The Procurement Office

Procurement Law Office | Procurement Training Office

Reports, Opinions, and Dispute Resolution
Representative Transactions and Engagements

Multi-Jurisdictional Regulatory Board Bid Protest (2022)
Provided strategic legal advice to a multi-jurisdictional regulatory board in relation to a bid protest for a major technology transformation project. Advised the board on compliance with the due process standards that apply to public tendering evaluation and award decisions.

Education Sector Multi-Institutional Purchasing Body Opinion (2022)
Provided a legal opinion to a multi-jurisdictional university purchasing group in relation to its trade treaty obligations to conducting open tendering procedures and related contract value quantification rules, contract-splitting prohibitions, and the treatment of specific exemptions under various trade treaties.

Negotiated RFP Audit Opinions (2022)
Provided a series of legal opinions in support of a public audit report on a high-profile Negotiated RFP process. Opinions focused on the legal duties and due process standards that apply to public institutions when using Negotiated RFPs.

School Board Technology Transformation Contract Dispute (2022)
Provided strategic contract management advice relating to the local implementation of a province-wide education sector technology transformation project. Liaised with central contract administrators and local school board officials to advise in the resolution of outstanding contract performance issues.

Nova Scotia Municipal Agency Infrastructure Project Advice (2021-2022)
Prepared detailed recommendations and briefed a project team and agency board on the selection of an appropriate tendering format and contracting structure for a major municipal infrastructure project. Also provided downstream strategic planning advice.

Ontario School Board Bid Protest (2021)
Provided bid protest dispute resolution advice to an Ontario school board in relation to the resolution of a construction tendering dispute involving a tender call for the installation of mechanical equipment.

Ontario School Board Construction Tendering Audit (2021)
Provided a legal review audit of the construction tendering practices of an Ontario school board in response to bid protest compliant. Interviewed key witnesses, reviewed the specific tendering procedures, and advised the board in relation to the implementation of remediation measures for future tendering procedures.

New Brunswick Agency Technology Transformation Project (2020-2021)
Provided ongoing advice, reports, and recommendations to a provincial agency in relation to ERP System project and related procurements, advising on the appropriate tendering and contract structures to assist in the downstream implementation of the initiative.

Ontario Agency Strategic Procurement Advice (2020-2021)
Provided strategic procurement advice to a provincial agency in relation to the re-procurement of a complex technology system through multiple separate bidding processes. Advice included strategic design planning for scoping the various projects, as well as related advice dealing with potential conflict of interest, unfair advantage, incumbent advantage, and intellectual property rights.

European Union Guide to Canadian Public Procurement (2020)
On behalf of the European Union, authored the European Union's Guide to Canadian Public Procurement, which summarizes the legal rights and related remedies for European Union companies bidding for public sector contracts across all jurisdictions in Canada under the Canada-EU *Comprehensive Economic and Trade Agreement*.

Ontario School Board Construction Dispute (2020)
Provided strategic advice for the resolution of a construction dispute involving multiple school roofing projects.

Ontario Health Sector Entity Treaty Compliance Opinion (2020)
Provided a legal opinion to a health sector entity regarding open procurement obligations and sole-sourcing rules in relation to the migration of a complex technology system.

Ontario School Board Piggy-Backing Opinion (2019)
Provided a legal opinion in relation to trade treaty open procurement obligations and how they relate to piggybacking and onboarding provisions in group purchasing standing agreements.

School Bus Mediation and Arbitration (2019)
Led a group of lawyers in a mediation and arbitration process involving a multimillion-dollar contract dispute over school bus transportation services.

Municipal Non-Compliance Opinion (2019)
Provided a bid compliance opinion addressing multiple compliance issues and related legal risks in relation to a major municipal P3 infrastructure project.

Municipal Bid Protest Trial Expert Witness (2016-2018)
Testified as an expert witness during pre-trial discoveries and at trial as part of the successful defence of a multimillion-dollar claim filed against a municipality by a losing proponent in relation to a nine-figure municipal infrastructure project.

