



# PACA Pulse

SUMMER 2018

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

PROFESSIONAL AEROSPACE CONTRACTORS ASSOCIATION OF NEW MEXICO

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## Briefing for Industry Draws 541 Attendees

by *Ron Unruh*

The 2018 Briefing for Industry conference, hosted for the 32nd year by the Professional Aerospace Contractors Association of New Mexico, set a new attendance record with 541 registrants. BFI successfully accomplished its objective to provide a timely update to the government contracting community on upcoming and proposed acquisitions from the many and varied organizations participating.

The BFI was held at the Hotel Albuquerque at Old Town August 13-16 with 32 large businesses and 101 small businesses represented. A total of 36 presentations were made from government agencies that included over 600 opportunities for contracts with a total estimated value over \$50 billion within the next several years. There were 24 breakout sessions where attendees met with the presenters to ask questions and obtain additional information.

The BFI is run by volunteers from the organization. For more information, visit the PACA website at [www.pacanm.org](http://www.pacanm.org) and page 7 for photos. •



**Brigadier General (Dr.) Mark A. Koeniger,**  
Commander of the 711th Human  
Performance Wing, BFI speaker

## Don Nash: A Remembrance

PACA lost a dear friend and leader with the passing of Don Nash in the early morning of July 28.



Don played an enduring and pivotal role in PACA including serving as its seventeenth president in 2000-01, a long-term member of PACA's BFI committee, and our Program Officer. The Board of Directors recently voted to add Don to its Hall of Fame Scholarship Fund.

An Associate Fellow and 49-year member of the American Institute of Aeronautics and Astronautics (AIAA), Don worked in the aerospace industry for 45 years. He launched his career with two years at McDonnell Aircraft in St. Louis, Missouri (currently Boeing) in the McAir F-101 and F-4 Design groups followed by U.S. Army service. After his Army discharge, Don returned to the McAir Flight Test Division. He was

*continued on the following page*

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## Don Nash *continued*

assigned as the Flight Test Engineer for the F-4J Carrier Suitability tests and the F-4D Radar Homing and Warning System. When McAir won the F-15 contract, he was assigned as Test Director for the F-15, throughout its entire DT&E test program at St. Louis (1970–1972), and then at Edwards AFB (1972–1975).

Following his airplane ventures, Don relocated to Albuquerque in 1977 to work for BDM International, Inc. as a staff engineer. He eventually became Director and Vice President of the BDM Support contract for the Airborne Laser Lab (1977-1983) and the High Energy Laser Scientific Test Facility (HELSTF) at White Sands Missile Range. He then became Vice President of Nuclear Effects for BDM and directed support at the Air Force Research Laboratory EMP Sites (Trestle and Dipoles).

In 1996, Don left BDM and formed his own aerospace consulting business (Nash Ventures, LLC) supporting many local and national aerospace companies. Since 2011, he was also President of Cancer-Code Corporation, a company he founded to develop an inventive new cancer treatment technology that kills cancer cells using ultra-low voltage and amperage encoded signals which are reprogrammed from cancer cell communication signals.

Don served AIAA as *Antelope Valley Newsletter* Editor; Albuquerque Chairman, Corporate Liaison, and Membership as well as Region IV Deputy Director for Finance and Publications; National Membership Committee; National Technical Committee for Flight Testing; and Past Chairman of the International Membership Sub-Committee. He received the AIAA 2003 Sustained Service Award and two Special Service Citations (1997 and 1999). Don also served on a New Mexico State University Aerospace Engineering Advisory Panel to review its curriculum for an aerospace engineering program.

Don earned a B.S. from the University of Oklahoma School of Aerospace Engineering in August 1964, and an M.S. in Engineering Management from the University of Missouri at Rolla in 1972.

### ***“Don took care of his people.”***

I first met Don at the HELSTF in July 1986. He was with BDM and they had just lost their support contract at the HELSTF. We had just been awarded a Systems Engineering and Integration contract to support HELSTF, which was a plum part of the BDM contract; Lockheed won the other part, mostly operations and management support.

