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Newsletter for infrastructure and project financing professionals

The Infrastructures Market

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Latest developments in the Canadian infrastructures market

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British Columbia Throne Speech promises new public transportation and healthcare infrastructures

In its June 19, 2017 Speech from the Throne, the B.C. minority Liberal government's objective was to address elector expectations, especially regarding the issues highlighted in the NDP and Green Party platforms. The Speech from the Throne included promises to increase the public transit infrastructure and improve access thereto and to accelerate the construction of new healthcare facilities.

Highlights:

- expanding of the public transit system in the Greater Vancouver area;
- terminating the referendum requirement respecting new sources of revenue for public transit;
- working with Washington State on the high-speed rail link between Vancouver and Seattle;
- building light rail transit in the southern Vancouver Island area;
- conducting feasibility studies as part of a project to connect the Lower Fraser Valley and North Shore communities by public transit and light rail;
- eliminating tolls on the Port Mann and Golden Ears bridges, speeding up the replacement of the Pattullo bridge;
- building a new mental health and addiction treatment centre in Surrey; and
- accelerating the creation of a new healthcare infrastructure to meet growing demand.

InstarAGF completes final close of InstarAGF Essential Infrastructure Fund

In a June 27, 2017 press release, the Toronto-based asset management company InstarAGF announced that its Essential Infrastructure Fund had reached final close with $740 million in commitments from Canadian, European, UK and US institutional and high-net-worth investors.

Roughly 30% of the capital raised has been invested in a passenger terminal at Billy Bishop Toronto City Airport, in a 30 MW wind power project in British Columbia, and in a stake in Steel Reef Infrastructure Corp.

The Fund will focus on energy, utilities and civil and social infrastructure. According to *InfraAmericas*, the Fund would have a 15-year term and an IRR target of 9% to 14%.

First Action Plan for Québec's 2030 Energy Policy unveiled

On June 26, 2017, Pierre Arcand, who was then Minister of Energy and Natural Resources and Minister responsible for the Northern Plan, unveiled the 2017-2020 Action Plan stemming from the 2030 Energy Policy. This first plan has 42 measures representing a $1.5 billion investment in achieving Québec's energy transition.

The 2017-2020 Action Plan presents concrete measures that will be implemented by 2020 so that Quebecers can make greener and more responsible choices in their energy consumption and their approaches to development projects for their homes, travel, businesses and organizations. It proposes a diversified offer to consumers for all energy sources, including hydroelectricity, wind power, solar power and natural gas. It also defines a new approach to fossil fuels.

The Action Plan follows on the heels of numerous consultations and actions, including the unveiling of the 2030 Energy Policy in April 2016 and the enactment last December of legislation to implement the 2030 Energy Policy.

The following are some of the key measures in the Action Plan:

- creation of Transition énergétique Québec;
- review of the Drive Green electric vehicle purchase rebate program;
- a $295 million contribution from Hydro-Québec to the Réseau électrique métropolitain (REM);
- implementation of a multi-fuel stations pilot project;
- review of the Capital Mines Énergie fund (formerly Capital Mines Hydrocarbures fund);
- Hydro-Québec to carry out a solar energy park pilot project;
- funding Énergir's (formerly Gaz Métro) natural gas distribution network expansion projects;
- development of a regulatory framework governing the hydrocarbons sector in Québec.

SNC-Lavalin monetizes part of its infrastructure assets

To raise capital for new projects, SNC-Lavalin (TSX: SNC) decided to sell to BBGI, a Luxembourg company, an 80% interest in a number of its infrastructure assets, including the McGill University Health Centre (MUHC) in Montréal.

BBGI SICAV S.A. (LSE: BBGI) is a government-owned investment firm that invests in public-private partnership ("**PPP**") infrastructure projects. Established in Luxembourg, its global and geographically diversified portfolio is comprised of 39 high-quality PPP infrastructure assets.

