

Off to the Races **Government Contracts**

*From The Paddock To
The Winner's Circle and Beyond*

November 2–4, 2017

Seelbach Hilton Hotel
Louisville, Kentucky

Off to the Races: Government Contracts from the Paddock to the Winner's Circle and Beyond

Conducting business with the Government — whether federal, state or local — has become an increasingly complex and sophisticated challenge. The legal and regulatory landscape is ever-changing and the risks and potential consequences of litigation are mounting. The key to succeeding in this environment is understanding both the fundamentals and nuances of the procurement process each step of the way. **Our Fall Program presents a "procurement toolbox," tracking the lifecycle of the procurement process from pre-solicitation to post-award.** Join us and hear subject matter experts examine recent developments in the law and best practices for procuring or securing contracts and successful contract completion from both the Government and industry perspectives.

- Gain insight into the **underpinnings of acquisition planning activities** when the Government and a contractor contemplate a new procurement opportunity
- Navigate the evolving **small and disadvantaged business programs** and how to qualify for participation or team with a contractor that does
- Explore the role of **debriefings, protests and corrective action** as understood and experienced by the Government, contractors and the Government Accountability Office
- Consider potential pitfalls a contractor may encounter during **contract performance**, including claims litigation as well as state or federal false claims investigations
- Discover **hot topics in state and local procurement**
- Learn tactics to improve your ability to **negotiate contracts** between a private contractor and Government or among contractors teaming to pursue an opportunity

Register today and enhance your awareness of emerging issues impacting the procurement process and the tools necessary for success at each step, while networking with other Government contract professionals and enjoying the charm and hospitality of Louisville, Kentucky.

As Kentucky's largest city, Louisville is known for being the Gateway to the South. But it is also famous for being home to the "most exciting two minutes in sports," the Kentucky Derby. Enjoy the many attractions in downtown Louisville including Museum Row on Main, including the legendary Churchill Downs, Louisville Slugger Museum & Factory, and the Muhammad Ali Center, as well as the city's many bourbon and dining establishments.

We look forward to seeing you in Louisville.

Section Chair

Aaron P. Silberman, Partner, Rogers Joseph O'Donnell, San Francisco, CA

Program Co-Chairs

Sonia Tabriz, Associate, Arnold & Porter Kaye Scholer LLP, Washington, DC

Karen D. Walker, Executive Partner, Holland & Knight LLP, Tallahassee, FL

Heather Weiner, U.S. Government Accountability Office, Washington, DC

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Program Schedule

THURSDAY, NOVEMBER 2, 2017

1:30 pm

Registration

2:00 pm – 3:30 pm

Running with the Quarter Horses—Hot Topics in State and Local Procurement

In today's fast-paced and ever-changing world, the way in which state and local Governments purchase products and services is evolving. This program will feature four short talks—each on a hot topic in state and local procurement followed by a question and answer session with all of the presenters. Topics include:

- Public-private partnership (“P3”) procurements focusing on Kentucky's recent experience under its new P3 law.
- The extent to which, and how, offerors should take exception to solicitation provisions including terms and conditions.
- Cooperative procurement and the special challenges in sourcing and structuring master agreements for more complex services.
- Disadvantaged Business Enterprise law focusing on recent case law and the Maryland model MBE program.

Speakers

Gwen R. Pinson, General Counsel, Kentucky Finance and Administration Cabinet, Frankfort, KY

Eric Whytsell, Member, Jackson Kelly PLLC, Denver, CO

Richard Pennington, General Counsel, NASPO ValuePoint, Denver, CO

Scott Livingston, Partner, Rifkin, Weiner, Livingston LLC, Bethesda, MD

3:30 pm – 4:00 pm

Networking Break

4:00 pm – 6:00 pm

Practicum: Jockeying for the Best Position—Contract Negotiation Skills in Government Contracting

Negotiating in the public contracts space is a challenge under the best of circumstances. This Practicum will focus on tactics and strategies to improve the negotiating process when dealing with an entity who under normal circumstances has more leverage than you and knows it.

Presenter: John W. Hays, Member, Jackson Kelly PLLC, Adjunct Professor of Negotiating Process, The University of Kentucky College of Law, Lexington, KY

6:30 pm – 8:00 pm

Sponsor Reception - TBD



Program Schedule

FRIDAY, NOVEMBER 3, 2017

7:30 am– 8:15 am

Registration and Coffee

8:15 am – 8:30 am

Welcome Remarks/Program Announcements

8:30 am – 10:00 am

Picking the Race, Sizing Upon the Competition and the Post Parade—Acquisition Planning and Pre-Solicitation Activities

This panel will feature a discussion of the important considerations that underpin acquisition and pre-solicitation planning activities. The discussion will address important issues from both the contractor and Government perspectives as each side prepares for a new procurement. Topics will include:

- Developing the scope of work;
- Market research, including full and open competition considerations;
- Selecting (and complying with) the appropriate procurement methodology;
- Staffing the proposal development team and the source selection evaluation team; and
- Tips for ensuring a successful procurement.

