



1-1-2013

Government Procurement Law Perspectives: Winter 2013

Government Procurement Law Program
George Washington University

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Recommended Citation

Government Procurement Law Program, "Government Procurement Law Perspectives: Winter 2013" (2013). *Government Procurement Law Perspectives*. Book 1.
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GOVERNMENT PROCUREMENT LAW PERSPECTIVES

WINTER 2013

New Government Contracts Scholarship Fund Created to Honor Murray J. Schooner



Murray J. Schooner

IN THE FALL SEMESTER

Associate Dean for Government Procurement Law Studies Daniel I. Gordon announced the establishment of an endowed scholarship fund in honor of the late Murray J. Schooner, a long-time leader in the federal acquisition community who died in 2010. Dean Gordon noted that Murray Schooner was called the “godfather of supplier diversity in government contracting,” in recognition of his enormous contributions to strengthening the role of small businesses in federal contracting.

The Murray J. Schooner Scholarship will provide financial aid to deserving

students studying government procurement law—the next generation of legal and policy talent preparing to serve in that community. Professor Steven Schooner, Murray’s son, said that he was touched by the creation of a scholarship fund in honor of his father. “My dad would have been thrilled to know that a fund named after him was being created to help new people join the federal contracting community.”

Murray Schooner earned his master’s degree in government contracting at GW’s School of Business in 1974, while serving on active duty in the U.S. Army. After retiring as a Lieutenant Colonel in the late 1970s, Mr. Schooner went on to work for 27 years for Unisys Corporation (and its predecessor, Sperry) as the Director of Procurement and Socioeconomic Business Development. Throughout his career, Schooner championed small and disadvantaged business contracting programs, with particular focus on minority-, women-, and veteran-owned small businesses. He was a selfless volunteer, mentoring many of the current generation of leaders in federal

GW Law Takes Center Stage at World Bank Symposium on Suspension and Debarment

THE WORLD BANK’S PRESTON Auditorium was crowded on October 9 for a symposium on suspension and debarment. GW’s Government Procurement Law Program faculty played lead roles in planning and running the symposium, which drew attendees from private practice, companies, multilateral development banks, and other organizations. Professor Steven Schooner led the day’s first panel, on the U.S. suspension and debarment system, with Assistant Dean Jessica Tillipman serving as a panelist. Professor Christopher Yukins participated in the second panel, which looked at debarment processes in other countries, with an emphasis on the European Union member states.

That panel also heard from Sandeep Verma, LL.M. ‘09, who spoke by video conference from Delhi about the Indian approach to suspension and debarment, as well as from Laurence Folliot-Lalliot, Professor of Public Law at the University of Paris, who spoke from Paris about the European approach; Professor Folliot-Lalliot is a frequent guest lecturer in GW’s Government Procurement Law Program. After a panel on the multilateral

Europe Day-by-Day: Yukins and Gordon

IN MID-DECEMBER, WHEN others were on break and getting ready for the holidays, Professor Christopher Yukins and Associate Dean Daniel I. Gordon were on a whirlwind, three-country European grand tour of procurement law.

On Monday, December 16, Professor Yukins joined Gabriella Racca, Professor of Administrative Law and Deputy Dean of the Faculty of Economics of the University of Turin, for a day and a half of seminar discussions with her graduate students studying procurement law. Meanwhile, Dean Gordon went to Brussels to meet with the European Commission attorney leading the revision of the European Union's Procurement Directive. The European Commission's attorney wrote afterwards that he was energized by the exchange of views, and noted that, instead of the four hours of the meeting, he "could have spent the whole day."

On Tuesday, while Professor Yukins continued his seminar at the University of Turin, Dean Gordon was in Paris, where he gave a guest lecture in the administrative law graduate course of Laurence



Associate Dean Gordon with Professor Gabriella Racca (third from l) and their procurement law graduate students at the University of Turin's Faculty of Economics.

Folliot-Lalliot, Professor of Public Law at the University of Paris and a friend and regular lecturer at GW Law. Somewhat to his surprise, Dean Gordon was asked to lecture in French, which he hadn't done in more than 30 years. Although expressing concern that some French verbs may have been injured in the production of the lecture, Dean Gordon noted afterward that the audience seemed engaged and asked many questions.

On Wednesday, Professor Yukins and Dean Gordon were together at the prestigious Institute of Political Studies in Paris, where they contributed to a day-long symposium on comparative public

procurement law. The symposium was attended by several dozen academics and practitioners from Europe, the United States, and other countries.

