

# Public Contracts And Procurement Regulations

This one-day seminar is designed for attorneys, purchasing professionals, construction and project managers, administrators, engineers, architects, presidents, vice presidents, owners, contract managers, planners, contractors and operations managers.

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## White Plains, NY September 19, 2006

**Christopher Colby**  
*Clark Patterson Associates*

**Luis Rodriguez**  
*The Palombo Group*

**Thomas Tripodianos, Esq.**  
*Welby, Brady & Greenblatt L.L.P.*



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*See inside for details.*

# Critical Issues On The Agenda

9:00 a.m. - 9:10 a.m.

**I. Opening Remarks And Overview**  
— *Thomas Tripodianos, Esq.*

9:10 a.m. - 9:40 a.m.

**II. Characteristics Of Public Works Construction Contracts: Which Jobs Must Be Bid And Which Jobs Are Exempt?**  
— *Thomas Tripodianos, Esq.*

- A. Negotiated Contracts
- B. General Municipal Law §101 – Wicks Law
- C. General Municipal Law §103

9:40 a.m. - 10:30 a.m.

**III. Pre-Construction (Major Components)**  
— *Christopher Colby and Luis Rodriguez*

- A. Establishing Owner, Architect, CM, Attorney Protocol
- B. Establish And Finalize Scope And Budget
- C. Establish Project Milestones For Project Team
- D. Finalize General Condition Requirements
  - 1. Insurances, Bonding, Liquidated Damages, Change Orders, etc
- E. Establish Phasing/Logistics/Site Containment/Safety Requirements
- F. Thorough Review Of Construction Documents/Plans And Specifications
- G. Verification Of Existing Conditions Where Possible
- H. Alternates, Add Or Delete Allowances (Unit Prices)
- I. Establish Buyout Packages (Scopes Of Work)

10:30 a.m. - 10:45 a.m.  
**Break**

10:45 a.m. - 11:10 a.m.

**IV. Bonding Requirements Of Public Works**  
— *Thomas Tripodianos, Esq.*

- A. Performance Bonds
- B. Payment Bonds
- C. Lien Bonds
- D. Prevailing Wage Bonds

11:10 a.m. - 12:00 p.m.

**V. Subcontractor And Supplier Bid Problems**  
— *Thomas Tripodianos, Esq.*

- A. Construction Contract Bid Setting The Contractual Framework
- B. The Doctrine Of Promissory Estoppel
- C. Elements Of Promissory Estoppel
  - 1. Clear And Definite Offer
  - 2. Expectation Of Reliance On Bid
  - 3. Actual Reliance
  - 4. Detrimental Effects Of Reliance On Sub's Bid
- D. Defenses To Application Of The Doctrine Of Promissory Estoppel
- E. Option Contracts
- F. Subcontractor Bid Mistakes
- G. Statute Of Frauds
- H. Mitigation Of Damages
- I. Bid Shopping

12:00 p.m. - 1:00 p.m.  
**Lunch (On Your Own)**

1:00 p.m. - 1:30 p.m.

**VI. Bid Security Provisions**  
— *Thomas Tripodianos, Esq.*

- A. Purpose Of Bid Security
- B. Role Of Security In Bidding Process

- C. Requirements Of Bid Security In Public Projects
  - 1. Minimum Project Value
  - 2. Amount Of Bid Guarantee
  - 3. Form Of Bid Guarantee
  - 4. Measure Of Damages For Failure To Execute Contract
  - 5. Withdrawal
- D. Legal Consequences Of Various Forms Of Bid Security
- E. Acceptability Of Bid Security Form
  - 1. Sufficiency Of Amount
  - 2. Adequacy Of Form

1:30 p.m. - 2:00 p.m.

**VII. Surety's Obligations**  
— *Thomas Tripodianos, Esq.*

- A. Surety's Position
- B. Surety's Refusal To Post An Adequate Bid Bond
- C. Surety's Refusal To Issue Subsequent Bonds
- D. Principal's Ability To Prevent Surety From Disbursing Bond Payment

2:00 p.m. - 2:45 p.m.

**VIII. Bid Development/Bidding Process**  
— *Christopher Colby and Luis Rodriguez*

- A. Factors In Determining The Bid
- B. Job Site Inspection
- C. Using Subcontractors
- D. Soliciting Bidders
- E. Pre-Invitation For Bids
- F. Invitation For Bids
- G. Delivering The Bid
- H. Bid Opening
- I. Tabulation Of Bids
- J. Award Of Contracts
- K. Rejection Of Bids
- L. Challenge Of Bid Award
- M. Bid Errors

2:45 p.m. - 3:00 p.m.  
**Break**

3:00 p.m. - 4:10 p.m.

