

July 18, 2019

Ministry of the Attorney General Announces the Authorized Nominating Authority Under the Construction Act

This is further to the related Adjudication Awareness Bulletin – Special Bulletin #4 (March 2019) titled “Call for Applications – The Authority under the Construction Act – Identification of Candidate” with respect to the Construction Act that came into force in Ontario in 2017.

Today marks the day the Ministry of the Attorney General (“MAG”) announced the Authorized Nominating Authority (“ANA or Authority”). Under Part II.1 of the Construction Act (the “Act”) and Ontario Regulation 306/18 (the “Regulations”), **ADR Chambers Inc.** has been selected to carry out the role of the Authority.

This followed an application process beginning with MAG issuing a Request for Expression of Interest (“RFEOI”) on January 17, 2019 which sought to ascertain the market interest in offering the services of the ANA, understand the availability of qualified and capable providers, to deliver the services, to collect views in relation to the operation, and selection of the ANA.

Subsequent to the receipt of responses to the RFEOI, on March 15, 2019, MAG posted a Call for Applications for interested parties to serve as the ANA, in accordance with section 13.2 of the Act and section 2 of the Regulations, with responsibilities for training, qualifying, and appointing/overseeing a roster of qualified adjudicators to perform statutory dispute interim adjudication for construction disputes across Ontario.

MAG confirmed Dentons Canada LLP as the independent fairness reviewer for the Authority during the selection process and further that Ernst and Young would administer the application process including:

- **Independence:** Acting as the independent due diligence provider, responsible for intake, review, verification, clarification, and assessment of applications in accordance with the criteria specified.
- **Recommendations:** Receiving and evaluating the applications and providing an impartial recommendation to the Minister as to which applicant is best qualified according to the criteria.

Call for Applications proposals were submitted by applicants on April 5, 2019, and on July 18, 2019 the Ministry announced **ADR Chambers Inc.** as the Authority in accordance with the Act and Regulations.

The new prompt payment and adjudication provisions will apply in respect of contracts/subcontracts entered into after October 1, 2019, per the requirements prescribed in the Act.

MAG has confirmed that the Authority is currently preparing for regular operations and developing an adjudication website that will include information about the Authority’s process to qualify as an adjudicator.

Watch this space: Further **Special Bulletins** will follow.

Note: This Adjudication Awareness Bulletin is issued for informational purposes only and does not constitute legal advice. Further, Adjudico Inc. is not liable for reliance by any party in respect of any and all statements contained within this Adjudication Awareness Bulletin.

Key Services to be provided by the Authority:

- **Training Programs**
Develop and oversee training programs for adjudicators
- **Qualify Adjudicators**
Qualify persons who meet the prescribed requirements as adjudicators
- **Appoint Adjudicators**
Appoint adjudicators to conduct adjudications
- **Code of Conduct**
Establish a code of conduct for adjudicators
- **Annual Report**
Publish an annual report containing aggregated information regarding adjudication in Ontario