

THE OSGOODE CERTIFICATE IN ADVANCED PROCUREMENT LAW AND PRACTICE: MAJOR PROJECTS AND TENDERING

November 20 – 24, 2017
5 Days
In Person

Led by Paul Emanuelli, our outstanding faculty will give you the knowledge and practical skills you need to confidently handle today's most pressing procurement project challenges. There will be an emphasis on the practical, and classes will be taught using a blended-delivery method that includes lectures, group discussions, case studies and workshops.

Register today at:
osgoodepd.ca/advproc

Certificate Details:

PROGRAM DIRECTOR

Paul Emanuelli,
General Counsel and
Managing Director,
Procurement Law Office

LOCATION

**Osgoode Professional
Development**
1 Dundas St. West, 26th Floor,
Toronto, ON



Drawing on the expertise and experience of leading lawyers and experts, including:

Program Director



Paul Emanuelli

General Counsel and Managing Director, Procurement Law Office

Paul Emanuelli is recognized by *Who's Who Legal* as one of Canada's leading procurement lawyers. He is the General Counsel and Managing Director of the Procurement Law Office, which was recently ranked by *Global Law Experts* as Canada's top public procurement law firm. Paul has 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 strategic legal aspects of their 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*.

Program Faculty

Heather Baker, Procurement Advisor, The Procurement Office

Fay Booker, President, Booker & Associates

Carl Bonitto, Purchasing Manager, Northumberland County

Hartley Borst, General Counsel, Toronto Lands Corporation

Marilyn Brown, Senior Legal Counsel, Procurement Law Office

Denise Durie, Procurement Officer, University of Toronto, Mississauga, UTM Procurement Department

Helaina Gaspar, Senior Research Associate, Jean-Luc Pepin Research Chair Faculty of Social Sciences, University of Ottawa

Andrew Goodyear, Senior Development Manager, Toronto Community Housing

Claire Hicks, Legal Counsel, City of Brampton

Blayne Iskiw, Executive Director, Strategic Contracting, Alberta Health Services

Sahir Khan, Senior Visiting Fellow, Jean-Luc Pepin Research Chair, Faculty of Social Sciences, University of Ottawa

Sylvia Kobal, Director of Procurement, Toronto Community Housing

Ben Koberna, Director of Reverse Auction Services, Electronic Auction Services Incorporated

Tharshini Markandaier, Manager of Procurement, Town of Richmond Hill

Jennifer Marston, Legal Counsel and Legal Editor, Procurement Law Office

Dr. Gabriela Prada, MD, MHA, Strategist, Health Policy Systems, Global Government Affairs

Kara Thompson, Principal, Accountability Law Office



The Osgoode Certificate in Advanced Procurement Law and Practice: Major Projects and Tendering

Failed projects are a major risk factor in public and private sector procurement. The Osgoode Advanced Certificate in Procurement Law and Practice is an innovative course offering proven methods for navigating the project cycle. Designed to help procurement professionals across all sectors manage the time pressures and business and legal risks inherent in the tendering process, this advanced program surveys key principles relating to project governance and project deployment. With a focus on team organization, project design planning, defensible evaluations, coordinated document drafting and assembly, negotiated and automated tendering formats and integrated contract management, this certificate sets a new standard for advancing your tendering practices and increasing the success rate of their procurement projects.

What You Will Learn

- Roles and responsibilities of decision-makers in the procurement cycle
- The importance of integrating project planning and design principles into your organization's budget approval process
- How to properly organize your project team and assign clear roles and responsibilities
- Critical concepts for developing business plans and procurement strategies, with a particular focus on scoping clear requirements that properly align to pricing structures, creating defensible evaluation plans and award protocols, incorporating properly designed contracts terms, and selecting the right tendering format for the specific project
- Practical group-based workshops that focus on applying the five-step fast-tracking design process to a broad range of projects and industries, including projects drawn from the procurement portfolios of course attendees.
- Who to include in initial planning and design meetings and what each member of the tendering team should contribute to the plan
- Where design flaws can cause project delays, cost overruns and bid disputes and how to fast-track projects with simplified RFQs or flexible Negotiated RFPs
- How to apply fast-tracking principles to launch your new projects or jumpstart your stalled projects

Who Should Attend?

- Procurement specialists and professionals
- Government procurement, legal and finance professionals
- Lawyers advising public purchasers
- Lawyers, advising vendors to public purchasers
- Procurement policy advisors
- Board members, CEOs and finance, legal and procurement managers of public bodies including municipal corporations, special purpose enterprises, hospitals, school boards and academic institutions

Agenda

In five consecutive intensive one-day modules, an expert faculty will focus on advanced concepts of procurement law and practice.

DAY 1 November 20, 2017
9:00 a.m. – 5:00 p.m.

