

American Conference Institute's National Advanced Forum on

Government Contracting Compliance & Ethics

BENCHMARK YOUR COMPLIANCE PRACTICES BY HEARING FROM INDUSTRY LEADERS:

Boeing
Lockheed Martin
Parker Hannifin
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Alion Science and Technology
BAE Systems
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Department of the Air Force
Department of Defense
Inspector General
Standards of Conduct Office,
Department of Defense
Department of Veterans Affairs
Senate Committee on Homeland
Security and Government Affairs
House Armed Services Committee

PLUS AN IN-DEPTH "THEORY TO PRACTICE" SESSION ON:

Constructing, Implementing
and Managing Effective Ethics
Compliance Programs, led by:

Alice Eldridge - Lockheed Martin
James C. Fontana - Alion Science
Edward S. Owens - Parker Hannifin

Expert strategies and practical solutions for maneuvering your way through the minefield of the government's increased oversight and emphasis on transparency

GAIN STRATEGIC INSIGHTS ON:

- Implementing and complying with **mandatory reporting requirements** and adjusting your ethics and compliance program to account for **new government oversight**
- Avoiding and managing **personal and organizational conflicts of interest**
- Managing and resolving **audit conflicts** with the government
- **False Claims Act**: Its interplay with FAR, "credible evidence" of a violation, expansion of the statute under the **Stimulus Package**, and **Whistleblower Provisions**
- Recent **GAO bid protest decisions** and how they will impact your procurement process
- Maintaining the integrity of the compliance process while adhering to **data privacy** requirements
- The **fraud-based enforcement backlash**: Suspension, debarment and other measures
- Achieving **favorable bid protest outcomes** and avoiding lost contract awards
- How the mandatory use of **the E-Verify system** is affecting government contractors' determination of the eligibility of new hires
- Adapting to recent **Congressional, regulatory and policy developments** and other emerging trends in government contracting

DISTINGUISHED CO-CHAIRS:



Alice Eldridge
Vice President
Ethics and Business Conduct
Lockheed Martin Corporation



Andrew D. Irwin
Of Counsel
Stepote & Johnson LLP



DON'T MISS THE INTERACTIVE WORKSHOP:

Negotiating Favorable Contract Terms – What You Now Must Know Before You Sign
September 24, 2009 – 8:00 a.m. – 10:00 a.m.

MEDIA PARTNERS:



Register Now • 888-224-2480 • AmericanConference.com/GovtContracting

The chances of losing U.S. Government contracts for COMPLIANCE AND ETHICS reasons have never been higher. Attend this can't miss event to minimize the threat of litigation, enforcement and lost business.

As the government contracting pendulum swings back towards the direction of greater oversight and transparency, government contractors are confronted with the challenges of learning how to implement new rules while avoiding the risk of potential penalties. With the implementation of new mandatory reporting requirements under FAR, the introduction of the new administration's **Stimulus Package**, the **False Claims Act** and its interplay with FAR and the Stimulus Package, and the mandatory use of **E-Verify**, government contractors in all industries are facing greater challenges than ever before.

In this landscape your company must stay competitive and win the highly sought after contract awards, yet **the chances of losing U.S. Government contracts for ethics and compliance reasons have never been greater.**

American Conference Institute's **National Advanced Forum on Government Contracting Compliance** is the only event that allows you to effectively walk the fine line on how to **get those big awards while staying compliant with government regulations.** At this must-attend forum, an exceptional faculty of government regulators, in-house experts from *Boeing, Lockheed Martin, Parker Hannifin, Raytheon, Alion Science and Technology, BAE Systems, DynCorp, Firefly Energy*, and renowned outside counsel will convene to share their insights and successful strategies on how to **minimize the threat of litigation, enforcement and lost business.**

With all of the recent changes, you cannot afford to miss these critical updates and informative sessions on emerging issues in the government contracting compliance arena. This conference will provide even the most seasoned professionals with the most cutting-edge comprehensive compliance and ethics review of the industry. It's a unique opportunity for you to learn from and network with top experts and gain the most up-to-date information and analysis on the current government contracting landscape.

