




PACA Pulse



SPRING 2010

PROFESSIONAL AEROSPACE CONTRACTORS ASSOCIATION OF NEW MEXICO

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PACA Elects New Directors & Officers

The PACA membership chooses a new Board of Directors annually. At the March 16 luncheon meeting, the members elected its new board and officers for the 2010-2011 year beginning April 1.

With the start of a new year, **Ginny Buckmelter**, previously Vice President, automatically became President, succeeding Phil Vitale. She holds the distinction of serving as the first woman president of PACA. Ginny is the founder and President/CEO of Entereza, Inc., a small business providing specialized technical and professional services to the government and prime contractors. Headquartered in Albuquerque, Entereza employs approximately 30 individuals performing contracts in approximately a dozen states. Her company received a Top 25 Woman-Owned Business Award for 2004.

A member of PACA for five years, Ginny formerly served as Vice President and, for two consecutive years, as Treasurer. She has also been an active member of the BFI program committee for the last four years.

Born in Gallup and raised in Albuquerque, she enjoys spending time with her adult children, a son and a daughter, as well as on home remodeling, cooking, entertaining, and when she gets the opportunity, travel.

The membership elected **Bill Miera** as our new Vice President (and next year's President). A member of PACA for approximately 20 years, Bill formerly served as the Small Business Officer – for a *number* of consecutive years. He is the President/CEO of Fiore Industries, Inc., which he founded in 1989.

Fiore provides service in the areas of systems engineering, prototyping, testing, facility operations, information technology systems and services, directed energy, pulsed power systems, and project management. The successful company and its founder have been recognized with a myriad of honors and awards, including being listed in the Hispanic Business Magazine's Top 500 Hispanic-

Owned Companies in the United States every year since 1997.

New to the PACA board is **Andy Anderson** who replaces Bill as the new Small Business Officer. Andy heads up the Albuquerque office of MEI Technologies. MEI employees approximately 800 in seven states providing services in system engineering and integration; payload integration; system design, analysis and development; and technical support. Andy formerly served PACA as our AFRL liaison.

Our outgoing President, **Phil Vitale**, automatically assumes the office of Immediate Past President succeeding **Maran Vedamanikam**. In addition, **Burke Nelson**, Secretary, **Dick Trask**, Program Officer, and **John Kiegel**, Treasurer, have generously agreed to continue serving in these positions and were re-elected as directors and officers.

We thank our new, continuing, and outgoing director/officers for their exceptional dedication and service to PACA. Our organization continues to thrive and grow due to the commitment of the volunteer board. •



Correction in AFRL Small Business Update Article

Regarding our cover story in the last issue of PACA Pulse, please note the following correction:

For more information regarding opportunities at the Nuclear Weapons Center, contact: Donna Heinz at **Donna.Heinz@Kirtland.af.mil**. (The name was misspelled in the article and the e-mail address was incorrect.)

We apologize for the error. •

President's Corner

By Ginny Buckmelter

I would like to express my gratitude to the PACA Board of Directors and to the membership for choosing me to serve as your 2010-2011 President. It is a true honor to work with, and have the chance to lead, such a great organization. I have had the opportunity to work with several wonderful organizations over the years, and consider PACA to be at the top of list in the way we support our members, our community, and our professional associates. It has been a pleasure working with the PACA Board of Directors over the past four years, and I look forward to continuing to serve on the Board in this new role.

It is interesting and exciting to find myself as the President of the Professional Aerospace Contractors Association, since my career beginnings were actually in the aerospace industry. When I attended my first PACA meeting, it was with the mind set that it was only a "networking" opportunity. Although I feared being out of place, as I had not continued on in the aerospace industry, I quickly discovered that the members and attendees were from various diverse industries and that they attended not just to network, but also to learn about what was going on in the world of government contracting.