On Thursday, Dean Gordon was off to Turin, where he continued the intensive graduate seminar that Professor Yukins had begun with Professor Racca's students. By the end of the day on Friday, it was time to rest: Professor Yukins in Tuscany with his family, and Dean Gordon taking a stroll around Turin with Professor Racca, before returning to Washington on Saturday, ready to get back to work. ■

GW Law Hosts Leading Anti-Corruption Experts at Conference

ON DECEMBER 4, GW LAW AND the Anti-Corruption Committee and North American Forum of the International Bar Association (in co-operation with the Anti-Corruption Committee of the American Bar Association) hosted a day-long conference on the international fight against corruption. Leading anti-corruption experts from around the world led panel discussions that examined whether various anti-corruption initiatives have been effective

in combating corruption. Panelists discussed the Organization for Economic Co-operation and Development (OECD) Anti-Bribery Convention, the role of international organizations in the fight against corruption, the private sector response, and the challenges of prosecuting corruption cases. The panelists also addressed what can and should be done to combat corruption in the future.

Assistant Dean Jessica Tillipman

moderated a panel on "Anti-Corruption Origins and Evolution," which addressed the interesting history of the Foreign Corrupt Practices Act and international anti-bribery conventions, while Professor Christopher Yukins spoke on a panel that discussed how to improve anti-corruption tools and potential future initiatives. ■

Professor Joshua Schwartz Speaks on Litigating State Secrets at IPPC



Professor Joshua Schwartz

AT THE FIFTH INTERNATIONAL Public Procurement Conference (IPPC), Professor Joshua Schwartz presented his paper “Litigating State Secrets in

Government Contracts Performance Disputes.” The conference, which was held in Seattle, was hosted by the Florida Atlantic University (under the leadership of Professor Khi Thai) and the National Institute of Government Purchasing. Professor Schwartz’s paper also was selected for publication in the volume containing the premier papers submitted for the conference, *Charting a Course in Public Procurement Innovation and Knowledge Sharing* (PrAcademics Press, 2013).

Since the biennial conference’s inaugural session in Fort Lauderdale in 2004, GW Government Procurement Law Program faculty have been actively involved in the conference and its publications program. Among the 2002 participants were Professors Steven

Schooner and Joshua Schwartz, as well as Associate Dean Daniel I. Gordon, then a member of the program’s adjunct faculty. Subsequent sessions have reflected the ongoing globalization of the field of government procurement, both by their international participation and their increasingly diverse venues. The second session was held in 2006 in Rome, hosted by the University of Rome “Tor Vergata,” under the leadership of Professor Gustavo Piga. Professor Schwartz and Professor Christopher Yukins presented at that conference. The third IPPC was held in 2008 in Amsterdam, with Professor Yukins participating. The fourth conference, held in Seoul, South Korea, marked a further diversification of participation and location and included a presentation by Professor Schwartz. ■

Pat Davis Joins Adjunct Faculty



Patricia Davis

Patricia R. Davis, a veteran of more than 20 years in the Commercial Litigation Branch of the Department of Justice, has been named as the newest adjunct faculty member in the Government Procurement Law Program. The law faculty, at its November 30 meeting, approved Davis’s appointment as a Professorial Lecturer in Law. Ms. Davis is scheduled to teach Government Contracts Advocacy in the summer session of 2013.

Professor Steven Schooner said that he was “elated” that Ms. Davis will be teaching at the law school. “Our students will benefit from Pat’s experience and insights,” he remarked. “Pat has a depth of knowledge that is virtually unmatched in the important areas

she has worked in, particularly the False Claims Act and the mandatory disclosure rules.” Ms. Davis expressed delight at the faculty’s approval of her appointment. “I am very much looking forward to teaching GW Law’s students,” she remarked.

Associate Dean Daniel I. Gordon also welcomed Professor Davis’s appointment. “Pat brings exactly the qualities we are looking for at GW Law: substantive depth, breadth of experience, and a desire to help our students bridge the gap between law school and the practice of law. Our adjunct faculty enrich the learning experience for our students, and we are thrilled that Pat Davis is joining their ranks.” ■



Roger Boyd Fellow Sonia Tabriz with Professor Steven Schooner and Associate Dean Daniel I. Gordon.

Interview with Sonia Tabriz, J.D. '13

What's it like being the student Editor-in-Chief of the *Public Contract Law Journal*?

Serving as Editor-in-Chief of PCLJ has exceeded my expectations. Upon beginning my studies at GW Law, I immediately recognized the prestige of PCLJ in the legal community. But I did not appreciate just how important the journal is to government contracts practitioners until I began my tenure as Editor-in-Chief. PCLJ is truly a focal point for examining innovative issues in government contracts law, and I feel honored to serve as a leader on the editorial board.

