

Overview

Procurement is the interface between owners and contractor, consultants and suppliers for the delivery of a project. This area of law and business is vital to the success of any organization, in both the public and private sectors. Procurement covers the legal rules, and also the commercial strategy of how best to identify contracts and counter-parties to further the parties' goals and objectives.

Dentons is dedicated to assisting you with your procurement issues. Come to our team of lawyers and other professionals with your project plans and we can outline how best you can retain your consultants, designers, contractors and suppliers to achieve success.

We have extensive experience in using short-listing and prequalification stages, tenders and requests for proposals, pre-award consultations and optimizations to improve project delivery. Whether you are a public owner with plans to construct public infrastructure, or a private owner with a capital development program, we have the experience to help you consider the market conditions and design a procurement strategy that reflects those conditions. Larger projects may involve parties from different jurisdictions, with different approaches to procurement and project delivery. We have lawyers in numerous jurisdictions, allowing us to identify and bring you solutions that suit broader participation.

In addition to representing public and private sector owners, Dentons' lawyers also represent consultants, manufacturers, suppliers and contractors who also require procurement strategies. Our knowledge of all sides of project delivery means we can offer constructive, value-adding advice that focuses on your success and can benefit all parties involved in the procurement process. We are well-acquainted with all forms of delivery—PPPs, design-builds, EPC, alliance and construction management—and we understand that each of these calls for a different procurement approach. At Dentons, we develop solutions to suit your needs.

Representative Experience

- **Abu Dhabi National Oil Company:** Advising on one of the world's largest petrochemicals projects: the multibillion-dollar expansion of the Borouge plant at Ruwais in Abu Dhabi. We drew on the combined skills of our energy and technology teams, one of the largest and longest established practices in the Emirate and the Middle East region. Borouge is a joint venture of the Abu Dhabi National Oil Company and Austrian petrochemicals giant Borealis.
- **Agence des partenariats public-privé du Québec:** Acting as legal counsel on the modernization of Montréal's University Health Centers (CHUM, MUHC and Sainte-Justine UHC) and drafting all contractual arrangements (risk identification, risk spreading, contractual obligations).
- **AltaGas Ltd.:** Advising on regulatory, commercial, and construction procurement matters and the development of the 195 MW Forrest Kerr Hydro-Electric Project and Northwest Transmission Line Project in British Columbia.
- **Babcock Dounreay Partnership:** Advising a joint venture of Babcock International, URS and CH2M HILL in its bid for the Nuclear Decommissioning Authority's (NDA) Tier 1 management and operation contract, to operate and decommission the Dounreay nuclear site. Our unrivalled experience in this highly specialized market was employed to cement our client's winning position. This is the third NDA Tier 1 contract to be awarded in the UK's program of privatizing nuclear decommissioning. Our nuclear team has advised all previous successful bidders in this program, including for the £17 billion Sellafield contract. Our legal support was decisive in establishing a contractual model for completing the decommissioning of the Dounreay facility by 2021, several years earlier than previous forecasts and using innovation in areas such as waste packaging to reduce costs. This experience

demonstrates how we can help meet the challenges that will face the nuclear industry as the first generation of reactors are retired.

