



# DACA Pulse

Volume 3, October 2007

PROFESSIONAL AEROSPACE CONTRACTORS ASSOCIATION OF NEW MEXICO

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## President's Corner *By Fred Jonas*

As I sit down to write my input for this issue of the PACA Pulse, the annual Briefing for Industry (BFI) is just around the corner – and will have been concluded by the time you read this. As with all PACA activities, this is supported by a dedicated group of volunteers from PACA and the BFI committee including representatives from the Air Force Research Laboratory (AFRL). It is being led again this year by Ron Unruh. This cooperative event between PACA and AFRL has led the way in defining similar events around the country.

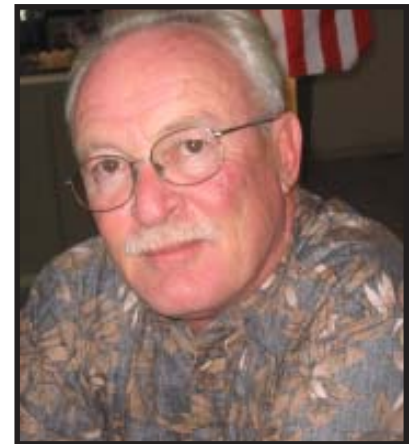
One measure of our success is the fact that others around the country have tried, and are trying, to duplicate our success. Last year we had 501+ attendees and we expect the same this year, if not more. Hopefully you were able to attend this year, but if not, we will do it again next year during the August 2008 time frame. Where else, in one place and over two days, can you hear about business opportunities from Federal agencies (principally DOD and DOE) located across New Mexico, as well as network and meet other business leaders in the aerospace community. My hat is off to our BFI committee, which gets better every year due to a lot of hard work on the part of many individuals.

A bit further out is the annual Christmas party offered to our membership and always a highlight for the year. This year it will be held at the Tanoan Country Club on Friday, December 7, notionally from 11 a.m. to 2 p.m. I look forward to seeing you there. In addition to celebrating the start of the holiday season, because of the date we will remember and honor those who have gone before us in the service of this great nation. If you have yet to join us for this event, now is a good time to do so. The planning for this event is being led by our Vice President, Maran Vedamanikam. Any and all input is welcome.

Our monthly lunch meetings will continue as always on the third Tuesday of each month (excluding August and December). Doing a stellar job of securing speakers of interest for these meetings is Dick Trask (thanks Dick!). Suggestions regarding who you would like to hear speak are certainly welcome at any time.

In other words, we have lots going on. Come join us! We are always looking to get better and be responsive to your needs. You can contact any one of us at any time; we always appreciate your input. The Board of Directors, as noted elsewhere on this page, includes myself, Maran Vedamanikam (Vice President), Burke Nelson (Secretary), Ginny Buckmelter (Treasurer), Dar Johnson (Past President), Bill Miera (Small Business Officer) and Dick Trask (Programs). Special committee members include Bill Dettmer, Stacy Sacco, Dennis Morrison, Ross Crown, Stu Purviance, Ron Unruh, Terry McCabe, Brian Barnett and Tim Carmichael.

Let us know how we can better serve you, and see you at the next meeting! •



# PACA Profile: Northrop Grumman

The size range of companies represented in PACA is broad. One of the real heavyweights is Northrop Grumman Corporation. Two of PACA's most valued members are Northrop employees, Ray Saunders and Burke Nelson, our secretary.

Northrop Grumman is a \$30 billion global defense and technology company with 120,000 employees worldwide. Its operations are vast and include command and control systems; large scale intelligence information systems; missile defense systems; advanced radar systems; civil government and public safety information systems; conventional and nuclear powered naval ships; satellites for a wide variety of missions; system sustainment, logistics support and training; high-energy laser systems; health information systems; and unmanned aerial vehicles.

*A few specifics:*

**Information Technology** - Northrop's Information Technology sector delivers full life-cycle solutions that meet mission, enterprise and infrastructure needs in information systems and services; C4ISR; strategic security; engineering and science; training and simulation; base and range operations; and enterprise IT solutions and products.

