



# PACA Pulse



SUMMER 2013

PROFESSIONAL AEROSPACE CONTRACTORS ASSOCIATION OF NEW MEXICO

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## BFI is Almost Here!

*By Ron Unruh, BFI Officer*

PACA is hosting the 27th consecutive annual Briefing for Industry August 19-21, 2013 at the Hotel Albuquerque at Old Town. The national conference offers two days of comprehensive presentations by the participating military and government agencies featuring their new business opportunities for the coming years. The presentations will include descriptions of their missions, program objectives and plans, and most importantly identify contracting opportunities to the audience of current and prospective contractors. Topics include research and development; test and evaluation; technical and analytical support; operations and maintenance; systems procurement; and facilities construction.

Invited to participate are: all directorates of the AFRL; Space and Missile Systems Center/Space Development and Test

Directorate; Operationally Responsive Space Office; Air Force Nuclear Weapons Center; Air Force Operational Test and Evaluation Center; AFRL Small Business Programs; Sandia National Laboratories; Los Alamos National Laboratory; Department of Energy; High Energy Laser Joint Technology Office; and National Reconnaissance Office.

The BFI also features distinguished keynote and guest speakers. Speaker information, along with updated event information and online registration,

is available on the BFI 2013 website at <http://pacanm.org>, click on the BFI tab.

We ask that all PACA members register as soon as possible. In addition, as this is your BFI, we ask that you contact your selected associates and teammates and invite them to join us for this informative and networking opportunity.

We look forward to seeing you at PACA's premier annual event. •



## President's Corner *by Eric Mechenbier*

In my first installment of the President's Corner, I asked for feedback regarding what we, the Board of Directors, could do to make PACA better, but I got crickets. So I figured that either PACA is perfect or else there is an issue in our communication channels. Is it too hard to get in touch with the Board? Is everyone reading the *Pulse* over which Ro and Ross labor?

I've created a new distribution list to make it easier to contact the PACA Board of Directors: [board@pacanm.org](mailto:board@pacanm.org). Please feel free to utilize it to address any suggestions or questions you may have.

If the *Pulse* isn't accomplishing its goal of disseminating valuable information to you, should we investigate other media? We could pass along more timely info via

Facebook updates, Twitter tweets, or an RSS feed. For example, here's a tweet: After decades of service, **Andy Anderson** is moving to Phoenix and we have secured Major General **David Eichhorn** (ret.) as our new AFRL Liaison.

Another tweet: Thank you Andy, for your years of service to PACA!

We've added a new sponsorship level: the Premier Small Business Sponsorship at \$1000. Please see Dar Johnson for additional details on benefits to your small business for sponsoring PACA.

Also, please don't forget to sign up for the BFI at [pacanm.org/briefing-for-industry](http://pacanm.org/briefing-for-industry); it is right around the corner — August 19-21.

Thanks for reading and I look forward to hearing from you! •



Eric Mechenbier

## Upcoming Luncheon Speakers

### ■ September 17 - Brad Hayden, Vice President of Marketing for Aspen Avionics



Brad Hayden joined Aspen Avionics at its inception with nearly 20 years of experience managing global, high tech marketing programs for companies such as Megahertz, US Robotics, 3Com, and

Informix. Immediately prior to Aspen, he directed Global Outbound Marketing for EFI, a digital print technology provider. Looking for new ways to leverage leading-edge communication technologies to sell and support innovative products, Mr. Hayden was an early implementer of online marketing programs that engaged customers and generated revenue.

Prior to his career in the high tech world, Mr. Hayden grew up in the avionics industry, working as a repairman and a dealer from a young age in his family's avionics sales and service business.

Mr. Hayden has a B.A. from the University of Utah and is a licensed private pilot. •

### ■ October 15 - Sandra Finan, Commander of the Nuclear Weapons Center, KAFB



Major General Sandra E. Finan was promoted to Commander of the AFNWC in February of this year. The Center is composed of a headquarters staff, one wing, and two wing-equivalent directorates: the 377th Air Base Wing and Nuclear Capabilities Directorate at Kirtland AFB; and the ICBM Systems Directorate at Hill AFB, Utah.

