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Government agencies, get ready!

November 30, 2015

Last October 30, the provincial government announced the creation of 'Passeport Entreprises', an action plan focused on two main points: to facilitate access by businesses to government contracts and make the Quebec government's tendering processes more transparent and rigorous.

The government intends to table a Bill to create the office of 'Commissaire aux contrats publics' ('Public Contracts Commissioner'), whose mission would be to ensure the sound management of public contracts. To do so, the current functions of the Autorité des marchés financiers regarding authorization to enter into contracts with the state would be transferred to the Commissioner.

The Public Contracts Commissioner is expected to have the power to require that changes be made to call for tender documents, or even to cancel them outright if he or she is of the view that they unduly limit competition, either because they are too restrictive, or because they target a specific product or business where other businesses could meet the same need.

Public agencies would be required to implement a systematic and transparent procedure, as an initial recourse, for processing complaints for lack of competition in tendering.

Before turning to the Commissioner, an aggrieved company would first have to submit its complaint to the public agency responsible for the call for tenders, which would then be required to assess the complaint.

For the time being, the foregoing is still subject to confirmation, since no Bill has yet been published.

Lavery's Corporate and Business Integrity Group protects your interests and will closely follow the adoption of this Bill to assist you in taking the necessary measures to bring you into compliance with the new requirements.

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