



PACA Pulse

SPRING 2014

PROFESSIONAL AEROSPACE CONTRACTORS ASSOCIATION OF NEW MEXICO

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www.pacanm.org

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ROTHGERBER**

PACA Elects 2014-15 Directors and Officers

PACA recently held its annual election of the Board of Directors. The election formally moved **Andy Debrot** from the position of Vice President to President.

Andy is the Capture Manager of DOD Space Systems for MEI Technologies (MEIT), a nationwide company based out of Houston. MEIT provides services in systems design and development, applied engineering, cyber service and security, and research and development for public and private sector businesses. Previously he served in the Air Force, most recently as the Vice Commander of the Airborne Laser Program at Kirtland AFB. The son of an Air Force officer, Andy grew up largely in Michigan and earned a Mechanical Engineering degree from Michigan Technological University.

Andy and his wife, Barbara, are the parents of two college students. The eldest, Thomas, attends the University of Colorado at Boulder and daughter, Marisa, is a student at the University of Missouri at Columbia.

Andy's personal interests involve only the fast and dangerous (and his wife adds "expensive") — amateur car racing and alpine skiing.

Judy Ruiz is PACA's newly elected Vice President (and President Elect). An Air Force retiree, she joined PACA in 2009 and most recently served as the Membership Chair. She is the Vice President of Marketing and Public



Relations at Kirtland Federal Credit Union, charged with enhancing the image of the Credit Union in the community and promoting membership benefits to members and potential members. All PACA businesses are eligible to apply to be included in Kirtland FCU's field of membership and extend KFCU membership as a benefit to their employees. Judy also oversees the Youth

Saving Program for members.

Judy is "nervously excited" about her new role as Vice President. "I aspire to reach out to technology, aerospace, and defense representatives to synergize ideas and expand business opportunities during these challenging economic times," she stated. "PACA is only one collection of industry professionals; there are many others we can team up with to benefit all in the government contracting industry."

Judy and her husband, Lupe, are currently busy purchasing a new home and selling an old one. She enjoys many genres of reading and is currently absorbed by inspirational books. She also raises a vegetable garden every year and works to stay physically active as a gym mouse. "A gym rat works a lot harder at it," she said.

Continuing Board Members include **Eric Mechenbier** who automatically assumes the position of Immediate Past President; **Michelle Franks**, Treasurer; **Burke Nelson**, Secretary; **Don Nash**, Program Officer (assisted by **Stuart Purviance**); **Ron Unruh**, BFI Officer; and **Lenny Bean**, Small Business Officer. Thank you all for the continuity of your generous service to PACA.

Departing the board after three years of stalwart service as Immediate Past President, President, and Vice President is **Patricia Knighten**. Thank you Patricia!

Appreciation is also extended to the new Legislative Liaison, **Heather Brewer**, and her predecessor **Brian Barnett** who held the role for too many years to count. Heather is the President of HB Strategies, a public affairs firm she launched in January. She most recently served as the State Director for U.S. Senator Martin Heinrich overseeing the operations of the New Mexico offices. And welcome to the new Membership Chair, **Terel Anyaibe**, A&D Account Manager at Aerotek.

PACA would not realize its ongoing success without these past and present Board members and other contributors of time, commitment, and expertise — Thank You, all! •

President's Corner

by *Andy Debrot*

Greetings PACA members. In my first President's Corner I would like to give you a little insight into who I am and my goals for PACA. First off, I want to publicly thank **Eric Mechenbier** for a great job as President last year. For those who are new to PACA, the office of President is actually a three-year commitment; the first year learning the ropes as Vice President, the second year serving as President, and the final Immediate Past President year serving as an advisor to the board.

In 2010, I retired as a Colonel from the Air Force after 25 great years. As a mechanical engineer and later a program manager, I got to work with awesome people on fascinating programs. I started my career fixing broken C-5s, then moved to acquiring ICBMs and developing requirements for space launch, and finally bringing the megawatt-class 747 Airborne Laser to life and shooting down boosting ballistic missiles. It was a great career with the added benefits of working in that five-sided building on the Potomac and a summer vacation in Afghanistan. I am now a Business Development and Capture Manager with MEI Technologies where I build teams to compete on government programs.

