23rd Annual
FEDERAL PROCUREMENT INSTITUTE

March 15–18, 2017
LOEWS HOTEL
ANNAPOLES, MARYLAND

2 Full Days of CLE
Followed by the Section
Council Meeting on March 18
Dear Colleagues:

It’s that time of year again! Beginning March 15–18, 2017, distinguished panelists from government, industry, private law practice, and academia will convene at the Loews Hotel in Annapolis, Maryland to participate in the 23rd Annual Federal Procurement Institute (FPI) sponsored by the ABA Section of Public Contract Law. The Section’s flagship program will focus on the significant federal procurement developments over the past year and provide valuable insight to chart the course ahead.

The upcoming FPI, Gone Fishing: Catching the Latest Trends in Procurement Law, will commence Wednesday, March 15 with an Optional Practicum Session on agency use of alternative acquisition techniques. The full two-day FPI plenary sessions on Thursday and Friday, March 16–17th, will include sessions on:

- Corporate monitoring after a procurement fraud or suspension/debarment matter
- Risks of business deals and transactions with government contractors
- Changes in commercial item contracting
- The judges’ perspective—hot topics and tips for effective advocacy
- Navigating bid protests
- Navigating federal IP waters
- Issues keeping government and in-house counsel awake at night
- Ethical issues in the field of government contracts
- Optional construction program on federal construction procurement priorities

In addition, there are multiple networking opportunities, including sponsored receptions each evening, “No-Host” lunch and dinners, and a Section Fellows Dinner.

The FPI offers a unique opportunity to learn about the varying perspectives and reasoning taken by the public contract community’s stakeholders by engaging the panelists and your fellow participants in a spirited exchange of ideas throughout the two-day institute and the multiple networking events scheduled throughout the program.

The opportunity to exchange ideas with fellow public contract professionals continues on Saturday, March 18 where our Section Council will meet in open session to discuss action and information on legislation, regulations, and other current issues important to government contract practitioners.

We look forward to seeing you at the Federal Procurement Institute in Annapolis.

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

FPI Program Co-Chairs
Amy Conant, K&L Gates LLP, Washington, DC
John E. McCarthy Jr., Crowell & Moring LLP, Washington, DC
David Robbins, Crowell & Moring LLP, Washington, DC
Bryant G. Snee, PAE, Falls Church, VA

Annual and Quarterly Program Chairs
Stuart B. Nibley, K&L Gates LLP, Washington, DC
Tracye Winfrey Howard, Wiley Rein LLP, Washington, DC
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The Section of Public Contract Law gratefully acknowledges the contributions from the following sponsors to help defray the costs of each of the Section’s quarterly Receptions this year.

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Wednesday, March 15, 2017

1:00 pm – 4:00 pm
Women’s Networking Event

SPONSORED BY: Baker Tilly, Berkeley Research Group LLC, and Steptoe & Johnson LLP

Join fellow women attendees for socializing and networking before the FPI Practicum session at the Annapolis home of Past-Chair Sharon Larkin. Please indicate your intent to attend on the online registration form. Directions will be provided prior to the event.

5:00 pm – 7:00 pm
Optional Practicum: Casting a Wider Net: Agency Use of Alternative Acquisition Techniques  [Registration Fee: $40]

With more emphasis being placed on stoking innovation and inviting non-traditional contractors into the federal marketplace, agencies are exploring alternative acquisition techniques to advance these and other goals. DOD’s activities under the banner of Better Buying Power have probably gained the most attention in recent years, but DOD has not been alone in these endeavors. As highlighted by a March 2016 joint memorandum from OFPP and the Federal CIO, DHS and HHS have implemented Procurement Innovation Labs and piloted Digital Services Acquisitions to not only spur innovation, but also to accelerate the procurement process. Congress, meanwhile, has passed a variety of contracting and acquisition authorities to supplement the authorities and techniques agencies already had available to them. This panel will explore these various authorities, spotlight how agencies are using them, and discuss how the federal government’s interest in innovation could impact the rights and remedies available to your clients.