**Mission Systems** - Northrop's Mission Systems sector is a leading global integrator of complex, mission-enabling systems. The sector's technology leadership spans Command, Control and Communications; Intelligence, Surveillance; and Reconnaissance and Missile Systems.

**Technical Services** - Northrop's Technical Services sector provides life-cycle solutions and a foundation for long-term technical services. Technical Services is poised for growth in the logistics support, sustainment, and technical services marketplace. Key areas of focus include support services for Northrop Grumman OEM (Original Equipment Manufacturer) products, non-platform service opportunities, and third-party product support opportunities.

**Electronic Systems** - Northrop's Electronic Systems sector is a world leading provider of airborne radar, navigation systems, electronic countermeasures, precision weapons, airspace management systems, space systems, marine and naval systems, communications systems, and government systems.

**Integrated Systems** - Northrop's Integrated Systems sector designs, develops, produces and supports network-enabled integrated systems and sub-systems for U.S. government, civil, and international customers. It also supports the military with intelligence, surveillance and reconnaissance; battle management command and control; and integrated strike warfare.

**Space Technology** - Northrop's Space Technology sector develops a broad range of systems at the leading edge of space, defense, and electronics technology. The sector is a leading developer of military and civil space systems, satellite payloads, and advanced technologies from high-power lasers to high-performance microelectronics.

**Newport News** - Northrop's Newport News sector is the nation's sole designer, builder, and refueler of nuclear-powered aircraft carriers and one of only two companies capable of designing and building nuclear-powered submarines. The sector also provides services for a wide array of naval and commercial vessels.

**Ship Systems** - Northrop's Ship Systems sector is one of the nation's leading full-service systems companies for the design, engineering, construction, and life cycle support of major surface ships for the U.S. Navy, U.S. Coast Guard and international navies, and for commercial vessels of all types.



**Albuquerque Operations** - Northrop Grumman grew by acquisitions, from the original Grumman acquisition, to Vought, Westinghouse Electronics, Ryan, Litton, TRW, and many others. The company's Albuquerque operations are an example. What is now the Science and Engineering Applications Division went from RDA to Logicon to the IT Sector of Northrop Grumman. This facility is located on Yale at Randolph. Northrop's Albuquerque Mission Systems facility is located on North I-25.

Northrop's original Systems Engineering group was established in New Mexico in 1977. It has provided uninterrupted high-tech support to AFWL (now AFRL) in the areas of high energy lasers, optics, beam control, and imaging modeling. Northrop is the prime contractor on the Airborne Laser Advisory and Assistance Services Contract, coordinating the efforts of its support staff and 12 subcontractors. The company also has the Operations and Maintenance contract at the High Energy Laser Systems Test Facility.

Northrop Grumman is proud to work side-by-side with its military and contractor partners. Additional information about Northrop can be obtained from its Web site at [www.northropgrumman.com](http://www.northropgrumman.com). •



Northrop Grumman Electro-Optical Systems is a world leader in the development of night vision technology and electro-optical systems and products for the U.S. military, law enforcement, and search and rescue operations.

**Eyes for the Darkest Night**

## PACA Luncheon Speakers



- **November 20, 2007**  
Dr. David A. Hardy  
Associate Director for Space  
Technology, Space Vehicles  
Directorate, Air Force Research  
Laboratory
- **December 7, 2007 (Friday)**  
Annual Christmas Luncheon
- **January 15, 2008**  
Tami Johnson  
Head of Contracting, Directed Energy  
and Space Vehicles Directorates, Air  
Force Research Laboratory

We meet the 3<sup>rd</sup> Tuesday of each month at the Mountainview Club (located on Club Road on the east side of Kirtland Air Force Base). Registration begins at 11:30 am followed by lunch at 12:00 noon. Members are free and Nonmember/Guests are \$15.