What is better than you expected?

In my capacity as Editor-in-Chief, I have the privilege of collaborating with practitioner editors from the ABA Section of Public Contract Law to select and substantively refine articles that are thought-provoking and provocative. These efforts are supported by the student editorial board, which is staffed with dedicated editors who consistently demonstrate their unwavering commitment to PCLJ. Last, but certainly not

least, as Editor-in-Chief I work closely with Associate Dean Daniel I. Gordon, Professor Steven Schooner, and Professor Christopher Yukins—PCLJ's journal advisors and experts in government contracts.

The camaraderie that I have established with my fellow student editors as well as the support and guidance I have received from ABA practitioner editors and PCLJ's faculty advisors have helped me do my best as Editor-in-Chief.

What have you found most challenging about the position?

The shortage of time is probably the most challenging part of the job. Law students have a number of responsibilities that all require a great deal of time and effort. For that reason, anyone considering a position as editor-in-chief must consider the significant time commitment: the journal must be a priority.

I have overcome challenging time pressures by establishing schedules that are both detailed and flexible. Thinking ahead and anticipating any last-minute problems that may arise have ensured that we consistently meet publication deadlines.

What's it like working with Pat Wittie, the ABA Editor-in-Chief?

It is a joy and an honor. Pat Wittie is an extraordinary leader, and I learn from her every time we work side-by-side. She makes a real difference in helping us to produce a thoughtful and timely publication of articles and notes that are relevant to the government contracts community at large.

Pat is involved, attentive, and incredibly knowledgeable. But what I admire most about her is that, from the very first day of her tenure as the ABA Editor-in-Chief, Pat has remained eager to improve what she agrees is already a superior law journal. Her enthusiasm and commitment to PCLJ is inspiring to all of us student editors, as we work diligently to meet and, where we can, exceed her expectations.

What's the one thing you wish you'd known when you started?

One thing I wish I had known when I started is that there is a steep learning curve. I recall, so vividly, feeling overwhelmed when I first took my position. The Editor-in-Chief manages all of the journal's operations. That means that the individual in that position must master various editing cycles as well as coordinate the efforts of authors, student editors, ABA practitioner editors, and faculty advisors. This was a lot for me to take in, all at once. And my nerves were particularly challenged because I felt—and still feel—a unique sense of responsibility for the success of PCLJ.

But with patience and practice, managing the day-to-day operations of PCLJ has become second nature—allowing me to focus my attention on addressing any unforeseen problems that arise as well as improving the quality of the publication.

Was there something you had done earlier that has served you well, in terms of preparing you for the job?

As an undergraduate student at American University, I co-authored and co-edited

a number of publications on legal issues with my professor and mentor Dr. Robert Johnson. My experience working with Dr. Johnson to draft and revise our publications allowed me to develop as both a writer and editor. I recognized the important balance between developing a broad, overarching theme while perfecting minutia at the sentence level. I also realized the importance of supporting each assertion with citations, which provide the reader with additional resources and also lend to the credibility of the author. These skills have served me well today.

What advice would you give to potential authors of articles for PCLJ?

I would advise potential authors to be both provocative and thorough as they draft articles for publication in PCLJ. The articles that I have enjoyed editing—and that I think readers have found most interesting—discuss common government contracts issues in a new and at times controversial way. Of course, this is not an easy feat. But by grounding a contentious opinion in extensive research and background information, potential authors will reach government contracts practitioners in a profound and unique way.

Has serving as Editor-in-Chief affected your thoughts about what you'd like to do after law school?

Serving as Editor-in-Chief has only confirmed my desire to practice government contracts law after graduation. Through working with authors to prepare their articles for publication, I have gained a unique familiarity with many different aspects of the field. Moreover, by working with the GW Law faculty advisors and ABA practitioner editors, I have developed a strong connection to the government contracts community. I look forward to remaining active in this community, after I graduate, as an attorney practicing government contracts law with a firm in Washington, D.C. ■



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Christopher R. Yukins, Professor of
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GW Law Hosts Symposium on Draft Acquisition Law



Professor Yukins, Kevin Hartley JD '83, Angela Styles, Associate Dean Gordon, Roger Waldron, Richard Beutel, and David Drabkin.

