



AUTORITÉ
DES MARCHÉS
PUBLICS

TRANSPARENCE
ÉQUITÉ
SAINE CONCURRENCE



Companion Guide
for Enterprises

Public contracts

Managing Business Relationships

(Foreign enterprises and natural persons operating an enterprise)

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Important information



Throughout the authorization or renewal process, and as long as the enterprise holds an authorization, the respondent will be the **only** person with whom the *Autorité des marchés publics* (the “AMP”) communicates when necessary. A respondent who is unable to perform his or her functions may sign a **power of attorney** authorizing another person to communicate with the AMP as part of the renewal process.



Please pay particular attention to the names you disclose so as to ensure that they **are identical in all your documents** (relationships disclosed, identification documents, declaration forms and good conduct certificates, where applicable).



Business relationships disclosure forms **must not have been signed more than 6 months before an application is filed**.



If you are not able to provide certain criminal and penal court records (entities) and/or good conduct certificates (natural persons) at the time of disclosing the enterprise’s business relationships, provide instead a **letter of commitment** stating that you have taken the necessary steps to obtain the documents and that they will be promptly submitted once received. **Note that the AMP will not grant an authorization or renewal of authorization until it has received the criminal and penal court records and/or good conduct certificates.**



The declaration forms sent to the AMP must be complete, i.e., no pages must have been removed, even pages that are blank.



All the enterprise’s lenders must be disclosed, **including those on the balance sheet (liabilities) section of the financial statements**.

If a lender is listed on the balance sheet (liabilities) but the debt has been repaid, the enterprise must provide a letter confirming that the loan has been repaid in full.

Introduction

Who should use this guide?

This guide was prepared to assist enterprises that are required to:

- Disclose their business relationships in connection with an application for authorization.
- Update their business relationships in connection with a renewal of authorization.
- Update their business relationships following changes to information previously submitted in connection with an authorization or a renewal.

A “business relationship” means any person or entity that is related to and controls the applicant, such as an officer, a shareholder, a director or a partner.

What is a business relationship?

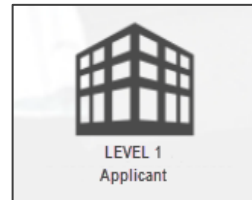
Introduction

A “business relationship” means any person or entity that is related to and controls the applicant, such as an officer, a shareholder, a director or a partner.

Relationship levels

Level 1

Level 1 refers to the applicant.



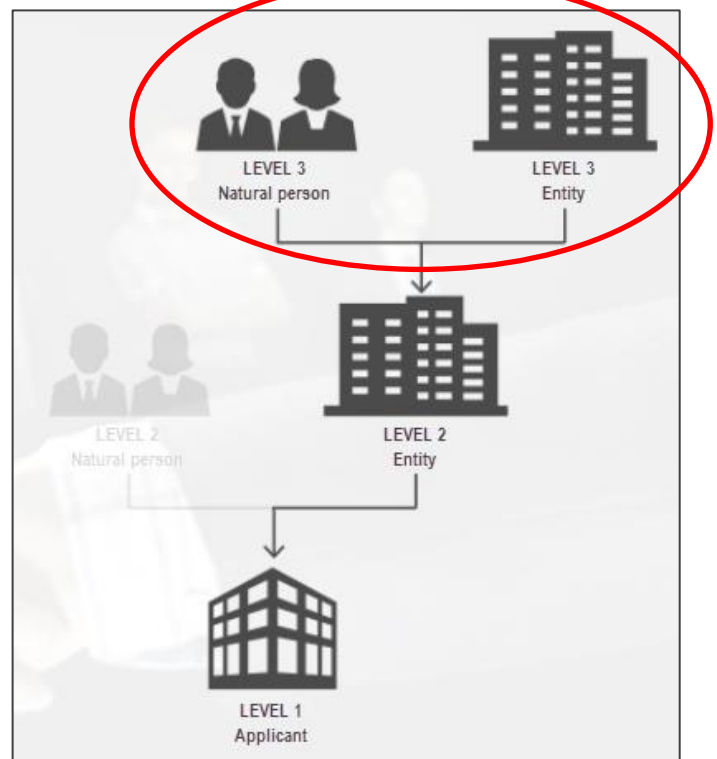
Level 2

Level 2 refers to all natural persons and entities that have a business relationship with the applicant.