To RSVP, e-mail PACA at [paca@ngc.com](mailto:paca@ngc.com) or call the PACA hotline at 842-8911, ext.333. Include your name, guests' names and menu selection (typically a meat, fish or vegetarian dish). Please RSVP by the Friday before the week of the meeting. If you do not have access to KAFB, please include a request for a base pass (to the Wyoming gate) with your luncheon order. •

## Congratulations to Virginia Buckmelter

PACA extends congratulations to our very own treasurer, Virginia Buckmelter. Ginny is the Chief Executive Officer of Entereza Network Solutions, Inc. Entereza was one of 40 New Mexico technology firms recognized at the 2007 "Flying 40" luncheon held at the Embassy Suites in June.

Jobs at the Flying 40 companies increased from 2,636 in 2002 to 4,294 in 2006, a 63% increase. Revenue in the Flying 40 increased from \$401 million in 2002 to over \$763 million in 2006, a 90% increase. The Flying 40 program, now in its tenth year, recognizes the 40 fastest-growing technology companies headquartered in New Mexico.

The Flying Forty awards are sponsored by the Business Outlook section of the Albuquerque Journal, KPMG, New Mexico Bank and Trust, and Technology Ventures Corporation. •

## Industry Events



**November 29:** Team Kirtland 6th Annual "Contractor Expo," 10:00 am - 2:00 pm, KAFB East Fitness Center, 8150 Texas St. & F Ave. Hosted by the AFRL/VS Small Business Office and Team Kirtland members including AFRL, Nuclear Weapons Center, 377 ABW, Sandia National Laboratory, National Nuclear Security Administration, AFOTEC and Space & Missile Command. For more information, call DJ at Exhib-It! at (505) 828-0574 or e-mail her at [Marketing@exhib-it.com](mailto:Marketing@exhib-it.com). The Vendor booth fee is \$75 plus a \$20 door prize contribution. The booths are reserved in the order received. All checks must be received by October 31, 2007.

**December 4-6:** The New Mexico State University UAS Technical Analysis and Applications Center (TAAC) is holding its 9th Annual UAS Conference December 4-6, 2007 at the Tamaya Hyatt Regency Resort located on the Santa Ana Pueblo north of Albuquerque.

The conference will feature Mr. Dyke Weatherington, Deputy, Unmanned Aircraft Systems Planning Task Force, Office of the Secretary of Defense, as the conference chair and keynote speaker. Nick Sabatini (invited), Associate Administrator for Aviation Safety, Federal Aviation Administration is also a keynote speaker for FAA UAS "Airspace Day." Joining them as Distinguished Speakers will be Major General Kenneth Israel, (Ret.), Vice President, Architecture Development, Lockheed Martin Space Systems Company and Maj. Gen. Michael Kostelnik (Ret), Assistant Commissioner, Office of CBP Air and Marine, U.S. Customs and Border Protection. These and other notable participants from the UAS community will bring everyone up-to-date on UAS.

A reception on the evening of December 3 will kick-off the conference. Classified sessions, limited to U.S. citizens with appropriate clearances (Interim Clearances will not be accepted), will be held on December 4, 2007 at a state-of-the-art facility. There are no citizenship restrictions for the general sessions December 5-6, 2007.

*For more information, visit*  
Homepage: <http://www.psl.nmsu.edu/uav/conferences/2007>  
Agenda: <http://www.psl.nmsu.edu/uav/conferences/2007/agenda.php> •



# Legal Insights: Documenting Teaming Arrangements

By Ross Crown

The article on teaming arrangements in the last issue of the Pulse discussed the basics of contractor teaming arrangements. This article looks at documenting those arrangements. There are a series of documents that together can constitute a teaming arrangement. Not all teaming arrangements will include all of these documents but potentially they could consist of an initial agreement concerning disclosure of proprietary information, a letter of intent to form a team, a memorandum of understanding concerning a potential teaming relationship, a teaming agreement and either a subcontract or some form of joint venture agreement. A teaming arrangement that is unsuccessful in obtaining a contract may wish to conclude the matter with a dissolution agreement.

The key document defining a teaming arrangement is the teaming agreement. This agreement usually provides that in the event of a contract award, the parties will enter into a contractor/subcontractor relationship. Alternatively, the teaming agreement may provide that if a team is successful in obtaining a contract, the parties will enter into a joint venture. A joint venture can take the form of a partnership, limited partnership, corporation or a limited liability company.

