



# PACA Pulse

SUMMER 2011

PROFESSIONAL AEROSPACE CONTRACTORS ASSOCIATION OF NEW MEXICO

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## BFI Celebrates its Silver Anniversary

This year's Briefing for Industry, sponsored by PACA and supported by the Air Force Research Laboratory (AFRL), drew 410 registered attendees from across the country and included a celebration of its 25th year. Chaired by **Ron Unruh** for the 15th consecutive year, it was held at Hotel Albuquerque in Old Town on August 15-17. PACA signed up 20 new members who also participated in the event, nine from out-of-state.

**Major General William N. McCasland**, AFRL Commander was the kickoff speaker and outlined AFRL's mission, vision, and strategies. His support, energy, and enthusiasm was evident as he made himself available to the attendees for the entire two-day event.

The soon to retire **Col. Robert Maness**, Commander of the 377th Air Base Wing at Kirtland Air Force Base, opened the conference with an overview of KAFB accompanied by an informative video. And in addition to the presentations from representatives of the nation's defense laboratories based in New Mexico, AFRL, and United States Air Force entities, this year's keynote speakers were particularly entertaining. Retired NASA astronauts and native New Mexicans **Sid Guterrez** and **Harrison (Jack) Schmitt** delivered the Tuesday and Wednesday luncheon keynotes. Both shared personal stories of their space missions and wondrous photos of take-offs and landings, the earth taken from space, as well as moon images shot from moonwalks.

The highlight of the conference was undeniably the 25th Silver Anniversary Celebration Banquet keynote address presented by **Brigadier General Garrett Harencak**, Commander of Air Force Nuclear Weapons Center, KAFB. His humorous delivery regarding his insights, appreciation of civilian contractors, and reflection of

32 years in the Air Force earned him many laughs, deference, and a standing ovation. He considers contractors to be vital teammates in carrying out military operations. "We can't accomplish what we do without you contractors," the General stated. "The civilian engineers, physicists, and scientists do great things in serving as our mission partners."

General Harencak also emphasized that whether the United States is at war or not, the military's weapons are used every



**Brigadier General Garrett Harencak**

day. "Deterrence is vital to the defense of America and I have to advocate for that," he stated. "During the Cold War people understood this, but don't understand it so well today." He accentuated the need to re-educate the public regarding the value of the nation's nuclear deterrent. "It's a bargain compared to not having an effective deterrent," he said. He concluded his compelling speech by honoring the men and

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women serving in all branches of the armed forces.

The ongoing financial success of the annual event allows PACA to make scholarship contributions to State institutions of higher learning. Qualified science students will benefit from this year's PACA donations of \$4,000 to the University of New Mexico (General Samuel C. Phillips Endowed Scholarship); \$8,000 to New Mexico Institute of Technology (Bobby Haddock Memorial Endowment Scholarship); and \$8,000 to New Mexico State University (The Richard W. Davis & Professional Aerospace Contractors Association Endowed Scholarship). The scholarship funds were presented to representatives of these schools at the 25th Anniversary Banquet on August 16.

A heartfelt thank you is extended to this year's BFI sponsors: **GAITS** (Diamond), **Moss Adams LLP** (Silver), **Orion International Technologies** (dinner sponsor), and **ATK** (Notepad and Pen sponsor).

Ron Unruh extends his gratitude to all presenters, speakers, sponsors, exhibitors, and committee members for making



this year's special 25th anniversary conference a resounding achievement. "The PACA BFI continues to be viable platform for AFRL and other federal and government organizations to provide insight into their technology strategies and upcoming procurement opportunities," Ron stated. "With the support of AFRL, it was a real pleasure hosting this year's BFI and I truly hope that each attendee gained some takeaways — whether it was a fresh new insight into future technology advancements, a new procurement opportunity, renewing old acquaintances, or simply meeting new and potential teammates via the networking opportunities provided by the BFI forum. We wish each attendee and their companies a successful year and hope to see all again at the 2012 BFI to be held on August 20-22, 2012."

A complete set of the briefings of the event, as well as an attendee list, will be posted on the PACA website no later than August 31, 2011. •

## President's Corner

*By Bill Miera*

I think all of you who attended our 25th Annual Briefing for Industry would agree with me that it was a tremendous success. We had two astronauts (along with their home movies and images taken from space and the moon!) speak at the luncheons. We were also given a look at the future of commercial space travel from Christine Anderson, Director of Spaceport America.

