

# Webinar ANIMP Algeria

*Contracting with Algerian  
State-owned entities*

*Key Pitfalls and Practical  
Insights*

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# Introduction

- Algeria: significant potential, especially for construction & EPC.
- State-owned companies and governmental entities play a central role.
- Objective: highlight key pitfalls based on our experience with companies similar to yours.
- Focus:
  - establishing a local presence.
  - determining the correct contract award procedure.

# Part 1 – Establishing a local presence (1/3)

1- **Government projects** = public procurement contracts (“*marchés publics*”)

Contracts entered into with :

- Ministries,
- Government agencies (Railway agency, Algerian Space Agency, the Water Dams Agency, *etc*),
- Public administrative establishments.

→ Two consequences:

- Public Procurement Code applies (tender rules).
- Certificate of professional qualification and classification required (for local tenders).

# Part 1 – Establishing a local presence (2/3)

## Certificate (Decree 14-139):

- Mandatory for construction, public works, water resources, forestry, passive telecom infrastructure,
- Assesses technical, human, and material capacity,
- Delivered by sectoral ministry after opinion of National Committee or Wilaya Commission,
- Requires establishing a local commercial entity (typically an LLC),
- The same LLC can execute the EPC contract and future projects.



### For International EPC tender:

- Qualification certificate is not required
- No obligation to set up a subsidiary
- A permanent establishment is sufficient (tax presence, no legal personality)

# Part 1 – Establishing a local presence (3/3)

## 2- Projects issued by State-owned companies

- Projects launched by state-owned companies are not considered public procurement contracts.
- The professional qualification certificate is therefore not required, unless the tender documents expressly request it.
- The contract may be performed through a permanent establishment; the incorporation of a commercial company is not mandatory.

## Part 2 – Contract Award Procedures:

### Why identifying the counterparty matters?

Correctly identifying the Algerian counterparty's status is critical:

- State-owned company,
- Government agency,
- Ministry,
- Public administrative institution,
- Public industrial/commercial establishment.

This determines whether the Public Procurement Code applies.

 Risk under Law 06-01 (anti-corruption)

Obtaining a contract via direct award or restricted consultation - when a tender is required - may constitute an offence (unjustified advantage).

# Award procedures in practice

If the counterparty is a ministry or public entity:

→ Public Procurement Code applies.

→ Must verify if:

- Tender is mandatory, or
- Direct award / restricted consultation is legally permitted (monopoly, urgency, etc.).

If the counterparty is a State-owned company:

→ Not subject to the Public Procurement Code.

→ Must follow internal procurement procedures:

- Based on freedom of access, equal treatment, and transparency.
- Procedures are not public: require requesting them.
  - Recommended: include a representation & warranty confirming compliance.



## Part 3 – Local content

No general local content requirement; rules are sector-specific and defined by the Public Procurement Code.

- International competitive bidding: foreign bidders must:
  - commit to partnership investments for certain projects, and
  - provide financial guarantees.
- Imported products prohibited unless no equivalent local product is available or compliant.
- Use of foreign subcontractors allowed only when Algerian companies cannot meet the project needs.
- Preference margin for Algerian-origin products and Algerian companies majority-owned by resident nationals.
- National tenders: specifications must include minimum requirements promoting employment and professional integration.
- International tenders: minimum threshold of professional integration of national labour and executives, monitored throughout contract execution.
- Non-compliance may lead to financial penalties or contract termination.



## Part 4 – Foreign Exchange Control Regulations

- Any contract involving foreign currency payments abroad must be registered (“domiciled”) with an approved local bank by the Algerian project owner.
- This domiciliation is mandatory to authorise foreign-currency transfers (Regulation 07-01).
- EPC contracts fall within the list of routine transactions (Instruction 02-07).
- Therefore, no prior approval from the Bank of Algeria is required, unlike non-routine transactions which remain subject to approval (rarely granted).
- EPC contract prices are typically split between:
  - a non-convertible Dinar portion paid into the contractor’s INR account in Algeria;
  - a foreign-currency or freely convertible Dinar portion paid either abroad or into the contractor’s CEDAC account in Algeria.

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