PACA Pulse

FALL 2010

PROFESSIONAL AEROSPACE CONTRACTORS ASSOCIATION OF NEW MEXICO

PO Box 9178
Albuquerque, NM 87119
www.pacanm.org

Kirtland Partnership Committee News

By Stuart Purviance
KPC Executive Director

The Kirtland Partnership Committee has moved to 1451 Innovation Parkway SE, Suite 600, Albuquerque, NM 87123. Their new phone number is 338-2180.

Kirtland AFB continues to grow. The new $56 million laboratory building for the Battlespace Environment Division of the Space Vehicles Directorate of the Air Force Research Laboratory is almost completed. This was a BRAC-directed move.

An even larger growth has come about at Kirtland AFB due to the increased emphasis on the nuclear enterprise. The Air Force Nuclear Weapons Center at Kirtland AFB has realized, when you count ancillary growth in Security Police, Nuclear Safety Officers at the Air Force Safety Center, and Inspectors at the Air Force Inspection Agency, even larger growth than the BRAC growth of Battlespace Environment.

The KPC continues to track the Total Force Integration of the 150th Wing of the New Mexico Air National Guard forming an Association with the 58th Special Operations Wing. Several 150th pilots are already in flight training and recently the Chief of Staff of the Air Force visited the 150th while here at Kirtland AFB for a change of command. •

Welcome NEW Members

Tony Brown
Morgan Stanley

Mario Burgos
Burgos Group

Mike Flannery
VETS, LLC
Tucson, Arizona

Joanie Fulkerson
Solutions, Etc., Inc.

John Kelly
AppleOne Government Services

Kevin Kyger

Rick Montoya
The Centech Group, Inc.
Rio Rancho

Stephen Sauter
Sauter & Associates

Nick Sowko

Linda Strine
ORS

PACA Profile: Kirtland Federal Credit Union

A strong and steady presence within PACA is Kirtland Federal Credit Union. The Credit Union was formed back in 1958 by a group of ten airmen stationed at Kirtland Air Force Base. As a member-owned organization, the purpose of the Credit Union was to facilitate access to financial services for uniformed military personnel. At that time, it was difficult for military people to obtain loans from local banks or credit unions. Many financial institutions were reluctant to deal with customers who may be in the community only a short time before being transferred to duties elsewhere. KFCU filled that void by deciding as a matter of trust to extend credit to military members. The men and

KIRTLAND
FEDERAL CREDIT UNION

women of our Armed Forces are, in fact, good credit risks and their mobility does not increase the chances of a loan default.

With time, the Credit Union's defined field of membership expanded from KAFB uniformed personnel to include KAFB civilian employees and contractors, U.S. Reserve Forces, members of the Air and Army National Guard throughout New Mexico, defense-related Select Employee Groups, veterans' groups, and military retirees. Today, KFCU has four branches in Albuquerque (including one on base), 125 employees and an extensive electronic delivery platform. The Credit Union has $569 million in assets and includes 37,000 members regardless of their financial situation or location. Indeed, 20% of its members live outside New Mexico.

Notwithstanding this growth, the original commitment of the Credit Union remains the same as it continues to serve those who serve.

The Credit Union is represented among the PACA membership by David Seely and Judy Ruiz. David is President/CEO of the Credit Union, a position he has held for 20 years. He is a highly visible presence in Albuquerque. During his tenure, David served as chairman of the Kirtland Partnership Committee, and continues to serve on the KPC executive committee. David is also the board chairman of the Albuquerque Economic Forum, a board member of the Greater Albuquerque Chamber of Commerce, Quality New Mexico, and the Association of Commerce and Industry. He holds the title of Honorary Commander of the Space Development and Test Directorate at KAFB and is a member of the civic leaders group for the Commander of Air Education and Training Command (AETC) headquartered at Randolph AFB, Texas.

