effect on the electronic tendering system;

(2) a list of the qualified service providers is published on the electronic tendering system and every provider is informed of entry on the list or the reason for refusal if entry is denied; and

(3) a public notice of qualification is published again at least once a year, even though the public body may qualify service providers at intervals varying from 1 to 3 years.

43. Where the public body evaluates the quality of applications for qualification, it must apply the evaluation conditions in Schedule 1 or in sections 1 to 7 of Schedule 2.

44. Except in the cases described in section 13 of the Act, every contract subsequent to the qualification of service providers is limited to qualified providers only and, if a contract involves an expenditure equal to or above the public tender threshold, it must be awarded through a public call for tenders.

CHAPTER VI CONDITIONS TO BE MET PRIOR TO ENTERING INTO CONTRACTS

DIVISION I REQUIRED AUTHORIZATION

45. The authorization of the chief executive officer of the public body is required for every contract of a repetitive nature whose expected term is greater than 3 years. Despite the foregoing, the chief executive officer of the public body may not authorize a contract whose expected term is greater than 5 years, including any renewal.

Authorization is also required before entering into a contract involving an expenditure equal to or above the public tender threshold if

(1) only one service provider submitted a compliant tender; or

(2) only one service provider submitted an acceptable tender following a quality evaluation.

In the case provided for in subparagraph 2 of the second paragraph, the selection committee must not know the price and the chief executive officer of the public body is to determine whether or not the awarding process should be continued.

DIVISION II AFFIRMATIVE ACTION PROGRAM

46. This Division applies only to public bodies referred to in subparagraph 1 or 2 of the first paragraph of section 4 of the Act.

47. Where the amount of a service contract is \$100,000 or more, or where the amount of a service subcontract is \$100,000 or more, the contract or subcontract may not be entered into with a Québec service provider or subcontractor whose business employs more than 100 persons unless the service provider or subcontractor has made a commitment to implement an affirmative action program that complies with the Charter of human rights and freedoms (R.S.Q., c. C-12) and holds an attestation to that effect issued by the Chair of the Conseil du trésor.

If such a contract or subcontract is to be entered into with a service provider or subcontractor outside Québec but within Canada whose business employs more than 100 persons, the service provider or subcontractor must provide an attestation to the effect that the service provider or subcontractor has already made a commitment to implement an employment equity program of the province or territory concerned, as applicable, or failing that, to implement a federal employment equity program.

48. The Chair of the Conseil du trésor is to cancel the attestation issued to any Québec service provider who does not fulfil a commitment to implement an affirmative action program. Such a service provider may not enter into a service contract or subcontract as long as a new attestation has not been issued.

A service provider located outside Québec but in Canada whose attestation referred to in the second paragraph of section 47 has been revoked may not enter into a service contract or subcontract as long as a new attestation has not been issued.

DIVISION III QUALITY ASSURANCE, SUSTAINABLE DEVELOPMENT AND ENVIRONMENT

49. A public body may require a quality assurance system, including the ISO 9001:2000 standard, or a specification relating to sustainable development and the environment for the carrying out of a contract. The public body must specify the requirement in the tender documents.

If such a requirement unduly reduces competition, the public body must allow any service provider to submit a tender and grant to a service provider that fulfils the requirement referred to in the first paragraph a preferential margin not exceeding 10%. In the latter case, the price submitted by such a service provider is, for the sole purpose of determining the successful tenderer, reduced by the preferential margin, without any effect on the price for contract awarding purposes.

The percentage of the preferential margin to be applied must be indicated in the tender documents.

In the case of a contract whose quality evaluation is based solely on the quality measurement, the public body must ascertain that there is enough competition to allow the first paragraph to apply.

CHAPTER VII ACCOUNTABILITY REPORTING

50. Following a public call for tenders, the public body must publish on the electronic tendering system, within 15 days of the awarding of the contract, the name of the successful tenderer and the amount of the contract.

In the case of a task order contract involving several service providers, the public body must publish their names and their respective total price.

If the contract involves price lists whose scope or layout prevents an integral publication, the public body must indicate on the electronic tendering system how information on the results may be obtained.