Don impressed me right away when he approached me and congratulated me on our win, but more importantly, he showed me his true allegiance was to those who worked for him. Although he was there as the transition manager, he wanted his professional staff to be taken care of with good jobs in a positive work environment. He said that he

had a list of their top people that he would like me to look at hiring – and I did just that. Looked at his folks, interviewed them, checked them out, and then hired some of the most talented scientific and engineering staff members I have ever had the pleasure to supervise and work with. Don took care of his people. ~ *Dar Johnson* •

### ***“I would cross any river with him.”***

Don Nash was a close personal friend of 25 plus years and a fellow Oklahoman. As a retired F-15 Program Manager and consultant to my former employer, the then U.S. Army Big Crow Program Office, Don was invited to join our annual Big Crow Program Management (BCPM) meetings held in the tall pine forests of the Gila around Doggie Canyon in about 2005. These meetings were scheduled during elk season and provided a time of camaraderie and friendship as well as an opportunity to let your hair down with Big Crow management. Don, being the family man that he was, requested to have his grandson join us during this 4-5 day extended weekend.

The camp accommodations were five star and included large Army GP-medium tents with carpeted floors, large shepherds stove, and cots and chairs for up to sixteen members per tent. Our official mission support trailer was hauled along to ensure we had hot and cold showers, heated bathroom, and a large sink for washing pots and pans.

After Don's first pilgrimage to the BCPM annual meeting, he was given an open invitation to join us on these off site program management meetings/hunts. Needless to say, Don was immediately hooked and always looked forward to the next off site, up until the Army closed the program office in 2010.

My last elk hunt with Don several years ago was towards Cuba, New Mexico where we hunted a wilderness area at 9,400 feet. There were three of us and each morning we would climb out of camp and head uphill for the day's hunt. We had the typical weather for the time of year and altitude consisting of heavy rains, occasional snow, a little hail, and cold crisp weather to contend with, all of which made the hunt more memorable. Don was 79 years young at the time and was a real trooper, never complaining, and always ready to see what was around the next corner or over the next rise. Although Don did not take an elk that year, it was a grand hunt and one that left each of us with fond memories. Don immediately set out to plan our next hunt, with only one change – “lower altitude and not so many hills.” Although Don was lucky and drew a highly coveted elk permit, we were unable to make the hunt.

Don was a true gentleman, hunting companion, and friend — I would cross any river with him. ~ *Ron Unruh*

*Stuart Purviance and Bill Dettmer also contributed to this article.* •

# President's Corner

by *Malini Hoover*



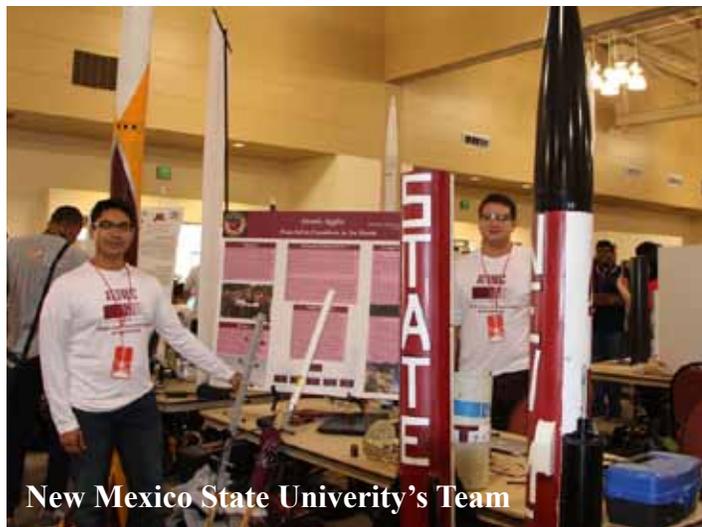
**Malini Hoover**

As I pen this column, I hope everyone is enjoying the last of summer. Fall is around the corner and a perfect time to celebrate some of our achievements that make PACA the great organization that it is. We currently have 140 paid members, up 25% over this time last year. Let's continue this growth trend for 2018; I

would like to have 150 members by the end of the year. You will be doing a favor to your industry friends and colleagues if you introduce them to PACA and get them to sign up!

Following are the things we have accomplished and are planning this year:

PACA's sponsorship of the Second Annual Spaceport America Cup was a great success. I attended the event held June 19-23, 2018 at the Las Cruces Convention Center



**New Mexico State University's Team**

as well as Spaceport America's Vertical Launch Area. The electric energy and excitement among the 1,500 students in attendance from all over the world were very contagious; it resulted in an enjoyable event for spectators and competitors alike. Big commercial space and a few defense companies including Aerojet Rocketdyne, Blue Origin, Boeing, Jacobs, Northrup Grumman, SpaceX, Raytheon, United Launch Alliance, and Virgin Galactic were heavily recruiting at this event.

The Canadian rocket team from McGill University in Montreal took home the Spaceport America Cup. I encourage PACA members to attend next year's competition and cheer for their favorite American team.