My goals for PACA are to have another very successful Briefing for Industry in August, increase PACA membership, increase the value of PACA to the members, and make PACA the go-to organization in the southwest region for the aerospace community. The hard part is putting all those great campaign slogans into practice. That is where you, the members of PACA, come in. The PACA board is always looking for feedback and volunteers to make a difference. As you all know, it is hard to make things better if you don't know there is an issue and you don't have any help in fixing it. So please think about what you like and don't like about PACA and what can we do to make it even better. Remember, I am your President and the board of directors works for you. Contact us at board@pacanm.org and we can make this year great. •



Join PACA!

PACA membership annual dues are \$150*. The current fiscal year runs from April 1, 2013 to March 31, 2014. Mid-year applications will be pro-rated. You may pay your dues and apply on-line at www.pacanm.org.

For more information, contact **Terel Anyaibe** at tanyaibe@aerotek.com or **342-5007**.

* Dues are subject to change.

Upcoming Luncheon Speaker

■ **July 15 - James T. Rubeor, Executive Director, Air Force Safety Center, Kirtland Air Force Base**



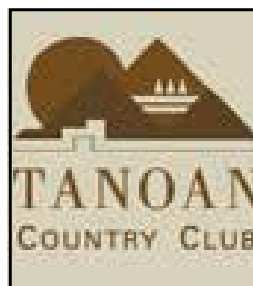
Under Mr. Rubeor's direction, the Safety Center develops, implements, executes and evaluates all Air Force aviation, ground weapons, and space and nuclear surety programs to preserve combat capability. Additional missions are to develop strategic guidance to promote safety awareness; provide technical support and oversight for mishap investigations; evaluate safety programs to ensure policy implementation; direct the Air Force Risk Management program; and provide accredited education to safety professionals across the Department of Defense.

As a major general in the Air Force Reserve, Mr. Rubeor currently serves as the special assistant to the Commander, North American Aerospace Defense Command and U.S. Northern Command, for reserve matters.

Mr. Rubeor entered the Air Force in 1978 as a graduate of the U.S. Air Force Academy. He separated from active duty in January 1986 and joined the Air Force Reserve's 326th Military Airlift Squadron, Dover AFB, Del., as an Air Reserve Technician. He served as a T-38 instructor pilot and held several key operational leadership positions, including Chief of Training, Chief of Standardization and Evaluation, and Operations Officer. He has also served as an executive officer and staff officer.

Mr. Rubeor commanded the 459th Operations Group, 932nd Airlift Wing, 349th Air Mobility Wing and the 452nd Air Mobility Wing. He is a command pilot with more than 7,500 flying hours.

He holds a B.S. in history from the U.S. Air Force Academy and an M.S. in national security strategy from the National War College. •



We meet the third 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 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 Thursday before the week of the meeting. •

Legal Insights: DOD Adopts New Regulations for Safeguarding Unclassified Information

By Ross Crown

The Department of Defense, after lengthy study, has issued new regulations aimed at protecting unclassified technical information in the possession of contractors from cyber thefts. Cyber espionage by foreign governments aimed at defense information found in contractor IT systems is an increasing threat. The vulnerabilities of contractor systems, which are presumably less secure than DOD computers, are a growing concern of the United States.

While DOD has long required security standards for classified information contained in contractor IT systems, unclassified but nevertheless sensitive information in contractor systems has mostly not been subject to regulation. This has now changed. On November 18, 2013, DOD issued a final rule amending the Defense of Federal Acquisition Supplement (DFARS). The final rule covers unclassified controlled technical information.

DOD's final rule adds two new regulations to the DFARS. DFARS 204.7300 to 7303 sets forth the policy statement that DOD and its contractors and subcontractors will provide adequate security to safeguard unclassified controlled technical information on their unclassified information systems from unauthorized access and disclosure. This regulation further provides that the contract clause at 252.204-7012, entitled "Safeguarding of unclassified controlled technical information," will be inserted in all future solicitations and contracts, including those for the acquisition of commercial items.