ON OCTOBER 18, 2012, THE JACOB Burns Moot Court Room was full to the rafters as experts discussed a new initiative to reform federal acquisition law. The audience included more than 100 practitioners, academics, and congressional staffers (from both parties and both houses of Congress), as well as GW Law students, taking advantage of the Government Procurement Law Program's unique ability to bring together diverse stakeholders in the federal procurement arena. After welcoming and introductory remarks from Associate Dean Daniel I. Gordon, Richard Beutel, Senior Counsel for Acquisition and Procurement Policy for the House of Representatives Committee on Oversight

and Government Reform, summarized the current version of the draft bill, called the "The Federal IT Acquisition Reform Act." Mr. Beutel reports to Committee Chairman Darrell Issa, and he emphasized the Chairman's interest in getting feedback on the preliminary draft bill, in the hopes that, when introduced, the bill can have bipartisan support.

Beutel highlighted provisions in the draft bill that strengthened the role of agency chief information officers as well as institutional changes meant to reduce duplication and increase speed and efficiency in the way the federal government buys IT. Among the mechanisms in the proposed legislation intended to drive improvements in the acquisition of

IT are the creation of acquisition centers of excellence and the aggregation of demand, in order to obtain lower prices.

Following Mr. Beutel's presentation, several panelists discussed what they saw as positive aspects of the draft bill, as well as their concerns over current provisions. The panelists were Roger Waldron, President of the Coalition for Government Procurement; Angela Styles, partner in Crowell & Moring's Washington, D.C., office and chair of the firm's Government Contracts Group; Kevin Hartley, Assistant General Counsel at Microsoft Corporation; and Dave Drabkin, Corporate Director of Acquisition Policy for Northrop Grumman Corporation (Crowell & Moring, Microsoft, and Northrop Grumman are all members of GW Law's Government Contracts Advisory Board).

After the panelists' remarks, Professor Christopher Yukins and Dean Gordon moderated a discussion in which panelists addressed questions and comments from the audience. While attendees at the symposium expressed mixed views on the provisions of the draft bill, they unanimously praised GW Law for putting the forum together. Dean Gordon said that he was told "again and again that this is the kind of substantive, constructive discussion at which GW Law's Government Procurement Law Program excels." ■

Volunteer to Judge in the Spring 2013 Government Contracts Moot Court Competition!

EACH YEAR, ONE OF THE highlights of GW's Government Procurement Law Program is the 'Gilbert A. Cuneo' Government Contracts Moot Court Competition. Sponsored and supported by the law firm of McKenna Long & Aldridge, the competition offers students the chance to put their research, writing, and oral advocacy skills to the

test, arguing both sides of an appellate case before seasoned government contracts professionals.

This spring, teams will face off in a case that, while the facts are fictitious, once again involves issues currently facing the public contracts bar. The preliminary and semi-final rounds will be held at the Law School, on March 16 and March 23,

respectively. The final round will take place April 11 at the Howard T. Markey National Courts Building, across the street from the White House, before a panel of practicing judges.

Practitioners interested in serving as judges for the preliminary rounds are encouraged to contact our Graduate Admissions Director, Stephanie Allgaier at 202.994.0715, sallgaier@law.gwu.edu. Even if it is too late for the 2013 competition, Ms. Allgaier will be happy to add you to our invitation list for next year. ■

Selected Programs, Presentations, and Publications



Daniel I. Gordon

Associate **Dean Daniel I. Gordon** co-authored two articles on the state of the federal acquisition workforce. The articles grew out of a Procurement Round Table

colloquium hosted at GW Law in June 2012. The pieces, co-authored with Anne Reed and Al Burman, were “Acquisition: Bridging the Communications Gaps” and “Acquisition Workforce Under Siege.” The articles were published in *Federal Computer Week* in its October 30 and November 15 issues. Dean Gordon’s recent scholarship also includes “Bid Protests: The Costs are Real, but the Benefits Outweigh Them,” *Public Contract Law Journal* (forthcoming).

Professor **Joshua Schwartz** has submitted a draft chapter for a forthcoming book on the internationalization of the public procurement market. The work, being edited by Mathias Audit and Stephan Schill, is titled *The Internationalization of Public Contracts*. Professor Schwartz’s chapter is titled “International Protection of Foreign Bidders under GATT/WTO Law: Plurilateral liberalization of trade in the public procurement sector and global propagation of best practices.” Other participants in this project include our recurrent visiting scholar, Professor Laurence Folliot-Lalliot of the University of Paris, who has written an introductory overview chapter and who was recently named to a “stakeholder expert group” by the European Commission to help advise on procurement reform in the European Union.

Assistant Dean **Jessica Tillipman’s** recent scholarship includes, “The Congressional War on Contractors,” *The George Washington University International Law Review* (forthcoming).



