

Industry Summit on

DoD Contracting

Achieving FAR and DFARS Compliance

Strategic Insights for Proposals, IP, Specialty Metals and Contract Performance

June 22 & 23, 2010 | Marriott Key Bridge, Arlington, VA



Hear from senior DoD Contracts In-house Executives:

Kimberly S. Rupert

Senior Vice President of Contracts, Procurement and Pricing
SAIC

Milan E. Anich

Senior Manager, Contracts and Pricing
Boeing Research & Technology

Heather Pitz

Senior Staff Counsel
Northrop Grumman Corporation

Robert J. Strauss

Counsel
Raytheon Intelligence and Information Systems

Dottie Slovak Hersey

Senior Director, Contracts
General Dynamics Armament and Technical Products

Phyllis Turvey

Director, Contracts and Procurement
Alion Science and Technology Corporation

Ted Timberlake

Vice President, General Counsel and Director of Contracts
Global Strategies Group (Integrated Security)

Cathy Pollack

Senior Counsel II
Northrop Grumman Corporation

Hear government insights on the costs of non-compliance:

Rodney A. Grandon

Director, Office of Procurement Fraud Remedies
Office of the General Counsel, Department of the Air Force

Make sense of complex FAR and DFARS requirements, and gain practical insights on:

- How the procurement process is managed and **proposals are evaluated**
- Safeguarding your **intellectual property**: Determining the scope of IP rights and access by government and **competitors**, and resolving **mixed funding** issues
- Demystifying “**Specialty Metals**” requirements under the *Berry Amendment*
- Commercial item acquisition: **Proving the “commercial” status of your item**
- Maintaining a strong **ethics and compliance program**: Mandatory disclosure, **Organizational Conflicts of Interest (OCIs)**, quality assurance and internal controls
- How to **prepare a winning proposal**
- Maximizing **cost allowability** for IR & D, legal and other costs
- Preventing and managing **contract disputes**
- What triggers a DCAA audit - and what to expect
- **Enforcement and penalty overview** — and how to communicate with government officials

PLUS! Don't miss practical, intensive, workshops - June 24, 2010

A | **Reducing Specialty Metals Supply Chain Risks**

B | **Battlefield Contracting from A to Z**

Media Partner: **Defense Daily**



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Don't Lose DoD Business Due to Compliance Errors

In order to win and do business with the U.S. Department of Defense, your company must comply with complex FAR and DFARS requirements governing the procurement process and contract performance. Failure to master the ins and outs of compliance can (and likely will) mean **lost business** and the possible release of **proprietary information** to your **competitors**. As the competition for DoD business intensifies, it is critical to know how to **maximize the protection of your company's intellectual property**, and how to resolve **mixed funding issues** in cases where there is government investment in your research and development.

As you compete for DoD contracts, understanding the requirements is not enough – it is critical to know how to:

- prepare a successful bid
- negotiate effectively with DoD
- ensure ongoing compliance toward preventing **harsh penalties** under the *False Claims Act*
- master complex **specialty metals** requirements
- comply with, rigorous requirements for **ethics compliance, quality assurance and internal controls**

Unlike other events, American Conference Institute's **Industry Summit on DoD Contracting** provides an invaluable opportunity to **benchmark your FAR and DFARS compliance practices** with a diverse speaker faculty of **leading defense contractors, government** and private practice experts. Experienced speakers will provide **practical insights** on how to **win and manage DoD contracts**. Topics will include:

- DoD's approach to the procurement process and **proposal evaluations**
- **Protecting your intellectual property**: Minimizing the scope of IP rights and access by government and competitors
- Clarifying "Specialty Metals" requirements under the *Berry Amendment*
- Commercial item acquisition under DFARS: **Proving the "commercial" status of your item**
- Key components of DFARS and **ethics compliance**: **Mandatory Disclosure, Organizational Conflicts of Interest (OCIs)**, Quality Assurance and Internal Controls
- Preparing a **winning proposal**
- Reducing the risk of **disallowed costs** and audits: The rules for IR & D, legal and other costs
- Dealing with **contract disputes**
- DCAA: What can trigger an audit and what to expect
- **Enforcement and penalty** overview, and how to respond to officials' requests

PLUS! Don't miss **practical, intensive, post-conference workshops**: **Reducing Specialty Metals Supply Chain Risks** and **Battlefield Contracting from A to Z**.

Register now by calling 1-888-224-2480, faxing your registration form to 1-877-927-1563 or registering online at www.AmericanConference.com/DoD.