Judy retired in 2009 after more than 26 years in the Air Force. In her last assignment, she served as Command Chief (Senior Enlisted Advisor) for the Air Force Nuclear Weapons Center, 377th Air Base Wing and the 498th Nuclear Systems Wing. Judy is now Assistant Vice-President of Public Relations for the Credit Union. She serves PACA on our membership committee. Judy is also responsible for coordinating access to the base for our monthly luncheons, a job that has recently gotten more time consuming as security requirements have tightened.

David and Judy are active in PACA because PACA shares its goal of supporting the missions at Kirtland Air Force Base and the people who work there. In addition to having served as a PACA luncheon sponsor, the Credit Union also sponsors activities of various base agencies, making good things happen for base members and their families. KFCU is available to assist with events and activities on base aimed at boosting morale and esprit de corps for the people who defend our nation.

The Credit Union offers a broad range of services to its members. These include checking and savings accounts, credit cards, home mortgages, auto financing, personal loans, insurance, and investments. The credit union also presents free educational seminars so that anyone can learn about such topics as financing a car or home, banking on-line, raising money-smart children, managing credit, and building a budget, to name just a few.

KFCU is the fourth largest credit union in New Mexico based on assets and is ranked in the top 2% among credit unions nationwide for operations efficiency and financial management. The Credit Union earned the New Mexico Zia Award for organizational quality sustainment in 2008 and is now pursuing the Baldridge Award for national quality excellence.

Additional information about Kirtland Federal Credit Union is available at **www.kirtlandfcu.org**. •

Major Johnathan B. Zulauf, Deputy Director, Force Support Squadron, (center) presents a certificate of appreciation as Summer Bash Gold Sponsor to Kirtland Federal Credit Union representatives.

President's Corner

By Ginny Buckmelter

It's amazing to me, but I just realized that I am in my seventh month serving as PACA President! During that time, I have been privileged to —

- oversee the monthly luncheon meetings;
- participate in the yearly Briefing for Industry;
- attend co-sponsored events with AFRL;
- grant scholarships to our young college students; and
- put together special events such as the luncheon for General Ellen Pawlikowski.

The Board and I continue to raise the awareness of PACA within the community and build our membership. In order to accomplish that, we strive to put together events that will benefit our members and to attract great speakers for our luncheons. And it all seems to be working as our membership increased by over 30% this year!

It's also amazing that it's time once again to begin planning the 2011 Briefing for Industry. This year marks the 25th anniversary of the event and we have really big plans in the works to make it a truly remarkable conference. The planning for each event usually spans approximately eight months with a committee of approximately 20 people from both PACA and AFRL. If anyone is interested in being a sponsor, this is the year to do it! Attendance last year was 424 (but who's counting), and we anticipate that number to be even higher for the 2011 conference. Please watch for details in the upcoming months.

Just a reminder to all members – please don't forget to sign up for the PACA Holiday Luncheon to be held on December 3rd at Tanoan Country Club. It's a wonderful time to get together, share a delectable lunch, and win some fabulous door prizes. Hope to see you there! •

PACA Luncheon Sponsorship Opportunities

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

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

Bronze Sponsors $100
- Display booth at Luncheon (table stand only)
- President will publicly thank your company at Luncheon
- PACA will host a company representative at Luncheon

Silver Sponsors $250
- Display booth at Luncheon (table stand only)
- President will publicly thank your company at Luncheon
- PACA will host a company representative at Luncheon
- Your Company may post banner at Luncheon

Gold Sponsors $500
- Display booth at Luncheon (table stand only)
- President will publicly thank your company at Luncheon
- PACA will host a company representative at Luncheon
- Your Company may post banner at Luncheon
- Five minute presentation about your company at Luncheon
- Your company-provided information highlighted on PACA's website
- Advertisement in PACA Pulse
- Sit at head table with guest speaker

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

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! •

Upcoming Luncheon Speakers

- **December 3 – PACA Holiday Luncheon**

11:00 a.m. Networking

12:00 noon Lunch served

Tanoan Country Club Ballroom
10801 Academy Rd. NE

RSVP online by Wednesday, November 24.