The AFNWC comprises more than 3,500 airmen at 11 locations in the United States and Europe, and is responsible for the entire scope of nuclear weapons sustainment functions.

General Finan entered the Air National Guard in 1982 as an enlisted cryptographic equipment repairperson. She received her Air Force commission in 1985 as a distinguished graduate of Officer Training School. General Finan has served in a variety of space and nuclear assignments in missile crew operations; training and evaluations; satellite command and control; and satellite operations. The General has also held senior staff assignments such as the Air Force

Global Strike Command Inspector General and the Air Force Space Command Director of Nuclear Operations.

Her commands include a space operations squadron and missile wing. General Finan has deployed to the Combined Air Operations Center in Southwest Asia as the Director of Space Forces in support of Operations Iraqi Freedom and Enduring Freedom. Previously, she was the Principal Assistant Deputy Administrator for Military Application, Office of Defense Programs and the National Nuclear Security Administration, Department of Energy.

General Finan holds a B.A. in music education from California State University; an M.S. in systems management from the University of Southern California; a M.A. in national defense and strategic studies from the Naval Command and Staff College in Rhode Island; and a Masters of Strategic Studies from the Air War College at Maxwell Air Force Base in Alabama. •

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](http://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. •

## 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](http://www.pacanm.org).

For more information, contact **Judy Ruiz** at **254-4329** or [vp\\_mktgpr@kirlland.cu.org](mailto:vp_mktgpr@kirlland.cu.org).

\* 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! •

# PACA Profile: Summit Technical Solutions, LLC

**Summit Technical Solutions, LLC** is a privately held, SBA-certified small, 8(a), veteran and woman-owned technology and services provider. The mission of STS is to be the customer's first choice for technical support and services by providing timely and innovative solutions, responsive support, and outstanding quality at a competitive price.

Established in 2001, STS is based in Colorado Springs, Colorado. The company has branch offices in Huntsville, Alabama, Lee's Summit, Missouri, and Ramstein-Miesenbach, Germany. Across the four offices, the company has a total of 390 employees and currently generates annual revenues of approximately \$29 million. STS is a 2012, Inc. 5000 winner. The company is also committed to complying with the quality management system requirements of ISO 9001:2008 and to continually improving the effectiveness of the STS Quality Management System. The president and CEO of STS, Kelly Terrien, was named Colorado's Small Business Person of the Year in 2011.



STS provides support internationally to both the United States and foreign governments. U.S. customers include the Air Force, Navy, Army, Department of State, Department of Homeland Security, FAA, NASA, and NATO.

STS delivers services within the following six core capabilities: IT/Operations & Maintenance, Test & Training, Logistics Support, Professional & Administrative Services, Mentor/Training, and Records Management.

The following STS contracts demonstrate the company's capabilities in these core areas:

## **Operations, Maintenance & Supply**

Europe (OPMAS-E): As an OPMAS-E subcontractor, STS provides 24/7/365 operations and maintenance of the Global Information Grid (GIG) technical control facility systems and sites in Germany, supporting a range of telecommunication technology. The GIG creates a bandwidth available environment to improve national security intelligence, surveillance and reconnaissance, information assurance, and command and control.

## **NATO Support**

STS supports the NATO Joint Force Training Center in Bydgoszcz, Poland in training and deploying International Security Assistance Force personnel. STS provides subject matter experts to mentor and train NATO personnel prior to deployment to Afghanistan to work shoulder-to-shoulder with the Afghan National Army. These experts provide insights on the Afghan army's logistics, counter-insurgency, and intelligence operations.

## **Atlantic Targets and Marine Operations**

As a SeaPort-E subcontractor, STS performs operations support and maintenance support at Norfolk and Dam Neck,

Virginia and at temporary duty locations. Other support functions include exercise scenario development for the Navy in the areas of counter-terrorism and interdiction. STS also assists the Navy in maintaining seaborne targets, target drones, support equipment, small boats, boat and vessel trailers, and towed targets.