The new contract clause at 252.204-7012 consists of three major provisions. These provisions concern implementation of security controls, reporting of cyber incidents, and flowdown to subcontractors.



Implementation of Security Controls

The contract clause at 252.204-7012 requires contractors to implement security controls in its project, enterprise, or company-wide unclassified information technology systems that may have unclassified controlled technical information resident on or transiting through them. "Controlled technical information" is defined to mean "technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination." The term does not include information that is publicly available without restrictions.

The information systems security program a contractor is required to implement shall at a minimum satisfy the standards in National Institute of Standards and Technology (NIST) Special

Publication 800-53 concerning security controls. If an NIST control is not implemented, the contractor must submit to the contracting officer a written explanation of how the required security control is not applicable or an alternative control is used to achieve equivalent protection. The contractor is further required to apply other information systems security requirements "to provide adequate security in a dynamic environment based on an assessed risk or vulnerability."

"Controlled technical information" is defined to mean "technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination."

The minimum required security controls set forth in the NIST publication address 14 areas of information security:

- access control
- awareness and training
- auditing and accountability
- configuration management
- contingency planning
- identification and authentication
- incident response
- maintenance
- media protection
- physical and environmental protection
- program management
- risk assessment
- system and communications protection
- system and information integrity

Reporting of Cyber Incidents

The contract clause at 252.204-7012 also includes a reporting requirement. A contractor shall report to the DOD within 72 hours of discovery, any cyber incident that affects unclassified controlled technical information resident on or transiting through the contractor's unclassified information systems. This report must include 13 items of information about the incident.

A reportable cyber incident is anything involving possible exfiltration, manipulation, or other loss or compromise of any unclassified controlled technical information. Such incidents also include any other activities that allow unauthorized access to the contractor's unclassified information system.

Legal Insights continued on following page

Legal Insights *continued*

After reporting a cyber incident, a contractor is then required to review its unclassified network for evidence of compromise resulting from the incident. The contractor shall also review the data accessed during the cyber incident to identify specific unclassified controlled technical information associated with DOD programs, systems or contracts. The contractor is further required to preserve and protect images of known affected information systems and all relevant monitoring/packet capture data for at least 90 days from the cyber incident to allow DOD time to request information or decline interest in investigative follow-up.

Except to the extent that such information is publicly available without restrictions, the government will protect information reported or otherwise provided to DOD under this clause. Nothing in the clause, however, limits the government's ability to conduct law enforcement or counterintelligence activities, or other lawful activities in the interest of homeland security and national security.



Flowdown to Subcontractors

The contract clause at 252.204-7012 is subject to flowdown. A contractor shall include the substance of this clause in all subcontracts, including subcontracts for commercial items.

Conclusion

DOD contractors and subcontractors who come into contact with controlled technical information must be prepared to conform to a complex new regulatory scheme. Before entering into future contracts and subcontracts for DOD work, contractors will have to confirm that their IT systems are capable of accommodating the new safeguards for controlled technical information and that their management systems can ensure compliance with the new contract clause. •

Ross is a partner in the Albuquerque office of Lewis Roca Rothgerber LLP where his practice emphasizes government contracts. 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.

2014 Legislative Session Report

by Heather Brewer, PACA Legislative Liaison

The New Mexico 2014 legislative session occurred January 21 – February 20. During the session, Spaceport America was funded \$6.4 million for partial financing of the southern road that will connect the Spaceport to I-25 and Las Cruces from the south. The Spaceport was also funded \$114K for space that will initially house a temporary visitor's center and at a later date will be leased out as a hangar.

Also, SB 184, a bill sponsored by Sen. George Munoz to provide a gross receipts tax deduction for the sale of satellite-related goods and services to the U.S. Department of Defense, passed the Senate in the final days of the session. Its House sponsor, Rep. Larry Larranaga, ushered the bill quickly through the Committee process and got it to the floor and up for debate within minutes of the close of the session. Unfortunately, time ran out and the session was gavelled to a close in the middle of debate on SB 184.