MODERATOR: Linda Santiago, Attorney, Office of the General Counsel, U.S. Department of Health and Human Services, Washington, DC


7:00 pm – 8:00 pm
Reception: Hosted by PwC—The Metropolitan Kitchen & Lounge, 175 West Street

Thursday, March 16, 2017

7:15 am – 8:15 am
Registration and Continental Breakfast

8:15 am – 8:30 am
Opening Remarks and Introductions

James (Ty) Hughes, Section Chair, ABA Section of Public Contract Law, Hughes Law PLC, Arlington, VA; Amy Conant, FPI Co-Chair, K&L Gates LLP, Washington, DC; John E. McCarthy, Jr., FPI Co-Chair, Crowell & Moring LLP, Washington, DC
8:30 am – 10:00 am
**Not off the Hook: Corporate Monitoring After a Procurement Fraud or Suspension/Debarment Matter**

This panel will feature corporate monitors and an ethics officer and will discuss when and how companies use external corporate monitors in procurement fraud and suspension/debarment proceedings and the steps necessary for a productive relationship for all parties (government, company, and monitor). The following questions will be addressed:

* ◊ When are monitors useful?
* ◊ What are best practices for successful engagements?
* ◊ What is the right balance between short term compliance and long term culture shift?
* ◊ How do you deal with problems when they arise?


**PANELISTS:** Adelle Elia, Knowledge Leader, LRN, Washington, DC; Eric Feldman, Senior Vice President and Managing Director, Corporate Ethics & Compliance Programs, Affiliated Monitors Inc., Los Angeles, CA

10:00 am – 10:15 am
**Networking Break**

10:15 am – 11:45 am
**Fish or Cut Bait: Risks of Business Deals and Transactions with Government Contractors**

This panel will focus on strategic considerations that frequently arise in transactions and business arrangements involving government contractors, including:

* ◊ Engaging effectively with key government stakeholders, such as the Committee on Foreign Investment in the United States, the Defense Security Service, and Defense Contract Management Agency
* ◊ Mitigating the risk of bid protests and exclusions from competitive procurements in light of significant new protest decisions
* ◊ Understanding and applying new Small Business Administration regulations
* ◊ Top valuation, diligence, and integration matters

**MODERATORS:** Peter Eyre, Partner, Crowell & Moring LLP, Washington, DC; Sonia Tabriz, Associate, Arnold & Porter LLP, Washington, DC

**PANELISTS:** Jon Brooks, Deputy General Counsel, Engility, Chantilly, VA; Susan Gabay, Managing Director, Bluestone Capital Partners, McLean, VA; Aaron Lincoln, Associate General Counsel (Contracts), Defense Contract Management Agency, Fort Lee, VA; Antonia Tzinova, Partner, Holland & Knight LLP, Washington, DC

12:00 noon – 1:30 pm
**Optional Construction Division Program/Box Lunch: In With the New and Out With the Old**

This 30 minute boxed lunch (12:00 pm – 12:30 pm) followed by a 60-minute CLE (12:30 pm – 1:30 pm) is optional. The regulatory priority of the Trump Administration has resulted in a sea of change in federal construction procurement priorities. What does that mean to contractors and their counsel?
MODERATOR: W. Barron Avery, Partner, BakerHostetler LLP, Washington, DC

PANELISTS: Michelle Coleman, Attorney, Washington, DC; John McHugh, Government Affairs Counselor, K&L Gates LLP, Washington, DC; Tamara McNulty, Division Senior Counsel, Special Projects, Black & Veatch Corporation, Arlington, VA

12:00 noon – 1:30 pm
Young Lawyers No Host Lunch—The Metropolitan Kitchen & Lounge, 175 West Street

Here’s an opportunity to network with other young lawyer colleagues or introduce yourself to someone new over lunch at a local Annapolis establishment. Please indicate your intent to attend on the online registration form. Lunch will be no host—cash only.

1:45 pm – 2:15 pm
From the Mouth of a Shark: Refugee Resettlement and the Need for Procurement Contracts

An analytic discussion of the legal issues addressed in the paper awarded First Place in the 2016 Public Contract Law Journal Writing Competition.


2:15 pm – 3:45 pm
Fishing in Commercial Waters: Changes in Commercial Item Contracting

This panel will feature a discussion from a variety of perspectives, including agency, private practice, and in-house, on recent changes to and developments in commercial item acquisition. Topics will include:

- Transactional Data Reporting: GSA’s pilot program on the elimination of the price-reduction clause and companies required to self-report, a status and discussion of supply schedule issues
- Developments in Category Management including Category Management Policy 16-1: improving the acquisition and management of common information technology: software licensing
- Implementation of DOD’s proposed rule and policy memorandum; observations and practical tips

MODERATORS: Sheila Armstrong, Partner, Morgan Lewis LLP, Dallas, TX; Sarah Van Fossen, Senior Associate, PricewaterhouseCoopers Advisory Services, LLC, New York, NY