The attendees were given the Air Force Research Laboratory's Vision by Major General McCasland and 25 Government organizations presented briefs regarding over 100 procurement opportunities. There was a remarkable amount of networking amongst the contractors who attended, and PACA's goal of enhancing the communication between the contractor community and AFRL was certainly achieved.

We enjoyed a dynamic speech from Brigadier General Harencak, Commander of the Air Force Nuclear Weapons Center, at Tuesday's dinner. Also at the dinner, we recognized some of the founding fathers of PACA – Bill Faulds, first PACA President; Bob Johnson, second PACA President; Dick Trask, third PACA President; Bob Francis, first BFI Chairman, and original members Dr. Roger Hoppe, Tom Edan, and Russ Parsons.

At the 25th anniversary celebration dinner we also presented scholarship monies totalling twenty thousand dollars to the University of New Mexico, New Mexico State, and New Mexico Tech. This scholarship money will serve to promote education in science, technology, engineering, and mathematics at our local universities.

It was a pleasure on my part to serve as master of ceremonies on the first day. I extend a **thank you** to Ron Unruh, our BFI Chairman, and all the committee members who worked hard to make this special event a success.

I would like to announce our newest Board advisor. Recently retired from Sandia National Laboratories, Carol Yarnall has agreed to serve as PACA's Education chair. Thank you Carol, for picking up the mantel on this important responsibility.

I have spoken to the President of Virgin Galactic, George Whitesides, and he has committed to speaking at one of our upcoming monthly membership luncheons when he is in the country, so keep apprised of our upcoming speakers. And make sure to calendar Friday, December 2 and plan to attend our next big event — the annual PACA Christmas luncheon. As usual, it will be held at Tanoan Country Club and should be a lot of fun.

I will see you at the next luncheon on Tuesday, September 20, also at Tanoan, where the Honorable Timothy Hale, the newly appointed New Mexico Cabinet Secretary for Veteran's Affairs, will speak. •



**Bill Miera**

## PACA Profile: Sierra Peaks Corporation

With over 40 years of experience serving several federal government and law enforcement agencies, you might expect Sierra Peaks Corporation to have a defined list of products and a limited, well-established range of expertise. Instead, this veteran-owned, employee-owned, privately-held small business prides itself on its ability to meet a customer's challenges by combining mechanical, electrical, and software engineering skills with creativity, flexibility, and focus. "We solve hard problems," says John Kiegel, a member of Sierra Peaks' business development team. "When it is outside everyone else's niche, it's likely in ours."

A recent winner of the Flying 40 award and the honorable mention Falcon award, Sierra Peaks is headquartered in north Albuquerque, near Alameda and Jefferson. The company also maintains an office in Fairfax, Virginia. Between the two facilities, Sierra Peaks currently has 48 employees.

John Rockwell, owner and CEO of Sierra Peaks, has in excess of 30 years experience leading and owning technical organizations and designing electro-mechanical systems. He has a MS in Mechanical Engineering from Duke University and a BS in Mechanical Engineering from the University of Idaho.

Sierra Peaks delivers engineering services to its customers along with development, fabrication, and short production runs of specialty manufactured products. The company's capabilities include electrical, mechanical, software, and machine automation engineering and sensor integrations; mechanical, electrical and textile integrations; assembly; and testing. The company develops and manufactures specialty items in small quantities of 10–100 pieces, typically based upon commercial, off-the-shelf (COTS) products. Sierra Peaks also manufactures original items as necessary from metals (machine shop, sheet metal, water jetting, welding), plastics, ceramics, wood, fabric, leather, and special textiles that contain electronic or mechanical elements (smart fabrics). Typically Sierra Peaks' products result in few off-the-shelf products.

When a customer brings a systems integration challenge to Sierra Peaks, the company begins the process of finding solutions through its mature Project Management methodology. Upon receiving the customer requirements or problem statement, a project manager and a team of engineers will review the problem, assumptions, potential solutions, risks, and trade-offs. A detailed schedule and cost estimate are generated to confirm the customer's

expectations, and kickoff, preliminary design review, and critical design review meetings are held to ensure that all necessary parties have input into the solution. Critical paths are determined, monitored, and pursued in parallel to expedite project completion.