PACA's 32nd Briefing for Industry was once again an outstanding success and we couldn't have done it without the BFI committee's meticulous planning and dedication; thank

you all! We introduced and hosted a new networking and social reception on opening night which proved to be of value to all. The hors-d'oeuvres were delicious and the company even better; we hope to have more PACA representatives present for the same gathering next year.

Attendees from 21 states attended the 2018 BFI. Many participants related to the committee that they found it to be a beneficial conference at an affordable price. If you are a local and have not yet attended a BFI, you are really missing out. Mark your calendar for next year's BFI which is scheduled for August 12-15, 2019. I hope to see you all there and that you take advantage of one of the many sponsorship opportunities.

PACA is one of three sponsors for the first ever Space and Tech Transfer Forum with New Mexico gubernatorial candidates Congresswoman Michelle Lujan Grisham (Democrat) and Congressman Steve Pearce (Republican) on Tuesday, September 18 at 4:00 PM at the National Museum of Nuclear Science and History, 601 Eubank NE. They will talk about their space and technology transfer vision and take questions from the audience. It's an ideal opportunity to ask the candidates important questions regarding the future of New Mexico's space industry. Other sponsors include the Kirtland Partnership Committee and Sandia Science & Technology Park Development Corporation. PACA will be hosting more events like this going forward.

Look for an upcoming announcement regarding PACA's change of venue to accommodate more members in attending the monthly PACA luncheons. •

## Join PACA!

PACA membership annual dues are \$150\*. The fiscal year runs from April 1 to March 31. Mid-year applications will be pro-rated. You may apply and pay dues at [www.pacanm.org](http://www.pacanm.org).

For more information, contact our Membership Chair, **Terel Anyaibe**, at [tanyaibe@aerotek.com](mailto:tanyaibe@aerotek.com) or **342-5007**.

\* Dues are subject to change.

## Spread the News

If you know a potential member or anyone else who would like to receive the *PACA Pulse*, 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@lrrc.com](mailto:RCrown@lrrc.com) or call him at 764-5402.

Contributions are welcome! •

# Legal Insights: Determining Contractor Responsibility

By Ross L. Crown

Awards of almost all federal contracts are based on the agency's evaluation of price, technical approach, and contractor responsibility. While each factor is vitally important, no contract will be awarded to a contractor found nonresponsible. Responsibility encompasses a broad range of standards. Prospective contractors need to understand these standards and how they are applied.

## Policy

The term "responsibility" is used to describe the ability of an offeror to successfully meet its obligations under a contract. *Advanced American Construction, Inc. v. United States*, 111 Fed. Cl. 205, 221 (2013). Subpart 9.1 of the Federal Acquisition Regulation prescribes policies, standards, and procedures for determining whether prospective contractors and subcontractors are responsible. FAR 9.100.

Purchases by the federal government can be made from, and contracts shall be awarded to, responsible prospective contractors only. FAR 9.103(a). No purchase or award can be made by a government agency unless the contracting officer makes an affirmative determination of responsibility. In the absence of information clearly indicating the prospective contractor is responsible, the contracting officer shall make a determination of nonresponsibility. FAR 9.103(b). A prospective contractor must affirmatively demonstrate not only its own responsibility, but also when necessary, the responsibility of its proposed subcontractors. FAR 9.103(c).

The FAR notes that the award of a contract to a supplier based on lowest evaluated price alone can be a false economy if there are subsequent default, late deliveries, or other unsatisfactory performance issues resulting in additional contractual or administrative costs. FAR 9.103(c). Although it is important that government purchases be made at the lowest price, this does not require an award to a contractor solely because that supplier submits the lowest offer. *Id.*

## Responsibility Standards

To be determined responsible, a prospective contractor must satisfy the following requirements:

- **Adequate financial resources.** Have adequate financial resources to perform the contract, or the ability to obtain them.
- **Ability to comply with schedule.** Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- **Satisfactory performance record.** Have a satisfactory performance record. A prospective contractor shall not be determined responsible or nonresponsible solely on the basis of a lack of relevant performance history unless special responsibility standards are applied.
- **Satisfactory integrity and ethics.** Have a satisfactory record of integrity and business ethics.

- **Necessary capabilities.** Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors).

- **Necessary equipment and facilities.** Have the necessary production, construction and technical equipment and facilities, or the ability to obtain them.

- **Otherwise qualified and eligible.** Be otherwise qualified and eligible to receive an award under applicable laws and regulations. FAR 9-104-1.



