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Québec's new municipal contracting framework comes into effect

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Key Takeaways

- The *Act respecting contracting by municipal bodies* modernizes Québec's municipal contracting rules by consolidating previous rules into a single statute and introduces new contract awarding procedures.
- Municipal bodies must now actively select awarding procedures, moving away from default selection of the lowest compliant bidder.
- The new contract category of "partnership contract" encourages collaboration in equipment and infrastructure projects, allowing for flexible risk and responsibility sharing.

On April 1, 2026, Québec's *Act respecting contracting by municipal bodies*[1] (ARCMB) came into force.

The ARCMB is the result of a deliberate push to modernize and consolidate Québec's municipal contracting rules into a single statute. These rules had long been scattered across multiple acts, including the *Cities and Towns Act* and the *Municipal Code of Québec*. The ARCMB also aligns municipal contracting rules more closely with certain provisions of the *Act respecting contracting by public bodies*[2] (ARCPB), which applies to government departments and agencies.

The ARCMB introduces several changes from the previous regime, including a new nomenclature, new contract awarding procedures and a new contract category: the partnership contract.

Scope of the ARCMB

The ARCMB applies to municipal bodies, including municipalities, metropolitan communities, intermunicipal boards, public transit agencies and certain bodies whose purpose is to provide damage insurance to municipalities under the *Cities and Towns Act* and the *Municipal Code of Québec.*[3] It also applies to certain other bodies that the ARCMB treats as municipal bodies.[4]

The ARCMB governs contracts that municipal bodies enter into with enterprises, meaning a legal person established for a private interest, a general, limited or undeclared partnership or a natural person who operates a sole proprietorship.[5]

The core provisions of the ARCMB apply to contracts falling under four categories: supply, construction, service and partnership.

Awarding procedures

The ARCMB represents a significant shift in how municipal contracts are awarded. The lowest compliant bidder is no longer the default. Municipal bodies must actively select the awarding procedure that best fits each contract. Contracts with an expenditure of $139,000 or more generally require an open procedure (i.e., a public call for tenders), while contracts valued between $25,000 and $139,000 typically require a procedure by written invitation.

The ARCMB also introduces two new awarding procedures:

- **Award by means of a request for quotation addressed to qualified enterprises**: A municipal body can target a pool of pre-qualified enterprises. A revised qualification process lets the body confirm that qualified bidders meet certain criteria, without having to reassess those requirements every time a new contract is awarded.[6]
- **Award using a system adapted to the equipment or infrastructure project**: Designed for partnership contracts, this procedure allows the municipal body to set the terms of the awarding procedure, subject to ministerial authorization.

Several other changes affect the awarding of contracts through open procedures. Tender documents may now provide for

- **a preferential margin**: an evaluation mechanism that gives an advantage to enterprises offering goods, services or work that meet criteria established by the municipal body. This advantage takes the form of a preferential margin of up to 10% and is applied solely for the purpose of evaluating bids by reducing the proposed price accordingly.[7]
- **rejection of a tender on new grounds**: A municipal body may reject a tender from an enterprise that failed to follow through on a tender or contract in the preceding two years, or had a contract cancelled for failing to comply with its conditions.[8]

Before initiating any awarding procedure, a municipal body must conduct a thorough evaluation of its needs. This evaluation must be documented in certain circumstances, including when the contract involves an expenditure of $25,000 or more.[9]

Partnership contract

The partnership contract is one of the ARCMB's most significant innovations.[10] In 2024, the ARCPB was amended to replace the concept of a public-private partnership (PPP) with that of a partnership contract.[11] The ARCMB adopted this concept from the ARCPB and expanded it to municipal contracting.

A partnership contract may be entered into for an equipment or infrastructure project. Under such a contract, a municipal body invites an enterprise to participate in designing and building the equipment or infrastructure, as well as carrying out other responsibilities, such as financing, maintenance and operation.

The partnership agreement involves a collaborative approach during and after the awarding procedure.[12] This approach may entail pooling resources and project-related information, as well as sharing risks, savings, gains and losses throughout the duration of the contract.[13] Compared to a PPP, a partnership contract offers much greater flexibility in allocating responsibilities and risks between the municipal body and the enterprise.

A partnership contract may only be awarded through one of two procedures. The first is an overall criteria evaluation system involving discussions and negotiations. The second is a system adapted to the equipment or infrastructure project, which requires ministerial authorization.[14] These procedures allow the parties to work out the terms of risk, revenue and investment sharing through built-in discussion and negotiation stages.

Conclusion

This Update touches on only a fraction of the changes that the ARCMB brings to the municipal contracting framework. Several of the contemplated changes depend on regulations that have yet to be adopted. Municipal bodies and enterprises doing business with them should familiarize themselves with the ARCMB and its related regulations and keep up with developments as they unfold.

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[1] CQLR, c. C-65.01.

[2] CQLR, c. C-65.1.

[3] ARCMB, s. 3.

[4] ARCMB, s. 4.

[5] ARCMB, s. 5.

[6] ARCMB, s. 22–26.

[7] ARCMB, s. 39, para. 1(5).

[8] ARCMB, s. 39, para. 1(8).

[9] ARCMB, s. 18 and s. 33, para. 1(1).

[10] *An Act mainly to diversify the acquisition strategies of public bodies and increase their agility in carrying out infrastructure projects*, Bill 62 (assented to October 9, 2024), 1st Sess., 43rd Leg. (QC).

[11] ARCMB, s. 11, para. 1(4); ARCPB, s. 3, para. 2(1).

[12] *Id*.

[13] ARCMB, s. 11, para. 1(4) and 12(2).

[14] ARCMB, s. 32 and s. 73–78.