

JANUARY 25, 2019

The Autorité des marchés publics Assumes Its Responsibilities

Authors: [Louis-Martin O'Neill](#) and Patrice Labonté

The majority of the activities of the Autorité des marchés financiers (AMF) under the *Act respecting contracting by public bodies* were transferred to the Autorité des marchés publics (AMP) on January 25, 2019.

The AMP was created in response to the first recommendation of the Charbonneau Commission after *An Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* was enacted on December 1, 2017.

The first president and CEO of the AMP, Me Denis Gallant, [assumed his duties on July 25, 2018](#) (press release issued in French only). Since then, the AMP has had the mandate to work with the secretariat of the Conseil du trésor to establish the operating rules of the [système électronique d'appel d'offres du Gouvernement du Québec \(SEAO\)](#), the government's online public calls for the tender system. Previously, the operating rules of the SEAO had been set solely by the secretariat of the Conseil du trésor.

On January 25, 2019, the following changes came into effect:

- The AMP will now exercise the majority of the functions that had been entrusted to the AMF under the *Act respecting contracting by public bodies*. Those functions include maintaining the [register of enterprises ineligible for public contracts](#) (known by its French acronym [RENA](#)) (notifications in French) and the register of enterprises authorized to enter into public contracts and subcontracts (known by its French acronym REA). They also include the powers, previously exercised by the AMF, to investigate and make recommendations and orders.
- The AMP is now responsible for overseeing the contract tendering and awarding processes for public and municipal bodies, as well as the performance of those contracts. As part of its mandate, the AMP will be able to make recommendations or order a public call for tenders to be amended or cancelled if it does not ensure the honest and fair treatment of tenderers.

The following additional changes will come into effect on May 25, 2019:

- Municipalities will be required to publish a notice of intention on the SEAO site 15 days before entering into a contract by mutual agreement with a single supplier for an amount exceeding the threshold established by order.
- Any interested person or partnership will be able to file a complaint with the AMP about the tendering process for public contracts, the decision made by a public body to award a public contract, or the amendments to the tender documents.
- The AMP will have the power to suspend, examine and revise a tendering or awarding process for a public contract following a complaint if the public body concerned does not appear to be acting, in respect of the process or contract, in compliance with the normative framework.

It is still too early to determine the impact on the authorization process of the transfer to the AMP of the responsibilities that, until now, had been handled by the AMF. However, the new powers conferred on the AMP could affect the speed of the public contract tendering and awarding processes. During a press conference on January 23, 2019, Me Gallant stated that the call for tenders and awarding processes for public contracts could be slowed down as a result of the provisions regarding complaints to the AMP coming into force on May 25, 2019.

Key Contacts: [Louis-Martin O'Neill](#), [Joseph Jarjour](#) and [Florence Simard](#)

This information and comments herein are for the general information of the reader and are not intended as advice or opinions to be relied upon in relation to any particular circumstances. For particular applications of the law to specific situations the reader should seek professional advice.