When it is necessary for a particular acquisition or class of acquisitions, the contracting officer should develop special standards of responsibility. Special standards may be particularly desirable when experience demonstrates that unusual expertise or specialized facilities are needed for adequate contract performance. These standards must be set forth in the solicitation (and identified as special standards) and shall apply to all offerors. FAR 9.104-2. Special standards

are specific and objective criteria designed to measure a prospective contractor's ability to perform the contract. *Matter of Vador Ventures, Inc.*, B-296394, August 5, 2005, 2005 CPD ¶ 155 at 2.

## Application of Responsibility Standards

In applying standards of responsibility, contracting officers are required to engage in the following analysis:

- **Ability to obtain resources.** Except to the extent that a prospective contractor has sufficient resources or proposes to perform the contract by subcontracting, the contracting officer shall require acceptable evidence of the prospective contractor's ability to obtain required resources. Acceptable evidence normally consists of a commitment or explicit arrangement that will be in existence at the time of contract award, to rent, or purchase, or otherwise acquire the needed facilities, equipment, other resources, or personnel.

- **Satisfactory performance record.** A prospective contractor that is or recently has been seriously deficient in contract performance shall be presumed nonresponsible, unless the contracting officer determines that these circumstances were properly beyond the contractor's control, or that the contractor has taken appropriate corrective action. Past failure to apply sufficient tenacity and perseverance to perform acceptably is strong evidence of nonresponsibility. Failure to meet the quality requirements of a contract is a significant factor to consider in determining satisfactory performance. The contracting officer shall consider the number of contracts involved and the extent

*continued on following page*

## Legal Insights *continued*

of deficient performance in each contract when making this determination.

- *Affiliated concerns.* Affiliated concerns are normally considered separate entities in determining whether the concern that is to perform the contract meets the applicable standards for responsibility. The contracting officer shall, however, consider the affiliates' past performance and integrity when they may adversely affect the prospective contractor's responsibility.

- *Small business concerns.* Upon making a determination of nonresponsibility with regard to a small business concern, the contracting officer shall refer the matter to the Small Business Administration, which shall decide whether to issue a Certificate of Competency. A small business that is unable to comply with the limitations on subcontracting at FAR 52.219-14 may be considered nonresponsible. FAR 9.104-3.

In making a responsibility determination, the contracting officer is vested with a wide degree of discretion and, of necessity, must rely on his or her business judgment in exercising that discretion. *Matter of Kompania e Sigurimeve Eurosig Sh.a*, B-414561.2, January 9, 2018, 2018 CPD ¶ 21 at 4. Although the determination must be factually supported and made in good faith, the ultimate decision appropriately is left to the agency, since it must bear the effects of any difficulties experienced in obtaining the required performance. *Id.* Where special standards are applied, because these standards limit the competition to those who can meet them and because compliance with these criteria is not a matter of subjective business judgment but rather can be determined objectively, offerors must satisfy such standards as a precondition for award. *Matter of Vador Ventures, Inc., supra.*

A prospective contractor has the burden of proving that it is presently responsible. *OSG Product Tankers LLC v. United States*, 82 Fed. Cl. 570, 576 (2008). The contracting officer may reject a contractor's showing of responsibility as insufficient and has no duty to ask the contractor for more support. *Id.* Thus, a contracting officer may base a negative determination of responsibility on the evidence in the record without affording offerors the opportunity to explain or otherwise defend against the evidence. *Matter of Pond Security Group Italia, JV*, B-400149.3, December 22, 2008, 2008 CPD ¶ 233 at 3.

### Subcontractor Responsibility

Generally, prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors. Determinations of prospective subcontractor responsibility may affect the government's determination of the prospective contractor's own responsibility. A prospective contractor may be required to provide written evidence of a proposed subcontractor's responsibility. FAR 9.104-4(a).

When it is in the government's interest to do so, the contracting officer may directly determine a prospective subcontractor's responsibility. Such instances may include, for example, when the prospective contract involves medical supplies, urgent requirements, or substantial subcontracting.

The same standards used to determine a contractor's responsibility are used by the government to determine subcontractor responsibility. FAR 9.104-4(b).

### Understanding Responsibility Standards to Submit Competitive Proposals

A prospective contractor who cannot demonstrate to the contracting officer's satisfaction that it is responsible will not receive a contract award. Offerors must therefore ensure that their proposals clearly demonstrate that they meet these standards. When necessary, they must further be able to show their subcontractors are responsible. Whatever proof of responsibility is included in a contract proposal has to be sufficient because a contractor may not have another opportunity to make this showing. To submit a competitive proposal, the prospective contractor must therefore be familiar with both the responsibility standards set forth in the FAR and, if applicable, the solicitation, and how these standards will be applied by the contracting officer to its proposal. •

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Ross is a partner in the Albuquerque office of Lewis Roca Rothgerber Christie LLP where his practice emphasizes government contracts. He can be contacted at [RCrown@lrrc.com](mailto:RCrown@lrrc.com). 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.