51. The public body must publish on the electronic tendering system, at least once every 6 months, a list of the contracts involving an expenditure greater than \$25,000 entered into by mutual agreement or following an invitation to tender, except contracts involving confidential or protected information within the meaning of subparagraph 3 of the first paragraph of section 13 of the Act.

52. The list to be published pursuant to section 51 must contain at least the following information:

(1) the name of the service provider, the date and the amount of the contract;

(2) the nature of the service to be provided under the contract; and

(3) in the case of a contract by mutual agreement involving an expenditure above the public tender threshold, the provision in the Act or Regulation under which the contract was awarded.

CHAPTER VIII

CONTRACT MANAGEMENT CONDITIONS

DIVISION I

SETTLEMENT OF DISPUTES

53. The public body and the service provider must attempt to amicably settle any difficulty that may arise out of a contract by resorting to the dispute resolution clauses in the contract, if any.

If the matter cannot be settled in that manner, it may be referred to a court of justice or an adjudicative body, as the case may be, or to an arbitrator. In the latter case, a general or special authorization from the Minister of Justice is required for public bodies referred to in subparagraph 1 or 2 of the first paragraph of section 4 of the Act.

DIVISION II

PERFORMANCE EVALUATION

54. A public body must record in a report the evaluation of any service provider whose performance is considered to be unsatisfactory.

55. The public body must complete its evaluation not later than 60 days after the end of the contract and send a copy of the evaluation to the service provider.

56. A service provider may forward comments in writing on the report to the public body within 30 days following receipt of a report of unsatisfactory performance.

57. Within 30 days after the expiry of the time in section 56 or following receipt of the service provider's comments, as the case may be, the chief executive officer of the public body is to uphold or cancel the evaluation and inform the service provider of the decision. If the

chief executive officer fails to act within the prescribed time, the service provider's performance is considered to be satisfactory.

DIVISION III

PAYMENT

58. Payment of any contract entered into in contravention of the provisions of this Regulation is subject to authorization by the Minister responsible.

CHAPTER IX

TRANSITIONAL AND FINAL

59. A public body must implement the provisions of subparagraph 2 of the first paragraph of section 5 within 2 years after the coming into force of this Regulation. Within that period, the public body must at least state, in the tender documents, the public bodies and legal persons established in the public interest that are or are likely to be parties to the joint call for tenders.

In that case, the present and future parties to the joint call for tenders must deal with the selected service provider, on the conditions set out in the tender documents.

60. The Tariff of fees for professional services provided to the Government (R.R.Q., 1981, c. A-6, r.30) is amended

(1) by replacing section 2 by the following:

“2. Scope: This Tariff applies to all service contracts with land surveyors made in the name of the public bodies defined in section 4 of the Act respecting contracting by public bodies (2006, c. 29).”;

(2) by replacing subparagraph *d* of the first paragraph of section 3 by the following:

“(d) “client”: a public body to which this Regulation applies;”;

(3) by striking out subparagraph *l* of the first paragraph of section 3;

(4) by striking out the first paragraph of section 99;

(5) by replacing “Conseil du trésor” in the second paragraph and the first sentence of the third paragraph by “chief executive officer of the public body within the meaning of section 8 of the Act respecting contracting by public bodies”;

(6) by replacing “instructions issued by the Conseil du trésor” in the third paragraph of section 107 by “Règles sur les frais de déplacement des personnes engagées à honoraires, made by Conseil du trésor Decision 170100 dated 14 March 1989, including expenditures incurred for contracts with the public bodies referred to in subparagraphs 3 to 6 of the first paragraph of section 4 of the Act respecting contracting by public bodies”;

(7) by revoking Divisions IV, V, VI, VIII and IX.

61. The Architects’ Fees (Services to Government) Regulation, made by Order in Council 2402-84 dated 31 October 1984, is amended

(1) by replacing section 1 by the following:

“1. This Regulation applies to the public bodies defined in section 4 of the Act respecting contracting by public bodies (2006, c. 29.”);

(2) by replacing “directives issued for the purpose by the Conseil du trésor” in subparagraph 3 of the first paragraph of section 25 by “Règles sur les frais de déplacement des personnes engagées à honoraires, made by Conseil du trésor Decision 170100 dated 14 March 1989, including expenses incurred for contracts with the public bodies referred to in subparagraphs 3 to 6 of the first paragraph of section 4 of the Act respecting contracting by public bodies”.