PANELISTS: Kevin Barnett, Associate, Covington & Burling, Washington, DC; Mark Lee, Deputy Director, Office of Acquisition Policy, Integrity and Workforce, General Services Administration, Washington, DC; Margie Rhodes, Executive Director-Senior Legal Counsel AT&T Communications Corp., Vienna, VA

3:45 pm – 4:00 pm
Networking Break

4:00 pm – 5:30 pm
The Reel Experts: A View from the Bench

Hear from an esteemed panel of judges—the “reel” experts in contract disputes—who will dispense some guidance on the rough seas of government contract litigation. Come learn the ins and outs of Court and Board practice while enjoying a lively discussion of case law and procedural
developments. Topics include: differences between court and board practice and procedure; tips for effective advocacy at the court and boards; hot topics in government contract disputes.

MODERATORS: Paul Pompeo, Partner, Arnold & Porter LLP, Washington, DC; Matthew W. Turetzky, Associate, Sheppard Mullin Richter & Hampton LLP, Washington, DC


5:30 pm – 6:45 pm
Reception Hosted by WilmerHale

7:00 pm – 9:00 pm
“No Host” Dine-Out Dinners
Join your colleagues of all levels of experience for conversation over dinner as part of this organized dining event in Annapolis. Indicate your intent to participate and check the “No Host Dine Out” box on the online registration form. Restaurant sign-ups will take place on-site at the FPI Registration Desk at the Loews Annapolis Hotel. Reservations at each restaurant are limited. Dinners are no host—cash only.

7:00 pm – 9:00 pm
Section Fellows Dinner (Fellows Members Only)  
Fee: $72
The Fellows of the Section of Public Contract Law will convene for food, drink and conversation at a Local Annapolis establishment. Register online and in advance for this event.

Friday, March 17, 2017

7:30 am – 8:00 am
Registration and Continental Breakfast

8:00 am – 8:15 am
Opening Remarks and Introductions
David Robbins, FPI Co-Chair, Crowell & Moring LLP, Washington, DC; Bryant Snee, FPI Co-Chair, PAE, Falls Church, VA

8:15 am – 9:45 am
Riding the Next Wave: Bid Protests
2016 has been a heady year for navigating bid protests, with challenges old and new. In addition, major players have introduced various changes that could reshape the bid protest ecosystem. To help reorient us, the panel will explore hot topics in bid protests, including:

- Shooting Fish in a Barrel: Reviewing the most sustained protest issues for Fiscal Year 2016—something old and something new
- Jumping Ship: Status of GAO’s e-filing system—the progress to date and the challenges ahead

7
Frenemies on Deck: Representing third-party interest before the Court of Federal Claims and navigating the pitfalls
After Dark: Jurisdiction (or lack thereof) over protests of task orders in the upcoming year
The Black Box: Litigating redactions of the administrative record with an eye towards appellate review and media attention
The Catch: Federal Circuit involvement in bid protest cases
Tempest in a Teacup: Applying Kingdomware for the lower courts and reading the tea leaves for the Rule of Two


9:45 am – 10:00 am
Networking Break

10:00 am – 11:30 am
Cross-Currents: Navigating Federal IP Waters
This panel will explore recent developments in data rights issues from a variety of vantage points, with a focus on:
- Section 813 Panel
- License Rights in Commercial Technical Data and Software
- Cybersecurity Requirements—Impact on Rights in IP
- Defend Trade Secrets Act
- Interfacing Data for Software
- IP Clauses: What should be added or removed?

MODERATORS: Fernand Lavallee, Partner, Jones Day, Washington, DC; Katherine John, Associate, BakerHostetler LLP, Washington, DC
PANELISTS: Richard Gray, Associate General Counsel, Department of Defense, Washington, DC; James McEwen, Senior IP Attorney, Sikorsky Aircraft Corp., Stratford, CT

11:45 am – 1:15 pm
Luncheon Program: Beyond the Talking Points: Encouraging Diversity and Inclusion in the Section of Public Contract Law

1:30 pm – 3:00 pm
Swimming Upstream: Issues Keeping Government and In-House Counsel Struggling Against the Current
Whether working as legal counsel for the government or within a company, managing the demands of an internal client can pose substantive and practical challenges. This panel will feature an interactive discussion of the issues impacting government and in-house counsel, including: understanding the in-house landscape; representing the internal client; and working with outside counsel.
MODERATORS: Stuart B. Nibley, Partner, K&L Gates LLP, Washington, DC; Stacey Hadeka, Associate, Hogan Lovells, Washington, DC


*Ms. Mills is participating on this panel in her personal capacity and not in her professional capacity as a DOD attorney. The views expressed are Ms. Mills’ own and do not represent the views of DCMA, DOD or the federal government.

