

Canada's FIRST comprehensive certificate
in Public Procurement Law and Practice



The *Osgoode* Certificate in Public Procurement Law and Practice

A unique hands-on program on how to manage the key legal and
practical issues facing procurement professionals today

April 12 - 16, 2010 | 5 Days | Toronto, Canada



Professional Development
CLE



Why You Should Attend

Program Details

Dates

Day 1

Institutional Governance
April 12, 2010

Day 2

Legal Rules and Regulations
April 13, 2010

Day 3

Project Management
April 14, 2010

Day 4

Document Drafting and Reviews
April 15, 2010

Day 5

Remedies and Dispute Resolution
April 16, 2010

The program will be held at *Osgoode Professional Development's* Downtown Toronto Conference Centre.

Across Canada there are thousands of public institutions spending billions of dollars on public projects. The challenges posed by greater supplier competition, the ever-increasing need for transparency and the demand for faster turnaround times, all underpinned by robust legal oversight have made public procurement a complex, high stakes field.

Given the challenges, it is not surprising that high profile examples of procurements that have gone awry continue to make headlines, as the focus on accountable, prudent public sector spending becomes more acute.

This unique *Osgoode Certificate in Public Procurement Law and Practice* brings clarity to this demanding area. Led by Paul Emanuelli, an outstanding faculty of legal and procurement professionals will give you the knowledge and practical skills you need to competently and confidently handle today's most pressing procurement challenges and issues. You will come away from this program better prepared, and with knowledge, strategies and tactics that you can put to immediate use. This is an unparalleled opportunity to take your procurement skills to the next level - don't miss it.

Key Benefits: What You Will Learn

- The governing principles and common themes for pro-active procurement
- Key practical strategies to build winning conditions in your purchasing operations
- Empowering the project management team: dos and don'ts
- How to focus on critical project details
- Major plays from major projects: learning from successful leading edge multi-million dollar projects
- Best practices for managing risk, enhancing flexibility and accelerating time frames in the procurement process
- Precision drafting: what you should be doing (and what you should not be doing)
- Avoiding drafting pitfalls, and creating documents that withstand the turbulence of the tendering process
- Critical benchmarks that should be assessed when reviewing procurement documentation
- When (and how) you should be using fairness advisors: bolstering the procurement process
- Remedies and dispute resolution
- Managing the inherent legal risks in contract management
- Avoiding public purchasing paralysis: tips for surviving the red-tape revolution

Who Should Attend

- Procurement specialists and professionals; VPs and managers of finance from municipalities, hospitals, school boards and academic institutions
- Procurement/purchasing managers
- Government procurement officers and procurement managers
- Municipal lawyers
- Government counsel
- Lawyers advising purchasers
- Lawyers advising vendors to public institutions
- In-house counsel for vendors
- Procurement policy advisors



In five consecutive intensive one-day modules, an expert faculty will deliver the key concepts of Public Procurement Law and Practice. There will be an emphasis on the practical, and classes will be taught using a blended delivery method that includes lectures, class discussions, case studies and small group work.

THE CURRICULUM

DAY 1

April 12, 2010, 9:00 a.m. - 5:00 p.m.

Institutional Governance

Governing Principles

The governing principles and common themes that impact a public institution's procurement policies and practices:

- Role of the private sector in government operations
- Impact of public policies and trade treaties
- Written rules that frame the procurement process
- Unwritten rules that regulate competitive bidding
- Risks and remedies that shape public procurement
- Practical considerations that enable empowered procurement

Institutional Strategies

Critical institutional strategies needed to build winning conditions in your purchasing operations:

- Proactive leadership
- Enhanced external oversight
- Ethics and accountability
- Clear roles and responsibilities
- Common rules and practices
- Empowered innovation

Ethics and Accountability

An interactive review of scenarios drawn from real conflict of interest cases, including case studies that cover:

- How bidder conflict of interest and unfair "insider" advantage can compromise the integrity of the tendering process
- How purchaser bias can undermine a fair evaluation process
- How a decision maker's impartial discretion can be compromised by personal interests
- Why it is important to clearly define conflict of interest rules in your procurement documents

Faculty

Eddy Jin, Director Procurement Services, University of Toronto

Shahid Minto, The Procurement Ombudsman

Diana Magnus, Manager, Marketing and Communications, Procurement Services, University of Toronto

Margaret Rose, Executive Director, The Caribbean Procurement Institute

Paul Emanuelli, Managing Director, The Procurement Office

DAY 2

April 13, 2010, 9:00 a.m. - 5:00 p.m.

