

American Conference Institute's 3<sup>rd</sup> Advanced Forum on

# GOVERNMENT CONTRACTING

# ETHICS, OCIs & COMPLIANCE

October 20 & 21, 2010 | Hilton Washington Embassy Row | Washington, DC

## Gain first-hand Government insights from:



*Sharon L. Larkin*  
Assistant General Counsel & GAO  
Contract Appeals Board Member  
U.S. Government Accountability Office



*Steve Linick*  
Deputy Chief, Fraud Section  
Criminal Division  
U.S. Department of Justice



*Frances Lynn McCormick*  
Special Agent, Program Manager  
Contract Disclosure Program  
U.S. Department of Defense Inspector  
General

## Distinguished Co-Chairs:



*Steven Epstein*  
Chief Counsel for Ethics and Compliance  
The Boeing Company



*Angela Styles*  
Partner  
Crowell & Moring, LLP

## Interactive Pre-Conference Workshops Tuesday, October 19, 2010

- A. FCPA and ITAR Compliance for Government Contractors
- B. The Fundamentals of the False Claims Act

## Benchmark your ethics and compliance practices with:

AECOM	Goodrich	Oracle
Apptis	Honeywell	Raytheon
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## This unique industry event will provide best practices and strategic insights on how to:

- Incorporate tightened organizational conflict of interest (OCI) rules into your company's mitigation plan
- Minimize the risk of *False Claims Act* violations (FCA) and prepare for US DOJ's focus on FCA enforcement
- Meet FAPIIS requirements and certify compliance for bids and proposals
- Comply with stricter limits on gifts, entertainment and contributions under new lobbying disclosure rules
- Identify what triggers mandatory reporting and what government expects from "full cooperation"
- Upgrade your internal controls and policies to ensure compliance with more rigorous ethics requirements
- Comply with trade agreements and certify country of origin
- Meet new contractor requirements in Iraq and Afghanistan

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## Learn what it takes to comply with new ethics requirements, prevent litigation and stay competitive.

The chances of losing U.S. Government contracts for ethics and compliance reasons have never been higher. Greater government contracting oversight, new OCI and PCI rules, FAPIIS requirements, increased liability risks under the False Claims Act, and stricter lobbying disclosure rules require that all contractors implement an airtight internal compliance policy to meet more rigorous contractor ethics requirements. Given the recent wave of legislative changes and the growing threat of suspension, debarment and steep penalties, government contractors, large or small, must reevaluate the effectiveness of their ethics compliance controls and detect violations before they result in litigation, enforcement, and lost business.

**American Conference Institute's 3<sup>rd</sup> Advanced Forum on Government Contracting Ethics and Compliance** features once again an exceptional faculty of senior government, industry and legal professionals. They will analyze the latest regulatory requirements and provide the critical and practical insights you need to effectively incorporate new contractor ethics rules into your existing ethics compliance program and win those lucrative contracts. Topics will include:

- Certifying compliance with FAPIIS requirements for bids and proposals
- How the FCA is being used to enforce Anti-Kickback violations
- Preventing and mitigating OCIs and PCIs
- Complying with new restrictions on hiring former government employees
- Preparing for and responding to DCAA audits
- Designing secure networks in line with DoD's latest IA requirements

Spaces for this event always fill up quickly. Secure your place today by calling 1-888-224-2480; faxing your registration form to 1-877-927-1563; or registering online at [www.AmericanConference.com/GovtEthics](http://www.AmericanConference.com/GovtEthics).

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- Compliance Officers
- Ethics Officers
- Outside Counsel Attorneys specializing in:
  - Government Contracts
  - Bid Protests

## AGENDA-AT-A-GLANCE

### Tuesday, October 19, 2010 | Pre-Conference Workshops

- 9:00 Workshop A: The Fundamentals of FCPA and ITAR Compliance: Best Practices for Government Contractors
- 1:30 Workshop B: The Fundamentals of the False Claims Act: A Complete Guide to Prevent Qui Tam Claims and Ensure FCA Compliance