PACA invites wonderful and knowledgeable speakers to address the membership at the monthly luncheon meetings. They represent a broad range of organizations and are accessible to the contracting community. These speakers, as well as the Board and members, enticed me to become more involved with PACA. Fairly quickly upon my joining, Dick Trask and Andy Anderson convinced me that I needed to be part of the Briefing for Industry program committee, and shortly after that, to serve as the Treasurer of PACA, which I did for two years. Suffice it to say, I feel a strong commitment to the organization, its vision, and the members.

As probably every new PACA President has reiterated, it is PACA's role "...to promote a healthy and vigorous relationship between the aerospace industry and government agencies in New Mexico." My vision, as your new President, is to expand the mission to a broader audience that includes all facets of the aerospace industry, as well as its integrated support industries. PACA's goal will also be to strengthen the partnership we have built with Kirtland AFB related government agencies. As a native of New Mexico, it is important to me that we focus on these goals to encourage growth within our communities and state.

New Mexico has so much to offer – and PACA has so much to offer too! By facilitating relationships among individuals, companies, and our state and federal government agencies, we can create a greater tomorrow than we have today. My door is always open for suggestions to promote moving forward toward that vision. I look forward to working with each and every one of you during the next year! •



Marketing Committee News

By Maran Vedamanikam

A few years ago, your PACA Board of Directors, with a long term vision, created the marketing committee with Stacy Sacco as the chair. With his charismatic personality and his effective marketing strategies, Stacy kept PACA in the forefront of the aerospace community. He recently moved on to new challenges and vacated his position as chair. Upon leaving PACA, Stacy has left some big shoes to fill.

To accomplish the duties vacated by Stacy, the BOD has appointed **Ro Saavedra**, owner of Saavedra Communication, **Judy Ruiz**, V.P. of Marketing for Kirtland Federal Credit Union, and **Maran Vedamanikam**, President of Euroclydon Industries. Maran, past 2008-2009 President of PACA, was appointed as the chair of the PACA marketing committee.

Our Marketing committee plan of action is to schedule a meeting and align our existing marketing plan with Ginny Buckmelter's leadership and vision. Our current plan is as follows:

1. Market PACA to increase aerospace industry exposure and PACA's prestige in the community

- Set-up a PACA booth at strategic industry trade shows.
- Partner with other organizations strategically, such as NM optics.
- Promote PACA through articles, newsletters, and other media.
- Create a forum between DoD and aerospace industry.
- Expand scholarship and other industry and community contributions, thereby also increasing PACA influence.

2. Improve PACA communication with membership

- Gather information from membership on how to better serve them.
- Open doors of communication for suggestions and betterment.
- Gather feedback on luncheon speakers and suggestions on possible speakers.

3. Increase word-of-mouth marketing of our membership

- Involve membership in recruiting new aerospace industry members.
- Increase luncheon attendance.
- Increase member participation in representing PACA at science fairs, trade shows, and other volunteer opportunities. •

Mirador Enterprises Receives National SBA Honor

The U.S. Small Business Administration selected Mirador Enterprises, Inc. the 2010 Region VI Prime Contractor of the Year. Each year the SBA recognizes outstanding small business owners for their personal successes, innovative ideas, and role in driving economic growth.

Headquartered in El Paso, Mirador Enterprises is an 8(a) and a Certified Woman-Owned Company in the facility management services business. The company was established by Yolanda Diaz in October 2002. PACA member **Ron Unruh** manages the Albuquerque office of Miratek, the parent company of Mirador. (Mirador is a spin-off of the parent company.)

The award was presented by President Obama in late May during National Small Business Week in Washington, D.C.

Congratulations to Ron, Yolanda, and their staff. •



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Upcoming Lunch Speakers

- **June 15 - Mark Neice**, Director High Energy Laser Joint Technology Office



Mr. Neice supervises the research and development of solid-state, free electron and gas laser devices, beam control technologies, lethality analysis, and the modeling and simulation tools that create military applications of laser energy for combat operations. He retired as a Colonel in the U.S. Air Force in October 2004, after 25 years of active duty service.

Previously, Col. Neice was the Chief of the Laser Division, Directed Energy Directorate, Air Force Research Laboratory. Past positions include director of space test operations, Det. 12, AFSPC, and director of systems engineering and test operations for the Airborne Laser Program Office.