Legal Rules and Regulations

The Supreme Court's Dual Paradigms

A comparison of the "Contract A" tendering law paradigm and the traditional contracting model explained with reference to:

- The history of the *Ron Engineering* case, with an analysis of the decisions at the trial court, Ontario Court of Appeal and Supreme Court of Canada
- The legacy of *Ron Engineering* and the common law duty of fairness
- The Supreme Court of Canada's modern analytical architecture and dual procurement paradigms, with specific focus on leading Supreme Court decisions

The Five Major Implied Duties

An analysis of some of the leading cases from the last quarter century that illustrate the following implied fairness duties:

- Disclosure duty
- Duty to reject non-compliant tenders
- Duty to run a fair process
- Duty to award to the winning bidder
- Duty to award the contract as tendered

Implied Duties vs. Reserved Rights

An exploration of the interplay between implied fairness duties and expressly reserved rights, with reference to leading cases that help define:

- How some implied rules, such as the "low bid rule", can be overridden by specific tender call provisions
- How the courts rely on the doctrine of fairness to apply limits on the use of the "privilege clause"

Faculty

Paul Emanuelli, Managing Director, The Procurement Office

Maud Murray, Counsel, Crown Law Office Civil, Ontario Ministry of the Attorney General

DAY 3

April 14, 2010, 9:00 a.m. – 5:00 p.m.

Project Management

Project Management Overview

- Managing internal governance
- Building business plans
- Developing procurement strategies / selecting the procurement format

Surveying the Procurement Playbook

This segment will review the following internationally recognized purchasing formats and assess them within the unique context of Canada's tendering law:

- Legally binding Invitations to Tender
- Binding and negotiated RFPs
- Prequalification processes
- Request for Quotation formats
- Market research methods - RFIs & IEs

Major Plays from Major Projects

This segment will consider advanced scenarios from successful leading-edge multi-million dollar projects.

Faculty

Leo Gotlieb, Director, Western Management Consultants

Marilyn Brown, Solicitor, City of Toronto

Paul Emanuelli, Managing Director, The Procurement Office

DAY 4

April 15, 2010, 9:00 a.m. – 5:00 p.m.

Document Drafting and Reviews

Secrets of Aerodynamic Design: An Overview of Critical Precision Drafting Concepts

The Three Pillars

The three underlying principles that drive the precision drafting process:

- Clear thinking; plain language; legal interpretation

The Seven Stages of the Precision Drafting Process

- The initial mapping statement; detailing requirements; making material disclosures; establishing eligibility requirements; creating ranking and selection criteria; developing the rate bid form; drafting the form of agreement

Aligning Legal and Procurement Reviews

The critical benchmarks that should be assessed when conducting a review of a procurement document.

Faculty

Paul Emanuelli, Managing Director, The Procurement Office

Michael Killeavy, Director, Contract Management, Ontario Power Authority

DAY 5

April 16, 2010, 9:00 a.m. – 5:00 p.m.

Remedies and Dispute Resolution

Surviving the Red Tape Revolution

In the modern era, government procurement is under an unprecedented level of scrutiny. This segment provides critical recommendations for managing disputes while considering a critical question: Is red tape paralyzing public purchasing and undermining the procurement process?

Fairness Oversight

More and more public institutions are using arms-length advisors to monitor their procurement projects. This segment offers five critical considerations for the proper use of external fairness advisors.

Legal Risks and Remedies

A review of the legal risks, liabilities and remedies that can apply during the procurement process, with a particular focus on cases dealing with:

- Purchaser remedies against bidders
- Dealing with problematic suppliers
- The role of external advisors
- The warning signs of bid rigging
- Speedy supplier remedies
- Supplier lost profit damages
- Alternative dispute resolution

Contract Management

An analysis of how contract management should inform your entire procurement cycle, with fact scenarios drawn from case studies that illustrate:

- How a supplier's poor past performance can impact both the supplier's right to bid and the evaluation of its tender
- How the origins of many performance disputes can be traced back to earlier stages in the procurement process
- How the contract management phase of the procurement cycle is fraught with inherent legal risks that need to be carefully managed

Faculty

Paul Emanuelli, Managing Director, The Procurement Office

Christianne M. Laizner, Executive Director and General Counsel/Head of Legal Services, Department of Justice, CIDA Legal Services

Note: There will be an in-class assessment during this session. In order to receive the *Osgoode* Certificate in Public Procurement Law and Practice, students must successfully complete the assessment.



Take your procurement knowledge and skills to the next level..



Program Director Paul Emanuelli is an internationally known author, procurement lawyer and consultant with an extensive track record of public speaking, publishing and training. His portfolio focuses on major procurement projects, information technology transactions, outsourcing, corporate governance and supply chain management. He has in-depth experience advising institutions on the legal and strategic aspects of purchasing operations, developing procurement formats and negotiating commercial transactions. He is the author

of *Government Procurement*, *The Laws of Precision Drafting: A Handbook for Tenders and RFPs* and the *National Tendering Law Update* and hosts two procurement law webinars *Case Law Countdown* and the *Procurement Office Cyberseries*.