Level 3

Level 3 refers to all natural persons and entities that have a business relationship with level 2 entities that have been disclosed.




Types of relationships

The types of relationships to be disclosed are based on the enterprise's legal form. See the diagrams on the following pages to determine which relationships must be disclosed depending on the legal form of your enterprise.

The following information will help you disclose relationships:

- **director** means any person who is a member of the board of directors of the enterprise.
- **officer** means a person who directs and/or supervises the administration and/or activities of an enterprise. In applying for authorization or renewal, the applicant must disclose all of its officers to the AMP. To do so, it must use one of the following links depending on the one that applies to each of its officers:
 - **officer who does not have control** means an officer who, in fact, has no decision-making power over the major orientations of the enterprise.
 - **officer who has control** means an officer who, in fact, has decision-making power over the major orientations of the enterprise. The AMP considers that an officer who has control is a person who holds a position such as, but not limited to: president, general manager, chief executive officer, chief financial officer, chief operating officer or any other position with similar functions.
- **partner** means a principal partner of a partnership who has decision-making power and participates in decisions related to the orientations of the enterprise.
- **shareholder** means the three principal shareholders who each hold 10% or more of the voting rights.



It is important to pay special attention when disclosing officers so as to avoid any issues that could arise and significantly delay the audit process.

The AMP may also require additional information about persons or entities not covered by the above definitions.

Concept of control

The business must provide the AMP with information about any person or entity who, directly or indirectly, controls the business. To identify these persons or entities, this concept requires clarification as to its scope.

For purposes of the Act, the person or entity who controls the business means:

- the person or entity who holds a sufficient number of the voting rights attached to all outstanding voting securities of a business to affect materially the control of the business;
 - If a person, acting alone or with other persons by virtue of an agreement, holds more than 20% of the voting rights, the person is deemed to hold a sufficient number of the voting rights to affect materially the control of the business.
 - Influence is material where it allows participation in decisions related to the orientations of the business.
- the person or entity who owns the securities of the business enabling the holder to elect in all cases a majority of the directors of the business;
- the person or entity who holds effective control of the administration or activities of the business, whether this right or power is exercised via a management contract or otherwise.

About certain types of relationships

Relationships with the applicant (level 2 natural person)

You must fill out this form for any level 2 natural person who has direct or indirect legal or *de facto* control over the enterprise.

Relationships with the applicant (level 2 entity)

You must fill out this form for any level 2 entity that has direct or indirect legal or *de facto* control over the enterprise.

Relationships with the applicant (level 3 natural person)

You must fill out this form for any level 3 natural person who has direct or indirect legal or *de facto* control over a level 2 entity that has been disclosed.

Relationships with the applicant (level 3 entity)

You must fill out this form for any level 3 entity that has direct or indirect legal or *de facto* control over a level 2 entity that has been disclosed.

Officer who does not have control over the applicant

You must fill out this form for each officer of the enterprise who does not have control over it.

Lender (natural person)

If applicable, fill out this form for each lender (natural person) with whom the enterprise has entered into an agreement for the loan of money or property.

Lender (entity)

If applicable, fill out this form for each lender (entity) with whom the enterprise has entered into an agreement for the loan of money or property.

You do not need to fill out this form for lenders that are financial institutions or lending companies. A financing company is considered to be a company that finances equipment, vehicles, etc. Financing companies are not financial institutions or lenders.

