

June 18, 19 & 20, 2013, Toronto

Inaugural

Commercial Contract Negotiation and Administration

Latest strategies and techniques for achieving greater value for money and improving contract performance

Participating organizations

AbbVie Inc.	Fidelity National Information Services
AECON Infrastructure Group	Fogler Rubinoff LLP
BCE Inc.	Grant Thornton LLP
Bennett Jones LLP	Mann Symons LLP
Blake Cassels & Graydon LLP	McCarthy Tétrault LLP
Bombardier Inc.	MDA Corporation
Chitiz Pathak LLP	NCI
CIBC	Telus
Citibank Canada	Town of Newmarket
Fasken Martineau DuMoulin LLP	

Conference highlights

- Learn how Telus has successfully developed a strategy to deal with risk in contract negotiation
- Discover how Citibank negotiates and administers key outsourcing contracts
- Hear how McCarthy Tétrault effectively manages the RFP process to enhance negotiating ability and purchasing power with suppliers
- Learn how Bombardier negotiates and manages contracts for its global business
- Find out how AECON Infrastructure Group improves the quality of its service through effective contract management
- Learn how to manage complex or multi-vendor procurement projects from BCE Inc.
- Learn from AbbVie Inc. how to improve the contract management process through effective contract close out procedures
- Hear how the Town of Newmarket effectively manages vendor relationships and performance
- Discover how MDA Corporation protects its intellectual property when negotiating contracts

Optional workshops

Managing and Measuring Vendor Contracts and Performance
Marianne Smith, Partner, Blake, Cassels & Graydon LLP

Developing Effective RFPs
C. Ian Kyer, Counsel, Fasken Martineau DuMoulin LLP
Daniel Fabiano, Partner, Fasken Martineau DuMoulin LLP

Who should attend

Private & Public Sector In-house counsel, Executives, Directors & Managers involved in: procurement, asset management, contract management, IM/IT and outsourcing; lawyers; consultants

With today's increasingly numerous and complex contracts and faster turnaround times, organizations can ill afford to take contract negotiation and administration lightly.

Indeed, in order to squeeze the maximum value from business relationships, organizations must not only negotiate contracts effectively, they must manage the performance of those contracts continuously throughout the life-cycle of the contract.

Join contract management executives from these leading Canadian organizations as they discuss how to negotiate and manage contracts strategically and get the most value for money:

AbbVie Inc.
AECOM Infrastructure Group
BCE Inc.
Bombardier Inc. - Aerospace
CIBC
Citibank Canada
Fidelity National Information Services
MDA Corporation
Telus
Town of Newmarket
And many others

- Learn practical approaches for dealing with these difficult issues:
- Creating risk management frameworks throughout the contract life cycle to avoid scheduling and cost-overrun risks
- Enforcing performance through well-drafted rights, obligations, exclusion and limitation clauses
- Drafting international commercial agreements
- Harmonizing performance criteria for complex, multi-vendor procurement projects
- Documenting and dealing with deficiencies found during the closeout process
- Developing effective KPIs to monitor contract performance
- Developing a value-added procurement function through controlling contract costs

With the level of practical experience at this conference, this is one event you cannot afford to miss. Register now by calling (416) 665-6868 or 1-800-363-0722.

Don't miss our practical workshop sessions on Managing Vendor Relationships & Performance and Developing Effective RFPs

Developing a Contract Management Strategy

Richard Corley, Partner, Blake Cassels & Graydon LLP

SESSION 1

Tuesday, June 18th

9:00-9:45

MANAGING CONTRACTUAL RISK

Rodger Madden, Associate General Counsel, Telus

An integral aspect of the contracting function is managing risk. Risk management is a fluid concept in which risks are taken into account, analyzed and mitigated throughout the life of the contract. Risk allocation practices seek to distribute specific risks based on an analysis of which party is best able to evaluate, control, manage and assume the risk. This session will look at how to develop a proactive strategy to deal with risk in your contracts.