The transaction took place through a new infrastructure investment vehicle: SNC-Lavalin Infrastructure Partners LP. The initial portfolio held by this vehicle will consist of SNC-Lavalin's interest in the following five assets: William R. Bennett Bridge in Kelowna, B.C., Canada Line rail in Vancouver, B.C., Southeast Stoney Trail road in Calgary, Alta, Restigouche Hospital Centre in Campbellton, N.B. and the Glen site of the McGill University Health Centre in Montréal, Québec.

SNC-Lavalin has signed an agreement with a BBGI Canadian subsidiary which will purchase 80% of SNC-Lavalin Infrastructure Partners LP's interest for CAD 208 million, and an SNC-Lavalin subsidiary will own the remaining 20%.

This does not preclude other major infrastructure projects built or managed by SNC being subsequently integrated in the partnership.

Innergex Renewable Energy inc. acquires two wind power projects in France

On July 5, 2017 Innergex Renewable Energy Inc. (TSX: INE) announced that it had signed an agreement with BayWa r.e. for the purchase of two wind power projects in France, with an aggregate installed capacity of 43 MW.

The two wind farms, Plan Fleury (22 MW) and Les Renardières (21 MW), are located in the Champagne-Ardenne region of France. All the electricity produced by these wind farms will be sold under fixed-price power purchase agreements with Electricité de France (EDF) for an initial 15-year term.

The projects consist of 18 Vestas wind turbines (with an individual gross capacity of 2 and 3 MW) that will be operated by the wind turbine manufacturer under a 15-year operation and maintenance contract.

Subject to customary closing conditions, it is expected that the acquisition will be concluded following completion of the construction projects which are scheduled for commissioning in the third quarter of 2017. Innergex will have a 69.55% interest in the wind farms and Desjardins Group Pension Plan will own the remaining 30.45%.

The equity purchase price is approximately $39.9 million, subject to certain adjustments. With this acquisition, Innergex will own 15 wind farms in France with an aggregate installed capacity of 317 MW.

Pre-qualification of bidders for Saskatchewan wind power program

On July 6, 2017, SaskPower announced that it had pre-qualified eight suppliers who had responded to its RFQ for its 200 MW wind generation program. The selected proponents are:

- NextEra Canada Development
- Enerfin Energy Company of Canada
- BHEC-RES Saskatchewan
- Kruger Energy
- Yotin Wind Power
- EDP Renewables Canada
- EDF EN Canada
- TransCanada Energy

The proponents have until May 25, 2018 to submit proposals. SaskPower plans to announce the successful proponent(s) in fall 2018, and to begin operations in early 2021. The utility also plans to award up to two 25-year power purchase agreements.

Infrastructure Ontario to restart procurement process for Finch West LRT project

After several months of interruption, Infrastructure Ontario (IO) is slated to resume procurement for the Finch West LRT project.

Procurement for the $1 billion project stalled in February 2017 due to a vehicle supplier dispute between Metrolinx and Bombardier involving the Eglinton LRT and Finch West LRT projects. Metrolinx maintains that Bombardier is behind in its contractual obligations to deliver vehicles for the two projects, while Bombardier accuses Metrolinx of having repeatedly changed its criteria.

In mid-May 2017, the government agency announced that it had approved Alstom as an alternate supplier for the light rail train vehicles for the Eglinton and Finch West projects. Metrolinx stated at that time that the inclusion of Alstom was intended as a safety net should Bombardier fail to fulfil its contractual obligations.

The consortiums shortlisted for the Finch West LRT project are:

- SNC-Lavalin, Graham
- Bechtel, EllisDon
- AECON, Grupo ACS, Dufferin

Monique Leroux joins Fiera Capital

Fiera Capital, the Montréal-based firm that manages approximately $123 billion in assets, recently hired former Mouvement Desjardins president, Monique Leroux, as Vice-Chairman and Strategic Adviser.

Ms. Leroux was President and CEO of Mouvement Desjardins from 2008 to 2016. She has since been appointed Chair of the Board of Directors of Investissement Québec, a Crown corporation.

Monique Leroux sits on the boards of Bell (BCE), Couche-Tard (ATD), Michelin (ML-France) and S&P Global in the US.

