

A nighttime photograph of a cityscape, featuring a prominent white dome building, likely a state capitol, illuminated against a dark sky. The foreground shows blurred lights and structures, suggesting an urban environment.

## 2015 JACKSON LEWIS GOVERNMENT CONTRACTOR EMPLOYMENT LAW SYMPOSIUM

**Government contractors have unique challenges with respect to compliance with employment and labor laws generally, and with specific obligations imposed by FAR Clauses and Executive Orders that arise from entering into federal contracts. Existing and proposed regulations are putting government contractors under the spotlight. Compliance is critical to every contractor's business plan.**

A first step in this ever-changing legal landscape is identifying actions contractors should consider taking. Join attorneys from a multi-disciplinary team of national employment law firm Jackson Lewis for a full day of interactive discussions and practical solutions addressing the latest developments in workplace laws and requirements. Come with questions, leave with a plan.

This unique, fast-paced, intermediate-to-advanced level seminar is geared towards in-house counsel, management and HR professionals.

## PROGRAM DETAILS

**WEDNESDAY, OCTOBER 14<sup>TH</sup>**

8:00 am – 5:00 pm

**Hyatt Regency Reston**

1800 Presidents Street ■ Reston, VA 20190

Registration fee is \$150 and includes breakfast, lunch, cocktail reception, parking, and materials.

Jackson Lewis reserves the right to refuse participation to anyone other than a bona fide management representative. **ATTORNEY  
ADVERTISING**

### Questions?

Please contact Ramlah Bari at [ramlah.bari@jacksonlewis.com](mailto:ramlah.bari@jacksonlewis.com).

**CLICK HERE TO REGISTER**

# SYMPOSIUM TOPICS

## PLENARY SESSIONS:

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### **Understanding and Preparing for Compliance with the Fair Pay and Safe Workplaces ("Blacklisting") Executive Order**

As required by President Obama's Fair Pay and Safe Workplaces Executive Order, the U.S. Department of Labor and the Federal Acquisition Regulatory ("FAR") Council have issued proposed guidance and regulations requiring government contractors and subcontractors to report at the pre-award phase of the contracting process and regularly thereafter on a variety of workplace law violations found by administrative agencies, the courts, and arbitrators. The government will then take an employer's record of violations into account when deciding whether to award contracts, cancel existing contracts, and potentially demand remedial action to address a pattern of violations. In addition, employers with a government contract exceeding \$1 million will be prohibited from requiring employees to enter into mandatory pre-dispute arbitration agreements for disputes arising out of Title VII of the Civil Rights Act or torts related to sexual assault or harassment.

The proposed regulations and guidance will impose onerous new recordkeeping and reporting responsibilities on most government contractors and subcontractors that will require careful planning. We will highlight areas of particular concern to government contractors and subcontractors and identify actions contractors should consider taking now in preparation for compliance with the requirements.

### **It's Hard to be a Government Contractor – And It's About to Get Harder**

In 2014, President Obama signed executive orders imposing significant requirements on employers that do business with the federal government. The Office of Federal Contract Compliance Programs has embarked on a national wave of compliance audits, newly and vigorously enforcing veterans and disability regulations and its rapidly changing approach to investigating pay systems for potential discrimination. This session discusses the new requirements, as well as ongoing agency initiatives, such as sexual identity and gender identity discrimination and systemic discrimination.

## RAPID FIRE PLENARY SESSIONS:

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### **The New DOL Regulations Regarding Overtime**

We will discuss the implications of the proposed new rules on "white collar" exemptions to "streamline and modernize" the 2004 rules ... and restrict the exemption for challenged positions.

### **Controlling Marijuana Use in the "Legalized" Workplace Environment**

This session surveys the legal landscape of de-criminalized marijuana use and its impact on workplace policies and off-duty conduct.

### **EEO Claims in the Age of Big Data**

"Big Data" is changing everything, including employment law litigation. The EEOC and private plaintiffs have become adept at transforming individual claims of discrimination into systemic issues, and then slicing and dicing company-wide data to find "hidden" trends in hiring, firing and compensation activity. In this session, learn how to use technology, data and cutting-edge techniques to strategically and proactively analyze data to defeat or drastically reduce class-based liability.

### **Dealing with an Employee's Unlawful Conduct**

Learn strategies for investigating suspected illegal or questionable employee conduct, including sensitive internal investigations, appropriate disciplinary measures, and coordination with government agency actions.

### **Strategies for Handling Workplace Violence Concerns**

OSHA and state agencies are demanding that employers take steps to reduce the risk for violence in the work environment. Learn the preventive steps that can reduce the likelihood of a workplace violence incident including an active shooter event, and, if a workplace violence incident occurs, what to do and how to handle any related litigation or investigations.



## **BREAKOUT SESSIONS:**

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### **Corporate Compliance, Ethics Requirements, and the False Claims Act**

Companies that do business with the federal government are subject to specific, evolving compliance and ethics requirements, many of which relate to employee conduct, awareness programs, and non-retaliation. In fact, the Federal Acquisition Regulation (“FAR”) has been amended twice in the past five years, and the amendments impose specific compliance requirements and penalties, which include debarment. In addition, government regulators are leaning on employees to act as informants with respect to alleged organizational misconduct, and state and federal statutory laws protect employees and may even offer monetary incentives to employees who “blow the whistle” on employers. This session will cover specific requirements of the FAR amendments and the U.S. sentencing guidelines. We will outline the process by which contractors can establish a project team and develop a plan to meet the necessary elements of a compliance and ethics program. We also will discuss the emerging whistleblower aspects of corporate ethics compliance and the tension between reporting matters internally versus externally.