- Assessing risks prior to entering contracts
- Risk identification process
- Evaluating/estimating contractual risk management issues
- Practices for risk avoidance and mitigation
- Risk sharing by outsourcing or insurance
- Risk management throughout the contract life cycle: monitoring & controlling risk

9:45-10:30

OUTSOURCING CONTRACTS

Charles G. Alexander, Vice President, General Counsel & Corporate Secretary, Citibank Canada

With technologies, company objectives and the economic environment constantly changing, committing to a successful long-term outsourcing relationship requires a flexible and innovative contract. Unfortunately, many outsourcing deals are structured with fundamental flaws that limits the potential for success and makes change more difficult to achieve. This session will explore proper contracting for achieving service delivery objectives within a complex, multi-vendor outsourced environment.

- Negotiating outsourcing agreements that reflect your strategy & objectives
- Adding flexibility and scalability to your outsourcing contracts
- Establishing effective governance processes
- Measuring performance of service providers & linking it to contractual remedies
- Avoiding the most common pitfall of outsourcing
- Protecting security and confidentiality business information
- Remedies for breach of contract

10:30-11:00 NETWORKING BREAK

11:00-11:45

BEST PRACTICES IN PREPARING AND MANAGING RFPs

Didhiti Bhounik, Director Vendor Management Office, McCarthy Tétrault LLP

The request for proposal process is one of the best ways to enhance negotiating ability and purchasing power with suppliers as well as to ensure that the chosen solution will suit business requirements. Not only does the RFP process serve to better organize the procurement decision, it also delineates the risk/benefit ratio early in the contracting cycle. This session will provide best practices in the RFP process for both the party that issues the RFP and the bidders.

- Trends in RFP design: processes that ensure an effective proposal
- Obligations of the owner and bidders in RFPs
- Binding vs. non-binding RFPs
- Proposal handling process: screening for compliance
- Establishing and prioritizing selection criteria
- Evaluating current proposal procedures against industry best practices
- Responsible procurement

11:45-12:30

CONTRACT TERMS TO ENFORCE PERFORMANCE

Richard Corley, Partner, Blake Cassels & Graydon LLP

When a contract is negotiated, there must be some mechanism to ensure that each party will stick to its terms. Commercial contracts should contain well-drafted rights, obligations, exclusion and limitation clauses that seek to clarify each party's role in the business relationship and establish effective means to enforce performance. Good enforcement procedures enhance predictability in commercial agreements. This discussion details key terms and conditions to be negotiated for effective contract enforcement.

- Main contract enforcement mechanisms
- Drafting enforceable rights, obligation and exclusion/limitation clauses: common errors to avoid
- Establishing the terms for termination
- Setting up effective terms for warranties and indemnities
- Monitoring contract performance
- Focusing on the scope, validity and enforceability of clauses

12:30-1:30 LUNCH

Managing Risk

Hugh F. Hamilton, Deputy General Counsel, Fidelity National Information Services

SESSION 2

Tuesday, June 18th

1:30-2:15

DRAFTING INTERNATIONAL COMMERCIAL AGREEMENTS

Hugh F. Hamilton, Deputy General Counsel, Fidelity National Information Services

Drafting precise commercial agreements plays a vital role in achieving successful international business results, as disputes about the interpretation of written contracts are one of the largest sources of commercial litigation. This session will deal with the practical drafting techniques necessary to successfully convert an international deal into a bulletproof written agreement.

- Pre-negotiation due diligence and preparations
- Principles of good drafting techniques
- Key contract terms and provisions
- Key elements and clauses in international contracts

2:15-3:00

CONTRACT PROJECT MANAGEMENT

Patricia Skringer, Legal Counsel, AECON Infrastructure Group

The effective and efficient management of contracts is critical to the overall success of any contract. Many organizations are adopting project management, as they seek to improve how they execute a contract over its life cycle. This presentation will explore best practices for effective project contract management.

- Administering and managing commercial contracts
- Stages in the contract management life cycle
- Monitoring and tracking contract performance
- Obtaining value for money and financial control
- Decreasing the level of risk
- Clarifying roles and responsibilities of the contract manager, contractors, end users
- Early identification and resolution of poor performance & other disputes
- Role of the contract manager

3:00-3:30 NETWORKING BREAK

3:30-4:00

CYBER-SECURITY RISKS

Eugene Ng, President & CTO, NCI

Businesses and government are attempting to enhance cyber security within their supply chains due to the heightened risk associated with cyber attacks. Identifying risks and eliminating vulnerabilities is key to supply chain security. This type of risk can be minimized through buying only from trusted vendors, disconnecting critical machines from outside networks and educating users on the threats and protective measures they can take. This session will examine how to manage the risks associated with cyber attacks.