Ms. Leroux is also President of the International Cooperative Alliance and Chair of the Board of Governors of the Society for the Celebrations of Montréal's 375th anniversary.

Government of Canada commits $1.28 billion to REM project

The Government of Canada has decided to follow through on its commitment to invest $1.28 billion in the Réseau électrique métropolitain (REM).

The project has a $2.67 billion commitment from Caisse de dépôt et placement du Québec ("**CDPQ**") and $1.28 billion from the Government of Québec. CDPQ will hold a 51% equity stake in the project, while each government entity will own a 24.5% interest.

The question of whether and in what form the future Canada Infrastructure Bank will decide to invest in the LRT project remains unresolved.

The light rail network will have 27 stations in a 67-km line along Highway 40 to the West Island. It will link downtown Montréal to the West Island, South Shore, North Shore, and Pierre-Elliott-Trudeau International Airport.

Call for funding for Henvey Inlet wind power project

The promoters of the Henvey Inlet wind project in Ontario have solicited potential lenders for funding for roughly $750 - $800 million. Henvey Inlet is a 300 MW $1 billion project to be developed jointly by Pattern Development (50%) and Nigig Power Corporation (50%). The project is on the Henvey Inlet First Nation reserve and involves a 20-year power purchase agreement with Independent Electricity System Operator ("**IESO**").

According to Pattern Energy Group's June 11, 2017 investor presentation, the proponents hope to begin construction this year and begin operating in 2018.

PSP Investments posts strong performance for 2017 in infrastructure sector

For fiscal year ending March 31, 2017, the Infrastructure Investment group of PSP Investments posted a one-year net rate of return of 14.4% and a five-year annualized return of 11.7%, according to the annual report released on June 14, 2017.

PSP's performance exceeded the previous year's one-year net rate of return for the same asset class of 12.7% and a five-year annualized return of 9.6%.

PSP attributes the strong performance to investments in Europe and in emerging markets, particularly in the transportation, communications, and renewable energy sectors.

The two largest investments for fiscal 2017 were the $1.2 billion acquisition of the ENGIE's 1.4 GW hydroelectric asset portfolio in New England, and the acquisition of an additional interest in Cubic Sustainable Investments, a renewable energy investment firm, and held jointly with Banco Santander and Ontario Teachers'.

Infrastructure investments represent approximately 8.2% of PSP's total net assets for fiscal 2017, with the objective of allocating 10% of its assets to infrastructure in the long term. The fair value of these assets increased from $9.5 billion in the previous year to $13.2 billion in fiscal 2017.

SNC-Lavalin sells Montréal headquarters for $170 million

On June 22, 2017, SNC-Lavalin announced that it had sold its Montréal headquarters and an adjacent vacant lot for approximately $170 million.

Under the sale-leaseback agreement signed with GAL Realty Advisors, the 21-storey building is leased back to SNC for 20 years.

SNC-Lavalin (TSX:SNC) had stated in November that it was seeking to reduce its costs by selling its headquarters and by grouping its activities in fewer buildings.

Brookfield Infrastructure Debt Fund I raises US$284 million

Brookfield raised US$283.5 million for its infrastructure debt fund in June 2017, according to documents filed with the SEC.

The fund, named Brookfield Infrastructure Debt Fund I, has a target size of US$1 billion and a focus on mezzanine debt investments globally.

One of the investors is South Korea's Military Mutual Aid Association (MMAA), which made a US$40 million commitment in August 2016.

Canada unveils $2.1 billion transportation budget

On July 4, 2017, the Government of Canada announced a $2.1 billion budget for transportation projects, and has invited proponents to submit preliminary expressions of interest for funding.

The new Trade and Transportation Corridors Initiative ("**TTCI**") mainly comprises the National Trade Corridors Fund ("**NTCF**"), which will provide $2 billion over 11 years to strengthen the efficiency and reliability of Canada's trade infrastructure, including ports, waterways, airports, roads, bridges, border crossings, rail networks and their interconnectivity.