- **BC Hydro Site C Clean Energy Project:** Advising with respect to finance, construction, procurement and commercial matters on the Site C Clean Energy Project, an 1100MW hydroelectric project near Fort St. John, British Columbia, with capital cost estimate of CA\$8.335 billion.
- **Dragados:** Acting as counsel on the design-build joint venture for the Fraser Transportation Group (led by Dragados) regarding the South Fraser Perimeter Road (Gateway Program) highway project, which achieved financial close in July 2010.
- **Gmina Miasta Sopotu:** Advising, in cooperation with the law firm KSP, the popular seaside resort town of Sopot, near Gdansk, on the preparation and implementation of a city center revitalization project involving a public-private partnership. The €50 million project includes the revitalization of the railway station, owned by PKP (the Polish railway company), and the approx. 17,000m² of neighboring city center areas, as well as the construction of commercial facilities (hotel, shopping center, office buildings, parking lots, etc.). This was the first PPP revitalization program in Poland, and it was awarded “Best PPP Project” in the 2009 Good PPP Practices Competition (Konkurs Dobre Praktyki PPP), which the city of Sopot won in the category of municipal infrastructure.
- **Government of Canada:** Acting as senior procurement and construction counsel on the Royal Canadian Mounted Police (RCMP) Division E Relocation Project, as well as acting as counsel to the Department of Justice on behalf of Public Works and Government Services Canada and the RCMP. This was the first major accommodation project in Canada that achieved financial close in April 2010.
- **Large Canadian municipality:** Advising on procurement, contract and dispute issues for the owner. Resolved multiple disputes using negotiation, mediation and litigation.
- **Large North American energy company:** Serving as counsel with the negotiation for the development and implementation of a new software system to replace its legacy scheduling system that is used throughout the company, and which interfaces with suppliers, customers and other internal groups in Canada and the United States. The company undertook a complex dual-track negotiation with the two short-listed software license and service providers within each of the multiple modules of the project, following vendor responses to an issued RFP for each module. The new system will allow for the automation of many functions and better collaboration, coordination and communication amongst the control centre operations group, the scheduling group and other internal groups within the organization.
- **Large provincial health authority:** Advising in relation to their C\$1 billion building program including a new hospital, renovations to existing hospitals, speciality health services facilities and other infrastructure such as parkades.
- **Leading international infrastructure development and management company:** Acting as counsel in regards to the design-build joint venture of Halton Hospital, an Ontario accommodation P3 project.
- **Natixis, Dexia, Société Générale, Crédit Industriel et Commercial (CIC) and BBVA:** Advising lenders of a consortium composed notably of Bouygues Bâtiment Ile de France, Exprimm, Thales Communications, Sodexo France, Dalkia France and Caisse des Dépôts et Consignations (CDC), in connection with the public-private partnership construction of the future headquarters of the French Ministry of Defense in the “Balard” suburb of Paris. This matter is the largest ever PPP building construction project in France.
- **Natural Gas Company of Cyprus (DEFA):** Advising in connection with the development of a liquefied natural gas (LNG) import terminal. This was DEFA's first exposure to LNG markets and our extensive experience in "first" importation projects was of considerable assistance to DEFA and the Electricity Authority of Cyprus (EAC). We supported DEFA throughout the LNG supplier selection process and negotiation of the terms for the LNG sale and purchase agreement. We also assisted DEFA and EAC in the evaluation of the terms and LNG prices available to DEFA from the shortlisted suppliers. Our work also involved advising on the terminal access arrangements and the gas sales agreement between DEFA and the EAC. We continue to assist DEFA drawing on our extensive experience in relation to gas sales and gas delivery technologies.
- **Nevsky Meridien Consortium:** Advising a consortium led by Bouygues Travaux Publics and Strabag AG on a tender for the construction/concession contract for the 46km Western High Speed Diameter Ring Road in St. Petersburg, Russia, the largest PPP project of its kind ever undertaken, with a projected construction cost of over €3 billion. This was the first PPP under the Russian concession law and, as such, set the tone for all PPPs in Russia, and it was also a first in terms of engineering complexity and the size of the undertaking on a PPP basis. This became a landmark deal in Russia, but also a landmark for transport PPP markets globally.
- **PGE Elektrownia Opole (Poland's State Energy Group – Opole Power Plant division):** Advising on appeal proceedings arising from a public tender by negotiated procedure with notice for the construction of two power units at Opole Power Plant with installed capacity of 1800 megawatts (the largest energy-sector tender in the last

20 years in Poland). The appeal proceedings consisted of three appeals submitted by Alstom (1) and Rafako (2) against the decision of PGE Elektrownia Opole regarding the choice of the best offer in the public procurement proceedings. As a result of our legal support, all three appeals were successfully settled for the benefit of PGE Elektrownia Opole. This very complex case was important to the client due to the project value and the parties involved. It brings to an end a two-year process for selecting the construction tender winner and paves the way for this PLN 11.5 billion investment getting underway. Timely delivery in 2017 will help ensure future energy security for Poland.

- **Québec Ministry of Transportation:** Advising in connection with the extension of Highway 30 under a public-private partnership structure.
- **Région Alsace:** Assisting the local authority of the Alsace region in preparing and conducting a tender for the award of the first Energy Performance Contract (EPC) in France. The €40 million project consists of the renovation of 14 high schools in Alsace to improve energy efficiency. Its aim is to reduce primary energy consumption by some 35% and lower greenhouse gas emissions by as much as 65% (90,000 tons of CO₂ saved during the term of the contract).
- **The Salvation Army:** Advising on a wide range of matters and issues, including matters relevant to the delivery of healthcare and social services. Our work includes serving The Salvation Army in regard to the operation of health service providers including: hospitals, long-term care facilities, community mental health service providers, addiction services and the provision of housing and services to those who live with developmental disabilities. Such work includes relations with regional health authorities and local health integration networks, partnerships with other funders and other health service providers. Key areas in which we provide support include internal governance and corporate matters, governance, accreditation, contractual and other arrangements with healthcare professionals, patient care issues, technology and related issues, privacy and the protection of personal health information, P3 and construction project matters, employment, litigation and related matters. Our work for The Salvation Army encompasses and supports the broad range of services provided by The Salvation Army, the largest non-governmental provider of services in Canada.
- **UK Government, Department of Energy and Climate Change:** Advising on the Government's program to commercialize carbon capture and storage (CCS) technology. This is a substantial project of international significance, at the leading edge of the development of this new global industry. The Government seeks to establish a cost-competitive CCS industry in the 2020s through up to £1 billion of capital funding and additional operational support. Our team is working with in-house colleagues on the competitive procurement of projects to develop the capture of CO₂ from power generation, its transport offshore and permanent subsea storage. The project includes working with an entirely new regulatory framework. This comprises new legislation, the design and market testing of novel contracts for capital support, working with new contracts for difference under the Government's wider Energy Market Reform program and the implementation of the European Union CCS Directive.