### Wednesday, October 20, 2010 | Main Conference Day 1

- 9:00 Opening Remarks from the Co-Chairs
- 9:15 Incorporating Tightened OCI Rules into Your Mitigation Plan
- 10:15 Networking Coffee Break
- 10:30 Preventing False Claims Act Violations: How to Prepare for Increased Enforcement and Liability Exposure
- 11:45 Meeting Federal Awardee Performance and Integrity Information System Requirements
- 12:15 Networking Luncheon for Speakers and Attendees
- 1:45 Deciding When and How to Disclose Under FAR Mandatory Disclosure Rules and Ensuring "Full Cooperation"
- 3:00 Networking Refreshment Break
- 3:15 Contractors in the Battlefield: Embedding Ethics in the Field and Meeting New Contractor Requirements in Iraq and Afghanistan
- 4:15 Hiring Former Government Employees: Complying with New Restrictions and Personal Conflict of Interest Rules
- 5:15 Conference Adjourns to Day 2

### Thursday, October 21, 2010 | Main Conference Day 2

- 9:00 Welcome and Opening Remarks
- 9:05 Designing an Effective Ethics Compliance Program: Core Components to Withstand Increased Scrutiny and Meet New Ethics Requirements
- 10:15 Networking Coffee Break
- 10:30 Satisfying Lobbying Disclosure Rules: How to Prevent Gifts, Entertainment and Contribution Pitfalls and Meet New Registration and Reporting Requirements
- 11:30 The New Audit Environment: Preparing for and Responding to DCAA/DoD IG Audits
- 12:45 Networking Luncheon for Speakers and Attendees
- 2:00 Complying with Trade Agreements and Certifying Country of Origin
- 3:00 Networking Refreshment Break
- 3:15 Preparing for an Uptick in Bid Protests on Ethical Grounds
- 4:15 Information Assurance: Ensuring Secure Networks in Line with DoD's Latest IA Requirements
- 5:00 Conference Concludes

8:00 Registration and Coffee

9:00 **Co-Chairs' Opening Remarks**

*Steven Epstein*  
Chief Counsel for Ethics and Compliance  
The Boeing Company  
(Washington, DC)

*Angela Styles*  
Partner  
Crowell & Moring, LLP  
(Washington, DC)

9:15 **Incorporating Tightened OCI Rules into Your Mitigation Plan**

*William E. Kline*  
Contract Manager  
AECOM  
(Glen Allen, VA)

*Helaine (Lannie) G. Elderkin*  
Deputy General Counsel  
CSC  
(Falls Church, VA)

*Rand L. Allen*  
Partner & Chair  
Government Contracts Practice Group  
Wiley Rein LLP  
(Washington, DC)

- How the DoD proposed rule constitutes a significant departure from the current OCI framework under the Federal Acquisition Regulation subpart 9.5
- Ongoing efforts by the Office of Federal Procurement Policy and Office of Government Ethics to revise FAR subpart 9.5 and impact on utility of DoD OCI rules
- Identifying, evaluating and resolving OCIs under the new proposed rule
- What constitutes an organizational conflict of interest under the new rules and how to detect situations in which OCIs arise
- Limitations on future contracting activity and segments most likely affected – special concerns for the hardware and weapons systems environment

10:15 **Coffee Break**

10:30 **Preventing False Claims Act Violations: How to Prepare for Increased FCA Enforcement and Liability Exposure**

*Alice Eldridge*  
Vice President, Ethics & Business Conduct  
Lockheed Martin Corporation  
(Bethesda, MD)

*Peter B. Hutt II*  
Partner  
Akin Gump Strauss Hauer Feld LLP  
(Washington, DC)

*Robert L. Vogel*  
Partner  
Vogel, Slade & Goldstein, LLP (Washington, DC)

- New liabilities under the False Claims Act and what the DOJ is focusing on now
- FCA enforcement of nontraditional areas including “reverse” false claims and grants
- How the FCA is being used to enforce anti-kickback violations
- How the courts determine whether a claim is “false or fraudulent”
- What can trigger a FCA violation and how to reduce the risk of exposure
- What to report and when – effectively communicating with the government
- Upgrading your compliance program to ensure FCA compliance
- Impact of recent Supreme Court rulings including *Allison Engine* and *Graham County* on FCA compliance and enforcement
- What can be learned from recent enforcement actions including EMC Corp, AstraZeneca, Novartis, and Chevron

11:45 **Meeting Federal Awardee Performance and Integrity Information System Requirements**

*Angela Styles*  
Partner  
Crowell & Moring, LLP  
(Washington, DC)

- What type of data is included in the new federal database of contractor integrity and performance and what it means for contractors
- Preparing information for the database
- Ensuring submissions are “current, accurate and complete”
- Certifying compliance with FAPIIS requirements for bids and proposals
- Handling claims and challenges against you
- How FAPIIS violations can trigger FCA issues
- Protecting information from FOIA

