



Finance & Contract Administration Council Meeting



May 17-18, 2017
Chicago, IL

What You Don't Know About
Contracts CAN Hurt You!

Onsite Program

The F&CA Council meeting is a must-attend event for anyone working with contracts for their organization. The meeting offers attendees an opportunity for education related to contract and finance administration. Experts discuss terms & conditions, payments & warranties, intellectual property & contracts, and more. Find out what you need to know before you sign!

SESSIONS:

*Law Offices of Barnes & Thornburg LLP
1 N. Wacker Drive, Suite 4400
Chicago, IL 60606*

HOTEL:

*La Quinta Chicago Downtown
1 S. Franklin Street
Chicago, IL 60606*

About WWEMA

WWEMA is the non-profit trade association representing water and wastewater technology and service providers since 1908. We advocate, inform, and connect our members with key policy and decision-makers and help our members increase their competitiveness and profitability in the U.S. and abroad. Our members supply the most sophisticated leading-edge technologies and services, offering solutions to every water-related environmental problem and need facing today's society.

Visit us at www.wwema.org

For membership information contact Robert Pignato at robert@wwema.org or call (703) 444-1777.

Schedule of Events

Tuesday, May 16

🕒 **6:00 - 8:00 p.m.** 🕒
Networking Get Together

South Branch Tavern

Wednesday, May 17

🕒 **8:30 - 9:00 a.m.** 🕒
Registration and Continental Breakfast

🕒 **9:00 - 9:15 a.m.** 🕒
Welcome and Introductions

*Brian Harrell, F&CA Program Chair and Meeting Facilitator
Hydro International*

🕒 **9:15 - 10:30 a.m.** 🕒
Incoterms & Risk

*Lisa Gingerich, Chicago Branch Manager
Bobby Shaida, Director of Corporate Sales
Don Simon, Logistics Manager
Coppersmith Global Logistics*

Incoterms, which is short for international commercial terms, are used to make international trade easier to understand. Incoterms are rules of trade that dictate how goods will be delivered, who pays, who is responsible for insurance, and who handles other procedures (such as loading and unloading). If your company isn't knowledgeable about International Commerce Terms (Incoterms 2010) you could unknowingly put yourselves at risk for additional expense. Lisa Gingerich, Bobby Shaida, and Don Simon, experts in the freight forwarding field, will go over the forwarding process and address how Incoterms play into the process and discuss how they relate to contracts. They will show you the different options to help you determine what is best for your business.

🕒 **10:30 - 10:45 a.m.** 🕒
Break

🕒 **10:45 a.m. - 12:15 p.m.** 🕒
Payment & Warranties

"Show Me The Money (Preferably, With Few Strings Attached)"
*Philip Beck, Partner
Smith, Currie & Hancock LLP*

Most equipment manufacturers desire to be paid for their equipment and services. Therefore, it is important to fully understand your contractual and legal rights and obligations with regard to payment, as well as the strings attached. This presentation will address this important topic and include typical payment terms, fair & unfair payment terms, pay-when-paid provisions from each party's perspective, possible compromise solutions to pay-when-paid provisions, remedies for nonpayment or late payment, owners' and contractors' right to withhold payment, maintaining leverage to help ensure payment, relationship of payment and warranty obligations, implied vs. express warranties, representations and warranties, indemnity obligations and limitations of liability, and length of warranties and alternative sources of payment.

🕒 **12:15 - 1:15 p.m.** 🕒
Networking Lunch



Schedule of Events

🕒 **1:15 - 2:15 p.m.** 🕒

Licensing Agreements and Key Provisions Related to Intellectual Property and Managing Risks

Michael Carrillo, Partner
Paul Olszowka, Partner
Barnes & Thornburg LLP

Attorneys Michael Carrillo and Paul Olszowka will discuss various intellectual property (IP) and risk management provisions to consider when negotiating manufacturing, supply, or license agreements, including considerations related to IP ownership, representation and warranties, indemnification, and limitation of liability clauses.

🕒 **2:15 - 3:15 p.m.** 🕒

How Does Your Company Handle This?

Susan Button, Session Facilitator
Xylem Water Solutions USA, Inc.

Attendees will ask questions, and bring any contract language they struggle with, to this session. WWEMA will survey attendees prior to the meeting for their questions, and we'll take advantage of the braintrust in the room with a facilitated discussion on how people handle specific aspects of their jobs. You'll be surrounded by colleagues who face the same questions and challenges as you.

🕒 **3:15 - 3:30 p.m.** 🕒

Break

🕒 **3:30 - 5:00 p.m.** 🕒

Start-Up, Acceptance, Warranty, Close-Out "Are We There Yet?"