Moderators

Armani Vadiie, Member, Smith Pachter McWhorter PLC, Washington, DC

Michael Kracynovich, Trial Attorney, Office of the General Counsel, U.S. Department of Veterans Affairs, Washington, DC

Speakers

Patricia Hale Becker, Division Counsel, Northrop Grumman Corporation, McLean, VA

Jennifer L. Dauer, Partner, Diepenbrock Elkin Gleason LLP, Sacramento, CA

10:00 am – 10:15 am

Networking Break

10:15 am – 11:45 am

The Bull Ring—Small Business and Disadvantaged Business Opportunities

Small businesses receive billions in federal, state and local contracts every year. However, accessing these funds requires companies, and their counsel, to navigate nuanced rules on how to determine which companies are small, who qualifies for various socio-economic categories and how these firms can work with larger entities. The expansion of SBA's mentor-protégé program

Program Schedule

to include all small businesses has only increased the small business share of the market and the complexities related to regulating it. This panel will discuss how counsel can help these businesses take advantage of small and disadvantaged business programs as they expand and how to work within SBA's evolving regulations. Topics will include:

- Emerging small business issues;
- Trends and tips for size protests;
- Subcontracting, partnering, and joint ventures; and
- State/Local minority and women owned business enterprises.

Moderators

Damien C. Specht, Partner, Morrison & Foerster LLP, McLean, VA

Mitchell A. Bashur, Associate, Watt, Tieder, Hoffar & Fitzgerald, LLP, McLean, VA

Speakers

Jennifer Morrison, Associate General Counsel, Booz Allen Hamilton Inc., Washington, DC

Keith M. Wiener, Partner, Holland & Knight LLP, Washington, DC

Robb Wong, Associate Administrator, Office of Government Contracting & Business Development, U.S. Small Business Administration, Washington, DC

12:00 noon – 1:45 pm

Luncheon Program: Inside the Press Box—The Role of Public Relations in Government Contracting

Presenter: Raul "Danny" Vargas, Founder & President, VARCom Solutions, Herdon, VA

2:00 pm – 3:30 pm

From the Backstretch to the Finish Line and Contested Results—Bid Protests

This panel will feature an interactive and free-flowing discussion of all aspects of bid protests from the perspective of the Government Accountability Office (GAO), which decides protests, the Government, which defends them, and private practitioners, who both bring and defend protests. Topics will include:

- Pre- and post-award protests: industry objectives and considerations when deciding whether to protest; the Government's approach; GAO's, including establishing the record, supplementation of protests, hearings, and issuing decisions; and, the state law practice perspective.
- Debriefings: A discussion of the value (or lack thereof) of debriefings and ideas for improving the process; and

Program Schedule

- Corrective Action: Taking corrective action and protests of corrective action.

Moderators

Michelle Litteken, Associate, PilieroMazza PLLC, Washington, DC

Kara M. Sacilotto, Partner, Wiley Rein LLP, Washington, DC

Speakers

Scott N. Flesch, Chief, Bid Protests, U.S. Army Legal Services Agency, Washington, DC

Steven M. Henderson, Member, Stites & Harbison PLLC, Louisville, KY

Jonathan L. Kang, Senior Attorney, U.S. Government Accountability Office, Washington, DC

3:30 pm – 3:45 pm

Networking Break

3:45 pm – 5:15 pm

Winning the Race, But Risking the Prize—Contract Performance and Compliance Issues

This panel will feature a discussion of potential pitfalls contractors may encounter during contract performance. From understanding the “ins and outs” of Contract Disputes Act jurisdiction over claims, to getting caught in the crosshairs of state or federal false claims investigations, the panelists will shine a light onto key issues in filing claims or responding to investigations that can trip up contractors and the Government. Topics will include:

- Understanding the Contract Disputes Act’s six-year statute of limitations post-*Sikorsky*;
- Asserting multiple claims under *K-Con* and adequately supporting claims in the quantum stage; and
- Practical implications of *Escobar*, including the development of compliance mechanisms to mitigate the risk of false claims liability.