3:00 pm – 3:15 pm
Networking Break

3:15 pm – 5:15 pm
Navigating the Sea of Ethics: Ethics Issues in the Specialized Field of Government Contracts

This presentation will address a host of ethics issues specific to the government contracting community, including conflict issues government contracts; ethical issues in communicating directly with non-lawyers within the U.S. Government; ethical issues in representing the U.S. Government; and ethics and the changing world of electronic media.

PRESENTER: Thomas Mason, Partner, Harris, Wiltshire & Grannis LLP, Washington, DC

5:15 pm – 7:00 pm
Section Reception

The Section of Public Contract Law acknowledges the generous support of our sponsors for their contributions to the Section’s quarterly receptions. The full list of quarterly reception sponsors is available on page 3.

Saturday, March 18, 2017

7:00 am – 8:15 am
Officers & Council Members Breakfast Meeting

8:30 am – 12:00 noon
Council Meeting

Please join the leaders of the Section in this open session to discuss actions and information on legislation, regulation, and other current issues important to government contracts practitioners. All FPI meeting attendees are welcome to attend.

12:00 noon – 2:00 pm
Council Brainstorming Session/Working Luncheon

Join Section leaders in a discussion of current and future section initiatives and enhancing the section’s relevance in addressing substantive development in the public contract law arena.

2:00 pm Adjourn
Wednesday, March 15, 2017

1:00 pm – 4:00 pm
Women’s Networking Event

Sponsored by:
Baker Tilly
Berkeley Research Group LLC
Steptoe & Johnson LLP

Join fellow women attendees for socializing and networking before the FPI Practicum session at the Annapolis home of Past-Chair Sharon Larkin. Please indicate your intent to attend on the online registration form. Directions will be provided prior to the event.

7:00 pm – 8:00 pm
Reception Sponsored by PwC
The Metropolitan Kitchen & Lounge, 175 West Street

Friday, March 17, 2017

5:15 pm – 7:00 pm
Section Reception

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Saturday, March 18, 2017

8:30 am – 12:00 noon
Section of Public Contract Law Council Meeting

Please join the leaders of the Section in this open session to discuss actions and information on legislation, regulations, and other current issues important to government contracts practitioners. All members and registrants for the FPI are welcome to attend the Saturday Council Meeting.

12:30 pm – 2:00 pm
Section Leadership Brainstorming Session

Join Section leaders in a discussion of current and future section initiatives and enhancing the section’s relevance in addressing substantive development in the public contract law arena.
Registration Fee Information
Register by February 17, 2017 online to receive the early bird registration rates. The attendee registration fee includes continental breakfasts, coffee breaks, the Friday luncheon, the receptions, and two days of speakers’ written presentations available in advance through a web link that will be provided. The optional Practicum and optional Construction Program lunch each have a separate $40 registration fee. The registration fees above provide for reduced registration fees for government employees, academics, public interest lawyers employed with non-profit organizations, lawyers admitted to practice less than five years and law students.

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—February 22, 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. For programs with tuition costs of $500 or more, qualifying attorneys will receive at least a 50% reduction in the course fee(s) only. 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.

In-Person Registration
If you plan to register in person, please call the ABA by March 8, 2017 to confirm space availability. Cash payments will not be accepted.

Program Confirmation
Written confirmation of your registration will be sent to you upon receipt. If you do not receive the confirmation notice prior to the program, please call the ABA at (800)285-2221 at least 24 hours in advance to confirm that your registration was received.

Cancellation Policy
Requests for refund must be made in writing and received in the Section of Public Contract Law’s office on or before March 1, 2017 and will incur a $50 administrative fee. No refunds will be made after March 1, 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 Loews Annapolis Hotel, located at 126 West Street in the historic seaport of Annapolis, Maryland, is an easy drive from both Baltimore and Washington, D.C., and only 18 miles from Baltimore-Washington International Airport (BWI). ABA guests will receive complimentary internet access in guest rooms.

When booking reservations, please refer to the ABA Public Contract Law 23rd Annual Federal Procurement Institute. Rooms are available for check-in after 4 pm and check-out time is 12:00 noon. Individuals with guaranteed reservations must cancel their reservations by 24 hour prior to the scheduled day of arrival to avoid a one night’s cancellation charge. The rooms are available on a first-come, first-serve basis. The section’s room block will be available until Friday, February 17, 2017 at 5:00 pm (CST) or whenever the block fills, whichever comes first. Parking rates range from $8–$23 per day.