Philip Beck, Partner
Smith, Currie & Hancock LLP

Perhaps surprisingly, it is often unclear when an equipment manufacturer has fulfilled its contractual and legal obligations with regard to a particular transaction or project, and has earned the right to be paid and to be relieved of any further obligations. Nobody likes surprises, especially on construction projects; and most disputes are a product of poor communication and differing expectations. Therefore, equipment manufacturers and all project participants would benefit from a clearly-defined protocol which defines the project closeout prerequisites. This session will provide some practical guidance and suggestions regarding this important topic. The points to be addressed include the source of legal disputes, the importance of clearly identifying and communicating the parties' expectations, why surprises happen and what happens when they do, the wisdom in creating a project closeout checklist, activities and events to be included on the project closeout checklist, sharing the project closeout checklist and obtaining "buy-in", significance of contract completion vs. project completion vs. start up, commissioning, when does acceptance occur and what are the ramifications, when do warranties commence, and the roles and responsibilities of other parties.

🕒 **5:30 - 7:00 p.m.** 🕒

Group Dinner

One North Kitchen & Bar

Thursday, May 18

🕒 **9:00 - 10:30 a.m.** 🕒

Addressing Common Insurance Problems

Mark Herring, Broker
Heffernan Insurance

Terms like "Product", "Professional", "Pollution" and "General Liability" are fairly common knowledge in our industry, but do you really know what they cover? In today's society, risk management goes well beyond these big name policies. Employment Practice Liability and Cyber Coverage are growing trends in the market as well. Or, do you have a services side to your business? This session will provide a primer on what these policies cover, how they can protect your company, and what is the underlying risk if you don't have them. Understanding these coverages will ensure a better ability to protect your business and alleviate risk. Mark will also shed light on some new exposures you probably had not even thought about. Insurance and risk management is changing. He will get you up-to-date with the current exposures.

🕒 **10:30 a.m. - 12:00 Noon** 🕒

Terms & Conditions

John Dettman, Vice President
Chris Durnil, Purchasing Manager
Bowen Engineering Corporation
Jim Brown, Session Facilitator

Indemnification, warranties, limitation of liability, payment terms, and damage clauses are a few of the topics to be discussed in this session. John Dettman and Chris Durnil, from Bowen Engineering, will negotiate some of his company's standard terms and conditions with the audience. Topics will also include binding effect, submittals, delivery, performance guarantees, compliance with laws, payment, remedies for breach, cancellation without cause, and dispute resolution. Come prepared with your best arguments and take advantage of this opportunity to improve your negotiating skills and learn why contractors put certain items into their terms and conditions.

🕒 **12:00 Noon** 🕒

Program Adjourns



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2017 Finance & Contract Administration Council Planning Committee

Jim Brown
Former General Counsel for SUEZ

Susan Button
Xylem Water Solutions USA, Inc.

Kelsey Byars
Xylem Water Solutions USA, Inc.

Brian Harrell
Hydro International

Charles Jenkins
Heyward Inc.

Cathy Ross
Xylem Water Solutions USA, Inc.

Meeting Locations

Barnes & Thornburg LLP
Educational Sessions
1 N. Wacker Drive, Suite 4400
Chicago, IL 60606

La Quinta Inn & Suites
Hotel
1 S. Franklin Street
Chicago, IL 60606

South Branch Tavern
Tuesday Get-Together
100 S. Wacker Drive
Chicago, IL 60606

One North Kitchen & Bar
Wednesday Dinner
1 N. Wacker Drive
Chicago, IL 60606

Antitrust Policy

The Water and Wastewater Equipment Manufacturers Association (WWEMA) is a trade association whose purpose is to promote the common interest of its members and the water and wastewater industry at large, when such interests do not conflict with the common good. WWEMA is not intended to become involved, and it will not become involved, in the competitive decisions of its member companies; nor will it take action that would tend to restrain competition in the water and wastewater equipment industry.

Nevertheless, it is recognized by the Board of Directors of WWEMA that its activities could be regarded by some as a forum of opportunity to promote anti-competitive conduct. For this reason, the Board of Directors has taken this occasion, through this Statement of Policy, to make clear its unequivocal support for the policy of competition served by the anti-trust laws, as well as its uncompromising intent to comply strictly in all respects with those laws.

To that end, the following will not be discussed at meetings:

- Current or future prices
- What constitutes a “fair” profit level
- Possible increases or decreases in prices
- Standardization or stabilization of prices
- Pricing procedures
- Cash discounts
- Credit terms
- Control of sales
- Allocations of markets or geographical division of markets
- Refusal to deal with a corporation because of its pricing or distribution practices
- Whether or not the pricing practices of any industry member are unethical or constitute an unfair trade practice
- Plans to bid or refrain from bidding or submit pricing to bidders on future public projects

Compliance with these guidelines involves not only avoidance of antitrust violation, but avoidance of any behavior which might be considered improper. Antitrust laws are complex and far reaching. This statement is not a complete summary of all applicable laws. It is intended to highlight and emphasize certain basic precautions designed to avoid antitrust problems. In case of doubt, seek the guidance of staff, management, or the organization’s counsel or your own corporate counsel should antitrust questions arise.