

AMERICAN BAR ASSOCIATION
SECTION OF PUBLIC CONTRACT LAW

ANNUAL MEETING

AUGUST 10–12, 2017

NEW YORK CITY



JOIN US IN NEW YORK CITY!

Join fellow public contract professionals from across the country in the heart of New York City for exceptional CLE Programs and networking opportunities at the ABA Section of Public Contract Law Annual Meeting, August 10–12, 2017.

During the Annual Meeting, the Section of Public Contract Law offers 6 CLE programs that will educate you on developing legal issues in the procurement arena and offer you an opportunity to engage in dialogue with key stakeholders in the public contract community. Our luncheons and reception will provide additional opportunities to expand your network and exchange ideas with fellow public contract professionals.

Section Chair

James A. (Ty) Hughes, Hughes Law PLC, Arlington, VA

Annual Meeting Program Co-Chairs

Annejanette Heckman Pickens, General Dynamics Mission Systems, Fairfax, VA

Richard P. Rector, DLA Piper, Washington, DC

Jason N. Workmaster, Covington & Burling LLP, Washington, DC

Annual and Quarterly Programs Co-Chairs

Tracye Winfrey Howard, Wiley Rein LLP, Washington, DC

Stuart B. Nibley, K&L Gates LLP, Washington, DC

Meetings Highlights & Social Events

15th Annual Ruth C. Burg Luncheon Honoring Women in Public Contract Law » \$50 ticket

Thursday, August 10 » 11:30 am – 1:30 pm
The Lambs Club, 132 West 44th Street

Annual Section Luncheon/Alan E. Peterson Lecture » \$60 ticket

Speaker: Chief Judge Susan G. Braden, U.S. Court of Federal Claims, Washington, DC

Friday, August 11 » 12:00 noon – 1:45 pm
Marriott Marquis Hotel

Annual Section Reception » Comp Ticket for Section Members Only who Purchase a Section CLE Ticket, otherwise \$50 per ticket

Friday, August 11 » 6:30 pm – 8:30 pm
Remi Restaurant, 145 West 53rd Street

Section Council Meeting & Annual Business Meeting

Election of the 2017–2018 Section Officers, Section Delegate, and Council Members

Saturday, August 12 » 8:30 am – 12:30 pm
Marriott Marquis Hotel

PROGRAM SCHEDULE

Unless otherwise noted, all sessions will be held at the Marriott Marquis Hotel, 1535 Broadway, New York City

THURSDAY, AUGUST 10

11:30 am – 1:30 pm

15th Annual Ruth C. Burg Luncheon Honoring Women in Public Contract Law

The Lambs Club, 132 West 44th Street

TICKETED
EVENT

The Section is grateful for the contributions and support from the luncheon sponsors listed on page 8.

2:00 pm – 3:30 pm

CLE Trends and Best Practices in Commercial Item Determinations

This panel will discuss recent statutory and regulatory changes related to commercial item contracting, and the effects of those changes on both industry and government. Topics will include:

- ▶ Statutory changes to commercial item procurement procedures within the Department of Defense and the 2015 and 2016 proposed rules that sought to revise the DFARS to implement those statutory changes;
- ▶ Recent trends in commercial item determinations and price reasonableness analyses, including changes after the creation of the DCMA Centers of Excellence;
- ▶ Best practices for industry to support assertions of commerciality;
- ▶ Practical tips for industry and government to negotiate reasonable data to support price reasonableness in commercial item acquisitions.

Moderator: Tracye Winfrey Howard, Partner, Wiley Rein LLP, Washington, DC

Panelists: **Brent A. Calhoon**, Partner, Baker Tilly, Tysons, VA
Sandeep Kathuria, Corporate Counsel, Northrop Grumman Corporation, McLean, VA

John C. Shire, Corporate Audit Director, Defense Contract Audit Agency (former Director of the Cost and Pricing Center, Defense Contract Management Agency), Fort Worth, TX

3:30 pm – 3:45 pm

Networking Break

3:45 pm – 5:15 pm

CLE New Challenges for Supply Chains in Federal Contracting

This panel will feature a discussion from a variety of perspectives, including academia, government, industry, and private practice, on the transformative challenges facing supply chains in federal contracts. Topics will include:

- Recent and emerging changes in supply chains, including the increasing globalization of resources and suppliers. Why have things changed so dramatically over the past 15 years? What future changes should we anticipate?
- New and old policy concerns regarding supply chains, including security, socioeconomic, and domestic-preference objectives. Why does the government care about supply chains more than it ever has? How are new and old concerns being balanced?
- Growing regulatory obligations related to supply chains. How has the government's reach expanded into contractors' supply chains? What duty does a contractor have to affirmatively monitor its suppliers, and what are the limits of that duty?

