

In Case You Missed It: A Brief Review of the ABA Public Contract Law Section's 2026 Federal Procurement Institute

BY TARA HOPKINS



The 32nd annual Federal Procurement Institute (FPI) and Council Meeting for the ABA's Public Contract Law section were held in Annapolis, Maryland, March 11–13, 2026. The FPI—the Section's flagship conference—featured panel discussions that covered a wide spectrum of federal

procurement developments, providing attendees with lively discussions and practical insights.

This year's program focused on a variety of issues currently shaping the government contracting arena, including

- The intersection of executive authority and federal procurement;
- Trends and developments in bid protests at the US Court of Federal Claims;
- Cybersecurity Maturity Model Certification (CMMC) implementation and compliance;
- Small business updates;
- The AI revolution and its impact on government contracts;
- Government contracts Mergers & Acquisitions; and
- Ethical issues arising in public practice.

The FPI conference planning team, led by Conference Director Sonia Tabriz (Arnold & Porter) and Content Director Amy Hoang (Seyfarth Shaw LLP), alongside Conference Co-Chairs Tara Hopkins (Moore & Van Allen LLP), Elizabeth N. Jochum (Blank Rome LLP), Michael R. Martin (The Vertex Companies, LLC), Alex L. Sarria (Miller & Chevalier, Chartered), and Kayleigh Scalzo (Covington & Burling LLP), organized timely panels that

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brought together practitioners from government, industry, private practice, and academia, offering valuable perspectives to those specializing in federal procurement.

Wednesday Program Overview and Midyear Council Meeting

The FPI opened with the Ruth C. Burg Luncheon Honoring Women in Public Contract Law, the long-standing tradition originated by the first woman Section chair (1984–1985), which recognized the hardworking woman contributors within the government contracting field.

Next, Section Chair Daniel Chudd (Northrop Grumman) led the Midyear Council Meeting, which included an engaging presentation by law student Brittany Rocco (The George Washington University Law School) on her paper “Mending Holes in the Patchwork: National Security Risks and Private Consultants.” Brittany's paper received the first-place honor in the Section's annual writing competition. In addition to receiving a cash award and opportunity to present her paper to the Council members and attendees, Brittany's paper will soon be published in the Section's premier scholarly publication, the *Public Contract Law Journal*.

Front Page News—The Intersection of Executive Authority and Federal Procurement

The Thursday morning programming began with an engaging discussion that explored how recent administrations have leveraged procurement to advance domestic and foreign policy, as well as the constitutional and statutory foundations for such actions and the limits articulated by federal courts. Stacey K. Grigsby (Covington & Burling LLP) moderated the panel of experts, which included Nicolas Sansone (Public Citizen Litigation Group), David Super (Georgetown Law School), and Anuj Vohra (Crowell & Moring LLP). Exploring the boundaries (and occasional overlap) between legislative and executive authority under the US Constitution,¹ the panel discussed decisions and trends over the past year relating to executive authority, examined the Administrative Procedure Act² and other relevant legal doctrines requiring the executive to act as required by Congress,³ and highlighted areas that the courts have still left unsettled.

The panel also examined how executive orders impact the grants process and what remedies are left for

contractors when those grants are terminated. Further, the panel discussed the necessity for contractors to pursue two different avenues for remedies when a grant is terminated, both at the US Court of Federal Claims and in federal District Courts, due to the limits and nuances of each venue's jurisdiction.⁴ The discussion provided attendees with a clearer understanding of how recent administrations have used executive authority to shape federal procurement and grant-making and what steps contractors might need to pursue to protect their rights when grants are terminated.

