November 24 - 25, 2008 • Marriott Bloor Yorkville Hotel, Toronto

The Canadian Institute's
18th Annual
CONSTRUCTION superconference

Pre-Tender Challenges • Contracts • Liens
Surety Bonds • Insurance • Bidding and Tendering
Delay Claims • Public/Private Partnerships (P3s)

An outstanding faculty of construction industry professionals and lawyers will provide you with the most critical and updated information on:

• OVERCOMING challenges in bidding and tendering
• SUCCESSFUL STRATEGIES for navigating the pre-tender stages of a construction project
• ANALYZING the effects of The New Canadian Standard Construction Contract (CCDC2-2008)
• MASTERING the complexities of surety bonds and construction insurance
• BEST PRACTICES for managing risk in construction contracts
• TOP TIPS for identifying and resolving delay claims

Co-Chairs
Geza Banfai
Partner
Blaney McMurtry LLP

Howard Wise
Partner
Goodmans LLP

Sponsored by
Econstruction

PLUS! Add value to your attendance by attending this essential post-conference workshop on November 26, 2008

Best Practices for Resolving Construction Disputes Quickly and Cost-Effectively

Register Now • 1-877-927-7936 • CanadianInstitute.com
Over the past year there have been numerous important developments in the construction industry. New case law, such as Design Services Ltd. v. Canada, will have an impact on subcontractor rights in the tendering process. Recent changes to The New Canadian Standard Construction Contract (CCDC2-2008) will affect owners, contractors and design consultants. Obtaining financing, structuring and overcoming the challenges of Public/Private Partnerships (P3s) have become more crucial as these types of projects grow in popularity.

At The Canadian Institute's 18th Annual Construction Superconference, you will learn practical strategies to overcome challenges from the pre-tender stages to the end of a construction project. An outstanding speaker faculty of construction industry professionals and lawyers will delve into topics of importance to you, including:

- Overcoming challenges at the **pre-tender** stages
- Best practices for protecting your **lien** rights
- Top tips for managing risk in **P3 projects**
- Successful strategies for differentiating between and properly utilizing **tenders** and **RFPs**
- Mitigating risk in the event of **bankruptcy or insolvency**
- Examining methods of **greening** your construction projects

And much more!

PLUS! Add value to your attendance by participating in our post-conference workshop on **“Best Practices for Resolving Construction Disputes Quickly and Cost-Effectively”**.

Do not miss this opportunity to network with other industry professionals. **Spaces go quickly every year**, so register now by calling The Canadian Institute toll-free at 1-877-927-7936, fax the registration form to 1-877-927-1563 or register online at www.CanadianInstitute.com.

We look forward to seeing you at the conference!
8:00  Registration Opens & Coffee Served

8:45  Opening Remarks from the Co-Chairs

Geza Banfai
Partner, Blaney McMurtry LLP

Howard Wise
Partner, Goodmans LLP

9:00  Practical Solutions for Minimizing Risk at the Pre-Tender Stages of a Construction Project

Jim Ilkay
President & CEO, Econstruction

David V. Bowcott
Senior Vice President Construction Services Division, Aon Reed Stenhouse Inc.

The pre-tender stage of a construction project presents challenges and opportunities that can have a significant impact on the outcome of your project. This session will provide you with the tools to identify these challenges and opportunities and help you develop strategies to mitigate risk while increasing the likelihood of a positive outcome.

- Examining calls for tenders to ensure a fair and competitive process
  - what information should be included in calls for tenders?
  - improving coverage
  - risk transfer strategies
- Establishing a consistent vendor pre-qualification process
  - what are the benefits and drawbacks?
  - how should the pre-qualification process be carried out?
- Overcoming challenges in the procurement process
  - managing design and lifecycle risk
  - establishing a Quality Assurance/Quality Control (QA/QC) program
  - analyzing the impact of green accreditation

10:00  Best Practices for Navigating the Bidding and Tendering Minefield

Matthew R. Alter
Partner, Borden Ladner Gervais LLP

Tom Vivian
President
Consult – Construction Consulting Services Ltd.

- Analyzing Design Services Ltd. v. Canada
  - reviewing the impact of Supreme Court of Canada decision on subcontractor rights in the tendering process
- Exploring Tercon Contractors Ltd. v. British Columbia (Ministry of Transportation)
  - what is the effect of the exclusion of liability clauses on the tender process and an owner’s duty of fairness to bidders?
- Chandos Construction Ltd. v. Alberta (Alberta Infrastructure) and Double N. Earthmovers Ltd. v. Edmonton: when can owners negotiate changes to a bid?
- Examining bid depositories: how do they work?
  - what are the benefits and drawbacks of bid depositories?

11:00  Networking Refreshment Break

11:15  Demystifying Tenders and Requests for Proposals (RFPs) to Avoid Future Legal Complications

Draen F. Bulat
Partner, Miller Thomson LLP

Howard Wise
Partner, Goodmans LLP

- Understanding the differences between tenders and RFPs
- Examining the RFP process: how does it work?
  - going beyond pricing: understanding the importance of including detailed qualitative explanations in a response to an RFP
- Top tips for completing documents in response to a tender or RFP
- Analyzing hybrid tender-RFPs: what makes them unique?
  - how should bidders respond to them?
- How should a contractor respond to a quotation versus an RFP?
- Should owners complete a Statement of Requirements prior to sending out a RFP?
  - how will this affect the quality of documents that owners receive?