Moderator: Michael Rizzo, Partner, Pillsbury Winthrop Shaw Pittman, Los Angeles, CA

Panelists: Kevin Kolben, Associate Professor, Rutgers Business School, Newark, NJ

Melanie Condron, Senior Counsel, Accenture Federal Services LLC, Arlington VA

Burton Ford, Associate General Counsel, Lockheed Martin Corporation, Marietta, GA

Richard A. Adams, Supply Chain Analyst, Defense Contract Management Agency, Chester, VA

5:00 pm – 6:00 pm

Committee Meetings

FRIDAY, AUGUST 11

6:30 am – 7:00 am

Construction Division Program Continental Breakfast

This continental breakfast is included in the CLE Program Ticket used for the program that follows.

7:00 am – 8:30 am

CLE Construction Issues in Federal Leasing

This panel will focus on construction issues and disputes that can arise when the General Services Administration enters into a lease with a commercial landlord for space to house a Federal agency, including the build-out and improvement of the leased facilities. Topics will include:

- A comparison of Federal leases and traditional government construction contracts: What are the key differences in concepts and terminology? How do the government and private parties differ? How do these differences affect contract formation and administration?
- Competition requirements: What is the process? Which rules govern? Which forms apply? When is a prospectus required? How can this impact construction?
- Common legal issues and challenges: What are the recurring issues and challenges? How are these challenges typically resolved?

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- Recent developments and future outlook: What are the recent regulatory and case-law developments in the area? What are the practical implications and what is the outlook for the future?

Moderator: Susan Elliott, Associate, Peckar & Abramson, P.C., Washington, DC

Panelists: Richard O. Hughes, Senior Assistant Regional Counsel, U. S. General Services Administration, New York, NY

Chris Jahrling, General Manager, Turner Federal Services, Reston, VA

Seamus Curley, Partner, DLA Piper LLP (US), Washington, DC

8:45 am – 10:15 am

CLE New Directions in Government Procurement

Our panel of experts will discuss how, in the new administration, political and policy developments are impacting government procurement—both by the Department of Defense and by the civilian agencies. Topics for discussion will include up-to-the-minute updates on:

- The budget;
- DoD's reorganization;
- Foreign investment and economic pressures on the defense industrial base;
- Acquisition reform; and
- Trends in cyber policy

Moderator: Roger Zakheim, Partner, Covington & Burling LLP, Washington, DC

Panelists: Andrew Hunter, Director, Defense-Industrial Initiatives Group, Senior Fellow, International Security Program, Center for Strategic and International Studies, Washington, DC

Katie Wheelbarger, Vice President for Litigation and Chief Compliance Officer, CSRA, Inc., Washington, DC

Roger Waldron, President, Coalition for Government Procurement, Washington, DC

10:15 am – 10:30 am

Networking Break

10:30 am – 12:00 pm

CLE Capturing International Government Contracts: Key Considerations for U.S. Government Contractors Seeking International Business Opportunities

This panel will feature a discussion of the many complexities and challenges that U.S. government contractors must address in order to successfully market and sell their defense goods and services internationally. From ensuring export control compliance during any initial marketing discussion, to the increasing requirements by international customers that companies establish a local presence or engage a local partner to do business, to compliance with U.S. rules and regulations that govern international business transactions, this panel will discuss the "ins and outs" of the

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myriad of contracting issues that arise when contracting abroad. Topics will include:

- › Tackling foreign government laws or requirements demanding U.S. government contractors establish a local business presence and the potential ramifications of doing so;
- › Working with DSCA and Security Cooperation Officials to compete for and receive FMS (and DCS) contracts;
- › Guidance on due diligence and risk management to prevent and detect potential FCPA/anti-corruption violations;
- › Conducting early planning to secure need export control licenses; and
- › Avoiding traps: anti-boycott regulations, offset obligations, and tax implications.