The project budget is intended for provincial, territorial and municipal governments, indigenous groups, not-for-profit and for-profit private sector organizations, federal Crown corporations, Canadian port authorities, and national airport system airport authorities.

PPP projects are eligible for NTCF funding and can request an amount that covers up to 33% of total eligible expenditures. Applicants can request up to $500 million in funding per project. Eligible projects must have commenced operations by the end of 2028.

The government will give preference to projects that help strengthen efficiency and resilience of transportation assets considered critical for Canada's global trade and commerce.

Up to $400 million dollars of the NTCF has been earmarked for allocation to Canada's Northern Territories. Under the TTCI, the government has set aside $100 million for investment in new transportation technologies and the launch of a new trade and transportation information system.

The TTCI initiative follows the Government of Canada's November 2016 announcement that it will invest $10.1 billion over the next 11 years in trade and transportation projects. Of that investment, $5 billion will be provided through the Canada Infrastructure Bank.

Janice Fukakusa joins Canada Infrastructure Bank

Former Royal Bank CFO Janice Fukakusa, who had retired in January 2017, has been appointed as the first chair of Canada Infrastructure Bank ("**CIB**"). The appointment, announced on July 6, 2017 by Canadian minister of Infrastructure, Amarjeet Sohi, comes at a time when the CIB remains committed to starting operations by the end of 2017.

According to the announcement, Ms. Fukakusa will play a key role in selecting the CIB's board of directors and its CEO. She will also take part in establishing the organization's governance and oversight.

The CIB is slated to invest $35 billion in federal funds in new infrastructure projects in the coming years. Details on what types of financing will be provided by the Bank, and how it will interact with existing entities such as P3 Canada, remain to be determined.

A new PPP hospital project for Québec?

Québec's Société québécoise des infrastructures intends to issue an RFP for the design, construction and financing of an expansion project for the Hôpital Fleurimont, which is affiliated with the public healthcare network of the Centre hospitalier universitaire de Sherbrooke (CHUS).

The project will involve the construction of a mother and child centre and a new emergency room. The project was initially estimated at approximately $100 million, but the latest press estimates put the cost at $198 million.

The Société québécoise des infrastructures intends to identify three teams for the design, build and finance project. The project schedule should be as follows:

- January to September 2018: call for tenders to carry out a turnkey project
- October 2018 to December 2020: construction
- December 2020 to spring 2021: relocation of healthcare teams
- Spring 2021: user access

This would be the first PPP project launched by the Québec government since 2015.

Over 30 firms respond to request for pre-qualification for Southwest Ontario Broadband project

The Western Ontario Warden's Caucus (WOWC) received 31 responses to its request for pre-qualification for the Southwest Ontario Broadband project.

The project would expand access to broadband by delivering fiber optic coverage to more than 300 communities with a total population of 3.5 million.

The Southwest Ontario Broadband project is part of the Southwestern Integrated Fibre Technology (SWIFT) project, which will extend into counties and municipalities in southwestern Ontario.

The value of the project would be approximately $281 million.

The authority intends to issue the RFP to approximately 25 of the respondents between the fourth quarter of 2017 and the first quarter of 2018.

bcIMC posts 9.6% annualized return on infrastructure

British Columbia Investment Management Corporation's ("**bcIMC**") infrastructure investments yielded a return of 9.6%, well above its 7% benchmark, for fiscal year ending March 31, 2017, according to its 2016-2017 corporate annual report.

bcIMC is a private investment manager founded in 1999 and headquartered in Victoria, British Columbia, which mainly provides investment management services to the province's public sector pension plans, to government bodies and government-administered trust funds.

bcIMC's infrastructure investments, valued at $11 billion as at March 31, 2017, make up 8.1% of the company's total portfolio.

bcIMC has entered into financial commitments with 13 infrastructure funds and has made direct investments in 15 infrastructure assets, according to *InfraAmericas*.

As at March 31, 2017 the fund's total net assets were valued at $135.5 billion, making it the fifth largest institutional investor in Canada. The fund's total portfolio reported a 12.4% annual return for fiscal year 2017.