## **Air Force Operational Test and Evaluation Center Services**

As a subcontractor on the Flight Operational Test and Evaluation Services contract, STS provides operational test and evaluation services to AFOTEC at Edwards Air Force Base. These services include combined testing conducted throughout the development testing period of the program and follow-on test evaluations supporting acquisition of the F-35 Lightning II Joint Strike Fighter. STS also provides subject matter expertise and T&E leadership for the F-35 automatic logistics information system. This system enables F-35 operators to plan, maintain, and sustain the F-35 throughout its life cycle.

## **Records Operations Support Services**

The U.S. Citizenship and Immigration Services agency at the National Records Center receives, mails, delivers, electronically tracks, date stamps, and reviews over one million documents annually within a database of 54 million files. To manage 78 quality metrics measuring accuracy and timeliness, STS uses its custom-designed trademarked management tool called STS Tracking, Reporting, Evaluation and Analysis Management System (STREAMS®). This web-based performance management tool measures the accuracy, timeliness, and efficiency of these functions.

STS is always seeking opportunities to expand its capabilities internally and by looking for relationships with other companies. These relationships can include prime



**STS creates targets for ship-launched drones in naval exercises**

*continued on following page*



## PACA Profile *continued*

contractor/subcontractor arrangements (with STS as either the prime or sub), joint ventures, or teaming agreements. STS is also open to exploring opportunities for commercial contracts.

STS is represented in PACA by **Dan Bischoff**. Dan is new to PACA having joined us after attending one of our luncheons as a guest. Dan is the Proposal Manager for STS in its Colorado Springs headquarters. He has over 30 years of experience in project management and network engineering in the telecommunications industry. This includes a 20-year career in the Air Force working at HQ Strategic Air Command, HQ Air Combat Command, and North American Aerospace Defense Command. Dan has served in diverse locations around the globe such as London, Tokyo, and Thule, Greenland. He is a Subject Matter Expert in Optical Transport Networking. In his leisure time Dan enjoys hiking, playing the guitar, and French history.

Additional information about STS can be found at [www.sts-llc.biz](http://www.sts-llc.biz). •



STS designs and manufactures other types of targets for military exercises

### Call for PACA Profiles

We are interested in your company!  
Are you interested in your company being profiled in the PACA Pulse? If so, please contact Ross Crown at **764.5402** or [RCrown@LRLaw.com](mailto:RCrown@LRLaw.com). All requests will be considered.

## Thank You ATK and SAIC for Supporting PACA for a Second Year!

### GOLD SPONSOR

**ATK** is an aerospace, defense, and commercial products company with operations in 21 states, Puerto Rico, and internationally. News and additional information can be found at [www.atk.com](http://www.atk.com).



### SILVER SPONSOR

**SAIC** is a Fortune 500® scientific, engineering, and technology applications company that uses its deep domain knowledge to solve problems of vital importance to the nation and the world, in national security, energy and the environment, critical infrastructure, and health. Further information can be found at [www.saic.com](http://www.saic.com).



PACA has added a new **Premier Small Business** \$1,000 sponsorship level. (See page 6 for the complete listing of sponsorship options.) Sponsorships run for 12 consecutive months.

Launched last year, sponsorship opportunities contribute to the continued success of PACA as well as fund higher education scholarships. Each year, in the case of excess annual revenue, PACA scholarship funds are donated to the University of New Mexico, New Mexico State University, and New Mexico Tech. The funds are earmarked for students majoring in engineering or scientific disciplines. Sponsorships of PACA not only provide a means for member companies to advertise their business to the right audience, but they enable the state's universities to educate the next generation of needed engineers and scientists.

Contact **Dar Johnson** at **505-400-1639** or [d\\_r\\_johnson@comcast.net](mailto:d_r_johnson@comcast.net) if you have an interest in a PACA sponsorship. •

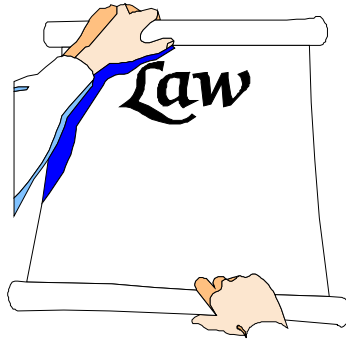
# Legal Insights: Establishing Contractor Compliance Programs, Part III

By Ross Crown

This is the final part of a three-part article discussing contractor compliance programs. Part I examined why compliance programs are necessary and identified the three basic elements of a contract compliance program: (1) a code of business ethics and conduct, (2) internal controls, and (3) mandatory disclosure requirements. Part I went on to discuss codes of business ethics and conduct. Part II addressed the internal controls requirement. This third part looks at mandatory disclosure requirements.