62. The Tarif d’honoraires pour services professionnels fournis au Gouvernement pas des ingénieurs, made by Order in Council 1235-87 dated 12 August 1987, is amended

(1) by replacing section 1 by the following:

“1. Le présent règlement s’applique aux organismes publics définis à l’article 4 de la Loi sur les contrats des organismes public (2006, c. 29.”);

(2) by replacing “aux directives émises à cette fin par le Conseil du trésor” in paragraph 3 of section 30 by “aux Règles sur les frais de déplacement des personnes engagées à honoraires édictées par la décision du Conseil du trésor C.T. 170100 du 14 mars 1989, y compris pour les contrats des organismes publics visés aux paragraphes 3 à 6 du premier alinéa de l’article 4 de la Loi sur les contrats des organismes publics”.

63. The provisions in the following regulations and by-laws that apply to service contracts are revoked:

(1) the Regulation respecting supply contracts, construction contracts and service contracts of government departments and public bodies, made by Order in Council 961-2000 dated 16 August 2000;

(2) the By-law respecting special rules governing supply contracts, construction contracts, and services contracts of the Société immobilière du Québec, approved by Order in Council 76-96 dated 24 January 1996;

(3) the By-law concerning special rules respecting certain contracts entered into by the Société québécoise d’assainissement des eaux, approved by Order in Council 1229-94 dated 17 August 1994;

(4) the Regulation respecting the application of the Act respecting health services and social services (R.R.Q., 1981, c. S-5, r.1); and

(5) the Regulation respecting contracts of the Corporation d’hébergement du Québec, approved by Order in Council 972-2001 dated 23 August 2001.

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

SCHEDULE 1

(ss. 19, 20, 25, 28, 43)

QUALITY EVALUATION CONDITIONS FOR A CONTRACT AWARD BASED ON THE LOWEST PRICE

1. At least 3 criteria are required for quality evaluation.

2. The public body must specify in the tender documents, for each criterion, the elements of quality required to reach an “acceptable level of performance”, which corresponds to the public body’s minimum expectations for the criterion.

3. An acceptable tender in terms of quality is a tender that, for each criterion, meets the “acceptable level of performance”. A tender that does not reach that level of performance in respect of any criterion is rejected.

SCHEDULE 2

(ss. 19, 21, 22, 25, 28, 43)

QUALITY EVALUATION CONDITIONS FOR A CONTRACT AWARD BASED ON THE LOWEST ADJUSTED PRICE OR BASED ON THE FINAL SCORE FOR THE HIGHEST QUALITY

1. The evaluation grid must have at least 3 quality evaluation criteria.

2. The public body must specify in the tender documents, for each criterion, the elements of quality required to reach an “acceptable level of performance”, which corresponds to the public body’s minimum expectations for the criterion.

3. Each criterion in the evaluation grid is weighted on the basis of its importance for the carrying out of the contract. The total weight of the criteria is 100%.

4. Each criterion is evaluated on a scale of 0 to 100 points, the “acceptable level of performance” corresponding to 70 points.

5. At least 70 points may be required in respect of any criterion described in the evaluation grid. A tender that does not reach that minimum is rejected.

6. The final score for the quality of a tender is the total of the weighted scores obtained in respect of each criterion; the weighted scores are determined by multiplying the score obtained for a criterion by the weight of that criterion.

7. An acceptable tender in terms of quality is a tender whose final score is at least 70%.

8. The price of each acceptable tender is adjusted according to the following formula:

$$\text{Adjusted price} = \frac{\text{Price submitted}}{\text{Quality adjustment factor}}$$

The quality adjustment factor is equal to:

$$1 + K \left(\frac{\text{Final score for quality} - 70}{30} \right)$$

where

“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.

9. The public body determines in the tender documents the value of K, which must range from 15% to 30%.

8426