Moderators

Kaitlin Harvie, Associate, Bass, Berry & Sims PLC, Nashville, TN

Anna Kurtz, Assistant General Counsel, Federal Bureau of Investigation, Washington, DC

Speakers

Kara L. Daniels, Partner, Arnold & Porter Kaye Scholer LLP, Washington, DC

Honorable Jeri K. Somers, Vice Chair, Civilian Board of Contract Appeals, Washington, DC

Gerard Wimberly, Partner, Akerman LLP, New Orleans, LA



Program Schedule

5:15 pm – 6:30 pm

Section Reception

The Section of Public Contract Law gratefully acknowledges the support and contributions from our quarterly section reception sponsors.

SATURDAY, NOVEMBER 4, 2017

7:00 am – 8:15 am

Officers & Council Members Executive Session

8:30 am – 12:00 noon

Council Meeting

Please join the leaders of the Section in the open session to discuss actions and information on legislation, regulations and other current issues important to Government contract practitioners. All members and meeting registrants are welcome to attend the Council Meeting.

Upcoming Conferences

SEPTEMBER 6–7, 2017

Introduction to Government Contracts

Washington, DC

MARCH 14–17, 2018

24th Annual Federal Procurement Institute (FPI) and Council Meeting

Annapolis, MD

APRIL 19–20, 2018

13th Annual State & Local Procurement Symposium

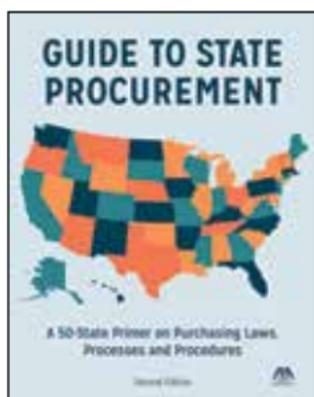
Detroit, MI

AUGUST 2–4, 2018

Annual Meeting CLE Programming and Council Meeting

Chicago, IL

Featured Publications



Guide to State Procurement: A 50-State Primer on Purchasing Laws, Processes, and Procedures, Second Edition

Edited by: Melissa Javon Copeland

This book delineates each state's law, practice, and key issues, offering time-saving access to information in a single volume.

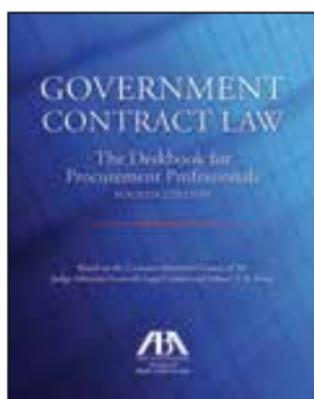
2017 • 624 pages • 8½ x 11

Paperback or E-Book

Product Code: 5390292

Regular Price: \$119.95

PCL Member Price: \$94.95



Government Contract Law: The Deskbook for Procurement Professionals, Fourth Edition

Edited by John T. Jones, Jr.

This Fourth Edition is an updated step-by-step guide covers all aspects of federal contracting, from pre-bidding through award, and on to protest and litigation.

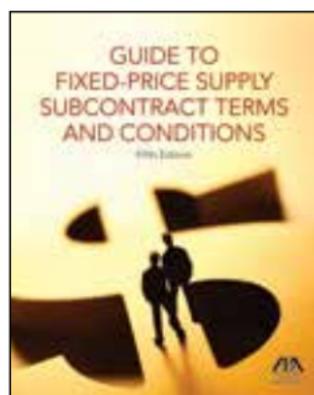
2017 • 670 pages • 8½ x 11

Paperback or E-Book

Product Code: 5390293

Regular Price: \$149.95

PCL Member Price: \$124.95



Guide to Fixed-Price Supply Subcontract Terms and Conditions, Fifth Edition

A Project of the Subcontracting, Teaming and Strategic Alliances Committee

Editors: Keir X. Bancroft, Linda Maramba, and Eric Whytsell

This invaluable resource provides a complete roadmap for drafting and negotiating subcontracts based on the terms and conditions of the Model Subcontract Form.

2016 • 450 pages • 8½ x 11 • Paperback

Product Code: 5390291

Regular Price: \$124.95

PCL Member Price: \$99.95

To order these books as well as other publications from the ABA Section of Public Contract Law:

Visit www.ShopABA.org or call (800) 285-2221

Louisville Events and Attractions

Museum Row

<https://www.museumrowonmain.com>

Louisville's Museum row is a collection of nine cultural attractions located within six city blocks of one another, including the Frazier History Museum, Kentucky Museum of Art and Craft, Kentucky Science Center, KentuckyShow!, Louisville Slugger Museum & Factory and the Muhammad Ali Center.