### **Overreaching by the EEOC and NLRB: How to Avoid Unwanted Agency Attention**

The EEOC has become more aggressive and litigious every year, focusing primarily on “high priority” initiatives such as criminal background checks, pregnancy accommodations, sexual orientation/gender identity, and retaliation. Some of these topics fall outside the agency’s statutory mission and authority. Although court decisions routinely lambaste the EEOC for overreaching, the agency has not been deterred from its course. At the NLRB, non-unionized employers face risks based on radical new decisions that invalidate commonly-accepted employer practices. Even such longstanding policies as at-will disclaimers, confidentiality agreements, and standards of conduct create new risks for employers, if the Board concludes that those policies remotely could impact “protected concerted activity.” The Board’s decisions have immunized a wide variety of employee misconduct even, such as profanity, threats, harassment of others and disclosure of confidential information, all in the name of Section 7. We will discuss these agencies’ latest enforcement efforts and ways to avoid “hot button” issues that may draw unwanted attention for your organization.

### **How the New Ban-the-Box Laws Impact the Hiring Practices of Government Contractors**

Recent developments in the law have resulted in increased scrutiny of employers’ criminal and credit background check policies. For example, the EEOC has issued guidance that restricts pre-employment inquiries into applicants’ criminal backgrounds and, over the past few years, local jurisdictions (including the District of Columbia and several Maryland localities) have enacted legislation limiting employers’ inquiries into applicants’ criminal history. This session will provide information to assist government contractors with developing proactive strategies for reviewing and refining their background check programs.

### **Disability, Leave & Health Management: Navigating Increasingly Complex Leave Laws**

This session offers practical management tools to help employers effectively handle employee FMLA leaves, navigate the ADA interactive process, and review the types of accommodations employers may be obligated to consider and offer to employees for disability and pregnancy reasons.

### **Top Compliance Challenges with The Service Contract Act and Federal Minimum Wage for Federal Contractors Executive Order**

Compliance with the Service Contract Act should be a top priority for contractors subject to this law. Contractors with SCA contracts for the same or similar service at the same location must understand and comply with the Non-Displacement of Qualified Workers Executive Order requirements. Additionally, if subject to the Federal Minimum Wage for Federal Contractors Executive Order, contractors should know who is covered by the requirements and how to implement a compliance plan. Department of Labor audits and enforcement proceedings are aggressive and on the rise and can result in: back pay, overtime violation penalties; withholding of contract funds; and debarment for three years from all government contracts.

### **Covering Your Assets: Making Defensible Employment Decisions Without Upsetting Your Client**

Government contractors face unique challenges when making personnel decisions. Contractors must comply with increasingly complex employment laws while satisfying their clients. Sometimes these objectives are at odds: your company’s client, your client’s worksite, but your employee. We will walk you through common scenarios that put HR professionals and in-house counsel in challenging positions to protect their company against lawsuits while maintaining the critical relationship between their company and its clients and discuss the best ways to balance those competing interests.

# SYMPOSIUM AGENDA

<b>8:00 – 9:00 a.m.</b>	<b>Registration and Breakfast</b>
<b>9:00 – 9:50 a.m.</b>	Understanding and Preparing for Compliance with the Fair Pay and Safe Workplaces ("Blacklisting") Executive Order
<b>9:50 – 10:10 a.m.</b>	The New DOL Regulations Regarding Overtime
<b>10:10 – 10:30 a.m.</b>	Controlling Marijuana Use in the "Legalized" Workplace Environment
<b>10:30 – 10:45 a.m.</b>	<b>Break</b>
<b>10:45 – 11:05 a.m.</b>	EEO Claims in the Age of Big Data
<b>11:05 – 11:25 a.m.</b>	Dealing with an Employee's Unlawful Conduct
<b>11:25 – 11:45 a.m.</b>	Strategies for Handling Workplace Violence Concerns

**11:45 a.m. – 12:50 p.m.**      **Lunch**

## **BREAKOUT SESSIONS:**

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<b>12:55 – 1:35 p.m.</b>	Corporate Compliance, Ethics Requirements, and the False Claims Act <b>OR</b> Overreaching by the EEOC and NLRB: How to Avoid Unwanted Agency Attention
<b>1:40 – 2:20 p.m.</b>	How the New Ban-the-Box Laws Impact the Hiring Practices of Government Contractors <b>OR</b> Disability, Leave & Health Management: Navigating Increasingly Complex Leave Laws
<b>2:25 – 3:05 p.m.</b>	Top Compliance Challenges with The Service Contract Act and Federal Minimum Wage for Federal Contractors Executive Order <b>OR</b> Covering Your Assets: Making Defensible Employment Decisions Without Upsetting Your Client

## **PLENARY SESSION:**

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<b>3:10 – 4:00 p.m.</b>	It's Hard to Be a Government Contractor – And It's About to Get Harder
<b>4:00 – 5:00 p.m.</b>	<b>Cocktail Reception</b>