Who Should Attend

- Vice Presidents, Directors and Managers:
 - government contracts
 - contract compliance
 - government relations
 - federal government procurement
 - acquisition policy
- Contract Officers, Specialists and Coordinators
- Compliance Counsel
- Private practice attorneys specializing in
 - government contract compliance
 - bid protests

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American Conference Institute (ACI) will apply for Continuing Professional Education credits for all conference attendees who request credit.

Pre-requisites: Basic knowledge of US Government procurement. Level of knowledge: Intermediate.

Course objective: Update on procurement process and compliance, and ethical requirements and procedures to prevent inappropriate payments. Recommended CPE Credit: 14.0 hours + 4.0 for workshop hours.

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8:45 **Opening Remarks from the Co-Chairs**

Kimberly S. Rupert

Senior Vice President of Contracts, Procurement and Pricing
Science Applications International Corporation (SAIC)
(San Diego, CA)

Tom Abbott

McKenna Long & Alridge LLP (Los Angeles, CA)

9:00 **DoD Contracting Landscape: Where the FAR Ends and DFARS Begins**

Rand Allen

Wiley Rein LLP (Washington, DC)

- Identifying when the FAR or DFARS apply and when, and their key differences
- DoD acquisition priorities and trends: Types of DoD contracts that are on the rise
- How DoD is structured
- Key agencies, their roles and jurisdiction in the defense procurement arena
- Other statutes and regulations that can apply to DoD contracts

9:30 **How Winning Bids are Selected: Navigating the Proposal, Award and Bid Protest Processes**

Robert J. Strauss

Counsel
Raytheon Intelligence and Information Systems
(State College, PA)

James McCullough

Fried, Frank, Harris, Shriver & Jacobson LLP
(Washington, DC)

- Ins and outs of RFP and award processes
- How DoD applies DFARS 215.4 weighted guidelines in assessing proposals: How DoD analyzes key risk factors, including the nature of the contract, performance risks, and ranges of profit
- Meeting *Truth in Negotiations Act* (TINA) cost and pricing requirements for proposals
- Defining “cost” vs. “price”, and when you need to provide cost or pricing data
- Rules related to defective pricing and when exemptions can apply
- How much profit is too much?
- Complying with the *Procurement Integrity Act*: Scope of restrictions on obtaining source selection and competitive bidder information
- Bid protest processes and procedures, and winning/losing grounds

10:30 **Networking Coffee Break**

10:45 **Protecting Your Intellectual Property: Defining the Scope of IP Rights and Access by Government and Competitors**

Milan E. Anich

Senior Manager, Contracts and Pricing
Boeing Research & Technology
Engineering, Operations & Technology
The Boeing Company (St. Louis, MO)

Dottie Slovak Hersey

Senior Director, Contracts
General Dynamics Armament and Technical Products, Inc.
(Charlotte, NC)

Deneen Melander

Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP
(Washington, DC)

- Types of government IP rights under DFARS and when they are triggered: Limited and restricted rights, unlimited rights, proprietary and government purpose rights, and special data rights
- Resolving mixed funding issues
 - DFARS clauses and other requirements governing government funded research and development
 - segregating costs of private vs. public development
 - identifying the level of proprietary vs. government investment
 - negotiating government purpose license rights
 - marking, legending and other safeguards- and their limits
- DoD requirements and expectations governing the field of use, time period, scope of use, and fees: When DoD can require unlimited rights
- Negotiating the scope of government rights at the proposal stage: How to complete DFARS forms to set out limited and restricted rights
- How DoD and government agencies can access and use your technical data
- Restricting competitors’ access to your IP via the *Freedom of Information Act*, teaming agreements, employee turnover and other channels
- Safeguarding technical data and trade secrets: Asserting copyright
- DFARS clauses governing patents: Scope of government non-exclusive rights, and how to assert patent rights and ownership
- How sub-contractors can protect their IP rights: Incorporating strict non-disclosure rules for prime contractors

12:15 **Networking Luncheon**

1:30 **Commercial Item Acquisition: How to Prove the “Commercial” Status of Your Item**

Cathy Pollack

Senior Counsel II
Northrop Grumman Corporation (Herndon, VA)

Deneen Melander

Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP
(Washington, DC)

- Definition of a “commercial item” under DFARS, and how it has been interpreted by contracting officers
- How to prove commercial status: Providing market data, and demonstrating technical similarities to already existing items
- Required scope of government IP rights under commercial vs. military contracts
- Key cost and pricing benefits that flow from a commercial classification
- The acquisition process, evaluation criteria, and key terms and conditions of commercial item contracts
- Shifting acquisition from non-commercial to commercial during existing or renewable contracts
- What is uniquely military?