Project Governance: Integrating Project Design into the Tendering Process

Integrating Project Governance into your Procurement Cycle

- The perils of improper governance
- Integrating project design planning into your project budget approval process
- Clarifying your project approval and review process flow
- Establishing clear roles and responsibilities across the project team
- Managing external advisors and subject matter experts

The Foundations of Project Design; Understanding the Cause of Major Project Failures

- Identifying the leading causes of project failure and addressing those factors during the project design stage through the proper sequencing of project design decision-making
- Planning your projects to ensure proper alignment

Procurement Innovation in the Health Sector: Leveraging Leading Global Practices within Canada

Scoping Project Requirements and Aligning Pricing Structures

- Designing a clear initial mapping statement that identifies your project requirements and properly aligns those requirements to clear pricing structures
- Mitigating project delays and performance disputes by properly identifying key project milestones and linking your payment protocols to supplier performance benchmarks

- Identifying material project risk factors at the outset of project planning to facilitate timely disclosures during the tendering process
- Ensuring that your project scoping aligns with your budget constraints

Faculty

Paul Emanuelli, General Counsel and Managing Director, Procurement Law Office

Helaina Gaspard, Senior Research Associate, Jean-Luc Pepin Research Chair, Faculty of Social Sciences, University of Ottawa

Sahir Khan, Senior Visiting Fellow, Jean-Luc Pepin Research Chair, Faculty of Social Sciences, University of Ottawa

Dr. Gabriela Prada, MD, MHA, Strategist, Health Policy Systems, Global Government Affairs

DAY 2 November 21, 2017
9:00 a.m. – 5:00 p.m.

Contract Design: The Foundations of Contract Management

Contract Architecture

- Distinguishing between simple “one-time delivery” transactions and more complex arrangements that call for ongoing contract management mechanisms
- Knowing when to use simplified purchase order terms
- Deploying streamlined letter agreements
- Using formal legal agreements for more complex projects

Contract Anatomy

- Promoting integrated contract management by incorporating contract performance terms that define your requirements
- Adapting specialized contract terms that are tailored to your specific transactional needs and your specific industry, with particular consideration given to: (i) acceptance testing procedures (ii) subcontracting and key individual commitments (iii) change management and change order protocols (iv) confidentiality, access and privacy provisions (v) insurance and indemnity clauses (vi) limitation of liability disclaimers and (vii) dispute resolution and termination protocols

Bypassing Boilerplate Battles: Surveying the Contractual Matrix

Contract Assembly Workshop

This segment will use case studies based on simplified, standard and advanced contract formats. Working in teams, attendees will respond to fact scenarios that will require them to consider the different components of contract anatomy, map those components to different contract architectures, and determine the most appropriate match of contract anatomy and design.

Flexible Format Case Study: Using the Negotiated Requests for Proposals in Recent Major Projects

RFX Design Workshop (Part 1)

Faculty

Paul Emanuelli, General Counsel and Managing Director, Procurement Law Office

Hartley Borst, General Counsel, Toronto Lands Corporation

Sylvia Kobal, Director of Procurement, Toronto Community Housing

Andrew Goodyear, Senior Development Manager, Toronto Community Housing

Kara Thompson, Principal, Accountability Law Office

DAY 3, November 22, 2017
9:00 a.m. to 5:00 p.m.

The Art of Selection: Building Defensible Evaluations

Managing Mandatories

- Identifying and consolidating mandatory evaluation requirements
- Limiting mandatories to compulsory requirements only and integrating desirables into your scored rated criteria
- Establishing objective pass/fail criteria
- Anchoring your mandatory evaluation requirements

Aligning Pricing Structures for Transparent Price Evaluations

- Building transparent price evaluations
- Accurately disclosing anticipated work volumes for proper price calculations
- Deciding between low bid and high score selection plans

Financial Considerations: Financial Resource Evaluation and Net Present Value Considerations

Agenda

Integrating Clear Non-Price Evaluation Criteria

- Avoiding undisclosed criteria, hidden scoring formulas or arbitrary scoring procedures
- Moving beyond abstract concepts of “best value” by clearly identifying the specific non-price criteria that will be used in scoring and ranking proposals
- Disclosing the relative weightings and sub-weightings
- Identifying any minimum scoring thresholds

Creating Fair and Transparent Evaluation and Award Process Paths

- Disclosing the entire evaluation, selection and award process and avoiding hidden or vaguely defined discretionary stages
- Identifying situations where the solicitation may result in multiple or partial contract awards
- Establishing clear post-selections rules
- Ensuring that the scope of the awarded contract is consistent with the description of requirements in the original solicitation document
- Maintaining proper records of the entire evaluation process

Faculty:

Paul Emanuelli, General Counsel and Managing Director, Procurement Law Office

Fay Booker, Managing Partner, Booker & Associates

Claire Hicks, Legal Counsel, City of Brampton

Blayne Iskiw, Executive Director, Strategic Contracting, Alberta Health Services

Heather Baker, Procurement Advisor, The Procurement Office

DAY 4 November 23, 2017

9:00 a.m. – 5:00 p.m.