## Future PACA Luncheon Speakers

*By Stuart Purviance*

I am back working on PACA Luncheon Speakers after helping Ron Unruh with the Briefing for Industry which took place August 13-16 at the Hotel Albuquerque at Old Town. The 2018 BFI set an attendance record with 541 registrants. Ron and the BFI Committee did good work as usual.

I am working on luncheon speakers for September, November, and January. There is no December speaker due to our annual holiday luncheon scheduled for Friday, December 7. I have one confirmed speaker at this writing for October, Dr. Robert E. Peterkin. He is Director of Operations for the General Atomics Electromagnetic Systems here in Albuquerque (see *full bio on following page*).

I am hoping to confirm Colonel Tim Sejba, the new Director of the Advanced Systems and Development Directorate here. There are some very significant changes going on, including a new name for the Operationally Responsive Space Office. I am negotiating with Major General Michael Brewer, new Commander of AFOTEC, the Air Force Operational Test and Evaluation Center at Kirtland AFB, as well as with Colonel Justin Hoffman, the new Commander of the 58th Special Operations Wing at the base who has recently arrived from Cannon AFB in Clovis.

If you would like to sit at the head table with one of the four speakers, please email me at [trailswest@aol.com](mailto:trailswest@aol.com). •

## Upcoming Luncheon Speaker

■ **October 16 – Dr. Robert Peterkin, Director of Operations, General Atomics Electromagnetic Systems (GA-EMS)**



General Atomics Electromagnetic Systems (GA-EMS) is pushing the boundaries of scientific research to create first-of-a-kind, advanced electromagnetic and electric power generation technologies for critical defense, commercial, and industrial applications worldwide.

Dr. Robert Peterkin is responsible for coordinating the implementation of technology strategies and roadmaps to meet future customer requirements and market opportunities for directed energy, space systems, and pulsed power in the Albuquerque area.

Dr. Peterkin's professional career began pioneering the use of high performance computing for directed energy applications. Prior to joining GA-EMS, he was appointed to the Senior Executive Service in the U.S. Air Force and served as chief scientist for directed energy at the New Mexico campus of the Air Force Research Laboratory (AFRL). In this position, he ensured the technical quality and Air Force relevance of AFRL's Directed Energy Directorate's research in high energy lasers, high power electromagnetics, advanced optics, and modeling and simulation. Previously, Dr. Peterkin served as chief scientist of the Department of Defense High Performance Computing Modernization Program with responsibility for the technical execution of the DOD's significant investment in supercomputer resources, research, and development.

In 2015, Dr. Peterkin received the Meritorious Presidential Rank Award from President Barack Obama. Dr. Peterkin was also a member of the Air Force Scientific Advisory Board, and has authored or co-authored approximately 100 papers and given numerous contributed and invited talks at scientific and technical conferences and symposia. He is a Fellow of both the American Physical Society and the AFRL, and was named an SAIC Technical Fellow in 2006.

Dr. Peterkin received a Ph.D. in physics and astronomy from the University of North Carolina at Chapel Hill, and a Bachelor of Science in physics from Boston 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 \$20.

To RSVP, register online at [www.pacanm.org](http://www.pacanm.org). Include your name, guest's name, and menu selection. Please RSVP by the Wednesday before the week of the meeting. •



## WELCOME New Members!

**Kristine Burnell,**  
Engility Corporation

**Gaston DeVigne,**  
Westwind Computer Products

**Mark Franz,**  
Northrop Grumman Innovation Systems

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Fiore Industries Inc.

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Alion Science and Technology

**Christopher Patscheck,**  
Raven Defense Corporation

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Defense Logistics and Deployment Group LLC

**Clinton Plaisted,**  
a.i. solutions

**Maria Romero,**  
Golden Rule Holdings dba TCS Industries

**Paul Tennant,**  
Raytheon

**John Thurman,**  
Archer Consulting, LLC



# The 32nd BFI in Action!

## 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

*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 QUARTERLY LUNCHEON \$400:** (One sponsor per quarter for January, April, July, and October meetings and 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 5-10 minute overview of company. Corporate brochures may be placed on the luncheon tables. A small business sponsor may not sponsor another luncheon for twelve months. •



# Thank You PACA Sponsors!

## WELCOME NEW Gold SPONSOR!

GOLD



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SILVER



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*Silver and Premier Small Business Sponsors continued on following page*

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