2:30

The Essential Elements of a DFARS and Ethics Compliance Program: Mandatory Disclosure, Organizational Conflicts of Interest (OCIs), Quality Assurance and Internal Controls

Dottie Slovak Hersey

Senior Director, Contracts

General Dynamics Armament and Technical Products, Inc.
(Charlotte, NC)

Kimberly S. Rupert

Senior Vice President of Contracts, Procurement and Pricing
Science Applications International Corporation (SAIC)
(San Diego, CA)

Rand Allen

Wiley Rein LLP (Washington, DC)

- Required elements for a strong compliance program, including quality assurance systems, contract performance (including deliveries), training and ethics compliance
- Flowing down DFARS, FAR and other requirements to sub-contractors
- Establishing effective internal controls
- What triggers mandatory reporting, and how to meet your reporting obligations to DoD Inspector General
- Tailoring your ethics program to fit the company's size, work-mix, operations and culture
- Types of Organizational Conflicts of Interest (OCIs) and Personal Conflicts of Interest (PCIs)
- Avoiding and mitigating OCIs/PCIs: Developing effective systems and training, and running conflicts checks under OCI rules

3:45

Networking Refreshment Break

4:00

Do's and Don'ts for Preparing a Winning Proposal

Milan E. Anich

Senior Manager, Contracts and Pricing
Boeing Research & Technology
Engineering, Operations & Technology
The Boeing Company (St. Louis, MO)

Phyllis Turvey

Corporate Vice President

Director, Contracts and Procurement

Alion Science and Technology Corporation (McLean, VA)

- What critical information must be included in the proposal
- Demonstrating your organization's capacity to perform the contract: How to showcase your past performance history and/or similar experience
- Setting out an acceptable delivery schedule
- Establishing a reasonable price for the project: Applying sound costing methods
- What not to include in your proposal
- Outlining subcontractors' roles for contract performance
- Analysis of sample proposals and lessons learned

5:00

Industry Summit Adjourns

DAY 2 - WEDNESDAY, JUNE 23, 2010

8:45

Opening Remarks from the Co-Chairs

9:00

Making Sense of "Specialty Metals" Requirements

Heather Pitz

Senior Staff Counsel

Northrop Grumman Corporation (Linthicum, MD)

David Gallacher

Sheppard Mullin Richter & Hampton LLP (Washington, DC)

- What are "specialty metals" under the *Berry Amendment* and the designated countries
- Demystifying key DFARS clauses and other requirements
- When and how requirements can apply retroactively
- Exemptions and waivers from specialty metals requirements:
 - when and how they apply, including DNAD, qualifying country, COTS items, de minimis and electronic component exceptions
 - one-time and national security waivers
- Meeting certification requirements
- How government is enforcing specialty metal provisions, including penalties, shut downs and recalls
- How acquisitions with stimulus funds vs. *Trade Agreements Act* or *Buy American Act* affect metals requirements
- How to determine if an acquisition is subject to the *Buy American Act* or *Trade Agreements Act*, and if it is permissible

10:15

Networking Coffee Break

11:00

Reducing the Risk of Disallowed Costs and Audits: The Rules for IR & D, Legal and Other Costs

Edmund M. Amorosi

Smith Pachter McWhorter PLC (Washington, DC)

- Costs categories, principles and when/how they apply
- Defining "IR & D" and when it is allowable under DFARS
- Allowability of legal expenses, including defense costs and Title VII Litigation settlement costs
- Limits and restrictions on time charging, allowability of compensation and travel costs
- Price "realism" vs. "reasonableness"
- Examples of permitted costs and defective pricing: Recent and key cases
- Making equitable adjustments and changes to contracts

12:00

Networking Luncheon

1:15

The Defense Contract Audit Agency (DCAA) Demystified: Who is DCAA, What Can Trigger a DCAA Audit and What to Expect

Angela Styles

Crowell & Moring LLP (Washington, DC)

- The roles, powers and jurisdiction of DCAA vs. Defense Contract Management Agency (DCMA)
- When DCAA can limit a contracting officer's discretion, and what happens when they disagree
- What can trigger a DCAA audit
- DCAA audit process: Audit objectives, techniques, tools and methods used

- DCAA requirements for internal control systems (including pricing, IT, payment, quality assurance) and ethics compliance programs
- Remedies imposed by DCAA for non-compliance