- Management of cyber security requirements for IT systems, software and networks

- Key drivers of supply chain cyber risks
- Developing mitigation strategies to minimize financial impact
- Identifying and assessing risks during proposal review and response
- Risk identification & risk monitoring
- Sources of threats
- Adapting your security efforts to today's business: legal and privacy trends

4:00-4:30

RENEGOTIATING CONTRACTS

Duncan C. Card, Partner, Bennett Jones LLP

Renegotiating contracts to fix or renew existing agreements can be a challenge. Contract amendments should be made with the same care as new contracts, as failure to properly manage the change process can result in legally unenforceable contracts, claims and disputes. When entering into contracts, parties should anticipate, plan and incorporate processes related to contract changes in their terms and conditions. This discussion details how to renegotiate the contract to correct contractual issues and improve supplier performance.

- Common change clauses included in contracts
- Determining when a "fix" is needed
- Developing effective negotiating strategies
- Risks associated with contract amendments
- Documentation required for contract amendments
- Renegotiating the contract while it is still in force

4:30-5:00

DETECTING FRAUD

David Malamed, Partner, Grant Thornton LLP

Caroline Hillyard, Forensic Accounting Manager, Grant Thornton LLP

Procurement and contracting-related fraud costs government and business countless amounts of money. However, it is often difficult to detect, as it can take on countless forms, such as inflated purchase prices, phantom purchases, bribery, kickbacks, conflicts of interest, performance issues and predatory practices. Appropriate controls and proper tendering processes are necessary to address this issue. This session will explore best practices for preventing and detecting contract and procurement fraud.

- Recognizing the red flags of procurement and contracting fraud
- Application of technology in proactive fraud detection
- Practical approaches to investigating fraud in contracts and procurement
- Options in organizational design, technology and processes to prevent and detect fraud
- Processes used to detect fraud in routine audit activity
- Various types of remedies

Key Contract Management Challenges

Caroline Jacques, Senior Counsel Canada, International Legal Operations, AbbVie Inc.

Wednesday, June 19th

9:00-9:45

COMPLEX OR MULTI-VENDOR PROCUREMENT PROJECTS

Christopher Cates, Senior Legal Counsel - Procurement & Patents, BCE Inc.

This session will examine how to efficiently and effectively manage procurement for large projects where multiple vendors are required to operate in concert. It will explore how Bell Canada and its affiliates address key challenges presented by such complex or multi-vendor procurement projects.

- Managing vendor expectations and timelines
- Pricing structures in a multi-vendor environment
- How to harmonize performance criteria in a multi-vendor project
- Critical contractual clauses to ensure interoperability, continuity and governance

9:45-10:30

CONTRACT CLOSE-OUTS: STRUCTURING AN EXIT STRATEGY IN COLLABORATION CONTRACTS

Caroline Jacques, Senior Counsel Canada, International Legal Operations, AbbVie Inc.

Upon completion of a contract, most organizations have formal close-out procedures in place that verify that all parties to the contract have fulfilled their contractual obligations and there are no responsibilities remaining. This discussion details how to structure an exit strategy in a collaboration deal.

- Ensuring both parties retain value with respect to the product at the end of the collaboration
- Clearly defining factors that will trigger termination
- Who owns and retains IP rights following termination
- Reversion rights
- Enforcing cooperation following termination

10:30-11:00 NETWORKING BREAK

11:00-11:45

MANAGING RISK IN GLOBAL AGREEMENTS AT BOMBARDIER

Martin J. Herman, Director, Legal Services, Bombardier Inc. Aerospace

Bombardier is a major player on the global stage, regularly engaging in the negotiating and administering of contracts across international boundaries. This presentation will explore Bombardier's initiatives in managing the risk inherent in global contract management from its perspective as both a customer and vendor.