Attendees Rate
The special room rate for meeting attendees is $173 single/double, plus 13% tax per room per night.

You may reserve your accommodations at the Loews Hotel online at https://www.loewshotels.com/annapolis/section-of-public-contract-law or by calling Loews directly at 800.526.2593.
**Government Rate**
A very limited number of rooms are also available for government employees at the rate of $103 single/double. Proof of current government employment will be required at check-in to be entitled to this $103 room rate.

Call 800-526-2593 and ask for block code **ABG315**.

**Ground Transportation**
Super Shuttle operates a van/bus service between BWI and Annapolis. Information about this service can be obtained by calling 800.258.3826 or booking online at www.supershuttle.com. The cost is $39 per person each way.

**Special Airline Discounts**
Take Advantage of ABA-negotiated discounts on American*, United, and Delta Airlines! If you are an ABA member, you may do so automatically by using ABA Egencia, either offline at 877.833-6285 or online at www.americanbar.org/travel (click on the Egencia logo). If you are not an ABA member, or you prefer to book directly through the carrier, the following discount codes can be used:

- **American Airlines:** *ABA Discount only available through ABA Egencia.*
- **United Airlines:** Call 800.426.1122, Agreement Code: 374477 / Z Code: ZVWE or visit www.united.com, Online Code: ZVWE374477.
- **Delta Airlines:** Call 800.328.1111 or visit www.delta.com, and use Meeting Event Code: NMN7K (Domestic).

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

**Services For Persons With Disabilities**
We encourage participation by all individuals. If you are a person with a disability, please give us advance notice of any special arrangements you require so we can best accommodate you. Please call or email Ernestine Leibas at 312.988.5699 or Ernestine.Leibas@americanbar.org by February 17, 2017.

**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.

**CLE /CPE 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 16.0 CLE credit hours (including 2.0 ethics hours) in 60-minute states, and 19.2 credit hours (including 2.4 ethics hours) in 50-minute states. These credit hours include those for the Optional Practicum and Optional Construction Division Program. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states.

The American Bar Association is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.learningmarket.org.
23RD ANNUAL FEDERAL PROCUREMENT INSTITUTE AND MIDYEAR COUNCIL MEETING
March 15–18, 2017 • Loews Annapolis Hotel, Annapolis, MD

Register online at: www.ambar.org/PubConFPI17
Register by February 17, 2017 to obtain discount

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

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<th>By Feb 17</th>
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<td>$650</td>
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<td>ABA Law Student Section Member</td>
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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

Your registration fee includes continental breakfasts, coffee breaks, Friday luncheon, receptions, and two days of speakers’ written presentations available in advance through a web link that will be provided. No written materials will be available on-site. You may wish to bring a laptop, notebook, or tablet to view the materials onsite as complimentary Wi-Fi access will be available.
Wednesday, March 15
Women’s Networking Event
  ❑ Registrant

Optional CLE Practicum:
  ❑ Registrant $40

Reception hosted by PwC
  ❑ Registrant  N/C

Thursday, March 16
Optional Construction Division CLE Luncheon Program
  ❑ Registrant  $40

Young Lawyers “No Host” Networking Lunch
  ❑ Registrant  Cash only

Reception hosted by WilmerHale
  ❑ Registrant  Spouse/Guest  N/C

“No Host” Dine-Out Dinner
  ❑ Registrant  Cash only

Fellows “No Host” Networking Dinner
  ❑ Registrant $72

Friday, March 17
Program Luncheon
  ❑ Registrant  N/C

Section Reception
  ❑ Registrant  Spouse/Guest  N/C

Saturday, March 18
  ❑ Council Meeting  N/C

FEES DUE
Registration Totals
Registration Fee $__________
Other Events $__________
Total for Amount Due $__________

Payment Method
  ❑ Enclosed is my check, made payable to the American Bar Association.
  ❑ Credit card payments accepted online only at: www.ambar.org/PubConFPI17

Register online at www.ambar.org/PubConFPI17
Future Meetings

April 27–28, 2017
12th Annual State and Local Procurement Symposium
Ritz Carlton Hotel, St. Louis, MO

August 10–12, 2017
Annual Educational Programs/Open Council Meeting
Marriott Marquis Hotel, New York, NY

November 2–4, 2017
Fall Educational Program/Open Council Meeting
Seelbach Hilton Hotel, Louisville, KY

March 14–17, 2018
24th Annual Federal Procurement Institute (FPI)/Open Council Meeting
Loews Hotel, Annapolis, MD

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