Customer communication is critical to keeping solutions simple and maximizing product testing before a product is delivered to the customer. Sierra Peaks prides itself on its ability to handle Quick Reaction Capability (QRC) projects, and has a proven track record implementing its QRC approach for the federal government. Sierra Peaks works with the customer to develop ideas from scratch or builds upon customer concepts to meet demanding field challenges. It is common for Sierra Peaks to produce tens

to hundreds of these specialty items as a manufacturer. Its scalable production facilities allow quick delivery timelines.

Sierra Peaks has the capability to integrate video, audio, GPS, biometrics, tagging, tracking, and other devices into COTS products. Size, weight, and power considerations are usually very important for its customers. In addition, Sierra Peaks specializes in Smartphone software modification, using its in-house research and development facilities.

The company is National Industrial Security Program Operating Manual compliant, ISO 9000 certified, and AS



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## Sierra Peaks Corporation *continued*

9100 certified for manufacturing. All personnel maintain a Secret Clearance or better, providing their customers with an added measure of security.

Sierra Peaks recently broadened its capabilities by purchasing Automation Concepts Incorporated. A 10-year-old Albuquerque company, Automation Concepts offers expertise in automated motion control, robotics, and material handling equipment. Automation Concepts also brings to Sierra Peaks a business using this expertise to fabricate custom-built automated machines for commercial manufacturing.

Traditionally, 90% to 95% of the company's revenues were derived from government contracting. Following the acquisition of Automation Concepts, about 15% of Sierra Peaks' revenues this year are expected to come from commercial customers, with the remaining 85% continuing to be government business. Approximately 70% of the company's government work represents prime contracts with the federal government, including the Department of Defense and the Department of Energy. The remaining 30% of government work comes from subcontracts, typically with large Fortune 50 companies.

Sierra Peaks' plan for the future is to grow the company, with a particular emphasis on its commercial business. Commercial demand is poised for a substantial increase.

The business plan also includes continuing to make Sierra Peaks a great place to work. When he bought the company in 2000, John Rockwell enhanced the existing corporate culture by promoting a healthy balance between the work and home life of his employees. "We work as a team; are dedicated to the common good of the team; share responsibility and share credit. Sierra Peaks has a fun, dynamic, working environment dedicated to meeting or exceeding our customer's requirements. We promote innovation, creativity, quality, rapid response and fun," he



Sierra Peaks Headquarters  
8436 Washington Place NE, Albuquerque, NM

explains. This philosophy is mirrored in the company's mission statement: "Meet or exceed customer expectations, have fun and make the world a better place." The result is a highly motivated corporate family with very little turnover.

Sierra Peaks is represented in PACA by the aforementioned John Kiegel. John is a member of PACA's board of directors and is serving his second (!) two-year term as PACA treasurer. By providing opportunities for networking within the aerospace community, PACA has been a valuable resource for Sierra Peaks. As John puts it, "Attending meetings helps Sierra Peaks stay in tune with local business events and opportunities."

Additional information about Sierra Peaks Corporation can be found at [www.sierra-peaks.com](http://www.sierra-peaks.com). •

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## PACA Luncheon Sponsorship Opportunities

The Board of Directors has launched a pilot program for the mutual benefit of the organization and the membership. PACA members may sponsor a luncheon and receive the benefits listed below. Sponsorship provides an excellent opportunity to showcase your business.

If you are interested in taking advantage of this new program, contact Maran Vedamanikam at 797-3042 or Ro Saavedra at 830-2345.

### Bronze Sponsors \$100

- Display booth at Luncheon (table stand only)
- President will publicly thank your company at Luncheon
- PACA will host a company representative at Luncheon

### Silver Sponsors \$250

- Display booth at Luncheon (table stand only)
- President will publicly thank your company at Luncheon
- PACA will host a company representative at Luncheon
- Your Company may post banner at Luncheon

### Gold Sponsors \$500

- Display booth at Luncheon (table stand only)
- President will publicly thank your company at Luncheon
- PACA will host a company representative at Luncheon
- Your Company may post banner at Luncheon
- Five minute presentation about your company at Luncheon
- Your company-provided information highlighted on PACA's website
- Advertisement in PACA Pulse
- Sit at head table with guest speaker

***There will be a maximum of two Sponsors per monthly lunch. •***

## Upcoming Luncheon Speakers

### ■ September 20 – Honorable Timothy Hale, New Mexico Cabinet Secretary for Veteran Affairs



Col. Hale is introduced at the 2011 Legislative Session.