- Global agreements: key contract issues
- Challenges in managing major contracts globally
- Implementing multi-site and multi-vendor solutions
- Monitoring contract compliance
- Contractual versus operational risk management

11:45-12:30

CONTROLLING CONTRACT COSTS

Lula Kosanic, Senior Director, Vendor Management, CIBC

More purchasing and contract management departments are moving away from simply ensuring compliance with contract requirements. They are now taking on a more value-added role through realizing increased efficiencies and lowered cost of products, services and operations for their organizations. This discussion details how to develop a value-added procurement department through controlling contract costs.

- Adding value through effective cost reduction
- Cost reduction/containment strategies for procurement: developing supplier relationships, group buying and outsourcing
- Supplier selection and contract management with an eye on cost reduction
- Focusing on the right metrics to enhance contract and supplier performance: monitoring cost performance
- Implementing group buying
- Employing earned value management techniques

12:30-1:30 LUNCH

Optimizing Contract Performance

Elisabeth Symons, Partner, Mann Symons LLP

Wednesday, June 19th

1:30-2:15

MANAGING VENDOR RELATIONSHIPS & PERFORMANCE

Zella K. Phillips, Associate Solicitor, Town of Newmarket

Managing vendor relationships throughout the contract life cycle - from contract negotiation and project implementation to close-out - is a key responsibility of contract managers in order to ensure the smooth execution of the contract. This session will examine best practices for how to establish and maintain an effective working relationship with your key vendors.

- Setting expectations guided by the contract
- Facilitating effective communication between the partners
- Monitoring and providing guidance to vendors on performance
- Ensuring productivity gains as part of the contract
- Working with vendors to provide out-of-the-box thinking in addressing challenges and constraints
- Planning for transition when moving to a new vendor

2:15-3:00

INTELLECTUAL PROPERTY CLAUSES

Paula Irwin, Manager, Contracts and Subcontracts, MDA Corporation

There is a wide range of challenges facing contract management executives when negotiating deals involving intellectual property. IP becomes a crucial issue in many types of deals, with the contractual issues relating to ownership, use and disclosure of IP are often confusing and confused. This presentation will zero in on these issues.

- Collaboration/joint ownership issues
- Title/ownership issues
- Infringement warranties
- Scope of indemnity
- Due diligence versus best practices review
- Ownership of internally and externally generated IP
- Outsourcing issues
- Improvements and grant backs

3:00-3:30 NETWORKING BREAK

3:30-4:00

LEGAL ASPECTS OF TENDERS, PROPOSALS, AUCTIONS AND QUOTATIONS

Daniel Chitiz, Partner, Chitiz Pathak LLP

As the supplying of goods and services becomes increasingly demanding and complex, so does the need for a systematic approach and a clear understanding of the legal aspects of competitive bidding. This discussion details the legal aspects of competitive bidding, including invitations to tender, requests for proposals, auctions and requests for quotations.

- Laws governing competitive bidding

- Developing effective tendering documents
- Tools for conducting competitive bid requests: tenders, RFPs and RFQs
- Legal obligations of parties in competitive bidding
- Evaluating the tenders and making a selection
- Negotiation issues in the tendering process
- Ensuring fairness, impartiality, consistency and transparency in the tendering process

4:00-4:30

IT CONTRACTS

Elisabeth Symons, Partner, Mann Symons LLP

In today's business world, information technology and how it is managed, is often at the heart of an organization's success. The rapid evolution of IT has made IT projects increasingly complex and contracts need to reflect this. With the well being of your organization often resting on these arrangements, it is critical that you have a sound understanding of the latest developments to ensure the mastering of these agreements. This session will examine key considerations in IT agreements.

- Key considerations in drafting IT contracts: key terms in IT contracts
- Data protection issues
- Software and licensing agreements
- Protecting security and confidentiality in the agreement: cookies and e-privacy
- Cloud-based solutions
- Public procurement of IT
- Pricing strategies, termination clauses and third-party rights

4:30-5:00

RESOLVING DISPUTES

Kenneth W. Movat, Partner, Fogler Rubinoff LLP

With the growing complexity of commercial contracts, it is prudent to establish clear and effective strategies for resolving disputes in commercial agreements, as contract disputes are the most problematic aspects of contract administration. This session will explore how to minimize the risk of future disputes in business contracts and the best way to resolve disputes should they arise.