Plus, add value to your attendance by also registering for the conference workshop:

Negotiating Favorable Contract Terms – What You Now Must Know Before You Sign

September 24, 2009 – 8:00 a.m. – 10:00 a.m.

This critical event will fill up quickly so register today to ensure your place. Register now by calling **888-224-2480**, faxing your registration form to **877-927-1563** or registering online at **www.AmericanConference.com/GovtContracting**



ACI will apply for Continuing Professional Education credits for all conference attendees who request credit. There are no pre-requisites and advance preparation is not required to attend this conference.

Course objective: Update on the GOVERNMENT CONTRACTING COMPLIANCE & ETHICS and procedures to prevent inappropriate payments. Recommended CPE Credit: **13.0** hours with an additional **2.0** credit hours for workshop participation.

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Accreditation will be sought in those jurisdictions requested by the registrants which have continuing education requirements. This course is identified as nontransitional for the purposes of CLE accreditation.

ACI certifies that the activity has been approved for CLE credit by the **New York State Continuing Legal Education Board** in the amount of the 13.0 hours (2.0 ethics). An additional 2.0 credit hours will apply to workshop participation.

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ACI has a dedicated team which processes requests for state approval. Please note that event accreditation varies by state and ACI will make every effort to process your request.

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PRE-CONFERENCE WORKSHOP
THURSDAY, SEPTEMBER 24, 2009

8:00 a.m. to 10:00 a.m. (Registration Opens at 7:30 a.m.)

NEGOTIATING FAVORABLE CONTRACT TERMS –
What You Now Must Know Before You Sign



Mary Dicig
General Counsel
Firefly Energy, Inc.
Assistant Professor – University of Illinois



Grace Bateman
Of Counsel
Seyfarth Shaw LLP

This workshop will provide you with an in-depth analysis of what happens during the negotiation process prior to receiving a contract award. You will learn about key terms and conditions, which terms are negotiable, and which are not, and how to negotiate the best terms for your company. Don't miss the opportunity to get practical tools to help your company and/or client get that contract award on the most favorable terms.

Topics will include:

- What are all those FAR references anyway? A review of key FAR clauses
- What is negotiable in commercial item and non-commercial item procurements?
- Handling contract discussions: Tips on how to negotiate successfully while avoiding common traps
- What information can you submit to explain past performance?
- Obtaining approval of your small business subcontracting plan
- FAR clauses that affect intellectual property and confidentiality—who owns what?
- Warranties and limitation of liability
- How to comply with invoicing and reporting requirements
- Which FAR clauses do you have to flow-down to subcontractors?



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DAY ONE – THURSDAY, SEPTEMBER 24, 2009

9:30 **Conference Registration**

10:10 **Co-Chairs' Opening Remarks**



Alice Eldridge
Vice President
Ethics and Business Conduct
Lockheed Martin Corporation



Andy Irwin
Of Counsel
Steptoe & Johnson LLP

10:25 **Setting the Stage: Adjusting to the Pendulum Swing of Government Contracting in 2009 and Beyond**

Sharon L. Larkin
Deputy Assistant General Counsel
Procurement Law Division Member
GAO Contract Appeals Board
U.S. Government Accountability Office



Eric Rishel
Senior Attorney
Standards of Conduct Office
Department of Defense
Office of General Counsel



Rand L. Allen
Partner & Chair
Government Contracts Practice
Wiley Rein LLP

In this session, you'll be immersed in the recent trends in government contracting and where it is headed in the year to come so that you are fully informed and prepared for the two days ahead. Information will include the latest legislation, including the known and projected direction of the recent stimulus packages, recent court, GAO and board decisions affecting the federal procurement industry and the most difficult issues facing government contractors – and what this all means for your client and/or company going forward. With ample time for questions, this session will set the tone for an interactive and insightful two days.