Petronas cancels Pacific Northwest LNG project

Petronas and its partners have decided to cancel the $36 billion Pacific Northwest LNG project in Lelu Island, British Columbia.

In a statement released July 25, 2017, the corporation explained that current oil and gas market conditions had created an "extremely challenging environment" that was not propitious for project continuation.

The project was one of the earliest export liquefaction terminals to be proposed on the west coast of North America. The project had received approval from the federal government last year.

Pacific Northwest LNG was a joint venture involving Petronas (62%), Sinopec (15%), Japan Petroleum Exploration (10%), Indian Oil Corporation (10%) and Petroleum Brunei (3%). The joint venture began its development activity in 2012 and to date had spent around $400 million on the project.

Cascades sells stake in Boralex to CDPQ

On July 28, 2017, in search of funds to finance its main activities, Cascades sold its entire interest in Boralex to the Caisse de dépôt et placement du Québec ("**CDPQ**") for $287.5 million.

A majority shareholder of Boralex since 1995, Cascades owned only 17.3% of the company, but felt that this capital would be better used to finance the development of the paper mill's activities.

With this transaction, CDPQ solidifies its presence in the green energy sector. Boralex and CDPQ have also agreed to explore partnership opportunities for investing in projects to be developed by Boralex.

Boralex is an independent power producer dedicated to the development and operation of renewable energy production sites. In 2016, the company operated an asset base with an aggregate installed capacity of approximately 1,400 MW in Canada, France and the northeastern US.

Hydro-Québec bids in Massachusetts RFP

On July 27, 2017, Hydro-Québec submitted a proposal with a view to obtaining a 20-year power supply contract with Massachusetts. According to the corporation, its proposal would be the largest bid in Hydro-Québec's history.

The bid is pursuant to an RFP launched by the State of Massachusetts on March 31, 2017 in response to a state law enacted in 2016 on the diversity of energy sources. That law obliges energy utilities to competitively solicit proposals for 9.45 TWh of renewable energy and up to 1,600 MW of maritime wind energy.

Massachusetts' interest in having its energy supplied from outside the country is explained by its desire to reduce its energy costs, secure reliability of energy supplies and equip it to achieve its greenhouse gas reduction targets, while planning to abandon nuclear and diesel power plants in the coming years.

In its proposal, Hydro-Québec undertakes to provide at least 8.3 of the 9.45 TWh of electricity that Massachusetts utilities wish to purchase annually. Hydro-Québec presented three different supply scenarios. Each scenario corresponds to a transmission line that it would have to install if it is awarded the contract.

- Northern Pass Transmission
- New England Clean Power Link
- New England Clean Energy Connect

Each project involves different interconnection lines involving Vermont, Maine or New Hampshire. Each of the three transmission line projects has two variants for energy supply: 100% hydro power or a combination of hydro and wind power.

Should Massachusetts choose the combined hydro-wind power option, Hydro-Québec has formulated a partnership with Énergir (formerly Gaz Métro) and Boralex that would add a fourth phase of 300 MW to the Seigneurie de Beaupré wind farms, known as the "SBx" project, as part of an investment of up to $700 million.

Massachusetts, which wanted to stimulate competition with its call for proposals, has achieved its goal: no fewer than 18 players indicated their interest in bidding. Massachusetts is expected to announce its decision in early 2018.

For Hydro-Québec, an agreement with Massachusetts would be perfectly consistent with its strategy to double revenues by 2030. In 2016, of the 32.6 TWh exported annually by Hydro-Québec, 24.1 were destined for the US market. Last year, exports accounted for $803 million of the $2.86 trillion in net income generated by the Crown corporation. New England accounts for half its export market, compared to 25% for New York State.