Muhammad Ali Center

<https://www.alicenter.org>

The Muhammad Ali Center is a multicultural center with an award-winning museum dedicated to the life and legacy of Muhammad Ali. The Center museum captures the inspiration derived from the story of Muhammad Ali's life and the Six Core Principles that fueled his journey.

Louisville Slugger Museum & Factory

www.sluggermuseum.com

Celebrate the extraordinary role of Louisville Slugger in baseball's past, present and future. Located on the corner of 8th and Main in downtown Louisville. Just look for the World's Biggest Bat!

Churchill Downs

<https://www.churchilldowns.com>

Home to the "most exciting two minutes in sports," the Kentucky Derby—the widely watched first race of the Triple Crown of Thoroughbred Racing.

Kentucky Derby Museum

www.derbymuseum.org

The Derby Museum features 30-minute historic walking tour of Churchill Downs Racetrack and "The Greatest Race" a 360° 18-minute media experience that will make your heart race and emotions soar.

Kentucky Distilleries

Learn about Kentucky bourbon history. Several in-town distilleries offer a behind-the-scenes tour of the art and science of whiskey-making, including the Evan Williams Bourbon Experience and Angel's Envy Distillery.





Registration Information

REGISTRATION INFORMATION

The registration fee includes continental breakfast, coffee breaks, the Friday luncheon program, the section reception, and CLE program materials. The registration fees provide for reduced registration fees for Government employees, academics, and public interest lawyers employed with non-profit organizations. Payment must accompany registration. Confirmations will be sent to all registrants.

Register online through the Section website www.ambar.org/pubconfall17 (credit card only) **Or Send via Secure Fax** 312.988.5850 (credit card only) **Or Mail to** American Bar Association, Attn: Meeting Registrations Department, 321 N. Clark St., 16th Fl., Chicago, IL 60654.

TUITION ASSISTANCE

A limited number of registration fee reductions are available for this program upon application. The fee-reductions will be determined on a one-time only, case-by-case, first-come first-serve basis. Requests must be received at least three weeks before the program start date—October 11, 2017. You will be notified prior to the program if your application is approved. A minimal fee may be charged on all approved applications to defray expenses. To apply, send a letter outlining the basis for your request of a fee reduction to Patty Brennan, ABA Section of Public Contract Law, 321 N. Clark St., Chicago, IL 60654, or patty.brennan@americanbar.org.

CLE CREDIT

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, PR, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV.

These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 9.5 CLE credit hours in 60-minute states, and 11.4 credit hours in 50-minute states. This transitional program is approved for both newly admitted and experienced attorneys in NY. Certificates of attendance will be available at the program for both attendees and speakers. If you have questions about the number of CLE credit hours granted by each state, you may call 800.285.2221 starting two weeks before the program.

CLE PROGRAM MATERIALS

Prior to the program, all advance registrants will receive an email with a link to the CLE materials. No printed materials will be available on-site. You are encouraged to bring a laptop, notebook or tablet to view the materials onsite. Complimentary Wi-Fi access will be available.



Registration Information

CANCELLATION POLICY

Requests for refunds must be made in writing and received in the Section of Public Contract Law office on or before **October 16, 2017**. A \$50 administrative fee will be applied. No refunds will be made after **October 16, 2017**.

A registration submitted online or by mail to the ABA office is considered a firm commitment. If you do not cancel by the designated deadline date for refund, you will be expected to pay the registration fee even if circumstances prevent you from attending the program.

SUBSTITUTIONS

Written requests for substitutions will be permitted prior to the conference for requests received by the conference registration cut-off date. After this date, substitutions will need to be made on-site. There is no additional cost for substitutions. Substitutions are not permitted once a registrant has registered on-site or after the conference has occurred. Please submit a request on firm/agency letterhead to transfer the registration to another person. Only the substitute will be eligible for CLE credit. The substitute and original registrant must work out the payment between themselves.

HOTEL INFORMATION

The Seelbach Hilton Hotel is located at 500 Fourth Street, Louisville, KY 40402. The special group room rate is \$159 single/double, plus 16.07% tax per room per night. You may contact the hotel directly at 502.585.3200. Please reference the **ABA Section of Public Contract Law – Fall Program & Council Meeting** to receive the group rate. The hotel reservation **deadline is October 17, 2017 at 5:00 pm CST**. This rate is available until October 17th or when the room block reaches capacity, whichever comes first. Individuals with guaranteed reservations must cancel their reservations 72 hours prior to the scheduled day of arrival to avoid a one-night cancellation charge.