Current Trends in Government Contracting

- Where are we now?: The Recovery Act and other recent statutes and regulations affecting the procurement community
- How the Obama administration's preference for fixed price contracting will impact the current landscape
- Cleaning up government contracting through greater oversight 'transparency'

Recent GAO Developments

- How the GAO analyzes ethics related and OCI bid protests
- Recent GAO bid protest decisions affecting your organization
- Introducing the GAO Contract Appeals Board
- Update on GAO report on contract workers in government

Recent Department of Defense Developments

- New Department of Defense regulations: What to expect in the year ahead
- How the new “revolving door” restrictions are impacting the hiring process for government contractors
- Providing audit guidance for contracting officer requesting audit services
 - Open audit guidance
 - Standard audit programs
- New development and challenges facing the Defense Industry Initiative

11:25 FAR Mandatory Disclosure Rules: Implementing the Programs Necessary to Ensure Compliance

Frank Albright

Special Agent
CFE Director
Policy and Programs Investigative Policy and Oversight
Department of Defense Inspector General



Curtis Schehr

Senior Vice President
General Counsel and Secretary
DynCorp International



John A. Howell

Partner
Sullivan & Worcester LLP



Richard P. Rector

Partner
DLA Piper

- How companies are implementing the new rules and handling the change to establish proper internal control systems
 - Written Code of Business Ethics and Conduct – overcoming challenges in establishing and maintaining the codes
 - Mandatory disclosures of violations of law and significant overpayments: using different implementation approaches for different types of contractors
 - Managing and reporting violations of subcontractors – When to rely or not rely on subcontractor compliance

- What triggers mandatory reporting?
- The ‘look back’ provisions: How are they affecting companies and the ability to disclose?
- Determining when stricter internal controls are required
- **FAR interplay with the False Claims Act**
- Determining who the False Claims Act applies to
- What constitutes “credible evidence” of a violation of federal criminal law or civil False Claims Act

1:00 Networking Luncheon for Speakers and Delegates

2:15 Preventing and Mitigating Organizational and Personal Conflicts of Interest

Michael W. Mutek

Vice President and General Counsel
Raytheon Intelligence and Information Systems



James J. McCullough

Partner
Fried, Frank, Harris, Shriver & Jacobson LLP



J. Scott Hommer, III

Partner
Venable LLP

- The current state of flux of OCIs – What is different today?
- Types of OCIs and how they affect the procurement process
- How the FAR is shaping the handling of OCIs and PCIs
- Development of policies and practices to avoid OCIs
- The latest trends in addressing and remediating OCIs
- Inherently governmental functions: How to avoid PCIs though the development of a standard policy (applied to contractor employees)
 - Preventing PCIs
 - Identify and reporting PCI and to whom
 - Penalties for employee violations of PCIs
- Acquisition Advisory Panel Report and its impact on OCIs and PCIs
- How the Office of Federal Procurement Policy, pursuant to the Defense Authorization Act, is determining how to revise existing OCI regulations and develop best practices
- Avoiding and mitigating OCIs: Best practices for preventing a conflict before it arises
- Analyzing recent OCI **False Claims Act** cases
 - SAIC
 - Savannah River
- Examining recent OCI GAO and court cases
 - Greenleaf Construction Company
 - Alion Science and Technology Corp.
 - Masai Technologies Corp v. U.S.
 - Axiom Resources Management v. U.S.
 - E-Management

3:25 **Afternoon Refreshment Break**

3:40 **To Be Audited or Not to Be Audited: Your Complete Guide to Preparing for and Resolving the Audit Process Given New Transparency Demands**



Angela Styles

Partner

Crowell & Moring, LLP



Maureen Regan

Counselor to Inspector General

U.S. Department of Veterans Affairs

Inspector General/DCAA Audits – The Essentials

- Common audit triggers: How to prepare your company
- How does the government audit?: IG v. Defense Contract Audit Agency audit process
- IG contract compliance vs. investigative role
- The new DCAA audit standards and how its guidance on significant deficiencies/material weakness is impacting contractors
- The use of DCAA Form 1 to suspend payment to contractors and other remedies available to DCAA for non-compliance
- Review of unique audits related to Recovery Act expenditures

