

Order for Enforcement of the Act on Promotion of Private Finance Initiative

(Cabinet Order No. 279 of September 22, 1999)

The Cabinet hereby enacts this Cabinet Order pursuant to Article 9 of the Act on Promotion of Private Finance Initiative (Act No. 117 of 1999).

(Parent Companies)

Article 1 (1) The corporation specified by Cabinet Order as provided in Article 9, item (iv) of the Act on Promotion of Private Finance Initiative (hereinafter referred to as the "Act") is to be a corporation having any of the following relationships (referred to as a "specified controlling interest" in the following paragraph) with a certain corporation:

(i) the corporation holds majority of all shareholders' (other than shareholders who are not allowed to exercise their voting rights with respect to all matters that can be resolved at a shareholders meeting) or all equity investors' voting rights of that certain corporation;

(ii) more than half of the officers of the certain corporation (meaning council members, directors, executive officers, partners who execute the business, or any person equivalent to the above; hereinafter the same applies in this paragraph) are the corporation's officers or employees (including those who were officers or employees in the past two years; the same applies in the following item); or

(iii) the corporation's officer or employee holds a position of officer with the right to represent that certain corporation.

(2) A first corporation that holds a specified controlling interest in a second corporation that holds a specified controlling interest in a third corporation is deemed to hold a specified controlling interest in that third corporation, and provisions of this Article are to apply.

(Replacement of Terms in Provisions of the Act on Promoting Quality Assurance in Public Works Applied Mutatis Mutandis to Technical Proposals)

Article 2 When applying mutatis mutandis the provisions of the main clause of Article 15, paragraph (5), Article 16, the first sentence of Article 17, paragraph (1), Article 18, paragraphs (1) and (2), and Article 19 of the Act on Promoting Quality Assurance in Public Works (Act No. 18 of 2005) pursuant to the provisions of Article 10, paragraph (3) of the Act, the phrase "When requesting technical proposals from tender participants to determine a successful bidder,

the commissioning entity" in the main clause of Article 15, paragraph (5) of that act is replaced with "When requesting technical proposals from those who intend to respond to the invitation to select a private business that implements a qualified project as provided in Article 2, paragraph (2) of the Act on Promotion of Private Finance Initiative (Act No. 117 of 1999) (hereinafter referred to as a "qualified project"), the administrator, etc. of the public facility, etc. provided in paragraph (3) of that Article (hereinafter referred to as the "administrator, etc. of the public facility, etc.)"; the term "commissioning entity" in Article 16, the first sentence of Article 17, paragraph (1), Article 18, paragraphs (1) and (2), and Article 19 of the act is replaced with "administrator, etc. of the public facility, etc."; the phrase "from tender participants" in Article 16 of that act is replaced with "from those who intend to respond to the invitation of private businesses that implement the qualified project"; the phrase "of tender participants" in that Article is replaced with "of those who intend to respond to the invitation"; the terms "construction technology" and "technical capabilities" in that Article is replaced with "managerial and technical capabilities"; the phrase "participating in the tender" in that Article is replaced with "intending to respond to the invitation"; the term "public works" in that Article and Article 18, paragraph (1) of that act is replaced with "qualified projects"; the term "technical capability" in Article 16 of that act is replaced with "level"; the phrase "determine a successful bidder" in that Article is replaced with "select a private business which will implement that qualified project"; the term "the works" in Article 18, paragraph (1) is replaced with "the qualified project"; the term "specifications" in that paragraph is replaced with "content"; and the term "of its commissions" in that paragraph is replaced with "of its selection of qualified projects".

(Project Contracts Requiring a Resolution of a Local Council)

Article 3 With respect to the criteria specified by Cabinet Order as provided in Article 12 of the Act, the type of the project contract is to be specified in the left-hand column of the following table, and for its amount, the amount of the target price (for borrowings, the total target lease charge) is to be not less than the amount specified in the right-hand column of the table.

Purchase or borrowing of a public facility, etc. provided in Article 2, paragraph (1) of the Act constructed by an appointed business provided		In thousand yens
	A prefecture	500,000

in paragraph (5) of that Article (excluding anything related to a business of an enterprise managed by a local government that the provisions of Article 40, paragraph (1) of the Local Public Enterprise Act (Act No. 292 of 1952) applies)	A designated city provided in Article 252-19, paragraph (1) of the Local Autonomy Act (Act No. 67 of 1947) (hereinafter referred to as a "designated city" in this table)	300,000
	City (excluding designated cities)	150,000
	A town or village	50,000

(Receipt of Usage Fees by an Administrator of the Public Facility)

Article 4 (1) If an administrator, etc. of the public facility, etc. (meaning the administrator, etc. of the public facility, etc. provided in Article 2, paragraph (3) of the Act (limited to the head of a local government); the same applies in the following paragraph) finds it to be necessary to receive usage fees received by an operating right holder of the public facility, etc. provided in Article 9, item (iv) of the Act (hereinafter referred to as the "operating right holder of the public facility, etc." in this Article) as its own income pursuant to the provisions of Article 23, paragraph (1) of the Act (hereinafter referred to as the "usage fees" in this Article) together with the fees collected by a local government (limited to those that the provision of services with respect to which those fees are the consideration therefor is closely related to the provision of services with respect to which the usage fees are the consideration), in order to promote the smooth and efficient implementation of the public facility, etc., operating project (referred to as the "public facility, etc., operating project" in Article 2, item (i) of the Supplementary Provisions), that administrator, etc. of the public facility, etc. may receive those usage fees based on entrustment from the operating right holder of the public facility, etc.

(2) When an administrator, etc. of the public facility, etc. intends to receive usage fees based on entrustment from the operating right holder of the public facility, etc. pursuant to the provisions of the preceding paragraph, it must make that fact known to those who are required to pay the usage fees in advance by notice or other appropriate means.

