

Gouvernement du Québec

O.C. 97-2013, 13 February 2013

Public Contracts Act
(2012, chapter 25)

Certain public-private partnership contracts

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WHEREAS the Integrity in Public Contracts Act (2012, chapter 25) was assented to on 7 December 2012;

WHEREAS the Act amends in particular the Act respecting contracting by public bodies (chapter C-65.1);

WHEREAS, under section 21.17 of the Act respecting contracting by public bodies, an enterprise that wishes to enter into a contract with a public body involving an expenditure equal to or greater than the amount determined by the Government or that wishes to enter into a subcontract that involves an expenditure equal to or greater than that amount and that is directly or indirectly related to the contract must obtain an authorization from the Autorité des marchés financiers;

WHEREAS, under section 89 of the Integrity in Public Contracts Act, Chapter V.2 of the Act respecting contracting by public bodies applies to a body referred to in sections 7 and 7.1 of that Act as they read before being repealed by section 4 of the Integrity in Public Contracts Act as of 7 December 2012;

WHEREAS, under section 85 of the Integrity in Public Contracts Act, from 15 January 2013, for the purposes of section 21.17 of the Act respecting contracting by public bodies, the contracts and subcontracts to which that section applies are construction contracts and subcontracts and service contracts and subcontracts that involve an expenditure equal to or greater than \$40,000,000 and for which the award process is underway on or begins after that date;

WHEREAS, under section 86 of the Integrity in Public Contracts Act, despite the expenditure amount specified in section 85 of the Act or determined by the Government under section 21.17 of the Act respecting contracting by public bodies, the Government may, before 31 March 2016, determine that Chapter V.2 of that Act applies to a category of public contracts or subcontracts or to contracts or subcontracts deemed to be public contracts or subcontracts under that Act other than the categories determined under those sections or to groups of public contracts or subcontracts or to contracts or subcontracts deemed to be public contracts or subcontracts under that Act, whether

or not they are of the same category, and the Government may also determine special terms for the applications for authorization that enterprises must file with the Autorité des marchés financiers in respect of such contracts or subcontracts;

WHEREAS, under subparagraph 1 of the second paragraph of section 3 of the Act respecting contracting by public bodies, public-private partnership contracts entered into for the purposes of a public infrastructure project carried out under a public-private partnership within the meaning of the Act respecting Infrastructure Québec (chapter I-8.2) are subject to the Act respecting contracting by public bodies, whether or not they involve public expenditure;

WHEREAS it is expedient that public-private partnership contracts entered into for the purposes of a public infrastructure project carried out under a public-private partnership within the meaning of the Act respecting Infrastructure Québec that involve an expenditure amount equal to or greater than \$40,000,000 be governed by the new authorization regime introduced by Chapter V.2 of the Act respecting contracting by public bodies;

WHEREAS section 100 of the Integrity in Public Contracts Act provides that a decision of the Government made under section 86 of the Act comes into force on the date of its adoption or on any later date specified in it, must be published in the *Gazette officielle du Québec* as soon as possible and sections 4 to 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to that decision;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Government Administration and Chair of the Conseil du trésor:

THAT Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1) apply to the public-private partnership contracts entered into by a public body referred to in that Act or by a body referred to in sections 7 and 7.1 of that Act for the purposes of a public infrastructure project carried out under a public-private partnership within the meaning of the Act respecting Infrastructure Québec (chapter I-8.2) that involve an expenditure equal to or greater than \$40,000,000;

THAT this Order in Council come into force on 13 February 2013.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

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