

# Government of Québec adopts the Regulation respecting the language of the civil administration

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The *Regulation respecting the language of the civil administration* came into force on June 1, 2023, clarifying provisions of the Québec *Charter of the French Language* (the Charter) while creating new exceptions to the general principle of French as the first and only language of the civil administration.

Among other things, this new regulation specifies circumstances in which the civil administration can communicate and contract with businesses in a language other than French and the situations where businesses can provide documentation to the civil administration in a language other than French. The regulation also provides for flexibility to contract in English and to make the English version of a contract with the civil administration the binding version in a number of situations.

## Written communications with businesses

The new regulation identifies the circumstances where it is possible for the civil administration to use another language, in addition to French, in its written communications with a business. Most significantly, the civil administration is authorized to do so when communicating with a head office or an establishment of a business that is located outside Québec, even if that business otherwise has an establishment in Québec.

## Civil administration contracts and other related written documents

The regulation broadens the range of situations where the civil administration can attach to a contract a version of that contract in a language other than French. This provision also applies to the other written documents related to the contracts that are listed in the provision. The most relevant situations include

- when there is a need to encourage the participation of bidders from outside Québec as part of a process for the award of a public contract
- when a bidder or contractor is required to submit, in respect of a contract, third-party documents pertaining to insurance, financial, technical, industrial or scientific matters and these documents do not exist in French
- when written documents sent to an agency of the civil administration under a contract are intended to be used outside Québec.

- contracts entered into in Québec with a business that is established in Québec but where the exchanges required to conclude a contract take place with the head office or another establishment that is located outside Québec, or where the parent company outside Québec imposes contract terms that the civil administration adheres to
- when an organization of the Government contracts with a supplier or service provider *and* another government where the official language is not French.
- when the civil administration contracts in the field of information technology licences that do not exist in French.
- where it is impossible for the civil administration to obtain in due time and at a reasonable cost the product or service or an equivalent without resorting to contracting in both English and French

Most significantly, the contracts listed above can be drafted in English first, executed, and then subsequently translated into French, and it is possible to specify that the English version governs. If no specification is made, the French version governs.

Moreover, the regulation adds contracts in respect of transactions related to the field of electricity to the list of contracts that can be concluded exclusively in a language other than French. This addition has broader implications because section 55 of the Charter, which governs private contracts, exempts any contract that the civil administration is entitled to enter into exclusively in a language other than French from the requirement to systematically provide a French version where the contract is not negotiable.

## Written documents to obtain permits and subsidies

The regulation allows businesses to provide documents only in a language other than French to the civil administration in the context of a permit or subsidy application in several situations, most notably the following:

- where the document is also sent to a third party outside Québec
  - where the document emanates from the head office or an establishment that is located outside of Québec, even if the business has a Québec establishment
  - where the object of the application is an authorization or funding related to research
- Where the permit or subsidy application is granted, these same exceptions apply for any documentation which must be sent to the civil administration in respect of such grant.

## New exceptions for contracts and subsidies

Finally, the regulation creates new exceptions to section 152.1 of the Charter, which prohibits the civil administration from contracting with or providing subsidies to businesses that are not in compliance with the Charter. The regulation allows the civil administration to proceed notwithstanding this prohibition when its mission is compromised and either: (1) because of the urgency of a situation, human safety or property is threatened; or (2) where the business is the only one in a position to provide the good or service and no other business offers an equivalent good or service.