In the Spotlight: Trends and Developments in Bid Protests at the Court of Federal Claims

Next up was a panel moderated by Kelly Buroker (Vedder) regarding the recent trends and developments related to pursuing a bid protest at the US Court of Federal Claims. Panelists Hon. Philip S. Hadji (US Court of Federal Claims), Hon. Molly R. Silfen (US Court of Federal Claims), Anthony F. Schiavetti (Northrop Grumman), and Sean Zehtab (government contracts attorney, previously with the US Army) held an engaging discussion exploring the recent statutory and regulatory changes currently impacting the rise of protest filings at the Court of Federal Claims.⁵

Panelists shared reports from the ground on this changing landscape and provided practical advice for practitioners for each stage of the bid protest process at the court, including, but not limited to, the pre-filing notice and best practices in drafting the complaint, as well as preparing for initial status conferences, pursuing injunctive relief, exploring the administrative record, filing motions for judgment on the administrative record, and maximizing the effectiveness of oral arguments. The panel also explored recent legal decisions relating to organizational conflicts of interest (OCIs) and how contractors can navigate the complicated world of OCIs.⁶ The practical insights from this panel provided attendees with useful information on trends and best practices when filing bid protests at the court, while also providing a helpful list of best practices that will improve a protestor's chance for success.

The CMMC Journey—From Concept to Compliance

The afternoon commenced with moderator Michael G. Gruden (Crowell & Moring) leading a discussion on the evolution of the Cybersecurity Maturity Model Certification (CMMC) program⁷ and the approaches being taken for the program's five-year phased implementation. Panelists Irina Cady (Rolls Royce North America), Melanie Harris (Technology Maximus Inc.), and Frank Noone (MNS Group) addressed a wide variety of challenges in implementing security controls, evaluating the legal risks associated with self-assessments, and considering potential enforcement considerations under the Civil Cyber Fraud Initiative (if a company falsely represents its CMMC status).

The panel tracked the history of the CMMC program over the last 10 years, emphasizing that while the CMMC requirements are becoming clearer, compliance requirements are still evolving. The panel discussed how contractors should be striving for "Level 2" (which is triggered when a company is holding Controlled Unclassified Information (CUI)) before considering attempting a Level 3 certification (requiring an external audit and review by the federal government). The panel also discussed practical compliance difficulties in the CMMC space when there are still many gaps in the program, including inconsistencies between the Level 2 and Level 3 certification requirements. Overall, the panel concluded that, while the government is making great strides forward in implementing CMMC, there are still many unknowns that contractors must consider, emphasizing that contractors must be prepared to adapt along the way.

Federal Small Business Update—Threats and Opportunities in the Current Environment

Closing out the first day, the panel discussed the federal small business landscape—a landscape made all the more complicated over the last year due to program changes, contracting delays, and regulatory and policy developments. Moderator Lauren Brier (PillieroMazza) led panelists Sara M. Curtis (Chickasaw Nation Industries) and Kenneth Dodds (The Coalition for Common Sense in Government Procurement) through an insightful discussion regarding the recent executive actions and legislative and regulatory updates (including the Revolutionary FAR Overhaul and updates to FAR Part 19), exploring how those changes are affecting eligibility, certifications, and program participation. The panel also provided a helpful update on the 8(a) program and how companies are responding to recent audit requests issued by the federal government in order to ferret out fraud, waste, and abuse.⁸ Together, the panel informed practitioners of practical methods for anticipating change and building resilient compliance approaches, especially in the 8(a) program.

Brave New World—The AI Revolution and Government Contracts

Kicking off Friday morning was an impactful discussion surrounding the current landscape of artificial intelligence (AI) and the ways in which it is reshaping federal procurement. Moderator Carl Hahn (Steptoe) walked the attendees through the integration of AI into government operations and the procurement process itself. Panelists Polly Hall (US General Services Administration), Lyra Correa (Leidos), and Joseph Zobro (Anduril Industries) focused on the expected shifts and practical steps for using AI—both in and out of the government—while focusing on ways that companies can maintain compliance in a rapidly evolving policy and regulatory landscape.