A command pilot, he has over 6,000 flying hours, mainly in the C-135 and B-707 variants, and is a member of the Acquisition Career Force, certified in program management, test and evaluation, and systems planning, research, development and engineering.

- **July 20 - Susan J. Thornton**, AFRL/Directed Energy, Director (Kirtland Air Force Base)



Ms. Thornton, with more than 800 military and civilian scientists, engineers, contractors and support people, and an annual budget exceeding \$300 million, provides pervasive, world-class directed energy and imaging research and technologies for users across the United States Air Force and the Department of Defense.

Selected for the Senior Executive Service in January 2007, Ms. Thornton came from the Airborne Laser Program, Aeronautical Systems Center, at Kirtland Air Force Base where she was the director of engineering. She served as the principal technical advisor to the system program director on designing, building, and testing the Airborne Laser weapon system, a \$7 billion program focused on destroying ballistic missiles in the boost phase.

Ms. Thornton holds a B.S. in electrical systems engineering from Wright State University; an M.S. in aeronautical engineering from the University of Dayton; and a Master in Public Administration from the John F. Kennedy School of Government, Harvard University.

We meet the 3rd 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 admitted free and our guest fee is \$15.

To RSVP, register online at 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.

If you are not already on base, enter at the Wyoming gate and state your purpose. Assuming you're registered, your name will appear on the PACA list and you will be admitted. ●

BFI Keynote Speakers

This year's Briefing for Industry (BFI) conference will be held August 16-18 at the Hotel Albuquerque in Old Town.

The BFI program committee (Dick Trask, Ginny Buckmelter, and Andy Anderson) is credited for securing the following distinguished keynote luncheon speakers:

- **Tuesday, August 17**

The Honorable Zachary J. Lemnios, Director of Defense Research and Engineering



This position is considered by many to be the number four person in the Pentagon. He is soon to inherit the Airborne Laser program.

The DDR&E is the principal staff advisor for research and engineering matters to the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretary and Deputy Secretary of Defense. In this

capacity, Mr. Lemnios serves as the Chief Technology Officer for the Department of Defense charged with the development and oversight of DoD technology strategy in concert with the Department's current and future requirements. The goal of DDR&E is to extend the capabilities of current war fighting systems, develop breakthrough capabilities, and hedge against an uncertain future through a set of scientific and engineering options and counter strategic surprise.

- **Wednesday, August 18**

Mr. Gary Payton, Deputy Undersecretary of the Air Force for Space Programs



Mr. Payton provides guidance, direction and oversight for the formulation, review, and execution of military space programs. This includes oversight of all space and space-related acquisition plans, strategies and assessments for research, development, test, evaluation, and space-related industrial base issues.

Mr. Payton earned his Bachelor of Science degree in aeronautical engineering from the U.S. Air Force Academy and a Master of Science degree in aeronautical and aeronautical engineering from Purdue University.

As an Air Force officer, he served as a pilot, instructor pilot, spacecraft operations director, and space technology manager. In 1985, he flew as a payload specialist on board the Space Shuttle Discovery in the first military flight of the space shuttle program. He retired from the Air Force in the rank of colonel after more than 23 years of service, with his last duty in the Strategic Defense Initiative Organization.

For more information regarding BFI 2010, visit the website at <http://\bf\pacanm.org> or call 899-4028. ●

Legal Insights: Court of Federal Claims Rules that HUBZone Program Has Priority Over 8(a) Business Development Program

By Ross Crown

On March 2, 2010, the United States Court of Federal Claims publicly released its opinion in *Mission Critical Solutions v. The United States*, No. 09-864 C, a bid protest heard by Chief Judge Emily C. Hewitt. In sustaining this protest Judge Hewitt ruled that the Historically Underutilized Business Zone (HUBZone) Program has priority over the 8(a) Business Development Program, as well as other small business programs.