You and your guest do not want to miss this special hosted event!

- **January 18 – Colonel Robert L. Maness, Commander, 377th Air Base Wing**

Under the leadership of Colonel Maness, the wing provides highly trained forces in support of the Air Force nuclear enterprise, expeditionary combat forces to the combatant commanders, and is responsible for installation security, operations, maintenance, and mission support for more than 23,000 personnel who live and work on Kirtland's 52,000 acres.

The 377th Air Base Wing is host to over 100 mission partners, including the Air Force Nuclear Weapons Center, Air Force Operational Test and Evaluation Center, Air Force Safety Center, Air Force Inspection Agency, Air Force Distributed Mission Operations Center, Defense Threat Reduction Agency, Air Force Research Laboratory, 58th Special Operations Wing, 150th Fighter Wing, New Mexico Air National Guard, U.S. Department of Energy, National Nuclear Security Administration, and Sandia National Laboratories.

Colonel Maness received his commission through Officer's Training School in 1986. His command experience includes the flight, squadron group, and wing levels. His staff tours include the Joint Chiefs of Staff and Air Force Global Strike Command Headquarters.

Colonel Maness is a Master Navigator with more than 3,400 flight hours. He has led numerous combat flying operations, including Operations Just Cause and Desert Storm as an aircrew member, and as a bomber squadron commander in Iraqi Freedom and Enduring Freedom.

Colonel Maness holds a B.S. in Management Information Systems from the University of Tampa, an M.S. in Public Administration from Harvard University, and an M.S. in Military Operational Art/Science from the Air Command and Staff College, Maxwell Air Force Base.

- **February 15th - Dr. David A. Hardy, Director, AFRL Directed Energy Directorate, Air Force Materiel Command**

The AFRL's Directed Energy Directorate is the U.S. Air Force's center of expertise in the range of technologies required for high-energy lasers, high-power microwaves, high-power millimeter waves and advanced optics. Associated technologies include optical imaging and communication technologies and modeling, simulation and effects studies. As the technical expert, the Directorate also provides independent assessment and analysis of directed energy concepts for multiple Air Force customers.

Dr. Hardy, a member of the Senior Executive Service, was previously Associate Director for Space Technology, Space Vehicles Directorate, responsible to the AFRL Commander for the oversight of all the organization's space science and technology investments, as well as for the senior civilian management of the Space Vehicles Directorate's science and technology portfolio.

Dr. Hardy also worked as the AFRL's Senior Space Experimentalist responsible for the advancement of all major space flight experiments, and served as Chief, Battlespace Environment Division, within the Space Vehicles Directorate. In addition, Dr. Hardy has acted as the Chief Technical Adviser, Requirements Directorate at Headquarters Air Force Space Command.

He holds a B.S. degree in physics, magna cum laude with honors from Duke University; both a M.S. and Ph.D. degrees in space physics and astronomy from Rice University; and a M.S. in strategic studies from the Air War College at Maxwell AFB.

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 a.m. followed by lunch at 12:00 noon. Members are admitted free and the 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. •

Legal Insights: Preparing a Successful Claim

By Ross Crown

This two-part series of articles discusses how contractors should pursue claims against the federal government. This first part examines the preparation of a successful claim. The second part, which will appear in the next issue of the Pulse, is about claim pitfalls.

Claims arising under contracts with the federal government are governed by the Contract Disputes Act. 41 U.S.C. §§ 601 to 613. The CDA provides that a claim is to be submitted in writing to the contracting officer within six years after it accrues. Claims of more than $100,000 must also be certified.

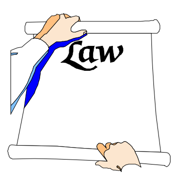
After a certified claim is received by the contracting officer, he or she has 60 days either to issue a decision or inform the contractor of the time within which the decision will be made. The contracting officer's decision must be in writing and shall state the reasons for the decision.