Financial institution

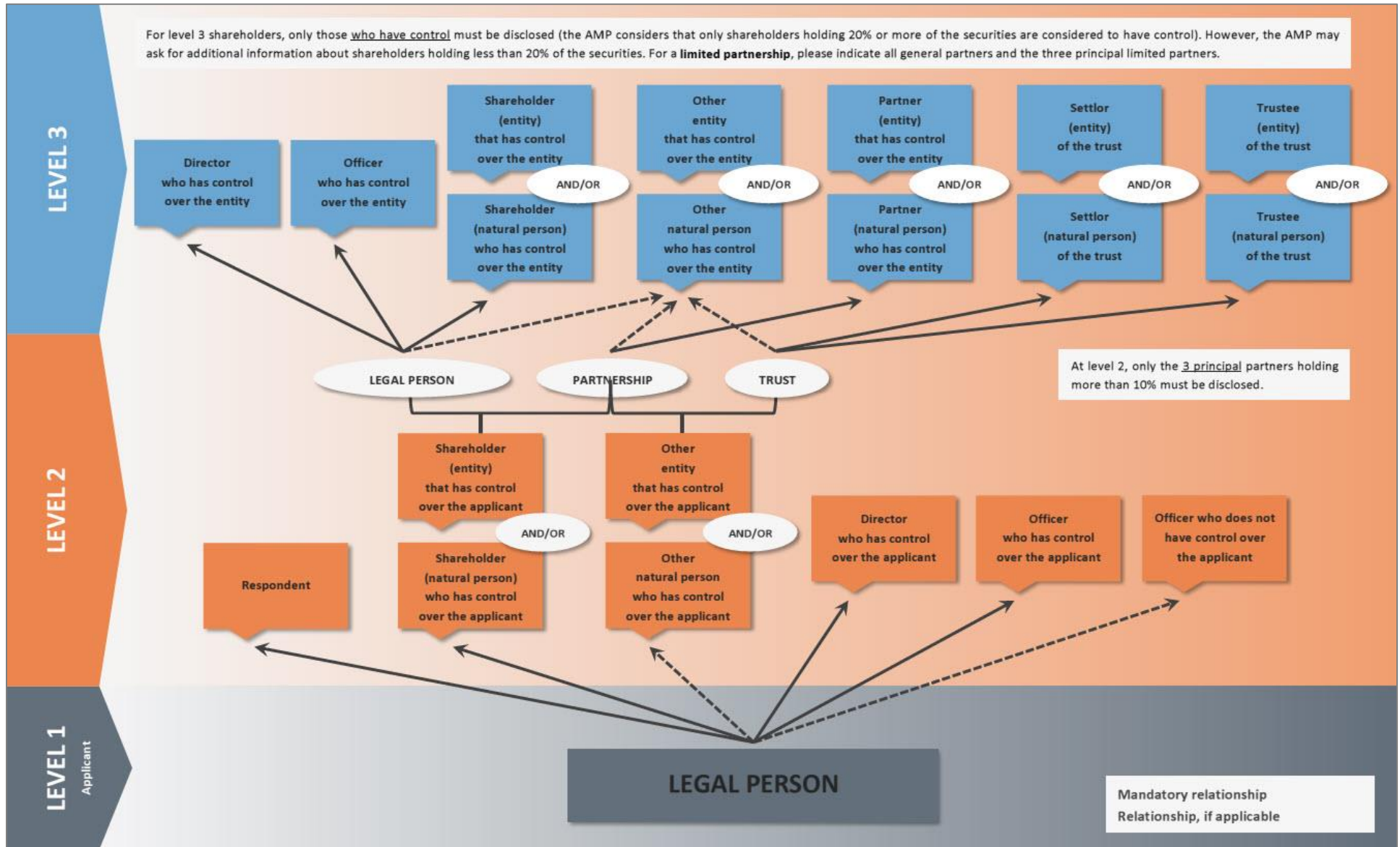
You must fill out a form for each financial institution with which the enterprise conducts business.

The financial institutions concerned are those that provide banking or financial services to the enterprise. For example, the enterprise must disclose the financial institutions with which it has a bank account or has taken out a loan.