Moderator: **Marques Peterson**, Shareholder, Vedder Price, Washington DC

Panelists: **David Newsome**, Senior Legal Counsel, Contracts/ Legal Dept., North American Govt & Defense (NAG&D), KBRwyle, Arlington, VA

Andrew Irwin, Partner, Jenner & Block LLP, Washington DC

Kristina Arcara, Senior Counsel, Orbital ATK, Plymouth, MN

Roger Sabin, Defense Security Cooperation Agency (DSCA) Office of General Counsel, Arlington, VA

12:00 noon – 1:45 pm

Section Luncheon and Annual Alan E. Peterson Lecture

The Section is grateful for the contributions and support from the luncheon sponsors listed on page 9.

Luncheon Speaker: **Chief Judge Susan G. Braden**, U.S. Court of Federal Claims, Washington, DC

2:00 pm – 4:00 pm

CLE Practical Considerations for Managing False Claims Act Liability and Internal Investigations

This panel will focus on the practical considerations for managing FCA liability following the Supreme Court's 2016 ruling in *Universal Health Services, Inc. v. Escobar*. Government and private sector leaders will explore best practices for achieving compliance, managing investigations, and handling lawsuits brought by whistleblowers and the government. The panel will address:

- › Current risk areas and enforcement priorities;
- › Internal controls and audit systems designed to detect and address issues before they become significant liabilities for the company or part of the corporate culture;
- › The role of corporate management in setting the appropriate tone and culture to ensure adherence to federal rules and contractual obligations;
- › Employee compensation and incentive systems that support corporate profitability without discouraging compliance;

- › Preparing for, and responding to, investigative contacts, federal audits or any visit by law enforcement; and
- › The consequences and continuing vitality of the Department of Justice's 2015 Yates Memorandum on management responsibility and related guidance.

Moderator: **Roscoe C. Howard, Jr.**, Partner, Barnes & Thornburg, LLP, Washington, DC

Panelists: **Dan Anderson**, Deputy Director, Department of Justice, Commercial Litigation Branch, Washington, DC

Lynne Halbrooks, Partner, Holland & Knight, LLP, Washington, DC

Marc A. Nichols, Legal Counsel and Director of Compliance-Americas, Rolls-Royce North America, Inc., Indianapolis, IN

Carol Fortine Ochoa, Inspector General, General Services Administration, Washington, DC

6:30 pm – 8:30 pm

Section Reception

Remi Restaurant, 145 West 53rd Street

This gracious social gathering for Section members and their guests, and honoring the incoming Section Chair, is made possible through the generosity of the Reception Sponsors who have contributed to defray its expenses. See pages 10–11 for a list of the Reception Sponsors.

*Each Section member registered for the ABA Annual Meeting who has **also** ordered at least ONE Public Contract Law Section CLE Program Ticket may order ONE complimentary ticket for the Section Reception. You must order your complimentary ticket in order to be registered for this event. It is not automatically included as part of your registration. Additional tickets are available for purchase - \$50 per adult/\$25 per guest under 18.*

Advance reservations and payment of guest tickets must be received as part of your online meeting registration by July 31st.

SATURDAY, AUGUST 12

7:00 am – 8:15 am

Officers/Council Members Breakfast » Executive Session

For 2016–2017 and nominees for 2017–2018 Section Officers and Council Members ONLY.

8:30 am – 12:30 pm

Council Meeting and Annual Section Business Meeting

Open to all Section members. Includes election of Officers and Council Members for 2017–2018 and other Section business.

Presiding:

James A. (Ty) Hughes, 2016–2017 Section Chair

Hughes Law PLC, Arlington, VA

12:30 pm – 2:00 pm

2017–2018 Section Leadership Brainstorming Session

For 2017–2018 Section Leadership ONLY.