Audit Preparation and Conduct

- Preparing your organization for the audit process: Pre-Audit preparation steps
- Providing timely access to records
- Preserving attorney-client privilege
- When is the use of external legal counsel necessary?
- Providing and attaining access to employees
- Managing and resolving audit conflicts
- Identifying when an audit becomes an investigation
- Handling the discovery of an issue requiring mandatory disclosure during an audit
- Responding to audit results to prepare for potential reporting
- Determining how, when and to whom to report the findings of an audit

4:40 **Acquisition Workforce: Assessing the Impact on Your Company and Effectively Handling Thorny Issues That Arise With It**

John K. Needham

Director

U.S. Government Accountability Office

Acquisition and Sourcing Management Issues



David Innis

Shareholder

Rogers Joseph O'Donnell

- Analyzing the Department of Defense's recent initiatives to improve management and oversight of its acquisition workforce
- Assessing the challenges to building and sustaining a capable government wide acquisition workforce
- Determining how to fill the gaps in the acquisition workforce to meet business objectives and future needs
- Understanding inherently governmental functions as it applies to agencies
 - Anti-outsourcing concerns
 - Personal service contracts
 - Covered contracts
- Using contract personnel to supplement the workforce: Deciding when, how and if supplemental personnel is necessary
- Adjusting to the shift in workforce demographics and a changing strategic environment
- Restrictions on private security contracts in the wars in Iraq and Afghanistan

5:30 **Conference Adjourns**

DAY TWO – FRIDAY, SEPTEMBER 25, 2009

8:00 **Continental Breakfast**

8:30 **Co-Chairs' Remarks**

8:45 **The View From the Regulators**

Cathy Garman

Professional Staff Member

House Armed Services Committee

Eric Cho

Counsel

Senate Committee on Homeland Security and Governmental Affairs

In this panel, top regulators from the House Armed Services Committee and the Senate Committee on Homeland Security and Governmental Affairs will address the nuances specific to their committees and how new and proposed legislation will impact your company in the months and years ahead when complying with government contracting requirements. They will also provide critical insights to ensure your compliance programs are in line with upcoming regulatory changes. You will gain first hand critical insights on practices that are now being monitored more closely.

9:45 **Morning Coffee Break**

10:00 **Constructing, Implementing, and Managing Effective Ethics Compliance Programs**



Alice Eldridge

Vice President
Ethics and Business Conduct
Lockheed Martin Corporation



James C. Fontana

Senior Vice President
General Counsel and Secretary
Alion Science and Technology Corp.

Edward S. Owens

Director
Contracts, Pricing, and Export Control
Parker Hannifin Corporation Parker Aerospace -
Hydraulics Systems Division



Andy Irwin

Of Counsel
Steptoe & Johnson LLP

Not all ethics compliance programs are the same; nor should they be. The already highly regulated business of government contracting has become even more regulated with once voluntary and now mandated self-governance regardless of the size of the company. The FAR's disclosure rule and other ethics-related requirements are not only considered by the Government as a "sea change" in federal policy toward contractors, but also creates numerous open questions and differing opinions regarding how best to implement these requirements. As a result, contractors need to be well prepared as never before to properly construct, implement and manage effective compliance programs. This session will provide valuable information to make your company's ethics and compliance program compliant with the FAR and consistent with industry best practices. Topics to be covered will include:

- The new ethical challenges facing government contractors
- Fostering a culture of ethics and integrity throughout the company
- The role of senior management and board of directors in the ethics compliance process: establishing the proper "tone at the top"
- Tailoring a program to fit the company's size, work-mix, operations and culture
- Following the FAR requirements, while promoting consistency with industry best practices
- Proper use of codes of conduct, implementing policies, manuals and procedures
- Establishing effective internal controls
- Employee training and ongoing awareness programs
- Proper use of disciplinary action and Whistleblower protection
- Internal and external investigations of ethics-related matters
- Cross-border application of ethics compliance programs