A contractor whose claim is denied has the option of appealing the claim to the cognizant board of contract appeals within 90 days of receipt of the decision or seeking judicial review by the U.S. Court of Federal Claims within 12 months. Any further appeals from either of these forums go to the U.S. Court of Appeals for the Federal Circuit.

Successful claims usually are the product of early identification, proper pricing and the use of outside professionals.

Early Identification of Claim

A contractor first encountering circumstances that may give rise to a contract claim needs to identify early the grounds for the claim and possible cost impacts. This means that the contractor should immediately gather data supporting the claim and document the available facts. Contemporaneously created documents are far more persuasive than documents created after the fact.



At the same time, the contractor must put the contracting officer on notice of a possible claim. This is important because Changes clauses incorporated into federal contracts require prompt notice, usually within 30 days of the grounds for a claim being discovered. Failure to provide such notice may result in denial of the claim. Immediate notice also gives the contracting officer the opportunity to cure or minimize the impact of a potential claim. Finally, early notice might strengthen the contractor's relationship with the government by keeping contracting officials informed as the claim develops and thus eliminating unpleasant surprises down the road.

Proper Pricing of Claim

Two basic pricing methods are utilized in contract claims. The most common and most commonly accepted technique is direct calculation. Costs resulting from actions or inactions of the government that cause a change in the contract work or delay performance are calculated based on actual cost evidence.

The other pricing approach is some variant of the total cost method. This technique is used when no other means of fixing the amount of the claim are available. The cost of the work as originally bid or proposed is subtracted from the total costs incurred on the contract. The difference is said to be the cost impact of changes in contract performance. This method is almost universally disfavored because it assumes the original bid or proposal cost was reasonable and that the contractor efficiently managed the changes.

To recover costs on a contract claim, they must be allowable. FAR 31.201-2. An allowable cost is first of all, reasonable. A cost is deemed reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business. No presumption of reasonableness is assigned to any cost simply because it was incurred by the contractor. FAR 31.201-3.

An allowable cost must also be allocable to a government contract. Allocable costs (1) are incurred specifically for the contract, (2) benefit both the contract and other work and can be distributed to them in reasonable proportion to the benefits received, or (3) are necessary to the overall operation of the business, although a direct relationship to any particular cost or objective cannot be shown. FAR 31.201-4.

Allowable costs must further comply with any applicable Cost Accounting Standards or generally accepted accounting principles and practices, along with the terms of the contract. Finally, allowable costs must satisfy the requirements for specific types of costs laid out in FAR Subpart 31.2.

Use of Outside Professionals

A successful claim is usually supported by the work of outside professionals. Frequently, this will be a lawyer. Many times an accountant is also involved in the claim preparation process. As needed, other experts can be utilized. Although outside professionals cost money, it is important to remember that a successful claim is cheaper than a successful appeal. Not all claims require outside assistance. An in-house legal or accounting staff may be sufficient. Moreover, small claims may not be cost effective if the expense of outside help is added in. One rule of thumb in deciding if a claim is significant enough to merit outside help is whether the contractor is willing to appeal the claim if it is denied by the contracting officer. If so, then the contractor should attempt to avoid the cost of appeal by putting together as persuasive a claim as possible when first submitted to the contracting officer.

Generally speaking, a claim utilizing the expertise of outside professionals will be better grounded in legal and cost accounting principles. The claim will also benefit from an outsider's perspective. Often contractors are too close to the events at issue to give them an objective look. Similarly, use of outside professionals may minimize the contractor's exposure to liability under the False Claims Act. Many claim scenarios that might seem innocent on the surface can subject a contractor to government allegations of fraud. A lawyer familiar with such scenarios may help the contractor avoid inadvertently becoming the subject of a fraud case.

Successful Claims

Contract claims are often denied. A contractor maximizes its chances of a successful claim, however, if it exercises foresight, attention to pricing and is willing to utilize outside expertise. Contractors who treat the claim process proactively from the outset are better equipped to avoid the pain of a denied claim and the expense of a subsequent appeal. •

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