12:15  Networking Luncheon for Delegates and Speakers

“Excellent event all around”

Andrew Mills
Project Coordinator, City of Mississauga

1:30  Practical Strategies for Overcoming Challenges in Surety Bonding

Mark Knudsen
Vice-President, Claims and General Counsel
Travelers Guarantee Company of Canada

- Examining various types of surety bonds
- Top tips for working with bonding professionals: building a good relationship
- Comparing the pros and cons of having a lender as a dual-obligee on performance and labour bonds
- Analyzing the proper time to call in a bond
  - at what point during a dispute should the bonding/surety company become involved?
  - what factors should be taken into consideration when deciding whether to call in a bond?
  - how will the actions of contractors affect the decision to call in a bond?
  - what actions can the bonding company take when there is a dispute?
- What are the concerns of owners when they make claims on a bond?
- Exploring issues concerning negligent misrepresentation: what happens when a contractor fails to obtain a bond and an owner does not force the issue?
  - do sub-trades have a claim against the owners in the event that the general contractor becomes bankrupt?
2:15 Exploring the Latest Trends in Construction Insurance

Barry Smith  
Senior Vice President, Central Region  
Construction Leader, Marsh Canada Ltd.

• Analyzing the various types of insurance: choosing the right one for your project  
• What factors should be taken into consideration when choosing the type of insurance?  
  - understanding the differences between new construction projects, renovations to existing structures and internal renovations  
• Exploring exclusions concerning faulty workmanship  
  - can the wording regarding builders’ risks be broadened? How broad can it be?  
  - can the exclusions be amended?

3:00 Networking Refreshment Break

3:15 Managing Risk in Construction Contracts

Geza Banfai  
Partner, Blaney McMurtry LLP

Brendan D. Bowles  
Partner, Glaholt LLP

• Why use a written contract at all?  
  - six purposes for the written construction contract  
• Allocations of risks in design-bid-build, design-build and construction management contracts  
  - understanding the fundamental risks: design and cost  
  - examining other key risks  
  - exploring the new and emerging risk: “Green Risks”  
• The use of standard versus non-standard agreements: the pros and cons  
• Best practices for reviewing particular clauses with special care  
  - for Owners  
  - for General Contractors  
  - for trade contractors  
• Best practices for reading a draft construction contract  
  - what are the essential terms and why?  
  - how to analyze a contract for risk allocation  
  - what does a good contract look like?  
  - how to differentiate a fair contract from an onerous one


Charles Simco  
Partner, Shibley Righton LLP

• What are the changes of the New Canadian Standard Construction Contract (CCDC2-2008)?  
• What effect, if any, will the CCDC2-2008 changes have on construction contracts?  
• Analyzing the concerns of the CCDC2-2008 changes: how are owners, contractors and design consultants affected?

4:45 Co-Chairs’ Closing Remarks  
Conference Adjourns
What are the benefits and drawbacks of P3 projects for the government and the private sector?

Managing risk in P3 projects: protecting yourself from liability
- best practices for utilizing the benefits of a labour material bond

How can transparency among bids be achieved?
Exploring the challenging aspects of P3 projects
Dealing with and overcoming the challenges of P3 projects: expectations and communication
- can greater transparency by the private sector assist in overcoming the negative aspects of P3 Projects?

What is the process when contractors become insolvent or declare bankruptcy?
Examining the order of priorities under the Bankruptcy Act
Understanding the priority of Canada Revenue Agency regarding a contractor’s unpaid taxes
Can banks seize the funds of the contractor and claim priority to these funds over subcontractors?
Invoking the trust provisions under the Construction Lien Act: how do they work?
- what must be proven to invoke the trust provisions?
Mitigating risk: successful strategies for protecting yourself from risk prior to insolvency or bankruptcy
- what due diligence steps must be taken by owners to protect themselves?
How can directors and executives protect themselves from personal financial responsibility when contracting companies become insolvent or declare bankruptcy?
- can subcontractors pursue directors and executives personally?
Exploring the interplay between bankruptcy and trust funds
- how do trustees in bankruptcy respond to trust claims?

Comparing litigation and dispute resolution: which is better for you and your project?
Examining the different methods of dispute resolution: choosing the best method for your situation
Best practices for the different types of dispute resolution
Including dispute resolution in contracts: is this a good idea?
- what are the pros and cons?
- should dispute resolution be mandatory or optional?
- what is the effect of permissive language in contracts?
Exploring dispute resolution under the new CCDC2-2008 contract

Good topics, knowledgeable speakers
David Swift
Lawyer, Harrison Pensa LLP

This program has been accredited by the Law Society of Upper Canada towards the professional development requirement for certification.
Conference: Construction Law 10.5 hours
Post-Conference Workshop: Construction Law 3 hours

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Top Reasons to Attend
✓✓ Develop best practices for bidding and tendering
✓✓ Learn successful strategies for managing risk in construction contracts
✓✓ Receive top tips for identifying and resolving delay claims
✓✓ Understand how the latest trends and policies will affect the success of your project
✓✓ Network with construction industry professionals

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YES! Please register the following delegate for the CONSTRUCTION SUPERCONFERENCE

FEE PER DELEGATE Register & Pay by Oct 27, 2008 Register & Pay After Oct 27, 2008
☐ Conference Only $1895 + 5% GST = $1989.75 $2095 + 5% GST = $2199.75
☐ Conference & Workshop $2390 + 5% GST = $2509.50 $2590 + 5% GST = $2719.50

☐ I am attending, please add the conference materials CD-ROM to my order $195 + $15.95 (+ applicable taxes)

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