Retired U.S. Air Force Col. Hale has held his Cabinet position since March of this year. A decorated veteran, he retired in 2008 after serving 28 years with the Air Force. The bulk of his service was as a C-130 Special Operations Transport Pilot, flying 125 combat sorties in the wars in the Persian Gulf, Iraq, and Afghanistan. He also served as Commander of the 386th Air Expeditionary Wing in Iraq, overseeing the day-to-day operations of a force of 3,000 personnel. Col. Hale has also been stationed overseas in Japan and Kuwait.

Col. Hale has also headed Higher Calling Aviation, Inc., a company tasked with providing all levels of Federal Aviation Association-approved flight training in central New Mexico. He holds a B.S. from St. Louis University, an M.A. from Webster, and an M.S. from the National Defense University in Washington, D.C.

(According to the U.S. Department of Veterans' Affairs, there are 176,000 veterans in New Mexico; 30,000 have served since the Persian Gulf War.)

### ■ October 18 – Brigadier General John Ferrari, Commander U.S. Army White Sands Missile Range (Invited)

Brig. General Ferrari very recently assumed command of White Sands Missile Range after serving as deputy commander for programs, Combined Security Transition Command-Afghanistan, Operation Enduring Freedom.

A former economics instructor at West Point, he played a major role in whipping Afghan battle forces into shape. He

recently spent 18 months in Afghanistan managing the resources necessary to generate and sustain an Afghan army of 171,600 and an Afghan police force of 134,000. General Ferrari was previously the U.S. Army's Deputy Commander for Programs.



Brigadier General John Ferrari and his wife and children are welcomed during a ceremony at White Sands Missile Range.

### ■ November 15 – Nancy Davis, Director of Supply Chain Management at Sandia National Laboratories (Invited)

The purpose of Supply Chain Management is to help execute and grow Sandia's missions through meeting the various departments' needs for product, services, and information while satisfying regulatory requirements. Specific tasks include:

- Help acquire and manage goods and services
- Manage Sandia's supplier base
- Perform major subcontract management
- Design unique packaging for special materials
- Deliver hazardous and non-hazardous material
- Package and ship materials
- Provide mail services
- Provide transportation services
- Help Sandia's line organizations plan for mission project's supply chain needs
- Help track and manage organization assets
- Provide and maintain storage facilities for unique/mission critical assets, like explosives and radioactive materials
- Dispose and/or reapply assets no longer needed
- Manage and maintain Sandia's vehicle fleet

We meet the 3<sup>rd</sup> Tuesday of each month at **Tanoan Country Club** (Rolling Hills entrance east of Eubank off Academy). Registration begins at 11:30 a.m. followed by lunch at noon. Members are admitted free and the guest fee is \$15.

To RSVP, register online at [www.pacanm.org](http://www.pacanm.org). Include your name, guest's name, and menu selection. Please RSVP by noon on the Friday before the week of the meeting. •

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# Legal Insights:

## SBA Rewrite of 8(a) Business Development Program Regulations Revises Requirements for Joint Ventures and Mentor/Protege Agreements

By Ross Crown

On February 11, 2011, the Small Business Administration issued a final rule comprehensively revising the regulations governing the 8(a) Business Development Program. This is the first full revision of the 8(a) program in more than 10 years. Effective March 14, 2011, the new rule amends Parts 121 and 124 of Title 13 of the Code of Federal Regulations. The SBA's rewrite addresses all aspects of the 8(a) program but those changes concerning joint ventures and mentor/protege agreements are also of interest to contractors outside the 8(a) program. These arrangements are important to non-8(a) contractors because they may join forces with 8(a) companies by means of a joint venture and/or mentor/protege agreement and that relationship will not be considered an affiliation for purposes of determining if a contractor qualifies as a small business. See 13 CFR Section 121.103(b)(6) & (h).

### Joint Ventures

The revised regulations address various aspects of joint ventures between an 8(a) company and a non-8(a) partner. These revisions include the following:

#### • Limit on Number of Contract Awards

The old regulations limited a specific joint venture to submitting no more than three offers over a two year period. The new rule allows a specific joint venture to be awarded three contracts over a two year period. It also clarifies that the partners to a joint venture can form a second joint venture and be awarded three additional contracts and a third joint venture to be awarded three more. The SBA cautions that at some point, however, such a long-standing relationship or contractual dependence could lead to a finding of general affiliation (even in the mentor/protege context).