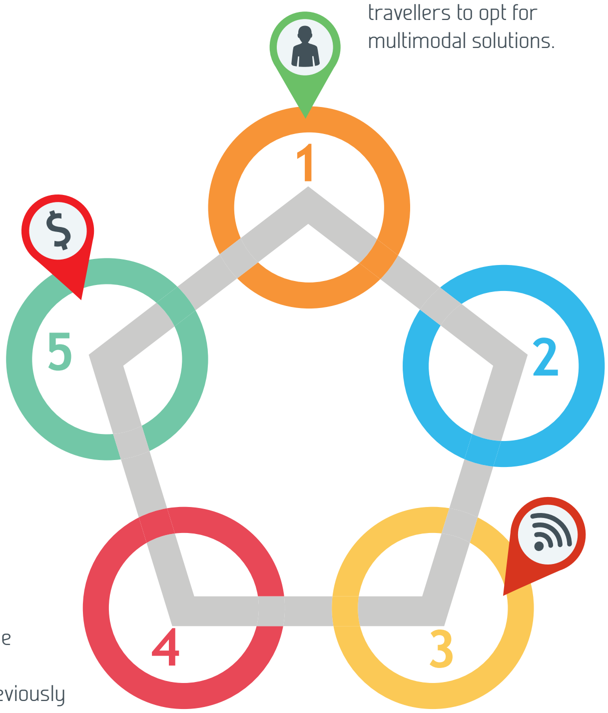
Mobility at the Heart of the Smart City: Promises, challenges and solutions

On November 23, the Infrastructure Group held a half-day symposium on the topic of "Mobility at the Heart of the Smart City" during which distinguished speakers shared with us their thoughts on how to promote the implementation of efficient solutions to encourage mobility. After this event, it was possible to group all the solutions presented under five broad headings.

5 solutions to encourage mobility

Customer experience

Implementing a universal and secure payment method that makes it easier for travellers to opt for multimodal solutions.



Sharing economy

Encouraging a form of mobility that is both individual and shared by introducing a technology solution that evolves with user habits.

Infrastructure

Providing adequate infrastructure by developing progressive and scalable prototypes that are adapted to the context of urbanization of cities.

Regulatory framework

Adopting a flexible approach to the application of previously existing norms so as to support the deployment of innovative solutions.

Funding

Diversifying funding and access to credit in order to increase the share attributed to the industrial and manufacturing sectors.

The public tendering process: are there alternatives to the lowest bidder rule?

BENJAMIN DAVID GROSS and GÉRARD MOUNIER
with the collaboration of Felicia Yifan Jin, articling student

In Québec, both at the provincial and municipal levels, the awarding of contracts by government bodies for construction work and material supply seems, for the most part, to be governed by the lowest bidder rule. Nevertheless, the Charbonneau Commission highlighted the many drawbacks to this method: risk relating to the quality of infrastructure and services, undue pressure on bidders' margins, incentive to generate "extras", risk of collusion, etc. Despite the debate surrounding the Commission, there does not appear to have been any fundamental change in this practice, with authorities focusing more on the transparency of the identity of the parties, the source of funds and the frequency of requests for "extras" by individual bidders.

But in the final analysis, are public bodies actually required to use this method of selection? Could there be other alternative options? We thought it would be interesting to present a summary of the methods of awarding public contracts in Québec.

In 2015-2016, the total value of public contracts in Québec was approximately $8.5 billion. The contracts are mainly supply contracts, service contracts and construction contracts awarded by government bodies, including ministries, school boards, Crown corporations, health and social services agencies and municipal bodies. The bodies on the list, other than municipal bodies, are governed by the *Act respecting contracting by public bodies* and its regulations. Municipal bodies are governed by the *Cities and Towns Act*.

The lowest bidder rule is frequently prescribed in legislative provisions, as described below. Generally, the rule applies in situations where the government or municipal body manages to clearly state its requirements at the time of the call for tenders. The Secretariat of the Conseil du trésor has established that in such a situation, lowest price is the only basis for awarding a contract.

However, the lowest bidder rule is not systematically employed for all public contracts. There are three other methods: "minimum quality and price", "lowest adjusted price" and "quality only". Municipal bodies may also apply a bid weighting system for evaluating offers.

"Price only" method of awarding contracts

This is the method of awarding contracts that uses the lowest bidder rule solely.