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Lockheed Martin Corporation
Mayer Brown LLP
McGlinchey Stafford PLLC
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SECTION LUNCHEON SPONSORS

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Morgan Lewis LLP
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SECTION RECEPTION SPONSORS

The Section of Public Contract Law gratefully acknowledges the contribution from the following sponsors to help defray the costs of each of the Section's quarterly Receptions this year.

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SECTION RECEPTION SPONSORS

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COMING ATTRACTIONS

November 2–4, 2017

Fall Educational Program and Open Council Meeting
Sealbach Hilton Hotel, Louisville, KY

March 14–17, 2018

24th Annual Federal Procurement Institute (FPI) and Open Council Meeting
Loews Hotel, Annapolis, MD

April 19–20, 2018

13th Annual State & Local Procurement Symposium
Detroit, MI

August 2–4, 2018

Annual Meeting CLE Programming/Open Council Meeting
Chicago, IL

REGISTRATION INFORMATION

The Marriott Marquis Hotel, 1535 Broadway, in the Times Square area, is the headquarters hotel for the Section of Public Contract Law. The ABA Group rate is \$262 standard single/double.

Registration and hotel reservations for the Annual Meeting must be processed through the ABA Official Registrar, CDS/Travel Planners. To take advantage of the ABA hotel rates, you must first register for the Annual Meeting. For more information on registration and housing, visit the ABA website at www.ambar.org/annual.

Registration Information and CLE Pricing Options

All individuals attending the Annual Meeting, must register, even if you are only attending Section social events or Section CLE programs. You must be registered for the Annual Meeting to secure housing and take advantage of the ABA discounted hotel rates. Tickets for CLE Programs and other tickets may be requested at the time you register online or later after you have registered.

CLE Registration Packages

If you will only attend PCL Section meetings and events, register for the ABA Limited Registration at \$95 (\$295 Non-Members) and order the Section's CLE Pass or purchase individual Section CLE tickets.

Section's CLE Program Tickets Pricing

*(Reduced rate for Government Employees, Judges, Young Lawyers under 36 years of age or admitted to practice for less than 5 years)

Section CLE Pass – 6 programs **\$360/\$250***

Individual Program Ticket Pricing

90-minute CLE **\$75/\$50***

- ▶ Trends & Best Practices in Commercial Item Determinations
- ▶ New Challenges for Supply Chains in Federal Contracting
- ▶ New Directions in Government Procurement
- ▶ Capturing International Government Contracts

120-minute CLE and Construction Breakfast/CLE **\$100/\$75***

- ▶ Construction Issues in Federal Leasing
- ▶ Practical Considerations for Managing False Claims

If you plan to take full advantage of the ABA Annual Meeting and participate in other non-PCL ABA events over the weekend, then you may want to register and pay the ABA Member All Access CLE Pass fee of \$495 (\$695 for non-ABA members). See below for registration options. For full registration fee categories details visit: <http://www.americanbar.org/calendar/annual.html>.

REGISTRATION INFORMATION

ABA Limited Registration

(ABA General Assembly, EXPO Reception, Entity Committee Meetings and ABA Governance Meetings)
\$95 Member/\$295 Non-member

ABA Standard Registration

(ABA Friday Plenary, EXPO Reception, ABA President's Reception, Entity Committee Meetings and ABA Governance Meetings)
\$225 Members/\$425 Non-member

ABA All Access Registration

(ABA Friday Plenary; EXPO Reception, ABA President's Reception, All Access CLE, Entity Committee Meetings and ABA Governance Meetings)
\$495 Member/\$695 Non-member

CLE Credit

CLE credit will ONLY be given to those attendees who are "registered" for the ABA Annual Meeting. All registered attendees must individually track their attendance using the Course Attendance Form. If you have NOT registered for the ABA Annual Meeting you will NOT be eligible to receive CLE credit. For admittance to any CLE program, registrants must wear their ABA 2017 Annual Meeting badge and present either their the ABA All Access Pass, one individual CLE Program Ticket, or the Public Contract Law CLE Pass of all 6 CLE Programs.

Section CLE Meeting Materials

Individuals who order the Public Contract Law CLE Pass or individual Section CLE Program tickets will be provided with a link to those materials prior the the meeting. No written materials will be available onsite. You may wish to bring a laptop, notebook, or tablet to view the materials onsite as complimentary Wi-Fi access will be available.