PARKING AND GROUND TRANSPORTATION

The Seelbach Hilton Hotel is approximately 7 miles/15 minute drive from the Louisville International Airport. The hotel offers a complimentary shuttle (seats 8) service. Please contact 502.585.3200 to confirm pickup. Taxis are available – estimated \$20 fare. Self-parking is available at \$23. Valet Parking w/In-Out privileges – \$27.



Registration Information

DIETARY RESTRICTIONS

If you have any dietary restrictions, please indicate so by contacting Ernestine Liebas at 312.988.5699 or Ernestine.Liebas@americanbar.org

SERVICES FOR PERSONS WITH DISABILITIES

We encourage participation by all individuals. If you are a person with a disability, please provide us advance notice of any special arrangements you may need so we can best accommodate you. Please call or email Ernestine Liebas at 312.988.5699 or Ernestine.Liebas@americanbar.org by October 18, 2017. For those individuals with disabilities who need special arrangements while attending the program, please contact Ernestine Liebas at 312.988.5699.

SPECIAL AIRLINE DISCOUNTS

ABA NEGOTIATED AIRFARE DISCOUNTS—AVAILABLE ONLINE! With ABA Egencia*, you can automatically obtain ABA negotiated airfare discounts for travel to the ABA Meetings. ABA Egencia enables you to purchase the best airfare at the time of booking, by providing you with the ability to search for and compare fares from virtually every airline serving the destination.

Reservations with ABA Egencia can be made online or offline. For offline reservations, call 877.833.6285. ABA Egencia is available online via ABA Travel Services*. ABA airfare discounts on some carriers may also be obtained by purchasing your tickets under the ABA Discount Codes directly from the airline or through your travel agent.

American Airlines ABA Discount only available at ABA Egencia.

United Airlines 800.426.1122. Agreement Code: 621691 / Z Code: ZXDR, Discount available at

www.united.com Online Discount Code: ZXDR621691, Not for leisure travel.

Delta Airlines 800.328.1111 ABA File Global Meeting Code: NMP56. Discount available at www.delta.com

*A Travel Profile is required when booking airline reservations with ABA Egencia. Visit www.americanbar.org/travel for more information.

Registration

2017 FALL EDUCATIONAL CONFERENCE

NOVEMBER 2–4, 2017

SEELBACK HILTON HOTEL, LOUISVILLE, KY

Register online at www.ambar.org/pubconfall17

Register by October 11, 2017 to obtain discount

The following discounts are available to each attendee. The ABA will automatically adjust registrations submitted at the incorrect rate. Full payment at the correct rate must be received in order to process your registration and CLE credits.

Registration Fees	By 10/11/17	After 10/11/17
General Attendee (Non ABA Member)	\$425	\$475
ABA Member, PCL Section Non-Member	\$400	\$450
PCL Section Member	\$325	\$375
PCL Section Member Government Employee, Academic, or Young Lawyer under age 36 or admitted to Practice less than 5 years	\$275	\$325
Other Government Employee, Academic, or Young Lawyer under age 36 or admitted to Practice less than 5 years	\$300	\$350
ABA Law Student Section Member (limited slots available)	\$50	\$50
Saturday, 11/4		
Section Council Meeting	No Fee	No Fee

Please enroll me as a member of the ABA Public Contract Law Section to take advantage of the section member rate above. I understand I must be a member of the ABA to join the Section.

- \$45 ABA Lawyer Member/ABA Associate Member
- Free ABA Law Student Member

No written materials will be available on-site. You may wish to bring a laptop, notebook, tablet to view the materials onsite as complimentary Wi-Fi access will be available.

- I am a first time attendee of this conference
- I am a Young Lawyer (36 years of age or younger or practicing less than 5 years)
- I require special dietary or access considerations: Please email your requirements to Ernestine.Leibas@americanbar.org

REGISTER ONLINE: www.ambar.org/pubconfall17

(Credit card payments accepted online only)

MAIL: American Bar Association; Attn: Service Center—Meeting/Event Registration Dept. PC1117; 321 North Clark Street, 16th Floor; Chicago, IL 60654

Enclosed check (made payable to American Bar Association)

SECURE FAX: 312-988-5850

Please indicate all events you and your spouse/guest will attend

Thursday, November 2

Sponsor Reception (Complimentary)
 Registrant Spouse/Guest

Friday, November 3

Off to the Races: Government Contracts from the Paddock to the Winner's Circle and Beyond
Registrant (see rates) _____

Luncheon/Keynote Address
 Registrant

Section Reception (Complimentary)
 Registrant Spouse/Guest

Saturday, November 4

Council Meeting (No Fee)

Registration Fees _____

Total Enclosed _____

NAME _____

GUEST NAME _____

ABA MEMBER ID# _____

FIRM/ORGANIZATION _____

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