Federal Crown Corporation Trade Agreement Exclusions Memorandum (2017)
Conducted review and analysis of exclusions under the *Canadian Free Trade Agreement* (*CFTA*) and the Canadian-European Union *Comprehensive Economic Trade Agreement* (*CETA*) and prepared memorandum to assist client in interpreting and determining the application of the new trade agreements in their future procurements.

Municipal Construction Contract Mediation (2017)
Provided strategic advice and assistance and led mediation discussions on behalf of a municipality in responding to and resolving a bid dispute with a construction contractor.

Yukon Legislature Procurement Panel Framework Report (2016)
Prepared report tabled in the Yukon legislature as a supplement to the Yukon Procurement Panel Advisory Report on use of vendor of record-open framework agreements.

Federal Crown Corporation Procurement Obligations Opinion (2016)
Provided opinion setting out procurement obligations under applicable laws and treaties and providing advice in relation to compliance with applicable trade treaty obligations.

Municipal Bid Dispute Expert Opinion (2015)
As part of a successful defence, prepared an expert report for a municipality in response to a complainant's expert opinion in relation to a lost profit claim by an unsuccessful bidder on a major construction project.

Ontario Ministry Student Transportation Review Panel Member (2015)
Served on panel on behalf of the Ontario Minister of Education in connection with a review of student transportation task force, with focus on establishing vendor of record/open framework agreements.

Municipal Audit Support for BAFO NRFP (2015)
Prepared a report to assist a municipal Auditor General on procurement law matters arising in relation to the audit of a major Best and Final Offer Negotiated RFP procurement project.

Provincial Agency Contract Termination Support (2014)
Provided advice and assistance in the termination of a contract with an existing supplier.

Municipal Legal Review of Major Construction Audit (2014)
Provided legal advice and recommendations in response to an audit of a major construction RFP for fire and paramedic facilities.

Ontario University Opinion on Revenue-Generating Contracts (2014)
Provided an opinion on the application of procurement rules to the award of revenue-generating contracts, with particular reference to the Ontario Broader Public Sector Procurement Directive, trade treaties, and common law obligations.

Industry Association Group Purchasing Research Opinion (2014)
Provided an opinion on public procurement rules that apply to group purchasing across all jurisdictions and sectors in Canada. Opinion provided best practice recommendations for the implementation of group purchasing and included a comparative analysis to international best practices from other jurisdictions.

Provincial Agency Good Governance Opinion (2014)
Provided a good governance opinion relating to a number of procurement compliance issues including sole sourcing, IT project cost overruns and use of Vendor of Record arrangements. Opinion included a detailed analysis of government procurement directives and related public audit reports relating to compliance issues.

Ontario Provincial Agency Conflict of Interest Assessments (2014)
Provided multiple conflict of interest assessments relating to the public procurement process, including advice relating to potential unfair advantage in the bidding process to a provincial agency for an accounting services RFP.

Ontario Provincial Agency Network Services VOR Opinion (2014)
Provided legal advice on the use of a provincial vendor-of-record for network services and the integration of the scope of services with their existing network support services.

Alberta Municipal Whitepaper on Land Purchasing Proposal (2014)
Performed analysis and prepared whitepaper on proposal to convert city's real estate department into a licensed brokerage, including analysis of statutory and regulatory framework and applicable good governance standards.

Federal Government Entity Opinion on Integrated Services Procurement (2014)
Provided a compliance opinion in relation to a multibillion-dollar services RFP process addressing issues relating to applicable trade treaty obligations and common law duties, including addressing issues of project scoping, specification bias, and material disclosures.

Provincial Oversight Body Conflict of Interest Opinion (2014)
Provided a conflict-of-interest opinion in support of an investigation relating to IT procurement practices of organization. Opinion addressed issues of unfair advantage, incumbent advantage, and bias in the public procurement process.