Section Reception Tickets

Annual Section Cocktail Reception

Friday, August 11, 2017 6:30 pm to 8:30 pm. – Remi Restaurant

Each Section member registered for the ABA Annual Meeting who has also ordered at least ONE Public Contract Law Section CLE Program Ticket may order ONE free ticket for the Reception. You MUST ORDER your free ticket. It is NOT AUTOMATICALLY INCLUDED as part of your registration. Additional tickets may be purchased for \$50 per adult/\$25 per guest under 18. Please order your ticket(s) to the Section Reception at the time you complete your online meeting registration at: www.ambar.org/annual.

Ordering Tickets

Please note that ALL of the Section's CLE programs will require either a CLE Program Ticket or the Public Contract Law CLE Pass. You may only order your CLE Program Tickets, Public Contract Law CLE Pass, and Section event tickets online, either at the time you register or by going to the link above if you are already registered.

Event and CLE Program Ticket Pick-Up

All pre-ordered CLE Program Tickets, Public Contract Law CLE Passes, and tickets to the Reception and other Section events will be available at the ABA Registration Area at the New York Hilton Midtown Hotel, 1335 Avenue of the Americas, beginning Wednesday, August 9 – Tuesday, August 15.

You must be registered for the Annual Meeting to order CLE Program Tickets or tickets to any Section events. No requests for Reception tickets can be honored by the Section of Public Contract Law after July 31st, and payment for tickets must be received by that date. Admittance to the Reception will be by ticket only.

2017 ABA SECTION OF PUBLIC CONTRACT LAW ANNUAL MEETING

SOCIAL EVENTS TICKETS

Social Events	PRICE
Thursday, 8/10	
Ruth C. Burg Luncheon Honoring Women in Public Contract Law	\$50
Friday, 8/11	
Annual Section Luncheon/Alan E. Peterson Lecture	\$60
Annual Section Reception » (Limit 1 ticket for registered PCL member only who purchase of at least one PCL CLE Program Ticket). Admittance by ticket only. Ticket MUST BE ORDERED in advance.	\$0
Annual Section Reception (Adult Guest)	\$50
Reception (Guest under 18)	\$25

2017 ABA SECTION OF PUBLIC CONTRACT LAW ANNUAL MEETING

SECTION PROGRAM TICKETS

CLE — General Pricing

Thursday, 8/10	PRICE
Public Contract Law CLE Pass (all 6 Section CLE Programs)	\$360
2:00 pm – 3:30 pm CLE — Trends & Best Practices in Commercial Item Determinations	\$75
3:45 pm – 5:15 pm CLE — New Challenges for Supply Chains In Federal Contracting	\$75
Friday, 8/11	
7:00 am – 8:30 am CLE — Construction Issues in Federal Leasing	\$100
8:45 am – 10:15 am CLE — New Directions in Government Procurement	\$75
10:30 am – 12:00 pm CLE — Capturing International Government Contracts	\$75
2:00 pm – 4:00 pm CLE — Practical Considerations for Managing False Claims Act	\$100

CLE — Special Government/ Young Lawyer Pricing

*(Reduced rate for Government Employees, Judges, YL under 36 years of age or admitted to practice for less than 5 years)

Thursday, 8/10	PRICE
Public Contract Law CLE Pass (all 6 Section CLE Programs)	\$250
2:00 pm – 3:30 pm CLE — Trends & Best Practices in Commercial Item Determinations	\$50
3:45 pm – 5:15 pm CLE — New Challenges for Supply Chains In Federal Contracting	\$50
Friday, 8/11	
7:00 am – 8:30 am CLE — Construction Issues in Federal Leasing	\$75
8:45 am – 10:15 am CLE — New Directions in Government Procurement	\$50
10:30 am – 12:00 pm CLE — Capturing International Government Contracts	\$50
2:00 pm – 4:00 pm CLE — Practical Considerations for Managing False Claims Act	\$75

Council Meetings

Saturday, 8/12	PRICE
Council Meeting/Business Meeting	\$0
2017 – 2018 Section Leadership Brainstorming Session (For Section Leadership ONLY)	\$0