With the legislative session over, focus turns to interim committees. The Science, Technology & Telecommunications Committee, which covers issues that may impact PACA members, met in early June in Santa Fe to set its agenda and work plan for the year. •

28th BFI Coming Soon !

The 2014 PACA Briefing For Industry will be held at the Hotel Albuquerque at Old Town August 18-20. The event will provide a comprehensive summary of Department of Defense, Department of Energy, and other new business opportunities, plus provide a local and national perspective on Government strategies and future directions.

Mark your calendars and visit the BFI website at <http://bfi.pacanm.org> for updates and easy registration. •

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.

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! •

DCAA Releases 2013 Annual Report to Congress

by Tony Royle and Jeff Witt

On March 24 the Defense Contract Audit Agency (DCAA) submitted its annual report to Congress for fiscal year 2013. Let's look at a few highlights and how they might affect government contractors in the coming year and beyond.

Incurring Cost Audits on the Rise

Despite budget constraints and a hiring freeze, DCAA reports that it has completed 55 percent of its incurred cost audit backlog. In fact, it completed 1,899 incurred cost audits in 2013 — up from only 349 in 2011. The DCAA expects to continue performance of multiyear incurred cost audits and substantially eliminate the baseline backlog of about 8,000 submissions by the end of FY 2014. This increases the likelihood of multiyear incurred cost audits and your need to prepare for them.

DCAA Employee Satisfaction and Retention Expectations

DCAA reports that its "best places to work" ranking moved up, from 160th out of 292 agencies in FY 2012 to 88th out of 300 agencies in FY 2013. That's a significant gain, especially considering that most federal agency rankings declined. For example, in 2009 DCAA ranked only 202nd out of 231 agencies.

This may reduce turnover of DCAA auditors, and contractors may end up working with the same auditor for multiple years, which will mean a more experienced auditor, one who can potentially reduce misunderstandings and miscommunications but also one with a sharper eye.

DCAA Reported Savings Will Lead to Increased Contract Audit Emphasis

The DCAA has reported substantial government savings from its audits, which will help continue the never ending flow of audits coming out of the agency. For example, the DCAA reported that:

- Its 4,933 employees issued 6,259 audit reports. On average that's only 1.3 reports per employee, or approximately 1,440 hours per report.
- The total dollar values of questioned costs were \$16 billion after examining \$163 billion in costs. This substantial amount of questioned costs is indicative of the increase in the percentage of questioned costs experienced by government contractors in recent years, as follows:

• 2008 — 3.9 percent	• 2011 — 9.3 percent
• 2009 — 6.8 percent	• 2012 — 8.0 percent
• 2010 — 6.0 percent	• 2013 — 9.8 percent
- The reported savings of \$7.30 for taxpayers for each \$1.00 in audit cost indicated a substantial return on investment for the taxpayer. That's up from \$6.70 in 2012 and \$5.80 in 2011. This resulted in reported net savings to the government that were roughly 75 percent more than the annual savings during fiscal years 2003 to 2009.

DCAA Emphasis on Internal Documents Creates Opportunity and Risk

Record keeping continues to be of utmost importance.

DCAA is required to perform audits in accordance with Generally Accepted Government Auditing Standards. To meet these standards and to perform high-quality audits, DCAA needs access to contractor reports and compliance assessments as well as to contractor employees and data. The agency has indicated that audit barriers and challenges have resulted from lack of access to the reports, people, and data needed to conduct its audits.

To overcome these challenges, DCAA is requesting the authority to access reports intended only for management. As a result, disputes and further audit procedures arising from government suspicion are likely — which could have cost implications for contractors. However, there are also opportunities to strengthen your documentation and avoid additional audit costs. Below are more details on the information DCAA is seeking.