## Mandatory Disclosure Requirements

Like the other elements of a contractor compliance program, mandatory disclosure requirements arise from a final ruling amending the FAR jointly issued by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council effective December 12, 2008. Mandatory disclosure requirements appear in three places in this final ruling. The first two mandatory disclosure requirements are included in the revisions to FAR 52.203-13 entitled "Contractor Code of Business Ethics and Conduct." As discussed in Part I, among other things, this clause requires contractors to adopt a code of business ethics. This code must include mandatory disclosure. Contractors shall timely disclose, in writing, to the agency Office of the Inspector General, with a copy to the contracting officer, whenever, in connection with the award, performance or closeout of the contract or any subcontract thereunder, the contractor has credible evidence that a principal, employee, agent or subcontractor of the contractor has committed (a) a violation of federal criminal law involving fraud, conflict of interest, bribery or gratuity violations or (b) a violation of the civil False Claims Act (FCA). FAR 52.203-13(b)(3)(i). This provision further recites that the government will safeguard and treat information obtained pursuant to the contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. FAR 52.203-13(b)(3)(ii).



As discussed in Part II of this article, FAR 52.203-13 also requires contractors to implement an internal control system. This system must include mandatory disclosure. The mandatory disclosure provision to be included in the internal control system is the same requirement that is to be included in the code of business ethics and conduct. FAR 52.203-13(2)(i)(F). The internal control system must further provide that the disclosure requirement continues until at least three years after final payment on the contract. *Id.*

The third place where mandatory disclosure requirements appear in the final ruling is with respect to suspension and debarment. The final ruling revises FAR 3.1003(a)(2) entitled "Contractor requirements" to state that a contractor may be

suspended and/or debarred for knowing failure by a principal to timely disclose to the government, in connection with the award, performance, or closeout of a government contract performed by the contractor or a "subcontract awarded thereunder"; credible evidence of a violation of federal criminal law involving fraud, conflict of interest, bribery or gratuity violations; or a violation of the civil FCA. FAR 3.1003(a)(3) goes on to recite that a contractor may be suspended and/or debarred for knowing failure by a principal to timely disclose credible evidence of a significant overpayment, other than overpayments resulting from contract financing payments. Knowing failure to timely disclose credible evidence of any of the above violations remains a cause for suspension and/or debarment until three years after final payment on the contract.

Failure to comply with this same mandatory disclosure requirement is also cause for debarment or suspension pursuant to FAR 9.406-2 entitled "Causes for debarment" and FAR 9.407-2 entitled "Causes for suspension."

Unlike the mandatory disclosure requirement in FAR 52.203-13(b) & (c), the mandatory disclosure requirements concerning debarment and suspension apply to all government contractors regardless of whether they are large or small. Thus, small businesses are also subject to mandatory disclosure requirements even if they are not performing large contracts.

## Clarification of Mandatory Disclosure Requirements

Since the Councils issued their final ruling in 2008, there has been little case law construing the mandatory disclosure requirements. To clarify what these requirements mean in practice, it is necessary to rely substantially on the comments made by the Councils in their final ruling.

**Credible evidence:** The key determination in deciding whether there is an obligation to make a mandatory disclosure is what constitutes "credible evidence." According to the Councils, this term indicates a higher standard than reasonable grounds to believe, implying that the contractor will have the opportunity to take some time for a preliminary examination of the evidence to determine its credibility before deciding to disclose to the government.

**Level of employee:** The FAR does not define the level of employee whose knowledge would trigger the duty to make mandatory disclosures. Rather than directly address this issue, the Councils' approach seems to be that if a contractor has an effective compliance program, information that might be the subject of mandatory disclosure will come to the attention of senior management.