Background

The protestor in this proceeding, Mission Critical Solutions (MCS), is both an 8(a) program participant and a qualified HUBZone small business. Due to its 8(a) status, MCS was awarded a sole source contract to provide information technology support services to the Department of the Army.

When the Army decided to issue a follow-on contract for the support services, because of the increased value of the required services, the Army determined the contract could no longer be awarded to MCS on a sole source basis. Instead, the Army awarded the contract on a sole source basis to another 8(a) contractor, Copper River Information Technology, an Alaska native corporation.

MCS protested the Army's decision to award the contract to Copper River thereby depriving MCS of an opportunity to compete for the contract. As both an 8(a) program participant and a qualified HUBZone small business, MCS argued that the Army should have attempted to compete the requirement among HUBZone small businesses under the HUBZone statute before considering an award under the 8(a) program.

Statutes at Issue

Resolution of the protest required the Court to decide whether 8(a) program participants are permitted to compete equally with HUBZone businesses for federal small business set aside contracts. The Small Business Administration's 8(a) program was established in 1978 through an amendment to the Small Business Act to promote the business development of small business concerns owned and controlled by socially and economically disadvantaged individuals. Contract opportunities pursuant to the 8(a) program are awarded on the basis of sole source determinations and competition restricted to eligible program participants. 15 U.S.C. § 637.

The HUBZone program was enacted in 1977 as part of the Small Business Reauthorization Act to provide federal contracting assistance to small business concerns operating in HUBZones through contracts awarded on a sole source basis; contracts awarded on the basis of competition restricted to qualified HUBZone small business concerns; and a 10% bid adjustment for contracts awarded through full and open competition. The term "HUBZone" or "Historically Underutilized Business Zone" means any geographic area designated as such by the federal government. 15 U.S.C. § 637a.

Determination of Priority

In deciding the protest, Judge Hewitt first noted that the case turns on statutory interpretation, in particular whether statutory language provides for the priority of the HUBZone program over the 8(a) program, or if it calls for parity between the two programs. In addressing this issue, Judge Hewitt compared the statutes establishing the 8(a) program and the HUBZone program. She read the 8(a) statute as explicitly affording discretion both to the SBA and to agency contracting officers in deciding whether to place a contract opportunity in the 8(a) program. As to the discretion of the SBA, the 8(a) statute provides that the SBA shall enter into 8(a) contracts whenever it determines such action is "necessary or appropriate." Similarly, a contracting officer is authorized by the 8(a) statute to award contracts "in his discretion."

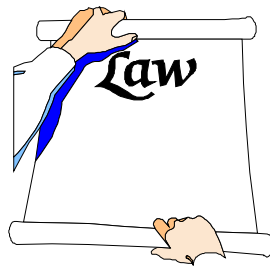
In contrast, the judge noted that the HUBZone statute states that a contract opportunity "shall" be competed among qualified HUBZone small business concerns whenever the specified criteria are met, "notwithstanding any other provisions of law," including those found within the Small Business Act itself. Whereas the 8(a) statute allows the Government to enter into 8(a) contracts when the SBA and the agency decides such an action is justified, the HUBZone statute provides that a contract opportunity shall be awarded on the basis of competition restricted to qualified HUBZone small business concerns, if the contracting officer has a reasonable expectation that not less than two qualified HUBZone businesses will submit offers and that an award can be made at a fair market price.

Based on this construction of the statutes, the Court concluded that the mandatory language of the HUBZone statute requires that a contracting officer first determine whether the specified criteria are met under that statute before awarding a contract under another small business program. Judge Hewitt declared unlawful the Army's actions in making the sole source award to Copper River without first determining whether a set aside for HUBZone small business concerns was required under the HUBZone statute. The Court therefore ordered the Army to determine whether the criteria of the HUBZone statute was met such that the contract should be awarded on the basis of competition among qualified HUBZone small business concerns before determining whether an award under any other small business program is warranted.

What's Next?