#### • Written Agreement Required for Joint Venture

The new rule clarifies that while a joint venture may or may not be a separate legal entity (e.g. a limited liability company) it must exist through a written document. Thus, even an informal joint venture must have a written agreement between the partners.

#### • Joint Venture May Be Populated or Unpopulated

The new rule clarifies that a joint venture may or may not be populated (*i.e.* have its own separate employees). The individual businesses involved in the joint venture should determine whether to form a separate legal entity for the joint venture and, if they do, further determine whether or not to populate the new entity. The SBA will not require a joint venture either to be populated or not populated.

#### • 8(a) Participant's Share of Profits

The new rule provides that the 8(a) participant in a joint venture must receive profits from the joint venture commensurate with the work performed by the 8(a) company.

#### • 8(a) Participant's Share of Work Performed

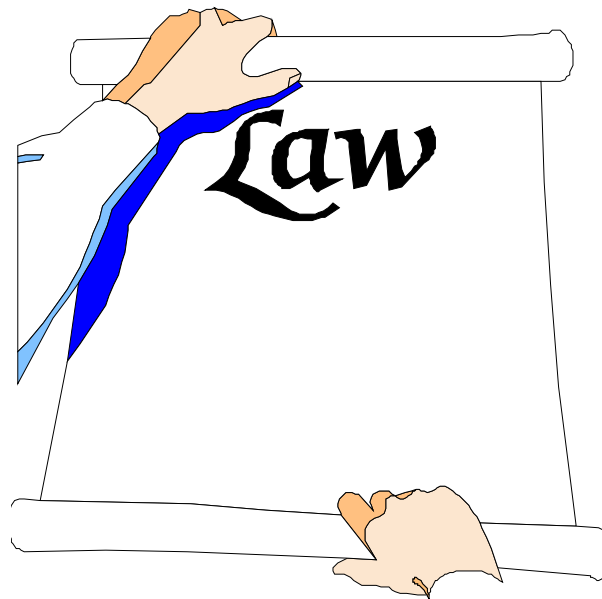
The regulations are amended to provide that the 8(a) participant in a joint venture receiving an 8(a) contract must perform at least 40% of the work done by the joint venture.

The SBA concedes that for a populated joint venture, the requirement that the 8(a) partner must perform at least 40% of the work may not always make sense. Where the joint venture is populated with one administrative person, then there is no reason that the 8(a) cannot perform at least 40% of the work. However, where the joint venture itself hires the individuals necessary to perform the contract, the work of the joint venture will be done by the joint venture. An 8(a) partner to such a joint venture must demonstrate clearly how it will benefit or otherwise develop its business from the joint venture relationship. Where an 8(a) participant cannot clearly

demonstrate the benefits it will receive, the SBA will not approve the joint venture.

#### • Report to SBA

The new rule requires that each 8(a) firm that performs an 8(a) contract through a joint venture must report to the SBA how the performance of work requirements (*i.e.* that the joint



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## Legal Insights *continued*

venture performed at least 50% of the work of the contract and that the 8(a) participant to the joint venture performed at least 40% of the work done by the joint venture) were met on the contract.

### Mentor/Protege Agreements

The final rule also amends the requirements of the mentor/protege program. These changes include the following:

#### • Agreement Must Follow Business Plan

The new rule specifically requires that assistance to be provided through a mentor/protege agreement be tied to the protege firm's business plan. While the SBA believes that this was implicit in the old regulations, the agency thought it was important to emphasize that the mentor/protege program is but one tool that can be used to help the business development of 8(a) participants in accordance with their business plans.

#### • Limit on Number of Proteges

Although the new rule states that a mentor would generally have one protege firm, it further provides that the number of proteges any mentor can have at any one time is three. The purpose of this revision is to prevent mentor firms from taking advantage of the 8(a) program by collecting proteges.

#### • Submission of Financial Information by Mentor

The new rule relaxes the requirement for submission of financial information by a firm seeking to be approved as a mentor. Such companies may submit federal income tax returns or audited financial statements, including any notes, or other evidence to demonstrate the firm's favorable financial health. The previous requirement that a proposed mentor must submit federal tax returns in all instances has proved to be impractical, particularly in the case of very large firms.