William Kovacic

On September 5 **William Kovacic**, Global Competition Professor of Law and Policy and Director of GW’s Competition Law Center, spoke at a GW Law

Government Contracts Advisory Board luncheon. Professor Kovacic’s informal talk covered a wide range of topics running from anti-trust enforcement to competition for federal contracts.

In October The Coalition for Government Procurement recognized **Dean Gordon** with the Lifetime Acquisition Excellence Award at their 2012 Fall Training Conference in Arlington, Virginia. Also during the CGP conference, Professor **Steven Schooner** participated in the “Comment of the Week” panel.

Also in October Advisory Board member **Karen Wilson** was the guest of honor at a reception organized by



Karen Wilson

the Government Contracts Alumni Interest Group. Attendees, who included recent as well as more senior alumni, and Dean Gordon and representatives of the Law School’s

Alumni Office appreciated the opportunity to talk among themselves but especially enjoyed hearing Karen Wilson talk about her professional career and her reflections about it.

On October 24 **Dean Gordon** chaired a panel titled “What Judges & Lawyers Do: Perspective of Non-Attorneys in the Acquisition Workforce at Agencies” at the Board of Contract Appeals Bar Association Annual Program.

Professor Schooner participated in a regional procurement conference in November that was jointly sponsored by the World Trade Organization and the Latin American Integration Association, in Montevideo, Uruguay. Earlier in the month, he presented the closing lecture at the Army JAG School’s annual

Government Contracts Year in Review Symposium, in Charlottesville, Virginia. Professor Schooner also discussed the Defense Department’s Better Buying Power Initiative (version 2.0) with the Boston chapter of the National Contract Management Association (NCMA), and procurement policy and acquisition career progression with the Acquisition Intern class at the Veterans Administration Acquisition Academy in Frederick, Maryland.

In November Professor **Christopher Yukins** took a leading role in a meeting at GW Law of international procurement experts discussing final changes to the Model Procurement Law of the United Nations Commission on International Trade Law (UNCITRAL). In conjunction with that meeting, Professor Yukins chaired a public colloquium on the Model Procurement Law and on next steps in UNCITRAL’s work in procurement, anti-corruption, and development.

In December Professor Emeritus **Ralph C. Nash Jr.** and **Professor Schooner** co-hosted the Nash & Cibnic Roundtable in Washington, D.C. Dean Tillipman also participated in a panel discussion at the Roundtable about the government’s new Foreign Corrupt Practices Act guidance.

On December 13 **Dean Tillipman** discussed Foreign Corrupt Practices Act compliance risks for Life Sciences



Jessica Tillipman

companies at the Food and Drug Law Institute’s Enforcement, Litigation, and Compliance Conference. On January 10, she participated in a panel discussion

about the World Bank’s Anti-Corruption Efforts for the D.C. Bar, International Investment and Finance Committee. ■

A Legacy of Government Contracts at GW Law: A conversation between Lesley Busch, LL.M. '11, and Richard Forest Busch II, LL.M. '87



Lori, Richard, and Lesley Busch

When Professor Schooner originally approached me with the idea of conducting an interview with my father, Richard Busch, for this newsletter, I immediately had a flashback to the time that I interviewed him about the legal system for a seventh-grade class. That was quite awhile ago! Now, I am able to relate much more to my father's extensive legal experience because I am a practicing attorney myself, and I also received a GW LL.M. in Government Procurement. My father has more than 30 years of practice in government procurement through a wide variety of roles, including as an attorney in the government, in-house counsel of a large defense contractor, and partner at multiple law firms. Below is what I learned when I asked him about his experiences and how GW assisted him with each aspect of his career.

How did you end up becoming an Army attorney?

My professional path has been long and far from a straight line. Upon graduation from college I was commissioned a second lieutenant in the Army's Air Defense Artillery branch through the ROTC

program. Although I received an educational delay to go to law school, that delay was cancelled in October of my first year due to a national crisis. We were released about seven months later and I returned to law school. Upon graduation and passing the bar, I requested a branch transfer to the Army Judge Advocate General Corps, the JAGC. After completing the JAGC School in Charlottesville, Virginia, I was assigned to Fort Shafter, Hawai'i. I like to think that the assignment to Hawai'i was due to the U.S. Army feeling real bad about jerking me out of law school.

At the end of that assignment, I was honored to be selected as the first U.S. Army JA to fill a position at the National Security Agency (NSA) in the procurement law branch of the General Counsel's Office. In that position, I worked with very talented attorneys supporting the chief of the Procurement Office. Fortunately, I was then selected by the Army to attend GW's Government Procurement Law LL.M. Program. My experience in the JAGC and pursuing my LL.M. provided a focal point and direction in my legal career that has led to more than 30 years practicing government procurement law. Any success I have had, I owe to the education I received at

GW under the guidance of Professors Nash and Cibinic.