For small businesses concerned with the Court of Federal Claims' opinion finding the HUBZone program has priority over the 8(a) program and other small business programs, the question is whether Judge Hewitt's decision can be reversed. There are two avenues to possible modification of this result. Since Judge Hewitt based her ruling on her interpretations of the HUBZone statute and the 8(a) statute, if Congress decides that it did not intend to grant the HUBZone program priority over other small business programs, it can amend the relevant statutes to take away this priority. Presumably, Congress is already being lobbied for such a remedy.

continued on following page



Legal Insightscontinued

A second approach to modifying Judge Hewitt's ruling is by appeal to the U.S. Court of Appeals for the Federal Circuit. The Federal Circuit has jurisdiction to review decisions of the Court of Federal Claims. In turn, decisions of the Federal Circuit are reviewable by the U.S. Supreme Court. Following issuance of Judge Hewitt's opinion, the Army lost no time in filing a notice of appeal to the Federal Circuit on March 17, 2010. Small businesses will now have to wait to see who has the final word on parity among the federal government's small business programs, the Federal Circuit, the Supreme Court, or Congress. •

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.

PACA Website Update: www.pacanm.org

The documents listed below have been added to the Documents Section in the Members area of the PACA website. Additional items have been added to the Links page as well as on-going items to the Events page. Bios of speakers are also posted to the website when available. All documents are available for downloading. PACA is not responsible for the accuracy or currency of the information in the documents provided for our website.

- FBO Posting Confirmation 16Apr10.docx
- AFRL Useful Web Links page 1.jpg
- AFRL Useful Web Links page 2.jpg
- AFRL SB POCs page 1.jpg
- AFRL SB POCs page 2.jpg
- AF SB Solutions Center .jpg
- AF Procurement Technical Information .jpg
- Small Business POCs page 1.jpg
- Small Business POCs page 2.jpg
- Draft PWS FBO posting 08 Apr 10.pdf
- Sandia Nat'l Lab Overview for PACA Briefing Jan '10.pdf
- MDA contracts expire 1.pdf
- MDA contracts expire 2.pdf
- MDA contracts current 1.pdf
- PK ACTIVE CONTRACT LIST.xls
- 2010 Bills SubjectIndex10.pdf
- Legislative Business Day report to PACA.doc

And don't forget to register through the website to attend the 2010 Briefing for Industry. •

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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. Effective with the February 2010 luncheon, 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
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- PACA will host a company representative at Luncheon
- Your Company may post banner at Luncheon

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- 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. •

Membership & Pulse

PACA membership annual dues are \$150*. The fiscal year runs from April 1, 2010 to March 31, 2011. Mid-year applications will be pro-rated. You may apply on-line at www.pacanm.org.

For more information, contact Membership Chair, Maran Vedamanikam, at 797-3042 or maran@euroclydon.com.

* Dues are subject to change.

If you know a potential member or anyone else who would like to receive our newsletter, please forward their e-mail address to Burke Nelson, 944-2126.

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 or call him at 764-5402.

Contributions are welcome! •

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NM 2010 Legislative Report

By Brian Barnett, PACA Legislative Liaison

The New Mexico State Legislature convenes in regular sessions on the third Tuesday in January each year. The Legislature meets for 60 days in odd-numbered years and 30 days in even-numbered years. 2010 was a 30 day session and met January 19 - February 18.

The Legislature is composed of a 70-member House of Representatives and a 42-member Senate. The members are unpaid for their legislative work, but do receive a daily living allowance for each day of official work. Legislators are elected from districts of approximately equal population. Several counties with small populations may be combined to form a single district. Highlights of the 2010 NM Legislative Session follow.

Spaceport America

Senate Bill 9 Spaceflight Informed Consent, was signed by Gov. Richardson. It will limit the liability of the state for accidents at the Spaceport America.

Jobs

Excerpts from an article in Albuquerque Journal, April 1, 2010, "Gov. Rejects Eliminating Vacant Jobs; Lawmakers Vow Cuts Next Year."

- Gov. Richardson, in late March, signed a \$5.6 billion budget passed by lawmakers during a special session held earlier in March, but vetoed a provision that called for elimination of more than half of all vacant state positions on the books.