**IX. Anticipating Claims In Bid Planning**  
— *Christopher Colby, Luis Rodriguez and Thomas Tripodianos, Esq.*

- A. Identifying Construction Problems When Preparing Bids
- B. Defective Plans And Specifications
- C. Multiple Prime Contractors
- D. Lump Sum And Unit Price Contracts
- E. Fast-Track Projects
- F. Differing Site Conditions
  - 1. Effect Of Disclaimers
  - 2. Owner's Acceptance Of Risk For Site Conditions
- G. Delays
  - 1. Progress Schedules
  - 2. Extensions Of Time
  - 3. Exculpatory Clauses
- H. Labor Productivity And Workmanship
- I. Over-Inspection
- J. Indemnification

4:10 p.m. - 4:30 p.m.

**X. Panel Discussion, And Questions And Answers**  
— *Christopher Colby, Luis Rodriguez and Thomas Tripodianos, Esq.*

*Lorman Education Services reserves the right to modify the agenda and the faculty when circumstances are beyond our control.*

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## Our Distinguished Faculty

**Christopher Colby** has many years of diverse experience in architectural design and planning. He focuses his work on the field of educational facilities, health care, community facilities and various other types of publicly funded construction. Mr. Colby was the project architect on the Millbrook Central School District, new high school design project, the Tuxedo Union Free School District, additions and renovations to the George F. Baker High School and to the Enlarged City School District of Middletown, Mechanicstown Elementary additions and renovations. He received his B.S. degree from the State University of New York College of Technology. Mr. Colby is a member of the American Institute of Architecture. He also participated in the NCARB intern development program (IDP).

**Luis Rodriguez** has spent the past 10 years focusing on Wick's Law Construction Management; particularly in K-12 education construction. He has been involved in over 18 construction management projects within that time frame. Mr. Rodriguez's expertise ranges from pre-referendum bond voting and planning procedures to post-construction close-out phases. Most clients rely on his wealth of pre-construction knowledge, which is the time frame from passing a construction bond up to construction, to ensuring their projects will be a success.

**Thomas Tripodianos, Esq.**, is a partner in the law firm of Welby, Brady & Greenblatt L.L.P. He focuses his practice exclusively in the area of construction law, representing contractors, subcontractors, sureties, suppliers, construction managers and owners in litigation, arbitration and mediation. Mr. Tripodianos is experienced in the management and litigation of complex construction-related disputes, including acceleration and delay claims, and surety claims, as well as a broad range of practice areas faced by businesses, municipalities and individuals in the construction industry. He received a B.A. degree from St. John's University with a major in government and politics, and dual minors in philosophy and psychology. He went on to obtain a J.D. degree from the Hofstra University School of Law. He is admitted to practice law in the state of New York, as well as the U.S. District Court for the Northern, Southern and Eastern Districts with admission pending in the states of Pennsylvania and Massachusetts. In addition, Mr. Tripodianos is a Lorman faculty member and instructor for the Orange County Association of Realtors. He offers various presentations and lectures throughout the year to professionals involved in the construction and real estate industries. He is also an active member of the Orange County Bar Association and Builders Association of the Hudson Valley. Prior to joining Welby, Brady & Greenblatt, LLP, Mr. Tripodianos practiced law in Long Island, where he focused on various areas of real estate law, commercial litigation and construction law.

# General Information

White Plains, NY • September 19, 2006

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**ZONING, SUBDIVISION AND LAND DEVELOPMENT LAW** — Dealing With The Zoning Process Today; Complying With The New York State Environmental Quality Review Act (SEQRA); Litigation Considerations In Land Development Projects; The Changing Face Of Zoning And Land Use.

**FACULTY:** Arthur J. Ientilucci, AICP, City Of Rochester; Steven J. Ricca, Jaeckle Fleischmann & Mugel, LLP; Adam S. Walters, Phillips Lytle LLP. ©2005. 206 pages.

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**FACULTY:** Frank V. Bifera, Esq., Thomas J. Warth, Esq., Hiscock & Barclay, LLP; Carol Lamb-LaFay, P.E., Department of Environmental Conservation, Region IV; Mark P. Millspaugh, P.E., Sterling Environmental Engineering, P.C. ©2005. 214 pages.

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**LAND DEVELOPMENT IN NEW YORK** — Organization And Structure Of Administrative Boards – Powers And Duties Of Zoning Board Of Appeals; Enforcement Of Land Use Regulations; Powers And Duties Of Planning Boards; The Role Of Other Agencies In The Land Use Process.

**FACULTY:** Sarah Grace Campbell, Esq., Hinman, Howard & Kattell, LLP; Scott F. Chatfield, Esq., Law Offices of Scott F. Chatfield; James T. Stokes, Esq., Mitchell Goris and Stokes, LLC; Robert D. Ventre, Esq., Coulter, Ventre & McCarthy, LLP. ©2005. 104 pages.

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### Seminar highlights:

- Major components of the bid documents
- Subcontractor and supplier bid problems
- Bid development/bidding process
- Anticipating claims in bid planning

### Learning objectives:

- The attendee will be able to discuss basic public works construction bidding law.
- The attendee will be able to identify which jobs must be bid and which jobs are exempt.
- The attendee will be able to explain the major components of the bid document.

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