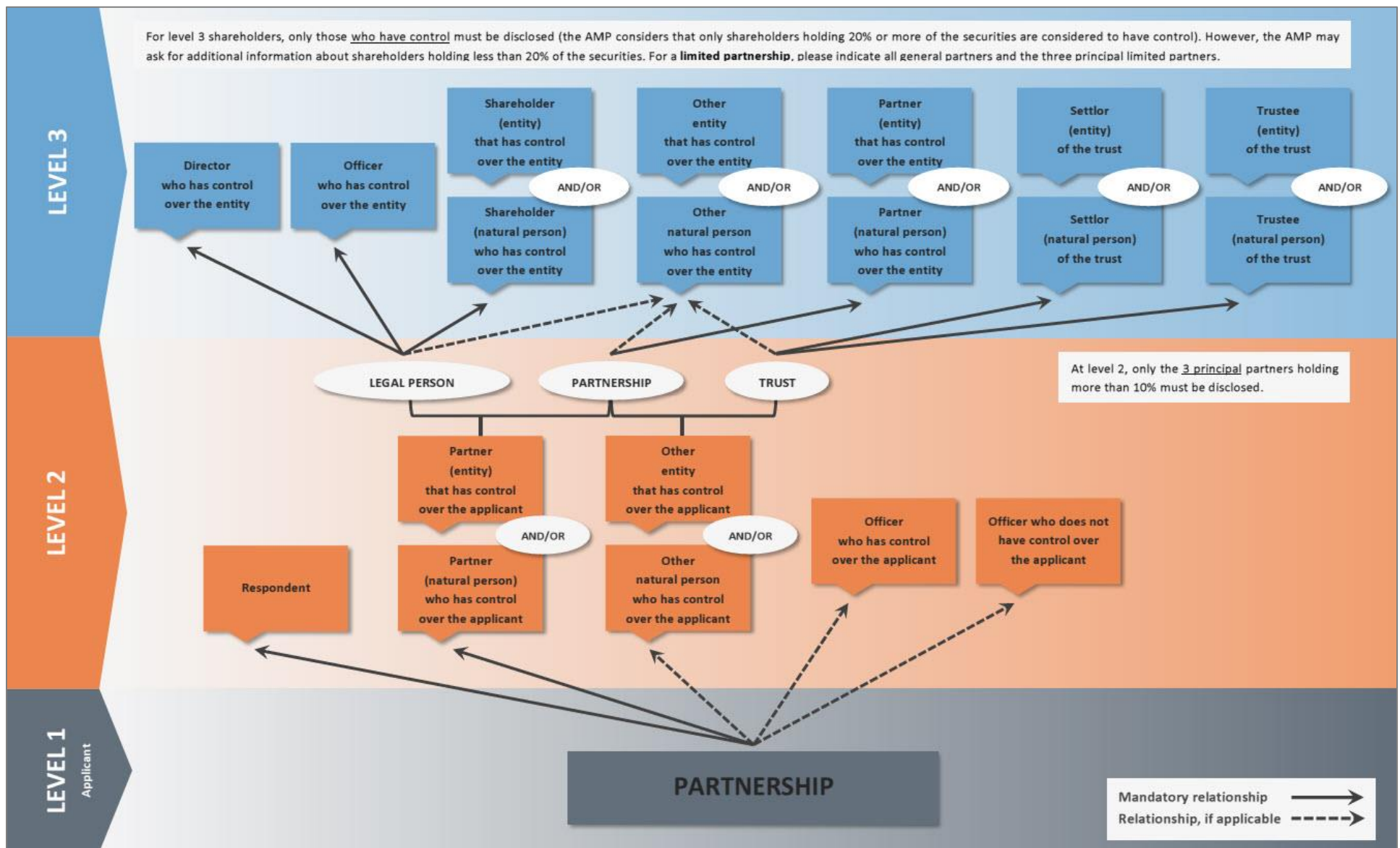
Addresses and establishments of the applicant

If applicable, you must fill out a form for each of the enterprise's addresses as well as for the addresses of all its establishments **over the past 5 years**.