11:50 **Networking Luncheon for Speakers and Delegates**

1:00 **The Stimulus Package: How It's Impacting the Government Contracting Landscape, Including its Interplay with the False Claims Act and Whistleblower Provisions**



Deneen Melander

Senior Counsel
Robbins, Russell, Englert, Orseck, Untereiner
& Sauber LLP



Christopher A. Myers

Partner
Holland & Knight LLP



Kimberly Yelkin

Partner
Gardere Wynne Sewell LLP

- Increased oversight for programs funded by the Stimulus Act: How companies are managing the government's increased transparency
 - The continuing role of the Recovery Accountability and Transparency Board
 - Increased whistleblower protections pursuant to the McCaskill Amendment: how are they being handled by state and local governments?
 - Audit authority of the GAO
 - Investigator Generals review of the public's concerns
- The fixed-price contract through the use of competitive procedures requirement
- FAR vs. Stimulus Package: Reconciling the conflict between the two
- Impact of the Berry Amendment on Department of Homeland Security purchases
- Expansion of False Claims Act under the Stimulus Package
- Whistleblower provisions: Strengthening employment protection for potential exposure to False Claims Act
- The Buy American Act: What does it mean and how are companies dealing with this provision?
 - Buying American iron, steel and manufactured goods:
 - Has this been feasible?
 - Is there a greater increase in cost and time to the contractors and the government?
 - Determining the impact of international pressure on enforcement of the Buy American Provision
- The continued challenge of working with fixed price contracts
- Bailout and TARP legislation: Where are we now?

2:15 **Afternoon Refreshment Break**

2:30 **The Increased Threat of Debarment and Suspension: Preventing Your Company from Being Penalized in an Atmosphere of Greater Oversight**



Steven A. Shaw

Deputy General Counsel for Contractor Responsibility
Department of the Air Force



David R. Johnson

Partner & Chair of Government Contracts and Export
Controls & Economic Sanctions Practice
Vinson & Elkins, LLP

- The latest developments in suspension and debarment under FAR
 - Federal government's increasingly aggressive approach
- Increased role of the Inspector Generals in the suspension/debarment process
- Suspension during a debarment investigation: How to protect your company's interests and maintain you contract
- Use of the E-Verify system to determine employment eligibility of new hires for your contracts
 - Implementation of the E-verify system: who does it apply to?
 - Current concerns regarding the constitutionality of the E-Verify system
 - Who are assigned employees?
 - The COTS exception
- Identifying Procurement fraud in government contracting
- Update on suspension and debarment activity to FAR mandatory disclosure

- Civil judgements leading to debarment based on false claims under the False Claims Act
- Recovery Act Impact on suspension and debarment actions

3:30 **Satisfying Data Privacy Requirements Under Government Contracts**



Milan E. Anich

Intellectual Property Management
The Boeing Company

Dennis Fandrei

Director, Business Development
BAE Systems Electronics Solutions

- Protecting personal privacy of employees in covered contracts
- Reverse FOIA and protecting proprietary contractor information
- Ensuring the confidentiality of government data
- Common pitfalls in protecting government data
- Privacy Impact Assessment for protected information
- Maintaining the integrity of the compliance process
 - HOTLINE Reports
 - HOTLINE Investigations
 - Evidence of employee training
 - Auditing and monitoring activities

4:30 **Conference Concludes**

WHO SHOULD ATTEND:

- Vice Presidents, Managers and Directors:
 - Government Contracts
 - Contract Compliance
 - Ethics/Ethics Compliance
 - Business Conduct
 - Government Relations
 - Federal Government Procurement
 - Government Contract Administration
- Corporate & Compliance Counsel
- Compliance Officers
- Private Practice Attorneys specializing in:
 - Government contracts
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Wendy Tyler

Group Leader & Business Development Executive
American Conference Institute

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Expert strategies and practical solutions for maneuvering your way through the minefield of the government's increased oversight and emphasis on transparency

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AND DON'T MISS

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**Negotiating Favorable Contract Terms –
What You Now Must Know Before You Sign**

Sept. 24, 2009 – 8:00 a.m. – 10:00 a.m.

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