The panel explored the distinctions between using AI

through a large-language model (LLM; where the LLM responds to a user's inputs) and the use of "agents" as AI tools (where AI is tasked with certain activities, without active inputs or management by a human being). The panel discussed how these shifts are affecting the AI industry and compliance risks in general for federal procurement.

The panel also discussed at length a new draft AI clause proposed by the GSA: 552.239-7001, Basic Safeguarding of Artificial Intelligence Systems.⁹ Issued on March 6, 2026, with only two weeks for public comment, the panel explored the potential impacts of this proposed AI clause, which will mark a significant shift in federal procurement practices by imposing new operational requirements on AI models used in performing under a GSA Schedule contract, including by adding neutrality expectations, disclosure of model modifications, broad government use rights, and strict data-handling rules.¹⁰

The insights shared by the panel showed not only just how much has changed in the AI space in the procurement industry in the last few years but, perhaps more importantly, how much could be set to change in the near future as well.

Keynote Address: Economic Security and National Security Concerns

Andrew Pahutski, Vice President for Economic Security Programs at Systems Planning & Analysis (SAP), delivered the keynote address of the conference, providing a strategic, cross-portfolio view to attendees—connecting supply chain resilience, industrial policy, export controls, investment screening/outbound controls, and allied coordination into a practical example of how the United States is building decision advantage into our national security while also reducing strategic vulnerabilities and improving competitiveness. Attendees learned how these shifts increasingly appear—not as isolated compliance issues, but as integrated risk and governance challenges shaping how organizations should plan, invest, partner, and execute in regulated, security-sensitive environments—especially where federal procurement, technology, and global business intersect.

Mr. Pahutski's remarks are included as a separate article in this edition of *The Procurement Lawyer*.

Government Contracts Mergers & Acquisitions—A Practitioner's Workshop

Next up in the program was a workshop-style session where moderator Jason Kaufman (Lincoln International LLC) walked attendees through the life cycle of an M&A transaction involving a government contractor. Panelists Morgan Higgins (BlueDelta Capital Partners), Nicole Islinger (Blank Rome LLP), and Tiffany King (Huntington Ingalls Industries) discussed the unique considerations raised in transactions involving government contractors while also emphasizing how government contracts counsel can add value by tailoring

diligence, contractual terms, and post-closing actions for both the buyer-side and seller-side of the transaction.

The panel shared several hypotheticals and "war stories"—times when things went well, and times when things went sideways—highlighting some of the key inflection points that counsel should consider when working on an M&A transaction for a government contractor. Attendees were able to learn from real-life past experiences to understand how to better manage the deal flow and the deal risks and ensure that the clients remain happy when the transaction closes.

Ethical Red Flags in Public Practice

The FPI concluded with a detailed and varied examination of unique ethical issues that regularly confront government lawyers. Moderator Sharon Pandak (Pandak PLLC) led this discussion with hypothetical scenarios acted out by panelists Hon. Carlos F. Acosta (Circuit Court for Montgomery County, Maryland), Richard H. Melnick (The Law Office of Richard H. Melnick, LLC), and Kristine Kassekert (George Washington University Law School) to explore the ethical limits that many government lawyers regularly face. These entertaining scenarios explored questions relating to conflicts of interest for former and current government personnel, responsibilities of supervising attorneys, situations when another government employee improperly interferes in a public procurement, and more. Attendees reviewed relevant ABA Model Rules, leaving the audience with a clearer understanding of what is generally required under the ABA Model Rules of Professional Conduct for government attorneys.

Networking and Catching up with Old Friends

The FPI is known for its many networking opportunities and events, including the Welcome Reception on Wednesday evening hosted by Baker Tilly, where conference attendees reconnected with their colleagues and engaged with new attendees and section leaders. Other events included the Thursday evening Section Reception followed by the No-Host Dinners, where Section members dined in small groups at a variety of local restaurants.

