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Contracting authorization from the AMF: reduction in threshold for service contracts

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Last June 10, the Autorité des marchés financiers (AMF) announced that the floor amount for obtaining a public contract dealing with services without its prior authorization would be reduced to $1 million.[1] Thus, all contracts and subcontracts for services concluded following a call for tenders launched on or after November 2, 2015 — the date the order in council comes into force[2] — (or for which the awarding process by direct agreement starts on or after that date) may only be awarded to service providers holding an authorization to contract issued by the AMF.

While this lowering of the threshold currently only applies to contracts for services, it is most likely that it will also apply to construction contracts and supply contracts within a few months time.

You will remember that since the adoption of the *Integrity in Public Contracts Act* in 2012,[3] the threshold for tendering for and obtaining a contract or subcontract relating to construction or services with Quebec public bodies without the authorization of the AMF was reduced from $40M to $10M and then to $5M (stricter standards are moreover already in place for specific public bodies, such as the City of Montreal).

Since prior authorization of the AMF should eventually become mandatory for all contracts with public bodies (at least where a call for tenders is required), any person doing business with such bodies should consider taking the necessary measures to obtain such authorization as soon as possible.

Furthermore, in view of the serious consequences of a refusal of such authorization, it is essential that a person wishing to obtain authorization from the AMF should be certain of meeting the prescribed conditions before making their application. These conditions may require a restructuring of the company or the appointment of new directors.

Lavery has the knowledge and experience necessary to assist you in your dealings with the AMF. Please do not hesitate to contact us.

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1 See the news release dated June 10, 2015, online.

2 Order in council 435-2015 of May 27, 2015 concerning service contracts and subcontracts involving an expenditure equal to or greater than $1,000,000.

3 *Integrity in Public Contracts Act*, SQ 2012, c. 25, see Lavery BUSINESS bulletin no. 17 (June 2013), online.

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