Access to Internal Audit Reports

The FY 2013 National Defense Authorization Act (NDAA), Section 832, requires DCAA to revise its guidance on access to defense contractor internal audit reports. Currently Public Law 99-145, 10 U.S.C. §2313(b), authorizes the DCAA director to issue subpoenas when a contractor refuses to grant DCAA access to the records covered by the statute.

In 1988 the United States Court of Appeals for the Fourth Circuit, in the Newport News Shipbuilding case, 837 F.2d 162, denied enforcement of a DCAA subpoena related to internal audit material. The court ruled that DCAA's subpoena power in 10 U.S.C. §2313(b) is limited to the negotiations, pricing, or performance of a particular contract. The ruling denied DCAA access to records of management reviews and internal audits, which the court determined to be beyond the statutory provisions of DCAA's subpoena power.

The statutory change in the NDAA will provide DCAA with the empirical data necessary to determine whether problems truly exist with obtaining access to the internal audit reports necessary for DCAA to accomplish its mission. Once DCAA is able to obtain sufficient empirical data, it can determine whether amendments to 10 U.S.C. §2313 are necessary to specifically state that DCAA has access to reviews and internal or external audits related to government contract costs or internal control over compliance with government regulations.

DCAA has now revised its guidance, disseminated the NDAA documentation requirements through agency formal training, added written guidance and language into its Contract Audit Manual, and is implementing its requests for contractors to provide access to internal audit reports.

The often missed opportunity here is for companies to demonstrate government contract compliance through strategic audits targeted at areas where DCAA has found problems in the past. We've found that publishing reports that indicate required actions have been taken to achieve compliance has facilitated the resolution of long-standing audit issues.

Access to Employees

Some contractors have argued that DCAA's access to records doesn't include access to employees. DCAA believes

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DCAA *continued*

that a change to the FAR is necessary to ensure it has timely access to contractor employees, when necessary, to perform its audit activities.

FAR 52.215-2(d) specifically gives the GAO rights to interview any officer or employee. Many contractors assert that DCAA doesn't have such access rights because it isn't specified in the statute. Because there's no specific language in the FAR stating DCAA has access to interview employees, DCAA submitted a legislative change proposal for FY 2015 to support its right of access to contractor employees and to avoid future confusion on its ability to interview employees.

Regardless of how much government contractors push back, at some point your personnel will likely be talking with government auditors. When that happens, a common problem to avoid is DCAA access to personnel who are unprepared to address auditor questions in a manner that won't be wrongly interpreted by the auditors.

Your opportunity is to manage these communications and at the same time not raise suspicion of hiding information, leading to increased audit procedures as well as likely unfavorable audit results as a result of the denial of employee access. Best practice is to have a seasoned point of contact who preferably has been an auditor in the past, understands why the auditor is requesting information, provides just the information that was requested to properly support compliance positions, and documents what has been provided, when it was provided, and to whom.

Access to Online Data

Contractors are increasingly generating and storing accounting data and records in a digital environment. Nonetheless many contractors have denied DCAA read-only access to their electronic accounting systems data. DCAA alleges that accessing these source records is necessary to efficiently perform its audit mission and support the contracting officer. Therefore, DCAA is planning to propose a business case for a new FAR to pursue a clarification to the regulation.

We recommend you capture information to be provided in response to audit requests and summarize and explain the information provided in support of your compliance efforts.

Conclusion

You must take all necessary steps to prepare for increased DCAA audit activity through documented evidence of compliance and actions taken on your part to monitor compliance. If Congress decides to add muscle to DCAA's ability to enforce the rules noted above, good record keeping, which is already crucial, will be of even greater importance. •

Tony is a Partner and Jeff is a Senior Manager in the Albuquerque office of the public accounting firm of Moss Adams LLP.

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Congrats to the PACA 2014 NM Science and Engineering Fair Winners!

This year's Science and Engineering Fair was held on April 5 and once again judged by **Bill Dettmer**, **Don Nash** and first time judge, **Carol Yarnall**. The judges are proud to announce the 2014 winners:



FIRST PLACE - \$300 (also a Grand Prize Winner)
Coleman Kendrick, Sophomore, Los Alamos High School

3D Hydrodynamic Simulation of Classical Nova Explosions
The project's purpose was to investigate the formation and lifecycle of classical novae and determine how parameters such as the white dwarf mass, star mass, and separation will affect the evolution of the rotating binary system.