Many thanks to the Thursday Reception sponsors: Blank Rome LLP; Chess Consulting LLC; Crowell & Moring LLP; Fried, Frank, Harris, Shriver & Jacobson LLP; Haynes & Boone LLP; HKA Global, Inc.; Hogan Lovells; K&L Gates LLP; Smith Currie Oles LLP; Stinson LLP; Thompson Coburn LLP; The Vertex Companies, LLC; and Victura Consulting LLC.

"Thank you" and "See you again"

The 2026 FPI planning team gives special thanks to each of the moderators and panelists for all the hard work they provided to make this conference a success. We look forward to seeing everyone again next year!

We also look forward to seeing everyone for our next Section event—the Section Committee Showcase on

May 7, 2026, at Hogan Lovells. If you are interested in sponsoring any of these events, please contact Section Director Patty Brennan at patty.brennan@americanbar.org. 

Endnotes

1. Compare U.S. CONST., art. I (describing the powers of the Legislative branch), with art. II (describing the powers of the Executive branch); see also *Wilkerson v. Rahrer*, 140 U.S. 545, 562 (1891) (indicating that the president’s power to execute the laws of Congress does not include the power to “make a law” him- or herself); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 587–88 (1952).

2. See 5 U.S.C. §§ 701–706.

3. See, e.g., Impoundment Control Act of 1974, 2 U.S.C. §§ 681–688.

4. See, e.g., *Nat’l Insts. of Health v. Am. Pub. Health Ass’n*, 145 S. Ct. 2658 (2025) (per curiam); *Dep’t of Educ. v. California*, 604 U.S. 650 (2025) (per curiam).

5. See, e.g., *Percipient.AI, Inc. v. United States*, 153 F.4th 1226 (Fed. Cir. 2025) (exploring standing requirements and whether a protestor qualifies as an “interested party” under the Tucker Act); *Associated Energy Grp., LLC v. United States*, 131 F.4th 1312 (Fed. Cir. 2025) (discussing Article III and Tucker Act standing in a bid protest); *Raytheon Co. v. United States*, 175 Fed. Cl. 281 (2025) (concluding that the Court has jurisdiction to hear a protest challenging an award of an other transaction agreement);

Telesto Grp., LLC v. United States, 176 Fed. Cl. 711 (2025) (concluding that the court can hear protests challenging an OTA award but limiting jurisdiction under the Tucker Act to OTAs where the principal purpose is to conduct a procurement).

6. See, e.g., *Marathon Targets, Inc. v. United States*, 175 Fed. Cl. 725 (2025); *Blue Water Thinking, LLC v. United States*, No. 24-1641C, 2025 WL 763565 (Fed. Cl. Mar. 11, 2025).

7. See 32 C.F.R. pt. 170 (implementing the CMMC program).

8. See, e.g., News Release 26-12, Small Bus. Admin., SBA Orders All 8(a) Participants to Provide Financial Records (Dec. 5, 2025), <https://www.sba.gov/article/2025/12/05/sba-orders-all-8a-participants-provide-financial-records>; SBA 8(a) Data Call—FAQs, Atlassian (issued Dec. 18, 2025; updated Jan. 13, 2026), <https://sbaone.atlassian.net/wiki/spaces/UCPUKB/pages/4134469635/SBA+8+A+Data+Call+-+FAQs>.

9. See Part 552—Solicitation Provisions and Contract Clauses, buy.gsa.gov, https://buy.gsa.gov/interact/system/files/GSA_Federal_Acquisition%20Service%20Proposed%20Government%20AI%20System%20Terms%20and%20Conditions.pdf.

10. GSA published the draft clause on March 6, 2026, as part of the advance notice for Multiple Award Schedule (MAS) Solicitation Refresh 31 (Solicitation No. 47QSM20R0001), at buy.gsa.gov. GSA requested public feedback by March 20, 2026. This deadline was later extended to April 3, 2026, with inclusion of the new clause also being pushed to Refresh 32—a refresh that will presumably roll out at some unspecified future date.