**Timely disclosure:** Another question that arises is what constitutes a timely disclosure. The Councils note in their final ruling that they considered and rejected providing for a defined period of time. Instead, the Councils state that using the

*Legal Insights continued on following page*

## Legal Insights *continued*

standard of “credible evidence” helps clarify what constitutes timely disclosure because it implies that the contractor will have the opportunity for preliminary examination of the evidence to determine its credibility before deciding to disclose to the government.

**Exposure to qui tam claims:** In their final ruling, the Councils state that they recognize that mandatory disclosure of a violation of the civil FCA presents a risk that a *qui tam* claim will follow. The Councils do not, however, consider this a valid excuse for failing to make disclosures. Rather, the Councils recite that timely disclosure of a knowing violation offers the contractor an opportunity to demonstrate its responsibility, to avoid suspension or debarment and to obtain a reduction in damages under the FCA.

**Violation of civil FCA:** One of the subjects of mandatory disclosure is evidence of a violation of the civil FCA. Prior to adoption of the final rule, the Councils received criticisms of the interim rule to the effect that the requirements of the civil FCA cannot be reasonably ascertained and understood by contractors. The Councils disagreed with these criticisms and responded that contractors doing business with the government are expected to take appropriate steps to assure their compliance with the FCA and all other applicable rules. The Councils go on to note that a significant body of case law interpreting the civil FCA has developed for contractors to analyze in interpreting the statute.

**Significant overpayment:** The mandatory disclosure requirement in the FAR provisions addressing causes for suspension or debarment require mandatory disclosure of significant overpayments on the contract other than overpayment resulting from contract financing payments. In their comments on the final rule, the Councils state that it is appropriate to limit the application of this disclosure requirement to situations in which the unreported overpayment is significant. The provision is not intended to apply to routine contract payment issues. Whether or not an overpayment is significant depends on more than just dollar value involved, the circumstances of the overpayment must be considered as well. The disclosure requirement is aimed at the type of overpayment that the contractor knows will result in unjust enrichment and yet fails to disclose it.

Unlike other major elements of a contractor compliance program, adherence to the mandatory disclosure obligation in the FAR requires the contractors to promptly evaluate and possibly report unexpected and unwelcomed information. Contractors must therefore understand their disclosure obligations in advance so they are prepared to respond appropriately when necessary. •

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Ross is a partner in the Albuquerque office of Lewis and Roca 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.

## 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.
- 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. •



# DCAA Releases Annual Report to Congress

By Tony Royle, CPA

On March 29, 2013, the Defense Contract Audit Agency (DCAA) submitted its Annual Report to Congress for Fiscal Year 2012. This article summarizes some of the highlights of that report.

**Staffing.** DCAA continues to grow, but not as fast as it would like. In 2008, DCAA had 4,000 employees, in 2011 - 4,829 and in 2012 - 5,181, a 29% increase from 2008. Since 87% of employees are auditors this means more audit activity. Over the last several years, DCAA has been changing. The Agency is no longer the friendly business partner pointing out problems and then recommending solutions. Now deficiencies will be pointed out and the contractor will have to find remedies to fix them. All of the findings will have to be investigated and solutions found, then the contractor will have to defend the solutions.

**DCAA Audit Performance.** DCAA reports in FY 2012 the following:

- They issued 6,716 audit reports with 5,181 employees. On average, that's only 1.3 reports per employee or approximately 1,440 hours per report. The total dollar value of questioned costs were \$12.4 billion after examining \$154 billion in costs.
- The amount of questioned costs to dollars examined in recent years:
  - 2008 - 3.9%
  - 2009 - 6.8%
  - 2010 - 6.0%
  - 2011 - 9.3%
  - 2012 - 8.0%
- A reported \$6.70 in savings for each \$1.00 invested, that's up from \$5.80 in 2011 and \$5.10 in 2010.
- 1,795 incurred cost audits were actually completed in 2012, that's up from completing only 349 incurred cost audits in 2011.
- The Agency has a backlog of approximately 9,000 incurred cost submissions with a total value of \$377 billion in costs that are awaiting audit. In 2011, DCAA developed a four point action plan to address the backlog — dedicated incurred cost audit teams, multi-year audits, low risk sampling and workforce growth. These areas of change are noted in 2012 and 2013.
- The average length of time from date of an incurred cost submission to date of audit report issuance was 1,184 days in 2012, that's up from 965 days in 2011.
- DCAA was on track to hire additional auditors to about 5,600 by FY 2016 and to use the increase in staffing to perform incurred cost audits to reduce the number of pending submissions. But they report that budget constraints impacted this staffing increase in early FY 2013.