SECOND PLACE - \$200 (also a Grand Prize Winner)
Michael Randall, Junior, Mayfield High School

Save Our Oceans, Oil Eating Bacteria, Part 4
This project, the fourth in a series, explores the possibilities of finding and characterizing oil eating bacteria in the desert southwest.

THIRD PLACE - \$100

Maia Menefer, Los Alamos High School
Smart Shoes, Using a Microcontroller to help Orthopedic Patients to Tie Their Shoes •

Welcome **NEW MEMBERS!**



Heather Brewer,
HB Strategies

Stanley Fitch,
Trinitek Services, Inc.

Joy Colucci,
Metis Technology Solutions, Inc.,

Stephen Hottman,
Physical Science Laboratory,
NMSU, Las Cruces

Billy Schaefer,
Leidos

Bruce Townsend,
Exelis Inc.



PACA Sponsorship Opportunities

Support to PACA in the form of sponsorships helps make the organization a success while promoting your business. The Board has recently added another sponsorship choice, the Premier Small Business sponsorship for \$1,000.

Please contact **Dar Johnson** if you have questions about sponsorships at **505-400-1639** or **d_r_johnson@comcast.net**.

ANNUAL SPONSORSHIPS of \$1,000 - \$7,500: *One time each year* space is provided for a tabletop display at a membership luncheon and the opportunity for a five minute corporate overview presentation. The table will be either in the lobby or in the banquet room, depending on the size of the room. Also, depending on room arrangement and speaker presentation, special rules may apply per event.

DIAMOND \$7,500

- Sponsor level (Diamond) recognition on PACA website.
- Corporate logo on PACA signage at luncheons and events.
- Three registrations for the PACA annual Briefing for Industry.
- Recognition included in the quarterly newsletter, PACA Pulse.
- Advance electronic list of BFI attendees.
- Special reserved seating at BFI.
- Addition of company literature or giveaways in BFI Goody Bag.

GOLD \$5,000

- Sponsor level (Gold) recognition on PACA website.
- Corporate logo on PACA signage at luncheons and events.
- Two registrations for the PACA annual Briefing for Industry.
- Recognition included in the quarterly newsletter, PACA Pulse.
- Advance electronic list of conference attendees for the BFI.
- Addition of company literature or giveaways in BFI Goody Bag.

SILVER \$3,000

- Sponsor level (Silver) recognition on PACA website.
- Corporate logo on PACA signage at luncheons and events.
- Recognition included in the quarterly newsletter, PACA Pulse.
- One registration for the PACA annual Briefing for Industry.
- Special reserved seating at BFI.
- Advance electronic list of BFI attendees.
- Addition of company literature or giveaways in BFI Goody Bag.

PREMIER SMALL BUSINESS \$1,000 (NEW!)

The requesting sponsor must demonstrate the company is classified as a small business.

- Sponsor level (Premier Small Bus) recognition on PACA website.
- Corporate logo on PACA signage at luncheons and events.
- Recognition included in the quarterly newsletter, PACA Pulse.
- One registration for the PACA annual Briefing for Industry.
- Special reserved seating at BFI.
- Addition of company literature or giveaways in BFI Goody Bag.

SMALL BUSINESS SPONSORSHIP \$400: Quarterly Luncheon (One sponsor per quarter for January, April, July, and October meetings and one for the December holiday party).

- Company logo on the PACA website.
- Booth at BFI.
- Two guests for the sponsored lunch.
- Corporate logo displayed on signage for the sponsored luncheon.
- Introduction as the luncheon sponsor and be allowed to present a five minute overview of company. Corporate brochures/tri-folds may be placed on the luncheon tables. A luncheon sponsor may not sponsor another luncheon for twelve months. •

Thank You Annual PACA Sponsors!

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