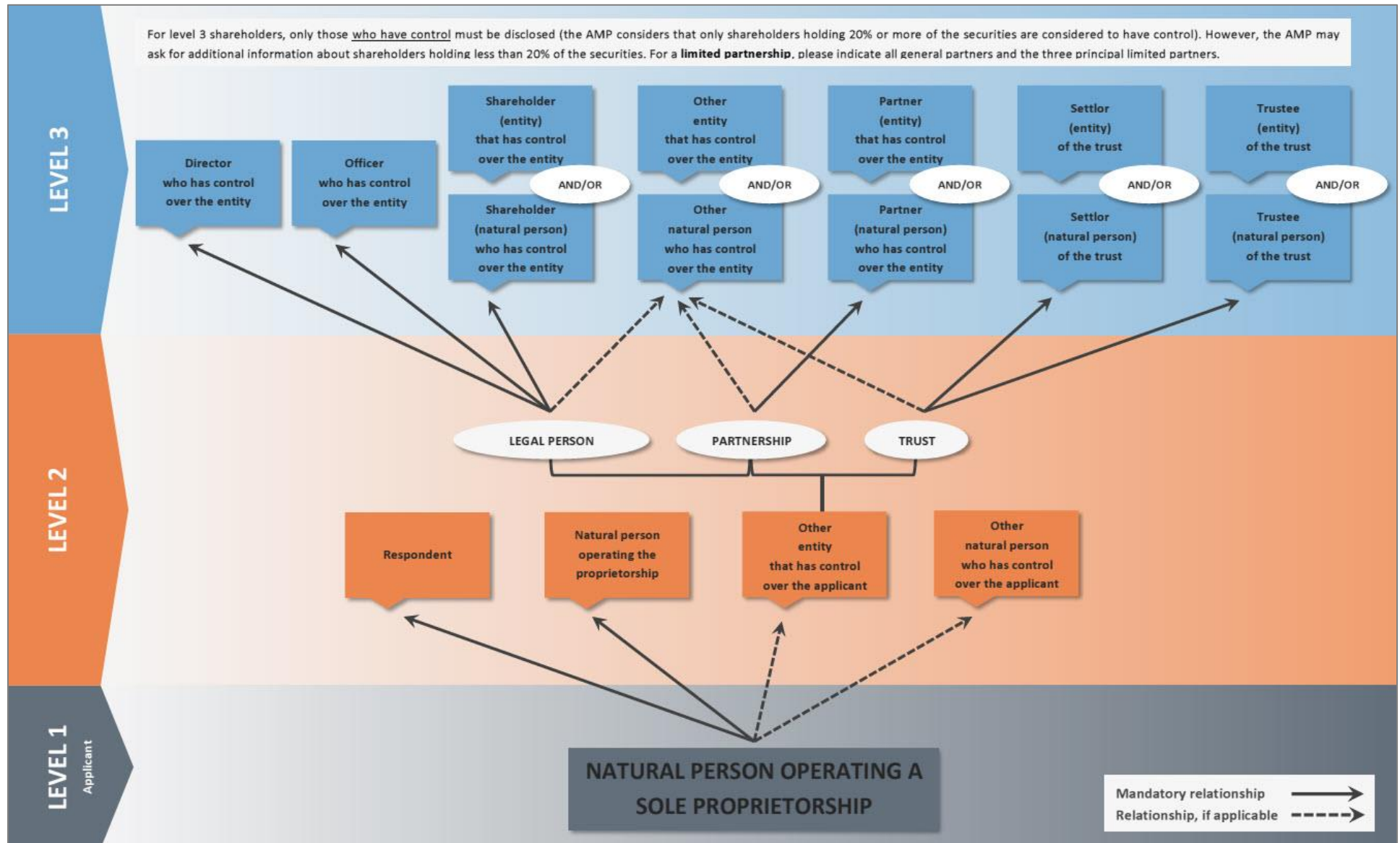
Relationships to be disclosed if the legal form of the enterprise is “Legal person”