**Access to Contractor Records.** DCAA is required to perform audits in accordance with Generally Accepted Government Auditing Standards. In order to meet these standards and to perform high quality audits, the DCAA reports they need to examine pertinent contractor records and have access to contractor records. They report the following "challenges" represent a continuing barrier to conducting audits:

**Denial of access to contractor 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 Director of DCAA 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, 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 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 existing statutory change in the NDAA, noted above, will provide DCAA with the empirical data necessary to determine if problems truly exist with obtaining access to the internal audit reports necessary for DCAA to accomplish the Agency's mission. Once DCAA is able to obtain sufficient empirical data, DCAA 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.

**Denial of access to contractor employees.** Some contractors have argued that DCAA's access to records does not include access to employees. DCAA believes that a change to the FAR is necessary in order to ensure DCAA has timely access to contractor employees when it is 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 does not have such access rights because DCAA is not specified in the statute. Because there is no specific language in the FAR stating DCAA has access to interview employees, DCAA plans to submit a legislative proposal to support DCAA's right of access to contractor employees and to avoid future confusion on DCAA's ability to interview employees.

**Denial of access to on-line data in contractor's systems.** Contractors are increasingly generating and storing accounting data and records in a digital environment. Nonetheless, many contractors have denied DCAA the read-only access to their electronic accounting systems

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## DCAA *continued*

data. DCAA alleges that accessing these source records is necessary to efficiently perform its audit mission and support the Contracting Officer. Therefore, DCAA is continuing to determine what specific legislative proposal is necessary to ensure that DCAA has appropriate access to a contractor's online data.

It is an interesting time for government contractors; stay tuned for more impending changes from Congress and DCAA.

For a copy of the DCAA Annual Report to Congress for Fiscal Year 2012, or for further information, please contact Tony at 878-7210. (Moss Adams is moving to Two Park Square, 6565 Americas Parkway, Suite 600 on August 5). •

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Tony is a partner in the Albuquerque office of the public accounting firm of Moss Adams LLP. He specializes in services to government contractors.

The material appearing in this article is for informational purposes only and is not legal or accounting advice. Communication of this information is not intended to create, and receipt does not constitute, a legal relationship, including, but not limited to, an accountant-client relationship. Although these materials may have been prepared by professionals, they should not be used as a substitute for professional services. If legal, accounting, or other professional advice is required, the services of a professional should be sought.

## Welcome **NEW MEMBERS**

**Dan Bischoff**, Summit Technical Solutions, LLC  
Colorado Springs, Colorado

**Shin-Juh Chen**, Southwest Sciences, Inc.

**David Giesler**, Vic Myers Associates

**Matt Guthrie**, SuperiAire Technologies

**Allen Kiezer**, CAS Group, Wyle Inc.,  
El Paso, Texas

**Robert Mason**, LATA TEAMS



**Attend  
SMALL BizOps DAY!**

**The Albuquerque Hispano Chamber of Commerce, the Federal Reserve Bank, Kirtland Air Force Base, and the SVSBDC Procurement Technical Assistance Program (PTAP) have teamed up to present the Second Annual**

## **Small BizOps Day**

**DATE: Thursday, August 22, 2013**

**TIME: 7:30 AM – 5:00 PM**

**LOCATION: Hotel Albuquerque at Old Town,  
800 Rio Grande Blvd. NW, Albuquerque, NM 87104**

Small BizOps Day will provide a venue for small businesses to meet and interact with federal, state, county, city, and tribal governments as well as private sector companies about their support needs, procurement plans and learn about access to capital opportunities.

**INDIVIDUAL REGISTRATION: \$60 includes continental breakfast and boxed lunch. Call **Rebecca Sanchez** to register at **505-842-9003** or visit**

**[www.ahcnm.org](http://www.ahcnm.org)**.