American Bar Association  
Section of Public Contract Law  

Introduction to Government Contracts  
Course Schedule  

Monday, September 17, 2018  

8:00 am - 8:30 am  
Registration & Coffee  

8:30 am - 8:45 am  
Welcome and Introduction  

8:45 am – 10:15 am  
Introduction to Government Contracts  
Government contracts is unique field of law and differs from the Uniform Commercial Code (UCC). For example, the Federal Acquisition Regulation (FAR) is a guide for contracting officers to procure goods and services for the government. Therefore, it is imperative that government contract attorneys have a basic understanding of the FAR. This session will provide a brief overview of how government contracts differ from UCC contracts, the FAR system, acquisition authority, researching government contract law and ethics issues.  

Instructors:  
George Sullivan, Manager, Contracts and Compliance, Energy Systems Group, Eagan, MN and  
Kara Sacilotto, Partner, Wiley Rein LLP, Washington, DC  

10:15 am – 10:45 am  
Networking Break  

10:45 am – 12:15 pm  
The Solicitation Process  
This session will describe the purpose and policies underlying acquisition planning and market research. This session will cover:  

- Agency planning  
- Risk allocation (type of contract)  
- Draft RFPs, RFIs, RFQs and RFPs  
- IDIQs, task orders and MATOCS  
- FSS Schedule contract  
- Commercial items  
- Set aside contracts
Instructors:
**Gerald L. Trepkowski**, The Johns Hopkins University Applied Physics Laboratory Office of Counsel, Laurel, MD

12:15 pm – 1:15 pm
**Lunch**
The lunch break will include a box lunch (included in the course registration) and will enable attendees to network with each other. Please indicate any dietary restrictions on the online course registration form.

1:30 pm – 3:30 pm
**Protest Processes at GAO and COFC**
What can contractors do when there are issues with the acquisition plan or the source selection process? An aggrieved contractor can file a bid protest. This session will provide participants with an understanding of the protest process at the GAO and protests from the offerors point of view. During this panel, participants will gain an understanding of the bid protest process, how offerors make the decision to file a protest, and how offerors attack the Government’s source selection decision.

- Common source selection mistakes
- How contractors make the decision to file a protest
- How contractors attack a source selection

**Moderator:**
**Richard Clifford**, Air Force General Counsel for Acquisition, Washington, DC

**Panelists:**
**Paul Khoury**, Partner, Wiley Rein LLP, Washington, DC
**Ken Reiss**, Corporate Director and Assistant General Counsel, Northrop Grumman Corporation, Washington, DC

**Closing Remarks**
3:30 pm – 3:45 pm

**Reception**
3:45 pm – 5:00 pm
Tuesday, September 18, 2018

7:45 am - 8:00 am
Registration & Coffee

8:00 am – 8:15 am
Introduction and Course Announcements

8:15 am – 9:45 am
Source Selection
The Federal Government’s source selection process is designed to be fair and transparent and provide the best value to the taxpayer. This session leads participants through a typical source selection to demonstrate an application of source selection rules and principles, and to highlight challenges that may form the basis for bid protest litigation. This session will cover:

- Part 12 (BPA)
- Part 13 (Simplified Acquisition)
- Part 14 (Sealed Bid)
- Part 15 (Negotiated)
- Part 38 (FSS)
- Composition of government source selection
- Discussions vs. clarifications
- Dealing with ENs
- Final proposal submission
- How to write a responsive proposal
- Evaluation factors

Instructors:

9:45 am – 10:00 am
Networking Break

10:00 am – 11:30 am
Performance Issues and Terminations
This session addresses formal contract changes, constructive changes, and terminations. It also covers other remedy-granting clauses, delays and breaches of contract. The contractor’s remedy for most of these actions is to request an equitable adjustment in the contract price and schedule. The session will cover:

- FAR Changes clauses
- Constructive changes
- Differing site condition
- Defective specifications
- Interference and failure to cooperate
- Termination for convenience
- Termination for default
- Terminations in Part 12
- Grounds for termination
- Notice and cure
- Addressing performance issues
Instructors:
John C. Sawyer, United States State Department, Office of Business Overseas, Arlington, VA
Justin Ganderson, Special Counsel, Covington & Burling LLP, Washington, DC

11:30 am – 12:30 pm
Networking Break/Lunch

12:30 pm – 1:30 pm
Subcontracting Issues Panel
Often, contractors pursuing a prime contract will form a team with other companies to maximize their chances of success. Such teaming arrangements may take the form of a Teaming Agreement that leads to a prime-subcontractor relationship, or a joint venture agreement. This panel will address FAR Subpart 9.6, which governs contractor team arrangements, as well as important considerations for contractors when deciding whether and how to team. This panel will also provide advice for negotiating teaming agreements and subcontracts, and a mock negotiation of key terms in each.

Instructors:
Susan Amiot, Senior Counsel, Defense Systems, Northrop Grumman Innovation Systems, Falls Church, VA
Mark Mayhugh, Associate General Counsel, Booz Allen Hamilton, Inc., McLean, VA
Tracye Howard, Partner, Wiley Rein, LLP, Washington, DC

1:30 pm – 2:00 pm
Networking Break

2:00 pm – 3:30 pm
Contract Disputes
Parties that are unable to resolve performance issues have recourse through the disputes process. This session led by two esteemed judges will guide participants through the disputes process and litigation before the Boards and Courts. This session will cover:
- Requests for Equitable Adjustment and Claims
- The Contracting Officer’s Final Decision (“COFD”) and appeal rights
- Litigation tips

Instructors:
Honorable Elaine D. Kaplan, U.S. Court of Federal Claims, Washington, DC
Honorable Christopher McNulty, Armed Services Board of Contract Appeals, Washington, DC

3:30 pm – 3:45 pm
Closing