What led you to corporate practice?

Again, my path to corporate law was far from normal. I was very happy with the experiences I was having practicing classified procurement law at NSA and looking forward to my next assignment. Due to unexpected family medical challenges, I did not feel it was right to be on a possible unaccompanied tour or year-long residence course at the JAGC. Although I was just selected to be Regular Army, I tendered my resignation and was subsequently recruited by Martin Marietta, now Lockheed Martin. I was transferred to Denver as a staff attorney in the Aerospace Product area. I later became the Chief Counsel for Martin Marietta Denver's Information & Communication Services (I&CS) product area and later the Data System Group. Finally, I was appointed as General Counsel for the Space Launch Systems product area—a multi-billion dollar group supporting the Titan II, Titan III, Titan 34D, and Titan IV missile systems, among other duties.

Was the transition difficult, moving from NSA to corporate practice at Martin Marietta?

This sort of transition, although challenging, must be guided by the phrase "position determines perspective." When I was in the JAGC, the JAG School Procurement Manual had a caricature of a robber holding up Uncle Sam. The robber was labeled "Contractor." While I cannot say that is an accurate depiction of the contract parties, there were some people on both sides who hindered the process with just that sort of confrontational approach. I do not know if government procurement is an "art" or "science" or something else, but in a perfect world the Federal Acquisition Regulation, the

FAR, provides the framework to avoid those types of preconceived notions. As taught at GW, a thorough understanding of the FAR is essential to understanding the many facets of a problem to weave a resolution or position that best serves that client and promotes the public trust.

As we have discussed so many times, I try to focus on the provisions of FAR 1.102, Statement of Guiding Principles for the Federal Acquisition System. Paraphrasing this subpart, the acquisition team (government and contractor) MUST focus on the best value product or service to the customer and public trust in the system through fulfilling public policy and cooperative relationships and focus less on “risk avoidance” and more on “risk management.” Most important, however, is for both parties to remember that if a policy, procedure, or particular strategy or practice is in the best interest of the government but NOT specifically addressed in the FAR, nor prohibited by the law, executive order, or other regulations, the parties should NOT assume it is prohibited. I was lucky enough to have these principles explained to me as the foundation of how to approach a procurement problem during my studies at GW and those principles assisted me in the transition to corporate practice.

Starting in 1996, I remember you began practicing government contracts as a partner in large law firms with offices in Denver. Did you have a particular focus in your practice?

After more than 13 years with Lockheed Martin, I was presented with an opportunity to join a large regional firm to start a government contract practice group. I was excited to use my experiences with the government and a large defense contractor to form a practice approach as described earlier. The challenge was integrating this specialty with other specialties within the firm. The culture of the firm was to embrace the specialty of government procurement law and weave a synergistic relationship with its other practice groups, like corporate, IP, employment, lobbying, etc. That was the

real challenge. My focus was to create a team of experts within the firm in various fields to draw on those talents to address a client’s specific procurement problems.

How are you currently practicing in the field?

There are not many firms that have government procurement law expertise in the Rocky Mountain region. After a few years, I decided to open my own practice focused on government contract law, general counsel services, and ADR, but with a unique focus. I found I could provide better value to my clients by co-counseling with my prior firms and other firms, rather than limiting my approach to the talents of just one firm for support. While I am a sole practitioner, I have been able to establish synergistic relationships with firms in Colorado and across the country to assist me when needed. Many of these firms have expertise in practice areas that are complementary to my practice, and mine to theirs, so we do not compete. By combining our talents, we attempt to offer the best representation for the client. In addition, our rates are overall far more cost effective due to the region and lower overhead. We strive to have our legal representation be considered as an “asset” rather than an “expense” to our clients.

In your opinion, what is the largest challenge you have experienced being a government contracts lawyer in private practice in Colorado?

Although I enjoy my current practice, I have found that the government contract practice outside the major hubs of expertise on the East and West Coasts is a little different. When I deal with practitioners, clients, and other lawyers who are experienced in government contracts, I can focus on the issues much more quickly and use the regulations, laws, and other authorities to either craft a resolution or define the issues in a more effective manner. Although many of my clients are technically sophisticated in high technology or other precise work, they usually

do not understand the nuances of the government marketplace. Consequently, we must help form their government procurement strategy, as well as help them with specific issues like requests for equitable adjustment and protest actions. I always start my discussions with these folks with the direction to “Do it Right.” While Colorado has vast government procurement opportunities, there are few true practitioners in this region.

