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National Government Contracts 2012

Enhancing your knowledge and practical expertise

7 & 8 November 2012, Rydges Lakeside Canberra

Program highlights

- The impact of the new Commonwealth procurement rules
- ICT and Cloud Computing
- Indemnities and liability caps in government contracts
- Post-tender negotiations to form a contract
- A SWOT analysis of dispute resolution systems
- Practical strategies for government contract drafting

Speakers

- Lora Shaw, Special Counsel, Clayton Utz
- Dr Anne Lea, Special Counsel, HWL Ebsworth Lawyers
- Dr Loretta Zamprogno, Deputy Chief Solicitor, ACT Government Solicitor
- Professor Kim Lovegrove, Partner, Lovegrove Solicitors

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National Government Contracts 2012

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Wednesday, 7 November 2012

8:30 Registration

9:00 Opening remarks from the Chair

Ashley Cahif, *Special Counsel*, **Sparke Helmore Lawyers**

9:10 The impact of the new Commonwealth Procurement Rules

The Commonwealth Procurement Guidelines have been replaced since 1 July 2012 with the new Commonwealth Procurement Rules (CPRs). As the CPRs impose mandatory requirements affecting all agencies in their procurement activities, it is essential that officers understand and comply with them. This session will cover:

- The context and reasons for the change
- The key elements of the CPRs, including new terminology and the mandatory nature of certain provisions
- The practical implications of the change for Commonwealth procurement practices

Lora Shaw, *Special Counsel*, **Clayton Utz**

■ 0.75 MCPD point in Professional Skills

9:55 The limits of the Doctrine of Executive Necessity

- Recent case law limiting its application
- Its interaction with termination for convenience
- Practical implications

Michael Brennan, *Partner*, **Minter Ellison Lawyers**

■ 0.75 MCPD point in Professional Skills

10:40 Morning tea

10:55 Work Health and Safety in doing procurement

- What are the issues to look out for
- How are WHS risks evaluated in this context
- New WHS and implications for contracts and grants

Irene Ghobreal, *Senior Lawyer*, **Australian Government Solicitor**

■ 0.75 MCPD point in Professional Skills

11:40 ICT procurement and cloud computing

- Practical issues around the Whole of Government ICT policies, panels and compliance with the Commonwealth Procurement Rules
- Common traps for those using panel deeds and those negotiating bespoke ICT contracts
- Risks and rewards of cloud computing

Dr Anne Lea, *Special Counsel*, **HWL Ebsworth Lawyers**

■ 0.75 MCPD point in Professional Skills

12:25 Lunch

1:25 Government contracts and the Australian Consumer Law

- Brief introduction – what and where is the ACL?
- When does the ACL apply to government contracts?
- What are the key contract risks for government and suppliers under the ACL?

Timothy Atkin, *Special Counsel*, **Maddocks**

■ 0.75 MCPD point in Professional Skills

2:05 Indemnities and liability caps in government contracts

- Commonwealth policies that apply to indemnities and liability caps
- Recent changes to Commonwealth policies in relation to indemnities and liability caps, including changes made by the Commonwealth Procurement Rules
- Issues to be aware of when drafting and reviewing indemnities in favour of the Commonwealth or given by the Commonwealth
- Indemnities, liability and exclusion provisions commonly proposed by contractors

Georgina Adams, *Partner*, **Ashurst**

■ 0.75 MCPD point in Professional Skills

“Good discussion of issues when dealing with trusts.”

– *Laura Henry*, *Senior Lawyer*, *Department of Health and Aging*

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Thursday, 8 November 2012

*"Highlighted issues and preferences.
Good overviews."*
– Anonymous

2:50 **Post-tender negotiations to form a contract**

- From "process contract" to signing on the dotted line
- Probity and value for money ... how much "wriggle room"?
- Changes to preferred tenderer before contract formation
- Estoppel
- Entire Agreement provisions v Parol Evidence Rule

Dr Loretta Zamprogno, *Deputy Chief Solicitor, ACT Government Solicitor*

■ 0.75 MCPD point in Professional Skills

3:35 **Afternoon tea**

3:50 **A SWOT analysis of dispute resolution systems**

This session will canvass best practice approaches to cost effective dispute resolution. It will provide a comparative analysis of the different methods of dispute resolution.

Key systems canvassed will be:

- Courts
- Tribunals
- Adjudication
- Arbitration
- ADR and mediation

Professor Kim Lovegrove, *Partner, Lovegrove Solicitors*

■ 0.75 MCPD point in Professional Skills

4:35 **Closing remarks from the Chair**

4:40 **Close of conference**

POST-CONFERENCE WORKSHOP

9:00-12:00 (Morning tea included)

Practical strategies for government contract drafting

Clayton Utz contract expert Alexandra will discuss the basics of drafting a contract from a practical perspective. Key issues relate to what you are trying to achieve and fall back situations if things go wrong.

- Will you use a template?
- Is there an applicable whole of government contract?
- Does the contract need to cover specific issues?
- Commonwealth laws and policies that could apply
- Will there be a performance framework
- What do you need if the contract goes pear shaped

Alexandra Wedutenko, *Partner, Clayton Utz*

■ 3 MCPD points in Professional Skills

"Interesting and surprisingly applicable."
– Anonymous

Who should attend?

- General Counsel
- Senior Executive Lawyers
- Legal Officers
- Senior Procurement Professionals
- Law firm Partners, Special Counsel and Senior Associates

"Comprehensive notes and slides."
– Anonymous

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National Government Contracts 2012

7 & 8 November 2012
Rydges Lakeside Canberra
London Circuit
Canberra ACT 2600

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