- Legislators who supported the provision, which would have directed the State Personnel Office to eliminate 1,900 vacant positions by July 1, said they will forge ahead with the plan to streamline state government next year, when Richardson is out of office. As of the beginning of the year, there were 3,468 vacant positions in state government. There were nearly 24,000 filled positions.

- Gov. Richardson line-item vetoed a provision in a bill last year that called on him to cut 102 exempt employees, though he later said he dismissed 59 employees from their exempt jobs. His office has refused to say who they are and some have turned up in other state jobs.

Richardson's Track Record

Excerpts from an editorial in Las Cruces Sun News, March 15, 2010, "Our View: Richardson had good track record this past session."

- Of the 125 bills passed by the New Mexico Legislature this year, all but nine have been signed into law by Gov. Richardson.

- Richardson will step down at the end of this year with the state's financial situation much worse off than what he inherited from Gov. Gary Johnson in 2002. But in several other areas - DWI enforcement, education reform, economic development and animal rights, to name a few, he and the Legislature have a solid list of achievements from the last eight years."

Fiscal Legislation

Excerpts from an editorial in The Santa Fe New Mexican, March 25, 2010, "Our View: Food Tax Fended Off; Fiscal Woes to Follow?"

- No sooner had the New Mexico Legislature put back some of the sales tax it had eliminated on grocery-store food purchases than Gov. Bill Richardson declared that he hated it. So in waiting until deadline day to act upon it, he was demonstrating at least as much showmanship as statesmanship. On Wednesday, he made a big production of vetoing that part of the budget for the coming fiscal year. It would have reinstated the tax on food at the rate imposed by local governments, which comes to about 2 percent. That would have made up, at best, \$68 million of a budget shortfall optimistically projected at 10 times that much. The governor vetoed that measure at the state's financial peril, when so much revenue is needed.

- By way of making up a deficit that's still beyond accurate calculation, the governor signed budget proposals that might yield \$170 million in revenue – including an extra eighth of a cent on the state's overall sales tax, more precisely a tax on businesses' gross receipts. The state rate grows from a flat 5 percent to 5.125 percent.

- In approving another measure passed by the Legislature during its four-day special session earlier this month, he eliminated a deduction on federal tax returns for those who itemize.

- Smokers get hit again: The state tax goes up by another 75 cents a pack, to \$1.66.

Money for Education

Excerpts from an article in New Mexico, March 31, 2010, "Money for Schools Caught in the Crossfire."

- New Mexico's financially strapped school districts could have received \$15 million in additional bonus money thanks to a part of a state budget recently signed into law. But the funds, which would have come from federal stimulus money, appear headed elsewhere after Gov. Bill Richardson decided last week to line-item veto the provision directing the money to education.

- "The American Recovery and Reinvestment Act gave governors the authority to allocate the ARRA money, not legislatures, and the Supreme Court has ruled that the ability to allocate federal funds is beyond the Legislatures appropriating power," said Nicole Gillespie, a spokesman for the governor's budget office, in a statement explaining the governor's reason for vetoing the provision. (The American Recovery and Reinvestment Act is the official name for the federal stimulus program.)

"The \$15 million in federal funds that would have gone to school districts, and another \$5 million on top of that, will instead go to agencies across state government," Gillespie said. "The governor has committed to using \$20 million of his discretionary (federal) funds to balance the budget after deciding last week to veto a food tax provision in legislation, an action that left a \$68 million hole in next years state budget."

For a complete listing and descriptions of legislative activity for the 2010 session, go to: <http://www.nmlegis.gov/lcs/legreports.aspx>. •

Welcome NEW Members

Rick Aguilar, Elotek Systems, Inc.

Frank Arena, Southern Aerospace Company
Madison, Alabama

Jesse Bonfeld, Sherborne Sensors
Mahwah, New Jersey

Mark Fleenor, SARA, Inc.

Michael Hamilton, MCH Corporation
Sweetwater, Tennessee

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