Here's what participants have been saying about Osgoode Procurement Programs:

"I highly recommend this course to any procurement professional"

Michel Sicard, Canadian Institutes of Health Research (2009)

"I would recommend it to any procurement professional, and will depend on its availability as a key component of the training for committed procurement professionals in my organization"

Melinda Nycholat, Director, Contract Services, Defence Construction Canada (2008)

"This was a fabulous overview of the law relating to government procurement"

Elizabeth King, Ministry of Municipal Affairs and Housing (Ontario) (2007)

"Great course, very Informative"

Olympia McLean, Procurement Coordinator, Ministry of Education, (Ontario) (2006)

"Very thorough and informative two days. Would definitely recommend to peers in public procurement profession"

Kelly O'Leary, LCBO (2007)

"Excellent - Best so far"

Glynn Hancott, Senior Procurement Advisor, Ministry of Government Services (2006)

FACULTY

PROGRAM DIRECTOR

Paul Emanuelli
Managing Director
The Procurement Office

FACULTY

Shahid Minto
The Procurement Ombudsman

Margaret Rose, Executive Director
The Caribbean Procurement Institute

Leo Gottlieb, Director
Western Management Consultants

Marilyn Brown
Solicitor, City of Toronto

Michael Killeavy, Director
Contract Management
Ontario Power Authority

Eddy Jin, Director Procurement Services,
University of Toronto

Christianne M. Laizner
Executive Director and General Counsel
Head of Legal Services, Department of
Justice, CIDA Legal Services

Diana Magnus, Manager, Marketing and
Communications, Procurement Services
University of Toronto

Maud Murray, Counsel, Crown Law Office
Civil, Ontario Ministry of the Attorney
General

THE OSGOODE CERTIFICATE IN PUBLIC PROCUREMENT LAW AND PRACTICE SPRING 2010 REGISTRATION

Get a comprehensive grounding
on how to manage the risks in this
complex, high stakes area

Name:	Title:								
Firm/Company:	Practice Area:								
Address:									
City:	Province:	Postal Code:							
Email:									
Telephone:	Fax:	Priority Service Code:	<table border="1"><tr><td>0</td><td>6</td><td>6</td><td>1</td><td>0</td><td>L</td></tr></table>	0	6	6	1	0	L
0	6	6	1	0	L				

- Please add me to your mailing list.
 Please delete me from your mailing list.
 If you do not wish to be contacted by e-mail, indicate here.

Payment Plan
available

Fee Per Delegate

\$2,995 plus 5% GST for a total of \$3144.75

Fees include attendance, program materials, continental breakfast, lunch and refreshments for each of the 5 days of the program. The price does not include accommodations. Please inquire about group discounts and financial assistance. Payment plan details below. Dress is business casual.

Need accommodations? Check our website at www.osgoodepd.ca/hotelandparking.html

Payment Options – Payment must be made prior to the program

- Cheque enclosed (payable to York University – GST# R119306736)
 Bill my credit card: VISA Mastercard
 Payment plan (Available prior to February 15, 2010 only): Bill my credit card in three equal monthly payments of \$1048.25 commencing the date of registration. VISA Mastercard

Card# _____ Expiry: _____

Signature: _____

Payment Amount: _____

Program Changes

We will make every effort to present the certificate program as advertised, but it may be necessary to change the dates, location, speakers or content with little or no notice. In the event of program cancellation, York University and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Location

Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
Toronto, ON, M5G 1Z3

For Further Program-Related Information

Please contact: David Thomas, Program Lawyer
at 416.673.4672 or email dthomas@osgoode.yorku.ca.

Cancellations/Rainchecks/Substitutions

If you are unable to attend the program your organization may name a replacement. A full refund will be issued for cancellations received a minimum of 21 days before the program start date. Written cancellations received after March 22, 2010 will include an administration charge of \$700.

Certificate of Program Completion

You will receive a certificate upon completion of The Osgoode Certificate in Public Procurement Law and Practice. Participants must attend all program modules and satisfactorily pass the in-class assessment to receive a certificate.

Public CLE Seminars

Customized CLE Programs

Skills Training & Certification

ITAW

Part-time LLM

4 Convenient Ways to Register

1. **MAIL** your registration form to:
Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
Toronto, ON M5G 1Z3
2. **ONLINE** at www.osgoodepd.ca
3. **FAX** your registration to 416.597.9736
4. **CALL US** at 416.597.9725 or 1.888.923.3394

Professional Development
CLE