#### • Ending the Benefits of Mentor/Protege Agreements

The revised regulations expressly state that the benefits derived from a mentor/protege relationship end once the protege firm graduates from or otherwise leaves the 8(a) program. The SBA wanted to make clear that the exclusion from affiliation enjoyed by joint ventures between proteges and their mentors generally ends when the protege leaves the 8(a) program.

#### • Acquisition of Second Mentor

The new rule allows a protege to have a second mentor where it demonstrates that the second relationship pertains to an unrelated secondary NAICS code, the first mentor does not possess the specific expertise that is the subject of the mentor/protege agreement with the second mentor, and the two relationships will not compete or otherwise conflict with each other.

#### • Federal Subcontracts

The revised regulations allow a joint venture between a mentor

and protege to be considered small for the purpose of federal subcontracts.

#### • Reconsideration of Rejection of Mentor/Protege Agreement

The new rule clarifies the procedure for requesting reconsideration of the SBA's decision to deny a proposed mentor/protege agreement. No reconsideration process was authorized under the old regulations. The new regulations provide that where the SBA declines to approve a specific mentor/protege agreement, the protege may request reconsideration of this decision by filing a request for reconsideration with its servicing SBA district office.

#### • Mentor Failure to Provide Assistance

The revised regulations include a new section which sets forth consequences for a mentor that fails to provide the assistance it agreed to provide in its mentor/protege agreement. When the SBA determines that a mentor has not provided this assistance, the SBA will afford the mentor an opportunity to respond. If the mentor fails to respond, does not supply adequate reasons for its failure to provide the agreed upon assistance or does not set forth a definite plan to provide the assistance, the SBA may recommend a stop work order on the contract. Where a protege firm is able to independently complete performance of any contract awarded to a joint venture between it and its mentor, the SBA may authorize substitution of the protege firm for the joint venture. The SBA is also authorized by the new rule to terminate a mentor/protege agreement where the mentor has failed to provide the agreed upon developmental assistance and render the mentor firm ineligible to act again as a mentor for a period of two years thereafter.

### Impact of New Rule

Not only do companies participating in the 8(a) program need to be familiar with the comprehensive revisions to the 8(a) program, firms planning to do business with 8(a) companies as joint venture partners and/or mentors need to be familiar with the new regulations as well. While there are some exceptions, for the most part, the changes to the regulations governing the 8(a) program are intended to encourage relationships between small disadvantaged companies and larger, more experienced contractors. Non-8(a) companies must bear in mind however, that the focus of the 8(a) program remains on fostering the business development of small disadvantaged businesses. Where the business goals of a company seeking to work with an 8(a) company conflict with those of the participant, the SBA regulations favor the small disadvantaged company. •

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Ross is a partner in the Albuquerque office of Lewis and Roca LLP. This article is intended for general information only and should not be construed as legal advice or opinion. Any questions concerning your legal rights or obligations in any particular circumstance should be directed to your lawyer.

## Welcome NEW Members

**Rocky Arnold**

Exponent, Inc., Menlo Park, California

**Wheaton (Tony) Byers**

Techflow Scientific

**Frank Brueckner**

Raytheon Missile Systems, Tucson

**Shawn Cleary**

AEgis Technologies

**Steve Coy**

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**Timothy Lewis**

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Optical Engines, Inc., Colorado Springs

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Millennium Engineering & Integration

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SAIC

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PACA membership annual dues are \$150\*. The fiscal year runs from April 1, 2011 to March 31, 2012. Mid-year applications will be pro-rated. You may pay your dues and apply on-line at [www.pacanm.org](http://www.pacanm.org).

For more information, contact Maran Vedamanikam, (Membership Chair), 797-3042 / [maran@euroclydon.com](mailto:maran@euroclydon.com)

\* Dues are subject to change.

### Spread the News

If you know a potential member or anyone else who would like to receive the newsletter, please forward their e-mail address to [RoSaavedra@msn.com](mailto:RoSaavedra@msn.com).

This is your newsletter. If you would like to contribute an article, make announcements (promotion, job change, or a new product or service), please submit your newsletter contribution to the editor, Ross Crown, at [RCrown@LRLaw.com](mailto:RCrown@LRLaw.com) or call him at 764-5402.

Contributions are welcome! •