12:15 **Networking Luncheon for Speakers and Attendees**

*“Faculty was well-qualified and informative.”*  
– ManTech International

*“Excellent conference with high caliber speakers.”*  
– Squire Sanders & Dempsey LLP

1:45 **Deciding When and How to Disclose Under FAR Mandatory Disclosure Rules and Ensuring “Full Cooperation”**

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*J. André Hall*  
Vice President  
Business Conduct & Chief Ethics Officer  
Goodrich Corporation  
(Charlotte, NC)

*Frances Lynn McCormick*  
Special Agent, Program Manager  
Contract Disclosure Program  
Department of Defense Inspector General  
(Arlington, VA)

*Steve Linick*  
Deputy Chief, Fraud Section - Criminal Division  
U.S. Department of Justice  
(Washington, DC)

*Scott Hommer – Panel Moderator*  
Partner  
Venable LLP  
(Washington, DC)

- How far back you need to go to meet your disclosure obligations
- What kind of misconduct must be reported and at what point is a disclosure obligation triggered
- Disclosing insignificant overpayments, mischarging and defective pricing
- How quickly disclosures must be made
- What kind of evidence qualifies as “credible evidence”
- What Government expects in terms of “full cooperation”
- How to preserve confidentiality and privilege when making a disclosure
- What happens after a disclosure and how to take action “in accordance with agency procedures”
- Why companies should or should not publish mandatory disclosure policies
- What effect disclosures have on past performance evaluations

3:00 **Refreshment Break**

3:15 **Contractors on the Battlefield: Embedding Ethics in the Field and Meeting New Contractor Requirements in Iraq and Afghanistan**

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*Jean-Marie Padden*  
Assistant General Counsel  
Textron Systems Corporation  
(Hunt Valley, MD)

*Khaled Saqqaf*  
Partner  
Head of Office Iraq  
Al Tamimi & Company  
(Baghdad, Iraq)

*Steve Linick*  
Deputy Chief, Fraud Section - Criminal Division  
U.S. Department of Justice (Washington, DC)

- How contractor compliance is evolving under the U.S.-Iraq Status of Forces Agreement
- Identification, due diligence and management of third parties, consultants and subcontractors
- Meeting pre-deployment processing, training, and reporting requirements
  - Trafficking in persons
  - Jurisdictional considerations
  - Global anti-corruption compliance
  - Addressing distinct ethical standards
- Restrictions on performance of previously U.S. government functions
- Determining the applicability of FAR and DFARS to U.S.-funded projects by foreign governments

4:15 **Hiring Former Government Employees: Complying with New Restrictions and Personal Conflict of Interest Rules**

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*James C. Fontana*  
Senior Vice President and General Counsel  
Apptis, Inc.  
(Chantilly, VA)

*Steven Epstein*  
Chief Counsel for Ethics and Compliance  
The Boeing Company  
(Washington, DC)

*James J. McCullough*  
Partner  
Fried, Frank, Harris, Shriver & Jacobson LLP  
(Washington, DC)

- Weighing the pros and cons of hiring former government personnel
- How DoD revolving door restrictions are impacting the hiring process for government contractors
- Extent to which government contractors can rely on ethics opinions issued by government agencies
- Managing new PCI regulations – what are new required procedures under the proposed personal conflicts of interest rule
- Protecting the rights of the contract employee versus protecting the contractor’s relationship with its federal-agency client – how to reconcile disputes effectively
- How to prevent PCIs for inherently governmental functions through the development of a standard policy
- Imposing government employee restrictions on contractors
- Preventing Procurement Integrity Act violations
  - What a former government employee can and cannot disclose as an advisor to a government contractor
  - What is “improper” access to “off-limits”, competitive, sensitive and government source selection information
  - Lessons learned from recent enforcement actions

5:15 **Conference Adjourns to Day 2**

*“Enjoyed the speakers and topics.”*  
– Boeing

9:00 **Opening Remarks from Conference Co-Chairs**

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9:05 **Designing an Effective Ethics Compliance Program: Core Components to Withstand Increased Scrutiny and Meet New Ethics Requirements**

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*Patricia J. Ellis*  
Vice President  
Business Ethics and Compliance  
Raytheon Company  
(Waltham, MA)

*Laura K. Kennedy*  
Senior Vice President for Ethics and Compliance  
SAIC  
(McLean, VA)

*Sandra Evers-Manly*  
Vice President of Corporate Responsibility  
Northrop Grumman  
(Los Angeles, LA)