Deploying Advanced Tendering Formats

The Rise of NRFPs - The Limitations of Contract A

- Understanding the specific construction industry conditions that led to the adoption of “Contract” A fix-bid process contract
- Analyzing the risks and restrictions inherent in fixed-bid tendering formats

- Highlighting the construction industry’s adoption of flexible formats

Deploying Negotiated RFPs

- Explaining the key advantages of using Negotiated RFP formats instead of the Invitation to Tender/No-Negotiation RFP fixed-bid formats
- Implementing defensible rectification processes and transparent, low-risk evaluation and award protocols
- Integrating transparent and defensible post-bid price-reduction processes

The Negotiated RFP in Practice: A user’s perspective

Demystifying Dialogue RFPs Advanced Negotiated RFP Workshop

In this interactive workshop, attendees will consider challenging fact situations drawn from a broad range of industries. Topics include:

- The core building blocks for properly structured Negotiated RFPs
- Factors that will help you decide whether to go to market with detailed specifications or with an outcome-based model
- How to mitigate tender compliance disputes
- The key differences between positional and interest-based bargaining
- How to identify and defend against sharp supplier tactics
- How to win improved pricing and better performance terms

Faculty

Paul Emanuelli, General Counsel and Managing Director, Procurement Law Office

Carl Bonitto, Manager of Procurement and Risk Management Services, Northumberland County

Marilyn Brown, Senior Counsel, Procurement Law Office

Denise Durie, Procurement Officer, University of Toronto Mississauga

Tharshini Markandaier, Manager of Procurement, Town of Richmond Hill

DAY 5: November 24, 2017

9:00 a.m. – 5:00 p.m.

Technological Innovations in Advanced Tendering

RFX Design Workshop (Part 2)

Establishing Paperless Procurement, Automating Your Framework Agreements and Leveraging Electronic Auctions

- An introduction on the use of framework agreements, including the recent development of internationally recognized standards for open and closed frameworks
- Creating master contract structures and roster subcategories
- Using live e-auction bidding under your framework agreements
- Implementing transparent supplier monitoring procedures
- Establishing treaty-compliant refresh protocols
- Automating framework agreements to enable widespread deployment across your organization and across multiple-organization purchasing pools

Using Electronic Auctions in Your Negotiated RFPs

- Surveying the widespread adoption of live Electronic Auctions (a.k.a. “reverse auctions”) across the private sector and considering how those practices can be integrated into the advanced tendering practices of public sector organizations

Closing the Deal Using NRFPs: Governing Principles and Interactive Workshop

RFX Design Fast Tracking Workshop – Finalizing Your Project Design

Working in a project design spreadsheet template and building on the group collaboration on Days 1 – 4, groups will finalize their project design plans by confirming project requirements, pricing structures, evaluation plans, contract assembly, and tendering formats.

Faculty

Paul Emanuelli, General Counsel and Managing Director, Procurement Law Office

Ben Koberna, Director of Reverse Auction Services, Electronic Auction Services Inc.

Jennifer Marston, Legal Counsel and Legal Editor, Procurement Law Office



“Excellent course - I obtained a great deal of information to enhance my procurement functions and educate the project team on additional things to consider.”

Fay Klassen,
Senior Contract Specialist at St. Joseph's
Healthcare Hamilton (2016)

“Each night I wake up thinking through what I've learned and how to implement it in my work.”

(2016 Attendee)

“Relevant and important content.”

(2016 Attendee)

“This course should be mandatory for all procurement professionals.”

“The best procurement course I have taken - Lots of detail and very useful case studies.”

Registration Details

Fee per Delegate

\$4,295.00 + HST \$4,853.35

SCMA members (10% Discount): \$3,865.50 plus HST: \$4,368.02

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit www.osgoodepd.ca for details. Please inquire about financial assistance.

Program Changes

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

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 21 days prior to the program date. If a cancellation request is made with less than 21 days notice, a \$150 administration fee will apply. No other refund is available.

For Further Program-Related Information please contact:

Reheleh Pourkhodayar, Program Lawyer at 416.619-9351 or email reheleh@osgoode.yorku.ca

Certificate of Program Completion

You will receive a certificate upon completion of The *Osgoode* Certificate in Advanced Procurement Law and Practice: Major Projects and Tendering. Participants must attend all program modules and pass the in-class assessment to receive a certificate.

4 Convenient Ways to Register



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Osgoode Professional Development
1 Dundas Street West, Suite 2600
Toronto, ON Canada M5G 1Z3



osgoodepd.ca/advproc



osgoodepd@osgoode.yorku.ca



416-597-9724



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