(Special Provisions of the National Public Service Ethics Code for Dispatched Officials from the National Government)

Article 5 For the purpose of the application of the provisions of Article 4, paragraph (3) of the National Public Service Ethics Code (Cabinet Order No. 101 of 2000), a dispatched official from the national government provided in Article 78, paragraph (1) of the Act is deemed to be a national public employee in the special service, etc. provided in Article 82, paragraph (2) of the National

Public Service Act (Act No. 120 of 1947).

Supplementary Provisions

(Effective Date)

Article 1 This Cabinet Order comes into effect as from the date of enforcement of the Act (September 24, 1999).

(Matters to be Specified in a Plan of the Public Facility Operating Project such as Water Supplies pertaining to a Request for the Advanced Redemption of Funds of the Former Trust Fund Bureau)

Article 2 The matters specified by Cabinet Order provided in Article 4, paragraph (1) of the Supplementary Provisions of the Act are to be the following matters:

- (i) the matters set forth in the items of Article 19, paragraph (2) of the Act related to public facility, etc., operating project such as water supplies (meaning the public facility, etc., operating project pertaining to the water supply business, etc. provided in Article 4, paragraph (1) of the Supplementary Provisions of the Act (hereinafter referred to as the "water supply business, etc." in this Article and paragraph (2) of the following Article); hereinafter the same applies in this Article and the following Article);
- (ii) the status of income and expenditure of a specified water supply business, etc. (meaning, among the water supply businesses, etc., those pertaining to the public facility, etc. operating project such as water supplies that are performed using the public facility, etc. provided in Article 4, paragraph (1) of the Supplementary Provisions of the Act; the same applies in following item) of the fiscal year immediately preceding the fiscal year that includes the day the public facility, etc. operating project such as water supplies, was started (if making a request for advanced redemption under Article 4, paragraph (1) of the Supplementary Provisions of the Act prior to the start of the public facility, etc. operating project such as water supplies, the day that request is to be made) (referred to simply as the "previous fiscal year" in the following item);
- (iii) the ratio of the amount of expenses required for the specified water supply business, etc. to the amount of expenses required for a water supply business, etc. in the previous fiscal year;
- (iv) the prospect of income and expenditure for the public facility, etc. operating project such as water supplies; and
- (v) beyond what is set forth in the preceding items, matters provided by Cabinet Office Order, Order of the Ministry of Internal Affairs and

Communications, and Ministry of Finance Order with respect to the public facility, etc. operating project such as water supplies, including a policy of maintenance and administration for the public facility, etc. operating project such as water supplies.

(Procedures for the Advanced Redemption of Funds of the Former Trust Fund Bureau)

- Article 3 (1) A request for advanced redemption and a plan regarding the public facility, etc. operating project such as water supplies under Article 4, paragraph (1) of the Supplementary Provisions of the Act is to be made or submitted to the Prime Minister, Minister for Internal Affairs and Communications, and Minister of Finance.
- (2) If the Prime Minister, Minister for Internal Affairs and Communications, and Minister of Finance find it particularly necessary to improve the soundness of management of the water supply business, etc. of the local government that made a request or submitted a plan referred to in the preceding paragraph, and find that the content of a plan regarding the public facility, etc. operating project such as water supplies submitted by the local government considerably contributes to the sound and efficient operation of the water supply business, etc. of the local government, they are to notify thereof to the local government without delay.
- (3) When the notice under the preceding paragraph is given, if the funds for the advanced redemption are the funds of the former Japan Finance Corporation for Municipal Enterprises provided in Article 4, paragraph (1) of the Supplementary Provisions of the Act (referred to as the "funds of the former Japan Finance Corporation for Municipal Enterprises" in the following paragraph), the Prime Minister, Minister for Internal Affairs and Communications, and Minister of Finance are to, without delay, request the Japan Finance Organization for Municipalities to respond to the request for the advanced redemption by the local government pertaining to the notice.
- (4) A local government that received the notice under paragraph (2) is to submit a written application containing the information necessary for the advanced redemption, including amount and date of the advanced redemption, to the Minister of Finance if the funds for the advanced redemption are the funds of the former Trust Fund Bureau provided in Article 4, paragraph (1) of the Supplementary Provisions of the Act and to the Japan Finance Organization for Municipalities if the funds for the advanced redemption are the funds of the former Japan Finance Corporation for Municipal Enterprises, respectively.

Supplementary Provisions [Cabinet Order No. 355 of November 28, 2011]

This Cabinet Order comes into effect as from the date of enforcement of the Act Partially Amending the Act on Promotion of Private Finance Initiative (November 30, 2011).

Supplementary Provisions [Cabinet Order No. 256 of September 4, 2013]

This Cabinet Order comes into effect as from the date of enforcement of the Act Partially Amending the Act on Promotion of Private Finance Initiative (September 5, 2013).

Supplementary Provisions [Cabinet Order No. 202 of June 4, 2014]

This Cabinet Order comes into effect as from the date of promulgation.

Supplementary Provisions [Cabinet Order No. 375 of November 11, 2015]

This Cabinet Order comes into effect as from the date of enforcement (December 1, 2015) of the Act Partially Amending the Act on Promotion of Private Finance Initiative (Act No. 71 of 2015).

Supplementary Provisions [Cabinet Order No. 362 of November 30, 2016]

This Cabinet Order comes into effect as from the date of promulgation.

Supplementary Provisions [Cabinet Order No. 225 of July 27, 2018]

This Cabinet Order comes into effect as from the date of enforcement (August 1, 2018) of the provisions prescribed in the proviso of paragraph (1) of the Supplementary Provisions of the Act Partially Amending the Act on Promotion of Private Finance Initiative (Act No. 60 of 2018).