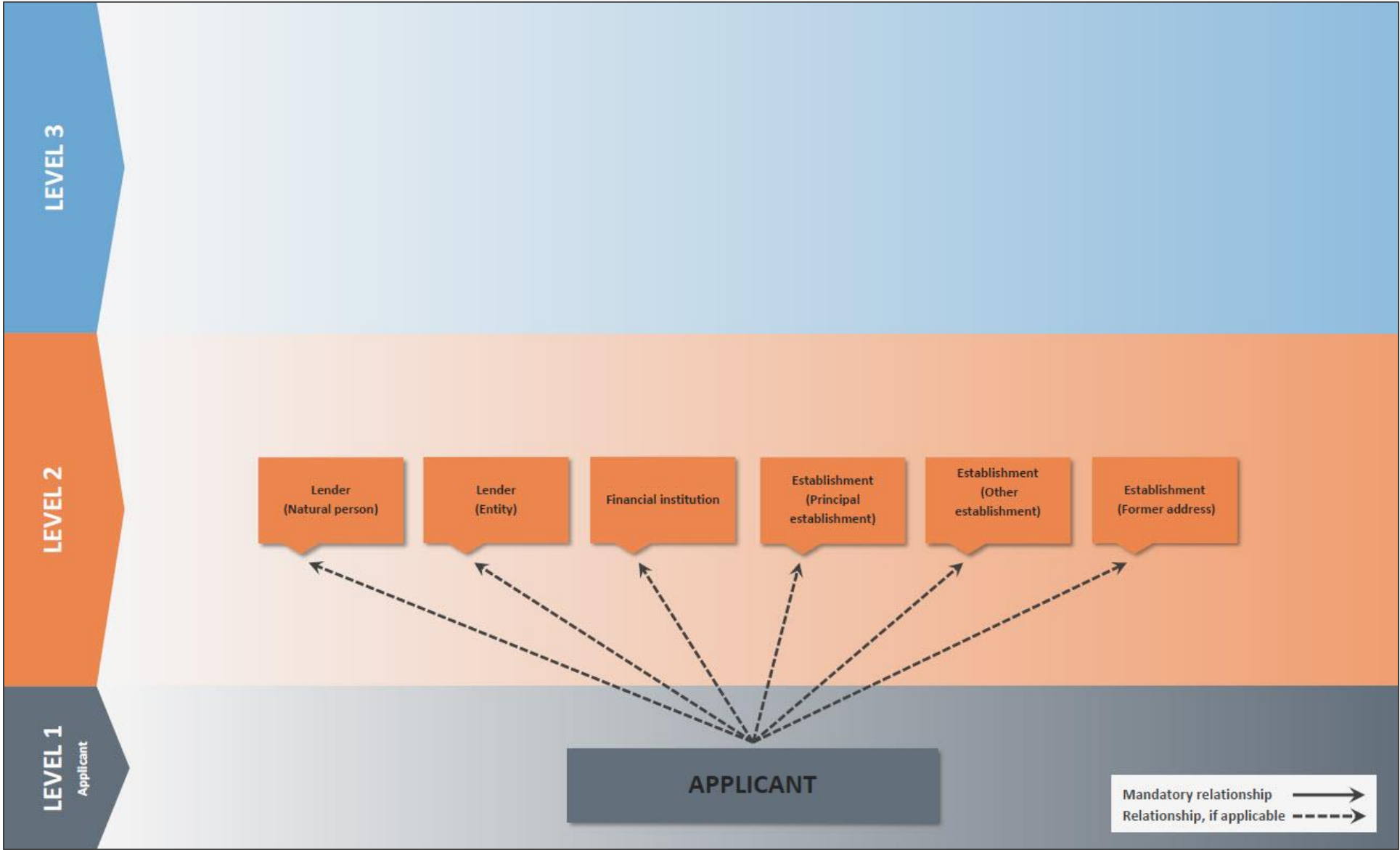
Relationships to be disclosed if the legal form of the enterprise is “Partnership”



Relationships to be disclosed if the legal form of the enterprise is “Natural person operating a sole proprietorship”



Relationships common to all legal forms



About the supporting documents to send with business relationships forms

Valid proof of identity (natural persons only)

Each **natural person** disclosed in a form must provide a copy of valid identification issued by a government or a government department or agency and showing the person's name and date of birth. For example, a driver's licence or health insurance card is considered acceptable identification.

Each form contains a space for providing the identification required for each person. We suggest you place the original of the identification document in the space provided and photocopy the form. You can then fill out the photocopy.

You may also provide a copy of the identification document on a separate sheet. To facilitate processing, it is important to staple the copy of the identification document to the form.



Please pay particular attention to the names you disclose so as to ensure that they are **identical in all your documents** (identification documents, business relationships forms and good conduct certificates, where applicable).

Prior criminal and penal offences (if applicable)



If you are not able to provide certain criminal and penal court records (entities) and/or good conduct certificates (natural persons) at the time of disclosing the enterprise's business relationships, provide instead a **letter of commitment** stating that you have taken the necessary steps to obtain the documents and that they will be promptly submitted once received. **The AMP will not grant an authorization or renewal of authorization until it has received the criminal and penal court records and/or good conduct certificates.**

Enterprises

The Regulation of the Autorité des marchés publics under an Act respecting contracting by public bodies (CQLR, c. C-65.1, r. 0.1) (the "Regulation") stipulates that, in the case of an enterprise that is not constituted under the laws of Québec and does not have its head office or an establishment in Québec where it primarily conducts its activities (foreign enterprise), the enterprise must provide the AMP with a good conduct certificate, issued by the local authorities, including a government or a government department or agency.