Whether they anticipate formation of a contractor/subcontractor relationship or a joint venture, there are several critical terms that the parties must consider in negotiating a teaming agreement. These provisions include the following:

- **Statement of Work:** The parties should define the work that each intends to perform under the anticipated contract. As noted by commentator Michael W. Mutek in his book, *Contractor Team Arrangements*, parties generally want to know what kind of work they will be doing before committing resources to a team effort. However, where the parties plan to enter into a prime contractor/subcontractor relationship, the prime contractor may wish to keep its options open by not allocating work until the contract is awarded.

- **Exclusivity:** Normally, both parties will seek an exclusive relationship because it is difficult for a company to be a member of more than one team. Further, multiple allegiances may raise questions as to whether the parties are contributing their best efforts and if proprietary information might improperly be disclosed. An exclusivity provision also serves to define the limits of exclusivity so as not to preclude either party from bidding or contracting independently on matters unrelated to the subject contract.

- **Intellectual Property Rights:** Intellectual property rights may be addressed in a teaming agreement as well as any subsequent agreement between the parties. Such a provision might indicate that each party shall retain title to its own intellectual property and that the other parties are authorized to use the party's intellectual property but only to accomplish

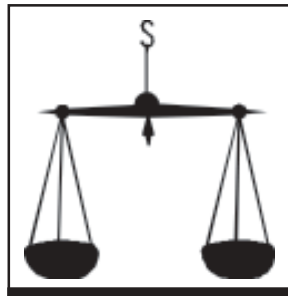
the objectives of the agreement. In addition, the clause could allocate title to any intellectual property developed during performance of the contract independently by one of the parties and by the parties jointly. The provision might also address how intellectual property provided by one party to the other for performance of the contract is to be handled and, after expiration of the contract, how this information will continue to be protected.

- **Alternative Dispute Resolution:** The agreement should include some provision for alternative dispute resolution so that if the parties cannot agree on the terms of a subsequent subcontract or joint venture agreement, there will be a procedure for resolving the impasse instead of simply ending the relationship. This clause could include a dispute escalation procedure by which the parties agree that if negotiation is not succeeding, then the parties would progress to mediation followed by, if necessary, arbitration to resolve the dispute.

- **Termination:** The agreement should be clear as to when the relationship between the parties terminates and what obligations, such as those relating to protection of intellectual property rights, survive the termination. Termination can occur upon the failure of the team to receive contract award, upon cancellation of the program by the customer and/or after an agreed period of time unless renewed by the parties. It is also important the agreement not terminate prematurely. When a contract is awarded, the team should stay in place not only through the contract term, but during any option periods as well.

Certain terms of a teaming agreement are of particular importance to parties contemplating a prime contractor/subcontractor relationship. These include the following:

- **Award of Subcontract:** Depending on whether a party anticipates being the prime contractor or subcontractor, their views on this provision may differ. A prime contractor may wish to include some kind of escape provision allowing it not to award the subcontract to the other party. Such a clause might be necessary for several reasons, for example if the Government does not approve the subcontract, the parties are unable to negotiate the terms of a subcontract, the statement of work has changed or the capabilities of the subcontractor have declined. On the other hand, the intended subcontractor will want a definite commitment from the prime contractor that it will receive the subcontract since its credentials and experience may have been critical in winning award of the contract. In addition, the subcontractor may seek to obligate the prime contractor to exert its best efforts to obtain the Government's consent to the subcontract, not just reasonable efforts. Should the statement of work change at the time of contract award, the subcontractor will want the



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prime contractor to agree to find other suitable work for the subcontractor.

• **Disclaimer of Joint Venture:** Because a joint venture has a substantially different impact on the parties' relationship, where a prime/subcontractor arrangement is anticipated, the teaming agreement should clarify that the parties are not entering into a joint venture. Among the consequences of a joint venture, one venturer can bind the other venturer contractually. In addition, joint venturers may combine assets, employees or materials and share in profits and losses. The teaming agreement should also be clear that the prime contractor is responsible for performance of the contract and has overall management authority and responsibility for the project.