- Drafting dispute resolution clauses: deciding on a model
- Creating a dispute resolution mechanism: making the choice between arbitration, litigation or some hybrid mechanism
- Negotiating & drafting of commercial arbitration clauses
- Workings of the doctrine of frustration
- Inclusion of constructive performance obligations

OPTIONAL WORKSHOP A

Thursday, June 20th - 9:00-noon

MANAGING AND MEASURING VENDOR CONTRACTS AND PERFORMANCE

Marianne Smith, Partner, Blake, Cassels & Graydon LLP

Managing your service providers is an important part of staying competitive. Indeed, managing vendor relationships is a critical part of the contract management process and requires a deliberate and well thought-out approach to ensure that the objectives of the project are achieved, budgets are met and the organization achieves value for money from the contract. This workshop will build on what you have learned from the conference, providing practical insight into supplier measurement methodologies and key issues in managing vendor relationships.

- Importance of collectively managing customer/supplier relationships
- Contractual governance
- Defining the relationship governance in line with the outsourcing strategy
- Metrics and service levels
- Facilitating effective communication between the partners
- Dealing with scope and volume changes
- Evaluating vendor performance: monitoring and providing guidance to vendors on performance
- Handling multiple vendors

Marianne Smith is a Partner in the Business Group of Blake, Cassels & Graydon LLP. A significant portion of her practice includes advising clients on public procurement, infrastructure and public-private partnerships (P3s). Marianne frequently advises clients in the area of P3s, including both authority clients and bidders, with a focus on the development, preparation and ongoing administration of public tenders and procurement processes, and the development and negotiation of commercial agreements for the design, construction, financing and maintenance of infrastructure, including vertical, horizontal and IT infrastructure, as well as civil works.

OPTIONAL WORKSHOP B

Thursday, June 20th - 1:30-4:30

DEVELOPING EFFECTIVE RFPs

C. Ian Kyer, Counsel, Fasken Martineau DuMoulin LLP

Daniel Fabiano, Partner, Fasken Martineau DuMoulin LLP

The request for proposal process is increasingly complex and highly competitive, placing growing importance on your proposal practices. RFPs must serve multiple purposes and need to balance competing issues to achieve both the buyer's and bidder's objectives. Build on what you have learned in the conference, as this workshop provides practical tips and techniques for developing RFPs, aimed at responding to these diverse challenges, focussed on planning, developing and administering the RFP process.

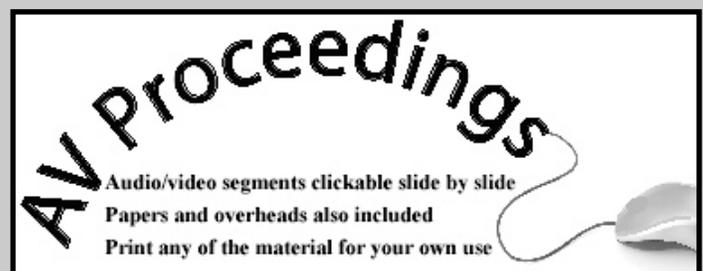
- Fundamentals of proposal writing
- Converting vendor "sales talk" into enforceable contractual commitments
- Codifying all requirements in a single document
- Concepts, strategies and processes that will ensure an effective proposal
- Obligations of the owner and bidders in RFPs
- Binding vs. non-binding RFPs
- The proposal handling process
- Establishing and prioritizing selection criteria
- Evaluating current proposal procedures against industry best practices
- Avoiding missteps in the process
- Evaluation criteria and systems in RFPs

C. Ian Kyer is Counsel at Fasken Martineau DuMoulin LLP. He advises on a wide range of technology issues including licensing, outsourcing, government procurement, joint ventures, financings, acquisitions and legal disputes.

Daniel Fabiano is a partner with the law firm Fasken Martineau. He is a corporate/commercial lawyer whose practice emphasizes public sector procurement, technology, information protection and privacy (including health privacy). Daniel advises public and private sector organizations in initiating and documenting the bidding process; drafting and negotiating contracts; and managing and mitigating procurement risks.

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Latest strategies and techniques for achieving greater value for money and improving contract performance

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