The AMP asks that **any enterprise whose head office is not located in Québec**, regardless of whether or not it conducts activities there, provide one of the following documents:

- A good conduct certificate in respect of the enterprise, **issued by the local authorities**, including a government or a government department or agency;
- If unable to provide a good conduct certificate, they must provide a **sworn letter** signed by the respondent or an officer of the enterprise declaring that during the past 5 years, the enterprise was not:
 - prosecuted for or found guilty, in Canada or abroad, of an offence listed in Schedule I of the *Act respecting contracting by public bodies* (CQLR, C. C-65.1) (the “ACPB”) or a similar offence;
 - prosecuted for or found guilty, in Canada or abroad, of any criminal or penal offence committed in the course of its business.

Under the Regulation, “the location of the enterprise” means the Canadian province or territory or other jurisdiction where the enterprise primarily conducts its activities.

A “good conduct certificate” means a police certificate, a criminal background check, a criminal record check, a police check or a Canadian Police Information Centre (CPIC) check.

Natural persons

You must also provide a good conduct certificate issued by the local authorities, including a government or a government department or agency, in respect of the **persons** listed below if they do not reside in Québec, even if the enterprise is constituted under the laws of Québec, or has its head office or an establishment in Québec. These persons are those referred to in sections 21.26 and 21.28 of the ACPB, including:

- a natural person operating a sole proprietorship;
- an officer;
- a director;
- a partner;
- a shareholder;
- a natural person who has direct or indirect ownership or control of the enterprise;
- a settlor;
- a trustee.

Under the Regulation, the “location” of a natural person means the place where he or she is domiciled.

The procedure for obtaining a good conduct (police) certificate, based on country of origin, is available on the Government of Canada website at <http://www.cic.gc.ca/english/information/security/police-cert/index.asp>.

Addition information about business relationships forms

Declarations

Most business relationships forms contain a “Declaration” section.

You must answer all the questions in the form. If one of the questions is left unanswered, the form will be returned to the enterprise.

If you answer “yes” to one of the questions, follow the instructions in the form in order to provide the additional information required.

The list of offences is set out in Schedule I to the ACPB, available on the AMP’s website.

Under the ACPB, persons who make a false or misleading statement and enterprises that fail to notify the AMP of any change to any information previously provided for the purpose of obtaining an authorization are guilty of an offence and liable to a fine as stipulated in the relevant sections.

Signature

The respondent is the only person authorized to sign the business relationships forms.

Additional consent

If the application for authorization is being filed by a **foreign enterprise**, i.e., an enterprise that is not constituted under the laws of Québec and does not have its head office or an establishment in Québec where it primarily conducts its activities, an additional consent is required pursuant to subparagraphs (1) and (2) of section 5 of the Regulation.



Business relationships forms submitted to the AMP must not have been signed more than 6 months before the date on which an application is filed.

Finalizing the application

Pay the business relationship disclosure fee

A security clearance report must be issued for each natural person/entity disclosed in one of the following forms:

- Relationships with the applicant (level 2 natural person)
- Relationships with the applicant (level 2 entity)
- Relationships with the applicant (level 3 natural person)
- Relationships with the applicant (level 3 entity)

Fees for a security clearance report are payable per natural person or entity that is being audited pursuant to Chapter V.2 of the ACPB and are paid only once, even if the person or entity was disclosed in more than one business relationship. Fees are adjusted annually and [posted on the AMP website](#).

The enterprise will receive an invoice once the AMP has completed its analysis of the business relationships. This fee may be paid by credit card, cheque (made payable to the Autorité des marchés publics), money order or certified cheque.

If you wish to pay by credit card, use the remittance slip form for this purpose.

If payment is made by cheque, please mail it to the following address:

Autorité des marchés publics
525, boul. René-Lévesque Est, 1er étage, bureau 1.25
Québec (Québec) G1R 5S9

Remittance slips sent by fax will not be accepted.



No authorization will be granted until the fee has been paid. **This fee is not refundable.**

Sending forms to the AMP

The enterprise must mail all completed relationships forms, the required documents and the remittance slip (if payment is made by credit card) to the following address: directionlcp@amp.quebec.