

Minister's Order respecting the Rules for the awarding of certain contracts required by a municipal body or school board to implement, operate or use a broadband telecommunications network

An Act to amend various legislative provisions concerning municipal affairs
(2002, c. 37, s. 282)

The Minister of Municipal Affairs and Greater Montréal and the Minister of Education,

CONSIDERING the first paragraph of section 282 of the Act to amend various legislative provisions concerning municipal affairs (2002, c. 37), which provides that any municipal body or school board may be party to an agreement having as its object the implementation, operation or use of a broadband telecommunications network and that persons other than a municipal body or school board, in particular the operator of a telecommunications enterprise, may also be parties to such an agreement;

CONSIDERING the fourth paragraph of that section, which provides that the parties to such an agreement may give one of the parties a mandate to make contracts for the purpose of carrying out the agreement;

CONSIDERING the fifth paragraph of that section, which allows the Minister of Municipal Affairs and Greater Montréal and the Minister of Education to jointly prescribe rules relating to the selection

(1) by a municipal body or school board, of any person, other than a public body or institution accredited for purposes of grants under the Act respecting private education (R.S.Q., c. E-9.1), who or which is to become a party to the agreement;

(2) of a contracting party, other than a public body or institution referred to in paragraph 1 or a party selected according to the rules established pursuant to the power referred to in that paragraph, in the case of a contract entered into for the purpose of carrying out the agreement or any other contract entered into by a municipal body or school board for the execution of work preliminary to the negotiation or making of the agreement;

CONSIDERING that it is expedient to prescribe those rules;

ORDER:

THAT the Rules for the awarding of certain contracts required by a municipal body or school board to implement, operate or use a broadband telecommunications network, attached to this Order, be made.

Québec, 26 July 2002

ANDRÉ BOISCLAIR
Minister of Municipal Affairs
and Greater Montréal

SYLVAIN SIMARD
Minister of Education

Rules for the awarding of certain contracts required by a municipal body or school board to implement, operate or use a broadband telecommunications network

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CHAPTER I

OBJECT

1. This document introduces the Rules prescribed by the Minister of Municipal Affairs and Greater Montréal and the Minister of Education relating to the selection

(1) by a municipal body or school board, of any person, other than a public body or institution accredited for purposes of grants under the Act respecting private education (R.S.Q., c. E-9.1), who or which is to become a party to an agreement provided for in section 282 of the Act to amend various legislative provisions concerning municipal affairs (2002, c. 37); and

(2) of any contracting party, other than a public body, an institution referred to in paragraph 1 or a party selected according to the rules provided for in Chapter II, in the case of a contract provided for in the fourth paragraph of the said section 282 or any other contract entered into for the execution of work preliminary to the negotiation or making of the agreement provided for in this section.

CHAPTER II

SELECTION OF PARTIES TO THE AGREEMENT

2. The selection referred to in paragraph 1 of section 1 may be made by mutual agreement if the prospective party to the agreement is a non-profit organization.

In all other cases, the selection shall be made after a call for public proposals has been published by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an establishment in a province or territory covered by an intergovernmental trade liberalization agreement applicable to any municipal body or school board that is a party to the agreement. The call for public proposals must also be published in a newspaper circulated in the territory of any municipal body or school board that is a party to the agreement or, if it is not circulated therein, in a publication specialized in the field and sold mainly in Québec.

The call for public proposals may stipulate that more than one proposal may be selected. It may also stipulate that only proposals meeting one of the following conditions will be considered:

(1) the proposals are submitted by contractors or suppliers, in addition to contractors or suppliers having an establishment in Québec, who have an establishment in a province or territory covered by an intergovernmental trade liberalization agreement applicable to any municipal body or school board that is a party to the agreement; or

(2) the goods concerned are produced in a territory that includes Québec and any other province or territory referred to in subparagraph 1.

The second paragraph of subsection 2 and subsections 3 to 6 and 8 of section 573, section 573.1.0.1 and section 573.1.0.1.1 of the Cities and Towns Act (R.S.Q., c. C-19) apply, adapted as required, in particular:

- (1) one of the systems of bid weighting and evaluating must be selected; and
- (2) where the call for proposals provides for the selection of a number of proposals, only the number provided for may be selected and only the proposals with the highest scores may be considered.

CHAPTER III

SELECTION OF CONTRACTING PARTIES

3. The selection referred to in paragraph 2 of section 1 shall be made in accordance with the rules referred to in sections 573 to 573.3.0.3, 573.3.2 and 573.3.3 of the Cities and Towns Act or in the regulation made under section 573.3.0.1 of that Act, adapted as required, in particular:

- (1) the call for public tenders must be published both
 - (a) in an electronic tendering system accessible to contractors and suppliers, in addition to those having an establishment in Québec, who have an establishment in any other province or territory covered by an intergovernmental trade liberalization agreement applicable to any municipal body or school board that is a party to the agreement; and
 - (b) in a newspaper that is circulated in the territory of any municipal body or school board that is a party to the agreement or, if it is not circulated therein, in a publication specialized in the field and sold mainly in Québec;
- (2) the following is substituted for subsection 2.1 of section 573 of that Act:

“2.1. A call for public tenders may stipulate that only tenders meeting one of the following conditions will be considered:

 - (1) the tenders are submitted by contractors or suppliers, in addition to those having an establishment in Québec, who have an establishment in a province or territory covered by an intergovernmental trade liberalization agreement applicable to the municipal body or school board that is a party to the agreement; or
 - (2) the goods concerned are produced in a territory that includes Québec and any other province or territory referred to in subparagraph 1.”; and
- (3) the authorization referred to in subsection 7 of section 573 of that Act shall be given jointly by the Minister of Municipal Affairs and Greater Montréal and the Minister of Education. The authorization may be given by the Minister of Municipal Affairs and Greater Montréal alone if the contract that is the object of the authorization application concerns only a municipal body or by the Minister of Education alone if the contract which is the object of the authorization application concerns only a school board.

CHAPTER IV
TRANSITORY AND FINAL

4. Until 31 October 2002, the person making the selection referred to in paragraph 1 of section 1 following a call for proposals shall use the system of bid weighting and evaluating referred to in section 573.1.0.1 of the Cities and Towns Act.

However, this system may then provide for a minimum interim score.

5. These Rules come into force on the day of their publication in the *Gazette officielle du Québec*.