*Larry Trowel*  
General Manager  
Government Business Practice and Processes  
General Electric  
(Evendale, OH)

- Tailoring your program to fit your company's size, work-mix, operations and culture
- Reviewing and upgrading policies to ensure compliance with more rigorous ethics requirements
- How senior management and board directors can foster a culture of ethics and integrity throughout the company
- Developing a Code of Conduct that matters
- Establishing effective internal controls
- Training employees and fostering ongoing awareness
- How and when to take disciplinary action against employees for improper conduct
- How to ensure effective reporting, oversight and accountability by senior management

10:15 **Coffee Break**

10:30 **Satisfying New Lobbying Disclosure Rules: How to Prevent Gifts, Entertainment and Contributions Pitfalls and Meet New Registration and Reporting Requirements**

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*Julia K. Bailey*  
Assistant General Counsel,  
International Transactions and Compliance  
Honeywell International  
(Washington, DC)

*Michael W. Clancy*  
Vice President and Associate General Counsel  
Oracle USA  
(Reston, VA)

*Kenneth Gross*

Partner  
Skadden, Arps, Slate, Meagher & Flom, LLP  
(Washington, DC)

- How changes to HLOGA will impact government contractors
- What activities are covered as lobbying and what must be reported and disclosed
- How to determine whether or not your company, in-house employees and retained consultants are required to register and report under federal, state and local lobbying laws
- Understanding restrictions on what registered lobbyists may do
- Training company employees involved in government contracts in special lobbying and political contributions restrictions that apply to government contractors
- Implementing a tracking system for political contributions by employees in pay-to-play states that limit such contributions for government contractors or require that they be reported

11:30 **The New Audit Environment: Preparing for and Responding to DCAA/DoD IG Audits**

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*David J. Roll, CPA*  
Vice President-Industry Compliance  
ManTech International Corporation (Fairfax, VA)  
Former Chief, Technical Audits Services Division  
Defense Contract Audit Agency (DCAA)

*Chad Connel*  
Director  
Government Compliance  
DynCorp International  
(Fort Worth, TX)

*Tom Abbott*  
Partner  
McKenna Long & Aldridge LLP  
(Los Angeles, CA)

- The anticipated impact of latest DCAA audit guidance changes and DCAA's new audit focus
- What triggers a DCAA/Inspector General audit and how audit processes differ
- Understanding auditors' objectives and areas of focus given recent changes
- Establishing more frequent communication with DCAA
- Resolving questions or clarifications in advance of entrance conference
- Responding to audits and information requests in a timely manner
- Preserving attorney-client privilege
- Responding to and documenting all record requests
- Identifying when the use of external counsel is necessary
- How to respond to audit findings

12:45 **Networking Luncheon for Speakers and Attendees**

2:00 **Complying with Trade Agreements and Certifying Country of Origin**

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*Bruce Ramo*  
Senior Government Contracts Counsel  
Tyco International  
(Washington, DC)

*John A. Howell*  
Partner  
Sullivan & Worcester LLP  
(Washington, DC)

- The *Buy American Act* and the *Trade Agreements Act* - what do they mean and when do they apply?
- Making sense of specialty metals requirements
- Meeting country of origin requirements when using stimulus funds
- Determining country of origin and key considerations when certifying your goods
- Case by case determination of substantial transformation
- Implementing effective origin determination processes, based on range and types of products involved
- Developing standardized policies and instructions for the field
- Penalties and sanctions for improper/fraudulent certifications

3:00 Refreshment Break

3:15 **Preparing for an Uptick in Bid Protests on Ethical Grounds**

*L. James D'Agostino*  
Partner  
Greenberg Traurig LLP  
(McLean, VA)

*Sharon L. Larkin*  
Assistant General Counsel  
GAO Contract Appeals Board Member  
U.S. Government Accountability Office  
(Washington, DC)

- When ethics issues and OCIs have been successful grounds for bid protests
- How GAO and courts analyze ethics-related and OCI bid protest cases
  - Impact of previous government contracts on the analysis
  - Whether a potential OCI can impair judgment
- What is required of contractors during the bid process under new OCI rules
- Impact of an ongoing government investigation on bid protests cases
- Procedures for filing a bid protest and what are winning/losing grounds
- Defending a bid protest
- Recent GAO bid protest decisions and lessons learned

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w.tyler@AmericanConference.com

4:15 **Information Assurance: Ensuring Secure Networks in Line with DoD's Latest IA Requirements**

