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Online Learning Catalogue 2017
Canadian Law Series

The Procurement Office
Procurement Advisory Office | Procurement Training Office
Paul Emanuelli is an internationally known author and procurement lawyer recognized by Who's Who Legal as one of the top ten public procurement lawyers in the world. Paul's portfolio of in-depth industry experience includes advising on strategic governance in public purchasing and on negotiating high-profile major procurement projects. He is the author of the Government Procurement textbook (2005, 2008, 2012, 2017), the National Tendering Law Update newsletter (2006-2016), the Accelerating the Tendering Cycle (2012) and Laws of Precision Drafting (2009) handbooks, and hundreds of procurement-related articles and columns. Paul has an extensive track record of public speaking and teaching and hosts a monthly procurement update webinar series. He has trained thousands of procurement professionals from hundreds of institutions across North America both privately and through leading industry organizations including NIGP, SCMA, the University of the West Indies and Osgoode Hall Law School.
The Public Interest

“It is a self-evident proposition that those responsible for spending vast amounts of public resources should have access to the necessary training to ensure value-for-money and the protection of the public interest.”

Overview

Featuring the most popular critical legal trends covered in the 4th edition of his standard-setting Government Procurement textbook, Paul Emanuelli’s Live Online Learning -- Canadian Law Series offers sixteen modules divided into four streams of training content for your organization to choose from.

Each ninety minute module consist of a webinar presentation streamed live by Paul Emanuelli in an interactive question and answer format so your team can benefit from live dialogue with the instructor.

Organizations can book a single module or benefit from a volume discount by pre-booking a stream of four modules or the entire series.

Whether you book a single module, pre-select an entire stream or custom design your own training program from our full menu of options, Paul Emanuelli’s Live Online Learning Series delivers industry-leading training content tailored to your organization’s specific content, scheduling needs and staff locations.
Streams & Modules

Treaty Compliance
- Open and Fair Competition
- Anti-Avoidance Rules and Exemptions
- The New Bid Dispute Regime
- The CITT’s Role and Jurisdiction

Legal Foundations
- Administrative Law and Judicial Review
- Commercial Law and Contract A
- Negligence in the Tendering Cycle
- Critical Legal Trends

Fair Competition
- The Disclosure Duty
- Tender Compliance
- Unfair Advantage
- The Duty to Award

Practical Considerations
- Institutional Governance
- Project Governance
- The Procurement Playbook
- Critical Project Details
Treaty Compliance

The Treaty Compliance stream covers the recent trade treaty developments flowing out of the new Canadian Free Trade Agreement and Canada-Europe Comprehensive Economic and Trade Agreement.

Open and Fair Competition
Drawing on the general protocols contained in the new trade treaties, this module covers: (i) open, fair and transparent competition duties; (ii) contract value thresholds; (iii) tender call posting, disclosure and amendment rules; (iv) tender evaluation, award and debriefing duties; (v) bidder prequalification and debarment protocols; and (vi) the use of buying groups, negotiated RFPs and electronic auctions.
Anti-Avoidance Rules and Exemptions
Distilling the main anti-avoidance protocols contained in the new trade treaties, this module covers: (i) the trade treaty rules relating to valuation and contract splitting; (ii) local preference and Canadian content; (iii) prohibited practices including biased specifications, unfair requirements, unnecessarily restrictive criteria and conflict of interest; (iv) standard exemptions including confidentiality, security, urgency, small business set-asides, entrenched incumbents and sole source exclusions.

The New Bid Dispute Regime
Detailing the formal bid dispute enforcement rules contained in the new trade treaties, this module covers the following topics: (i) the key differences between local bid dispute protocols, provincial bid protest panel procedures, and the new treaty-based formal bid dispute enforcement mechanisms; (ii) the due process rules contained in the new trade treaty enforcement regime, including document disclosure and discovery rules, the right to representation, and the requirement of live public hearings; (iii) the substantive remedies contained in the new enforcement regime, including contract award suspensions and compensation for losses or damages.

The CITT's Role and Jurisdiction
Serving as a case study in formal trade treaty bid dispute mechanisms, this module covers the role, jurisdiction and enforcement powers of the Canadian International Trade Tribunal with topics including: (i) the scope of the Tribunal's jurisdiction; (ii) procedural remedies including re-draft, re-evaluation and contract termination orders; and (iii) financial remedies including bidding costs, complaint costs and lost profits awards.
Legal Foundations

The Legal Foundations stream covers the main administrative and commercial law duties and remedies that apply to the government procurement process in court-based tendering disputes.

Administrative Law and Judicial Review
Covering the rise of judicial review, this module explains how administrative law fair process duties are applied to government procurement and surveys the range of potential judicial review remedies including injunctions, re-evaluation rulings and contract termination orders.
Commercial Law and Contract A
Summarizing the Contract A tendering law analysis and remedies, this module provides an overview of: (i) the creation of Contract A and the duty of fairness; (ii) the key indicators of Contract A; and (iii) the Contract A remedies of bidder lost profits and forfeited bid security.

Negligence in the Tendering Cycle
Highlighting the key factors that trigger project delays and extra cost claims, this module explains how the tort-based laws of negligent omission and misrepresentation apply to the bidding process.

Critical Legal Trends
Synthesizing recent federal, provincial and broader public sector case law developments across Canada, this module covers the critical legal trends impacting public procurement across Canada and places those legal developments within an international context.
Fair Competition

The Fair Competition stream focuses on the core due diligence duties that apply to project teams as they navigate the government tendering process.

**The Disclosure Duty**
Covering the key transparency duties that require public institutions to disclose their evaluation criteria and process rules, this module focuses on the importance of establishing and following clear and defensible evaluation and award procedures.
Tender Compliance
Summarizing the duty to reject non-compliant tenders, this module covers leading cases dealing with topics including: (i) strict vs. substantial compliance; (ii) formal, contractual, procedural and technical compliance; (iii) rectifications, clarifications and bid repair; and (iv) distinguishing tender compliance criteria from contract performance requirements.

Unfair Advantage
Covering the main unfair advantage pitfalls that impact the government tendering process, this module explains the case law rules surrounding: (i) conflict of interest, unfair advantage and bias; and (ii) incumbent advantage, transition costs and biased specifications.

The Duty to Award
Surveying the leading cases dealing with the duty to award to the best bid, this module covers the recurring risk areas relating to: (i) reserved rights and privileges, low-bid bypass and unfair process claims; and (ii) over-budget bids, cancellations, re-tendering, and bid shopping claims.
Practical Considerations

The Practical Considerations stream focuses on the core due diligence measures required to achieve legal compliance at the institutional and project level.

Institutional Governance
Surveying institutional winning conditions, this module explains how organizations can achieve compliance with current legal requirements through the implementation of institutional policies and procedures and the adoption of advanced document drafting and bid evaluation protocols, systems and tools.
Project Governance
Covering the main due diligence duties that apply to project teams, this module addresses the importance of defining project roles and responsibilities and creating clear project plans.

The Procurement Playbook
Surveying the main tendering formats used in competitive bidding both internationally and within Canada, this module compares and contrasts the Request for Quotation, Invitation to Tender, RFP and Negotiated RFP formats, while also explaining how and when to use a Prequalification or Request for Information process.

Critical Project Details
Focusing on the core content categories contained in a properly structured bid solicitation document, this module offers insights on how to create and structure critical transactional details including: (i) the description of deliverables; (ii) mandatory and rated evaluation criteria; (iii) tendering process rules; and (v) legal terms and conditions.
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