2:00 Preventing and Managing Contract Disputes

Phyllis Turvey

Corporate Vice President

Director, Contracts and Procurement

Alion Science and Technology Corporation (McLean, VA)

Tom Abbott

McKenna Long & Aldridge LLP (Los Angeles, CA)

- Key issues that lead to DoD contract claims and disputes
- Resolving a dispute before resorting to the claims process
- How to identify whether you have a viable claim – and weighing the associated risks
- Consequences of including inaccurate information in your claims filings
- Nuts and bolts of the claims process under the *Contracts Disputes Act*
- Claims procedures before the DoD Board of Contract Appeals vs. civilian board

3:00 Networking Refreshment Break

3:15 Enforcement and Penalty Overview: The Costs of Non-Compliance

Rodney A. Grandon

Director, Office of Procurement Fraud Remedies

Office of the General Counsel

Department of the Air Force (Washington, DC)

Andy Irwin

Steptoe & Johnson LLP (Washington, DC)

- What can trigger liability under the *False Claims Act*, and recent penalty trends
- The consequences of non-compliance with the Mandatory Disclosure, OCI and PCI rules
- Managing increased threats of suspension and debarment
- How to communicate with the agency Suspending and Debarment Official
- Update on *qui tam* litigation

4:15 Contract Terminations: When Your Contract Can be Terminated — and How to Prepare a Termination Settlement Proposal

Edmund M. Amorosi

Smith Pachter McWhorter PLC (Washington, DC)

- Reasons for DoD contract terminations
- Terminations for “default” vs. “for convenience”, and their financial consequences
- Converting a termination for default into a termination for convenience
- Preparing a termination settlement proposal: Key elements
- Segregating profits on the terminated portion of contract

5:00 Industry Summit Concludes

POST-CONFERENCE WORKSHOPS

Wednesday, June 24, 2010 | 9:00 a.m. – 12:30 p.m.

A Reducing Specialty Metals Supply Chain Risks: Key Components of Effective Supply Chain Management

Tom Abbott

McKenna Long & Aldridge LLP (Los Angeles, CA)

Specialty metals requirements pose significant supply chain management and compliance challenges that can affect the fate of your contracts. Failure to comply can have **devastating financial and enforcement consequences**, including penalties, suspension, debarment and more.

This interactive workshop will provide you with **practical tools** for **developing and implementing a successful supply chain management strategy** that facilitates compliance, and helps to ensure that you are properly vetting and **monitoring your suppliers**. Topics will include:

- Core elements of an internal specialty metals compliance program
- Sourcing compliant material, and tracking their origin
- Segregating compliant vs. non-compliant metals
- How to determine if your products are compliant
- Monitoring supplier activities
- Managing the costs of maintaining separate inventories
- Auditing sub contractors, sub-sub-contractors and managing associated costs
- Appropriate requirement flow down language
- Dispute resolution practices
- Challenges to product compliance determinations
- Certification pros and cons

1:30 p.m. – 5:00 p.m.

B Battlefield Contracting from A to Z: Complying with Special DFARS Clauses and New Requirements for Iraq & Afghanistan

Ted Timberlake

Vice President, General Counsel and Director of Contracts

Global Strategies Group (Integrated Security) Inc. (McLean, VA)

Andy Irwin

Steptoe & Johnson LLP (Washington, DC)

This workshop will take you through the complex requirements and **unique compliance challenges** facing contractors in the battlefield contracting arena. You will gain **practical insights** on **what to expect during the procurement process**, how to apply special DFARS clauses and terms for Joint Contracting Command contracting, and how to **implement an effective compliance program**.

Don't miss this invaluable opportunity to take away **best practices** for ensuring compliance at the proposal and contract performance stage.

- The procurement process for overseas contracts
- Special DFARS clauses affecting contracting overseas — and the application of the Uniform Code of Military Justice
- DFARS rules for contingency planning
- Pre-clearance, reporting and training requirements for employees
- Managing local and third country sub-contractors
- New reporting requirements for Iraq & Afghanistan
- Special terms for Joint Contracting Command (JCC) contracting
- Impact of Defense Procurement Acquisition Policy (DPAP) deviations on contracting requirements
- Update on Commission on Wartime Contracting activities, including its analysis of contractor profits for Iraq reconstruction

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POST-CONFERENCE WORKSHOPS

JUNE 24, 2010

A Reducing Specialty Metals Supply Chain Risks

B Battlefield Contracting from A to Z

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