



Notice no. 2005-03

February 3, 2005

This notice is issued and published by the Lobbyists Commissioner pursuant to section 52 of the *Lobbying Transparency and Ethics Act* (R.S.Q., c.T-11.011).

Subject : Interpretation of the expression “the awarding of any contract (...) otherwise than by way of a call for public tenders” used in subparagraph 3 of the first paragraph of section 2 of the *Lobbying Transparency and Ethics Act*.

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Subparagraph 3 of the first paragraph of section 2 of the *Lobbying Transparency and Ethics Act* provides that “[a]ny oral or written communication with a public office holder in an attempt to influence or that may reasonably be considered by the initiator of the communication as capable of influencing a decision concerning, (...) (3) the awarding of any contract, otherwise than by way of a call for public tenders (...) constitutes lobbying or a lobbying activity within the meaning of this Act”.

Contracts whose awarding may give rise to lobbying activities are of many kinds. They include

- a supply contract for the supply of property or goods, and the leasing of movable property;
- a contract for services, including a professional services contract;
- a contract of enterprise, which generally consists in the performance of work by a contractor who carries out and is in charge of the construction, repair, renovation or restoration of works;
- a concession contract under which a person carries on an activity of a commercial nature in the place and stead of an administration and for which royalties are paid;
- a partnership contract between a public body and a private enterprise to provide a public service; and
- an insurance contract.

The Act applies to all communications in an attempt to influence a decision concerning the awarding of a contract for which specific tenders have been invited or concerning the awarding of a negotiated contract or a contract by mutual agreement.

The Act also applies to communications effected outside the process of a call for public tenders. For example, requests for modification of the plans and specifications or submissions made to obtain a

mandate from a public office holder to prepare the technical content of a call for public tenders constitute lobbying activities within the meaning of the Act.

However, the sole filing of a tender with the Government by an enterprise following the publication of a call for public tenders does not constitute a lobbying activity within the meaning of the Act.

**André C. Côté**  
**Lobbyists Commissioner**