Type of public contract	Legislative source
Supply contract	*Regulation respecting certain supply contracts of public bodies, s. 13*
Service contract of a technical nature	*Regulation respecting certain service contracts of public bodies, s. 13*
Construction contract of a public body	*Regulation respecting construction contracts of public bodies, s. 16*
Supply contracts, service contracts and construction contracts awarded by municipal bodies involving an expenditure of $100,000 or more	*Cities and Towns Act*, s. 573 (7)

"Minimum quality and price" method of awarding contracts

A public body uses this method when it is essential for the public contract to have a minimum quality threshold, but the public body does not wish to pay a premium for higher quality. Tendering is then a two-step process.

The first step consists of selecting bidders only after proof of quality. For example, for construction contracts, a minimum of three criteria is required for a quality assessment. The criteria must be specified in the tender documents and must state the elements required for the quality to be considered acceptable. This is the "acceptable level of performance". A bidder rejected at this stage is considered to be an ineligible or non-compliant bidder.

The second step consists in inviting the bidders selected in the first step to submit a price. The lowest bidder wins the day.

Type of public contract	Legislative sources
Supply contract (awarded at the discretion of the public body)	*Regulation respecting certain supply contracts of public bodies*, s. 26.1
Professional services contract	*Regulation respecting certain service contracts of public bodies*, s. 25
Construction contract or mixed contract for construction work and professional services of public bodies (awarded at the discretion of the public body)	*Regulation respecting construction contracts of public bodies*, ss. 22 and 26

"Lowest adjusted price" method of awarding contracts

A quality-price formula prescribed in the schedules of each respective regulation allows for a score out of 100 to be given for bid quality. That score is then used as the adjustment factor for the bid price. The contract is still awarded to the lowest bidder, whose price has been adjusted by applying the formula.

Type of public contract	Legislative sources
Supply contract (awarded at the discretion of the public body)	*Regulation respecting certain supply contracts of public bodies*, s. 23 and Schedule 2
Professional services contract (awarded at the discretion of the public body)	*Regulation respecting certain service contracts of public bodies*, s. 21 and Schedule 2
Construction contract or mixed contract for construction work and professional services of public bodies (awarded at the discretion of the public body)	*Regulation respecting construction contracts of public bodies*, s. 24 and Schedule 5

"Quality only" method of awarding contracts

Public bodies must award their contracts solely after soliciting a demonstration of quality.

Municipal contracts are awarded randomly among bidders that have met all the quality criteria. When a bidder is selected, it cannot be selected again until the list has been exhausted. Municipal bodies also benefit from a rule that allows for rejection of a bidder that, in the two years preceding the selection date, had an unsatisfactory performance evaluation.

Type of public contract	Legislative sources
Professional services contract for an architecture or engineering contract, excluding a forest engineering contract	*Regulation respecting certain service contracts of public bodies*, s. 24
Contract for services rendered by an architect, engineer, land surveyor or chartered professional accountant; contracts involving an expenditure of $100,000 or more awarded by a municipal body	*Regulation respecting the awarding of contracts for certain professional services*, s. 19

Bid weighting system

For bid evaluation purposes, municipal bodies may also establish a criteria evaluation grid with a certain number of points given for price and others for quality. The grid must also comply with the conditions prescribed in the *Cities and Towns Act*. For example, for the awarding of professional services contracts, the evaluation grid must have a minimum of four criteria.

Type of public contract	Legislative source
Supply contract, services contract and construction contract involving an expenditure of $100,000 or more awarded by municipal bodies	*Cities and Towns Act*, s. 573.1.0.1

Conclusion

This portrait of Québec government contracts serves to illustrate that the predominance of the lowest bidder rule is not the result of a legal obligation, but rather the result of the exercise of discretion by the public body concerned.

Most likely the complexity and more subjective nature of the other methods of awarding contracts make the "price-only" a simpler method to apply. However, the trend noted among project owners elsewhere in Canada and other countries is that "value for money" (also called "quality/price ratio" or "cost/benefit ratio") is the increasingly preferred concept, as it further promotes quality and sustainability, with a view to improving long-term return on investment. In this context, "price only" is obviously no longer an adequate method, and hence methods comparable to bid weighting are used.