“As a father, I can only sit back and marvel at your talent and the success that you achieved...”

What has been the greatest “achievement” in your 30+ years of practicing government contract law?

That is easy. When you came back to Colorado to study for the bar exam you helped me in my practice, and after a short time you let me know that you found government contract law extremely interesting. You decided on your own to apply to GW’s LL.M. program and to follow in my footsteps. After graduating from the program and completing internships with HUBZone, GSA, and a clerkship with the Civilian Board of Contract Appeals, you are now a very successful government litigator. As a father, I can only sit back and marvel at your talent and the success that you achieved through your hard work and training at GW. I would like to believe that you focus your government procurement practice on the principles of FAR 1.102 and the concepts of “Do it Right” and a broad perspective. ■

GW Law Launches Seminar on State and Local Procurement



Professor Christopher Yukins

THIS SPRING, GW LAW'S Government Procurement Law Program launched a new seminar on state and local procurement law—a first for the school and an important step forward for the procurement bar.

Professor Christopher Yukins, who will lead the seminar, expressed enormous enthusiasm about the new course. “We’ve been waiting for years for the opportunity to add this course to our curriculum,” he said, “and I’m delighted we have the resources to do it now.” Associate Dean Daniel I. Gordon called the subject “a neglected area of procurement law,” and he welcomed Professor Yukins’s initiative in establishing the seminar.

Teaching resources for the new course are available because of the generosity of those who have underwritten the Nash and Cibinic fund in the Government Procurement Law Program. The generosity of individuals, law firms, and industry members have made it possible for the school to add leaders in the field such as Dean Gordon to the teaching roster. This in turn has freed up the resources necessary to add new courses such as this and provide new opportunities for our students.

While there has long been interest in a course of this type, a key obstacle was the lack of a text on state and local procurement. “You can imagine my delight,” said Professor Yukins, “when I discovered that our dear friend and colleague Professor Danielle Conway, who visited with us several years ago and who teaches law at the University of Hawai’i, published a text on state and local procurement through the American Bar Association. It’s a straightforward text that introduces students to the basic concepts in procurement law—fiscal issues, competition issues, contract administration, and disputes, for example—and then reviews those concepts through the prism of important state and local developments. It’s a perfect introductory text, both for our ‘mainstream’ procurement law students and for those coming to procurement law for the first time.”

Professor Conway’s text is complemented by a state-by-state survey of state procurement laws, also published by the American Bar Association. Professor Yukins calls the state-by-state compendium, which Missy Copeland, of Schmidt & Copeland LLC, put together for the ABA’s Public Contract Law Section, “a labor of love” and “a remarkable accomplishment.” Ms. Copeland enlisted both lawyers from across the country and a number of GW Law students to produce detailed summaries of each state’s procurement laws. The compendium will give seminar students a starting point for their own research when they begin writing papers for the seminar.

The move to add the course was also a reflection of strong student interest in procurement issues beyond the Beltway. Over the years, many program students have indicated a desire to pursue careers beyond Washington, D.C., either in their home states or elsewhere in the country. Because of the program’s longstanding focus on federal procurement law, however, it was more difficult for those students to find jobs outside our area,

which was an unfortunate barrier to the advancement of procurement law across the country. Professor Yukins says that in a time of dramatic changes in the legal industry, the program’s leadership also wanted to do everything possible to help students match their life goals to their legal skills. “For many, this means relocating to traditionally underserved markets across the country,” he added.

At the same time, the seminar will reflect the law school’s role as a clearinghouse of ideas on procurement law, both nationally and internationally. “We’ll be building on Professor Conway’s text,” Professor Yukins says, “and will take a closer look, with some of the leading lights in the field, at issues such as state procurement fraud, advanced forms of competitive negotiation, and suspension and debarment.” The course will even include a unit on fiscal law. Professor Yukins says he hopes to “lure Professor Steve Schooner back from his well-earned sabbatical to teach on fiscal law, as he’s our leading expert on those issues.”