A teaming agreement anticipating formation of a joint venture has its own critical provisions, such as:

• **Type of Entity:** As noted above, a joint venture can take various forms. The teaming agreement should specify the kind of business entity the parties intend to create should they receive an award of the contract. Choice of entity depends on many business considerations, including preferred management structure, tax consequences, limitation of liability and protection of assets.

• **Allocation of Resources and Returns:** The agreement should describe what resources, in terms of capital, employees, facilities and materials each party will contribute to the venture. The parties also have to decide how profits and losses will be allocated. Where a joint venture includes an 8(a) Business Development Program Participant for purposes of receiving award of an 8(a) contract, the 8(a) Participant must receive no less than 51% of the net profits in addition to having management control of the venture.

A successful teaming agreement requires the parties to carefully consider how they will structure their relationship in advance of making legal commitments. Attention to these issues will not only enhance the chances of the team receiving and successfully performing a contract but will also help avoid the serious, and sometimes catastrophic, consequences of an unsuccessful relationship. •

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Mr. Crown is a partner with the law firm of Lewis and Roca LLP and a member of the firm's Government Contracts and Commercial Litigation practice groups. 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.

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## **Report from the Kirtland Partnership Committee**

*By Stuart Purviance, Executive Director*

The Kirtland Partnership Committee continues to be very active. Here are some recent highlights:

• **Next BRAC Round:** Four of us from the KPC, including Hanson Scott in his role as Director of Military Base Planning and Support for the State of New Mexico, recently attended an Association of Defense Communities Conference. A discussion on the next BRAC concluded in a consensus that it would be held in 2013 or 2014. The majority view is that it will not take place in the first term of the next administration, but rather in the second term. It will also not be held in an election year. That makes 2013 a good bet at this point. A minority opinion is that it could be as soon as 2011.

• **Cannon AFB:** Hanson Scott was asked by the Committee of 50 in Clovis to help support their efforts regarding Cannon AFB. From what I know, a significant amount of the credit for working out the new Special Operations Missions there is due to Hanson.

• **Enhanced Use Leases:** Much of the Association of Defense Communities Conference was about Enhanced Use Leasing (EUL), which we think of as a way for bases to make some money from unused land and facilities. The Army is way ahead of the Air Force in EUL. Kirtland AFB has the first Enhanced Use Lease in the United States Air Force. We are also aware that Kirtland AFB is being considered for another Enhanced Use Lease involving solar energy.

• **Kirtland Technology Park:** This Research and Development Park has a four-phase plan. Phase I is the New Mexico Tech building inside the base at Carlisle and Gibson. There has been delay due to various financing options being considered, but dirt is expected to turn next year. Phase IV is the Maxwell Housing Area to the north of Gibson, and that is some time away. The Phase II and III developers were announced recently and they consist of Hunt Building Company, Titan Development, Weston, and Dekker Perich Sabatini. We have been told that the developers will move soon on this project, and they have already given the KPC Executive Committee a briefing. We know several of the developer folks involved.

• **Joint Land Use Study:** The Department of Defense's Office of Economic Adjustment has funded this study which will look at anything off-base that interferes with missions on base, now or in the future. This has been needed for a long time and will involve technical studies and a report which will be useful. The KPC will be deeply involved.

• **Growth at Kirtland AFB:** This is one of three key issue areas we are working on (the others are improving education in the Highland Cluster and encroachment). Much of any mission growth at Kirtland AFB will more than likely be in space activities. Given the space organizations that are already at Kirtland AFB, including Directed Energy, Space Vehicles, and the Space Development and Test Wing as well as the

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## Report from the Kirtland Partnership Committee *continued*

Joint Operationally Responsive Space Program (small satellites, small boosters), we are looking for ways to support the Space and Missile Systems Center and other space organization missions at the base.

Other areas of growth include the Kirtland Technology Park mentioned above, and the Distributed Mission Operations Center, which is a significant unit at Kirtland AFB with several possibilities for growth. Finally, of course, the 2005 BRAC resulted in a net gain for Kirtland AFB.