Provincial Government Ministry Litigation Defence Opinion (2013)
Provided a legal opinion for an intervening Ministry on a lawsuit challenging a broader public sector procurement process, which included analysis on the RFP's compliance with best practices in government procurement and resulting exposure to a judicial review challenge.

Federal Government Entity Major Project Audit Opinion (2013)
Provided a compliance opinion in support of the audit of a major multibillion-dollar federal procurement project. Opinion focused on applying the Contract A tendering law analysis to assist in the assessment of the defensibility of the government's competitive bidding process and its award of contracts to competing bidders.

Senior Level Government Litigation Defence Services (2012)
Provided an opinion and strategic legal advice to a senior level government to assist in the defence of a nine-figure lost profit claim arising out of a high-profile telecommunications tender. Worked with a team of internal government counsel, providing legal research and advice in support of the development of defence arguments in preparation for trial and during trial.

Provincial Education Ministry Legal Advice to Provincial Task Force (2011)
Delivered legal advice to a provincial task force that was mandated to provide recommendations for the implementation of open public procurement for the acquisition of student transportation services by school boards in the province. Advised on legal due diligence and accountability issues with a view to ensuring compliance with the *Broader Public Sector Procurement Directive*, *Supply Chain Code of Ethics*, *Agreement on Internal Trade*, and other common law due diligence duties.

Mid-Sized Municipal Bid Dispute Arbitration Defence Services (2011)
Provided bid dispute defence services to a mid-level municipality in connection with an arbitration dispute arising out of the tendering process for a major construction project. Advised the municipality in relation to Arbitration Act protocols, the development and defence of arguments, and the drafting of submissions in preparation for the arbitration and in support of the resolution of the dispute.

Provincial Agency Treaty Compliance Opinion (2011)
Provided a treaty compliance opinion to a provincial financial agency in relation to the scope of its open procurement obligations under national and regional trade treaties.

Ontario Legislative Hearings (2010)
Provided a deputation to the Ontario Legislature's Standing Committee on Social Policy in relation to hearings the Broader Public Sector Accountability Act, making recommendations on the creation of clear good governance guidelines and the implementation of national and international best practices to support the procurement operations of broader public sector entities.

Municipal Bid Dispute Procurement Practice Review Audit (2010)
Conducted an intensive independent legal due diligence audit of a municipality's tendering and contract management practices to assist in the preparation of a legal defence against multiple lost profit and breach of contract claims. Review included a detailed analysis of various procurement processes, interviews with key staff, and the preparation of a detailed findings and recommendations report that addressed compliance with municipal treaty, bylaw, and common law duties.

Provincial Transportation Agency Treaty Compliance Opinion (2010)
Provided a provincial transportation agency with an expedited opinion on the scope of its open procurement obligations under relevant trade treaties and procurement policies and directives in relation to a high-profile mass-transit infrastructure project.

New Brunswick Municipal Debarment Advice (2010)
Provided a legal opinion canvassing relevant case law authorities and providing specific recommendations to a New Brunswick municipality in relation to the implementation of a bidder barring policy.

Alberta Municipal Bylaw Review (2010)
Provided legal advice to an Alberta municipality to assist in updating its procurement bylaw with particular emphasis on ensuring that its direct award policies and procedures complied with the Agreement on Internal Trade.

Public Utility Construction Project (2010)
Provided expedited legal advice to a public utility regarding tender compliance issues in response to a dispute by a rejected bidder on a large construction project.

Procurement Association White papers (2009-10)
Authored Local Preference in Public Purchasing: Risks and Recommendations, in reply to the CAW's Buy Canadian Campaign, and Defending the Public Interest, in reply to an industry group criticism of public sector construction tendering practices in southern Ontario, on behalf of the Ontario Public Buyers Association.

Provincial Regulatory Agency Legal Opinion (2009)
Provided a legal opinion outlining internal trade treaty obligations applying to newly established provincial Crown corporation. Advice focused on the scope of open competition requirements and trade treaty exclusions pertaining to regional economic development.