The seminar will be looking at solutions that have been used around the world, such as public-private partnerships, to assess how, and where, they might be used in the future—including in the federal arena. Building on the international and comparative work that Dean Gordon and Professor Yukins have done, through the United Nations and otherwise, the course will look at potential harmonization between federal, state, and local laws. “The barriers we as a country have erected by using different rules for federal, state, and local procurements are illogical and grossly inefficient,” argues Professor Yukins, “and my hope is that this course, besides providing our students with important new insights on state and local law, will help smooth the path to the harmonization in procurement laws across this country.” In a time of deep economic changes, he concludes, “encouraging robust, integrated, and competitive procurement markets—and opening new career opportunities for our students—seem like exactly the things GW’s Procurement Law Program should be doing as we enter our next 50 years as a program.” ■

Schooner Scholarship from cover

acquisition. Schooner was also an active member and supporter of the National Contract Management Association (NCMA), serving on the national board of advisors, and often speaking at national and regional NCMA conferences and before local NCMA chapters.

As soon as word was out that GW Law was creating the scholarship fund, pledges started coming in from members of GW Law's Government Contracts Advisory Board, practitioners, other members of the GW Law community, and friends of the late Murray Schooner. While raising the \$100,000 required to launch a new scholarship can be a real challenge, pledges for the Murray J. Schooner Scholarship fund were approaching that level within weeks of the launch. Margie Shepard, Director of Major Gifts at GW Law, said, "The unprecedented outpouring of generosity was a real tribute to the enormous, positive impact that Murray Schooner had on those around him."

Gifts to the Murray J. Schooner Endowed Law Scholarship may be made online at www.law.gwu.edu/contribute. When donating online, please indicate that the gift is for the Murray J. Schooner Endowed Scholarship in Government Procurement Law. Donors are also welcome to contact Margie Shepard in the Development Office at 202.994.0287 or mshepard@law.gwu.edu. ■



*Murray Schooner and Steven Schooner
in Hong Kong*

Government Procurement Law Perspectives

Government Procurement Law Perspectives is published by the Government Procurement Law Program at the George Washington University Law School.

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World Bank Symposium from cover

development banks' approach to the topics, Dean Dan Gordon led a free-wheeling discussion that brought together the various threads of the day's discussion. *The George Washington International Law Review* will publish articles growing out of the symposium in a forthcoming issue.

Pascale Dubois, who chaired the symposium and who serves as the World Bank's Sanctions Evaluation and Suspension Officer, said after the program that her office had been "flooded with compliments on the presentations" by GW Law faculty members.

Dubois called the law school's participation in the symposium "vital" to the program's success.

Given the World Bank's increased focus on these issues, Dean Tillipman and Professor Schooner returned to the World Bank later in the semester to participate in a similar panel, this one on the creation of credible, effective, and fair debarment systems to combat fraud and corruption in developing countries. The panel was part of the World Bank's Law, Justice, and Development week-long program. ■



GW Welcomes New Students to the M.S. in Government Contracts Degree Program!

GW welcomed 10 new students to the Master of Science in Government Contracts (M.S.G.C.) program in spring 2013. This brings to 13 the total number of students admitted to the program, which is a joint effort of GW's School of Business and the Law School.

This semester, seven students are attending law classes for the first time since the program was launched last summer (M.S.G.C. students attended only business courses in the fall 2012 semester). Those courses that are welcoming the master's students include Performance of Government Contracts, Comparative and International Public Procurement, and the new Government Contracts

Seminar on State and Local Procurement. Professor Christopher Yukins, who will be teaching or co-teaching each of these classes, noted. "We wholeheartedly welcome the new M.S.G.C. students to the Law School—they will make a terrific addition to the Government Procurement Law program."

M.S.G.C. Program Director Neal Couture represented GW at several events this fall, including NCMA's Government Contract Management Conference in Washington, D.C., in November. "Interest in the M.S.G.C. program remains very high within both government and industry," said Mr. Couture. He noted that, while the uncertain economic climate is causing some candidates to delay submitting their applications, the program remains on track to meet its admission goals for academic year 2012-13.

One challenge going forward is the integration of online and classroom learning. The School of Business offers most of their M.S.G.C. courses online, and some program students are taking advantage of that option. The Government Procurement Law Program faculty and staff have been

researching and discussing possible approaches for bringing the full range of required M.S.G.C. courses to online delivery in the near future. "Making the government procurement law curriculum available to M.S.G.C. students online would mean we could reach students outside of the D.C. metro area," said Associate Dean Daniel I. Gordon, "thus opening up the M.S.G.C. program to significantly more people around the country, and perhaps the world." The program's leadership hopes to bring a plan for online courses before the Law School Curriculum Committee and faculty in the spring.

Interesting facts about M.S.G.C. students: The average age at admission is 34.6, the average experience is 10.3 years, 62 percent are female and 38 percent are male, and 38 percent have indicated minority status. Four work for the U.S. government, six work for government contractors, two are consultants, and one works for a law firm. Four possess at least one graduate degree, and one has a J.D. degree. ■

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