The Battlespace Environment division of Space Vehicles, presently located at Hanscom AFB in Massachusetts, will be moved to Kirtland AFB by September 2011. The \$42 million laboratory they will need is already funded under a special BRAC fund. As presently planned, the laboratory will be built on base in the parking lot north of the Directed Energy offices, at the NE corner of Aberdeen and Carlisle on base (not a part of the Kirtland Technology Park). The unit has about 200 Air Force civilians, mostly scientists, most of whom probably will not choose to move to New Mexico. Historically, no more than 25% of those eligible make such a transfer. The point is, the more who decide to move to Albuquerque, the less turmoil, loss of research time, and recruiting necessary. We have been involved in the nascent efforts (Major General Bowlds briefing) to publicize the search for possible hires in the area to replace those who do not transfer. We also were deeply involved in the Spring 2007 visit to Kirtland AFB by the 55 folks from Hanscom considering a move there.

• **NM Gross Receipts Tax Exemption:** Hanson Scott was successful in getting the New Mexico Legislature to exempt the Operationally Responsive Space Program from NMGRT. The trouble with the exemption is that many contractors do not understand the exemption or how to get it, and may continue to pay needlessly. We are going to help with that by going to Santa Fe soon for a comprehensive briefing from the Department of Taxation and Revenue. We will pass the information on to appropriate contractors.

• **State Legislators:** We are meeting with state legislators to provide an update on the KPC and Kirtland AFB. We have about 35 legislators on our key list and have met with several already.

• **Kirtland AFB Leadership:** Currently the KPC, in my opinion, has the best rapport with on-base organizations that it has had in my ten-year tenure. We have a new Air Force Operational Test and Evaluation Commander who is the senior officer on Kirtland AFB and interested in working with us and in the community. We have an outstanding leadership team in the host wing, the 377th Air Base Wing, with Colonel Rob Suminsby and his Vice Commander, Mohsen Parhizkar (a civil engineer with a fascinating story to tell about his escape from Iran), and the newest appointment, the Executive Director, an Air Force civilian position recently filled by Tom Berardinelli. Of course, Colonel Terry Feehan remains supportive as the

Nuclear Weapons Center commander. We have a new Distributed Mission Operations Center Commander and the first pilot to fill that position, Colonel John Horner. (His father used to command Holloman AFB as a one-star general and ran the first Gulf air war as a three-star general. He retired as the four-star Commander of the Space Command.) Colonel Horner has a sterling resume that clearly indicates he is headed for more senior positions. Colonel Kevin McLaughlin, commander of the Space Development and Test Wing of the Space Command, has been at Kirtland about a year and recently gained the Operationally Responsive Space Program which is consuming much of his time. Fortunately, we have been able to connect with him. He was highly praised at the inaugural ceremony by former Under Secretary of the Air Force, Ron Sega, among others. There are other new and cooperative commanders, such as Captain Mark Vanweezendonk of the Pararescue/Combat Rescue Officer unit. We count 17 major units at Kirtland AFB within our area of interest.

• **Kirtland AFB Alumni:** We are keeping in touch with about five Kirtland AFB "alumni," i.e. General Officers who used to be stationed here.

• **PACA and the KPC:** The Briefing for Industry was of special interest to the KPC and, as always, I learned a lot. Ron Unruh and his committee of BFI volunteers did a superb job which I observed at the planning meetings. I was particularly impressed with the easy registration, which got everyone started on a positive note. Our PACA membership is a must for the KPC and we will continue to participate regularly. •



**KAFB Night Training Mission**

Two CV-22 Osprey aircraft, assigned to the 71st Special Operations Squadron, part of the 58th Special Operations Wing, take off en-route to a night training mission. The units train mission-ready special operations, combat search and rescue and missile site support airlift crews directly supporting Air Expeditionary Forces. The Osprey is the newest addition to the Air Force aircraft inventory and is designed to be used for special operations missions. (U.S. Air Force photo by Staff Sgt. Markus Maier)