*Bobby Ford*  
Cyber Security Manager for Government Customers  
ITT Corporation (McLean, VA)

- What defines a "secure network" under DoD rule
- Implementing authentication methods and control sets
- Developing and enforcing a formal published policy on ensuring the confidentiality of government proprietary data
- Preventing common pitfalls in protecting government proprietary data
- Training employees on information assurance
- Verifying and documenting employee compliance
- Conducting a software vulnerability assessment
- Latest technology trends in IA

5:00 Co-Chairs' Closing Remarks and Conference Ends

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

Course objective: instruction on contractor ethics rules, how to implement effective ethics compliance controls, and prevent OCIs. Prerequisite: None. Level of knowledge: Intermediate. Teaching method: Seminar Lecture. Advanced Preparation: None. Delivery method: Group Live. Please refer to the information in this brochure for outline, course content and objectives. Upon completion of this course you will receive a certificate of attendance. Final approval of a course for CPE credits belongs with each states' regulatory board. Recommended CPE Credit: 14.5 hours of which 3.5 hours are ethics credit hours. An additional 4.0 credit hours will apply to each workshop participation.

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# Interactive Pre-Conference Workshops: Tuesday, October 19, 2010

## Workshop A: 9:00 a.m. – 12:30 p.m.

### The Fundamentals of FCPA and ITAR Compliance: Best Practices for Government Contractors

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Andrew Irwin  
Of Counsel

Step toe & Johnson LLP (Washington, DC)

Government contractors operating abroad are subject to a number of compliance obligations and face significant risks under the *Foreign Corrupt Practices Act* (FCPA) and the *International Traffic in Arms Regulations* (ITAR). Given heightened enforcement of the FCPA and ITAR, and the increasing relevance of the interplay between these two regimes, it is imperative companies manage individual as well as overlapping risks.

During this interactive and practical session, Andrew Irwin will discuss core issues related to the FCPA, the overlap of FCPA and ITAR risks and how to prevent and detect such risks in the government contracting environment.

Points of discussion will include:

- Who is covered by the FCPA
- What is the extraterritorial reach of the FCPA
- FCPA issues impacting USG contractor teaming arrangements
- FCPA risks facing government contractors including instances in which USG contractors interact with non-US government officials
- FCPA compliance and accounting controls you should have in place in a government contract environment
- ITAR basics for USG contractors, including license exemptions applicable in a USG contracting context
- Part 130 of the ITAR and its relationship with the FCPA
- Impact of recent FCPA enforcement actions and what the DOJ and SEC are focusing on now
- Incorporating FCPA and ITAR protocols into your compliance program

## Workshop B: 1:30 p.m. - 5:00 p.m.

### The Fundamentals of the False Claims Act: A Complete Guide to Prevent Qui Tam Claims and How to Ensure FCA Compliance

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Mark D. Colley  
Partner

Arnold & Porter LLP (Washington, DC)

The *False Claims Act* is one of the government's primary weapons to combat fraud against the government. It is the fastest growing area of federal litigation, particularly because of its unique *qui tam* enforcement mechanisms. FCA and *qui tam* violations can result in substantial civil damages and penalties and even criminal sanctions. Recent amendments to the Act under the Fraud Enforcement and Recovery Act of 2009 (FERA) expand coverage of the FCA, and expressly overrule many judicial decisions that were favorable to government contractors, making this law even more complex and powerful and increasing liability risks.

Do you understand the differences in FCA law and procedure before and after the 2009 amendments? Are you prepared to respond to a *qui tam* claim? In this interactive, practical workshop, you will get a nuts and bolts understanding of the *False Claims Act* and *qui tam* enforcement, key insights on FCA compliance and how to effectively respond to a *qui tam* claim.

Topics will include:

- Key terms and basics of liability, damages, FCA procedure and *qui tam* procedure
- Differences in FCA law and procedure before and after the 2009 amendments
- Changes to the liability sections of the FCA (direct claims, false statements, reverse false claims and conspiracy)
- Expansion of FCA enforcement through state *qui tam* laws
- Ethical issues unique to FCA and *qui tam* enforcement
- Investigation of a FCA case and corporate disclosure obligations
- *Qui Tam* litigation under the FCA
  - Effectively responding to a *qui tam* claim – what you need to know
  - “Public disclosure” and the “original source” exception
  - Whistle blower provisions and their effects
- FCA compliance - essential elements of an effective compliance program

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# GOVERNMENT CONTRACTING

# ETHICS, OCIs & COMPLIANCE

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