In the case of Québec, the following issues arise: are the public service employees responsible for tendering properly aware of the various options available? Have they received the training and tools for determining the most appropriate method to apply in awarding contracts? Would they need special technical assistance? Is the decision-making process sufficiently transparent and structured?

Failure to give due consideration to these issues amounts to misunderstanding the context. The issue is whether it is realistic to require that a generalist civil servant, who is paid a respectable but modest salary but has no special legal immunity from liability claims, make discretionary decisions concerning projects of significant financial value.

Apart from these functional aspects, consideration should be given to the appropriateness of formulating a general strategy for tender criteria for public investment, applicable to both the provincial and municipal levels, as well as to the allocation of an adequate budget for proper analysis by appropriately qualified persons at the preparatory stage.

Consideration should also be given to reviewing the most preferable method that should be applied by our public bodies in awarding contracts to ensure that Québec's infrastructures are built in the best interests of the general public, both in terms of quality, longevity and optimization of public funds.

Improvements to the tax holiday for large investment projects

BENJAMIN DAVID GROSS and GÉRARD MOUNIER
with the collaboration of Yaoqi Wang

Summary

A company participating in carrying out a large investment project in Québec ("**LIP**") may, under certain conditions, benefit from a 15-year tax holiday on the income from its eligible activities related to the LIP, as well as a holiday from employer contributions to the Health Services Fund ("**HSF**").

The corporation or partnership must first submit an application for an initial certificate to the Minister of Finance before commencement of the project, and by December 31, 2020 at the latest. A corporation or partnership that obtained an initial certificate for a LIP can ask the Minister of Finance to modify the certificate to add a second LIP to be included in the extension of the first LIP.

Context

The purpose underlying the tax holiday for an LIP is to stimulate and accelerate significant investment in Québec in accordance with the government's strategic objectives, create jobs and foster economic development. The tax holiday consists of a deduction in the calculation of taxable income for the taxation year, in the case of a corporation.

The tax holiday also consists of an exemption from employer contributions to the HSF, with regard to the wages paid to employees for that part of their time spent on eligible LIP-related activities.

The total value of the tax holiday may not exceed 15% of the total eligible investment expenditures determined on the date the tax holiday period commences.

In the 2017-2018 budget, the deadline for submitting the initial certificate application for the 15-year tax holiday has been extended to December 31, 2020.

Qualification as an LIP

To qualify as an LIP, a project must:

- concern manufacturing, data processing and hosting, wholesale trade, or warehousing and storage;
- satisfy a minimum investment requirement of $100 million. That threshold is reduced to $75 million for projects in certain regions (more than 150 kilometers from Montréal and more than 100 kilometers from Québec City and Gatineau).

Improvement No. 1
Deadline for submitting an application for an initial certificate extended to December 31, 2020

To benefit from the tax holiday, a corporation must first obtain an initial certificate and annual attestations issued by the Minister of Finance. The application for an initial certificate must be made before the commencement of the investment project, and by November 20, 2017 at the latest. However, in the 2017-2018 budget, that deadline has been extended to December 31, 2020.

The issuance date of the initial certificate marks the 60-month period during which the corporation must reach the minimum investment threshold. It should be noted that the tax holiday is not granted during the 60-month period. The 15-year tax holiday is granted only after issuance of the first annual attestation relating to the investment project.

Improvement No. 2
Option to add an additional phase to an LIP

The scale of certain LIPs may require that they be carried out in several phases. Now, a company that has obtained an initial certificate for an LIP ("Phase I") may apply for a modification to the certificate to add a second LIP ("Phase II") to be included in the extension of the first LIP.

The application for modification must be submitted to the Minister of Finance no later than the date of the first request for an annual attestation in respect of Phase I, and by the January 1, 2021 deadline.

Phase I and Phase II investments should each be clearly identified and separate accounts must be kept for each. The additional phase will also be subject to the 60-month investment period.

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