

NCMA NEWS



San Diego Chapter

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Upcoming NCMA-SD Events

- December 18 Holiday Social @ Black Angus on Kearny Villa Road, 5:30 PM
- January 8 Audio Seminar: Ethics and Compliance Programs
- January 16 Seminar: Intellectual Property on Federal Contracts

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The Changed Role of the Defense Contract Management Agency (DCMA)

The Defense Contract Management Agency (DCMA) is the United States' Department of Defense (DoD) agency responsible for performing contract administration services (CAS) for DoD contracts.

BACKGROUND

In the early 1960's the Secretary of Defense commissioned a study, known as "Project 60," to examine the DoD contracting process. At the time, each agency, as well as the military services, was performing its own contracting and administration. Project 60 reported numerous

benefits for consolidating contract administration functions, e.g., reducing the enormous amount of duplicate effort. Many of the contract administrative responsibilities were moved to the Defense Logistics Agency (DLA); however, the military continued to retain oversight of the major acquisition programs.

Defense Contract Management Command (DCMC)

The Defense Contract Management Command (DCMC) was established within the Defense Logistics Agency (DLA) in February 1990 in order to satisfy Defense Management Review Decision (DMRD) 916. DMRD 916, another study conducted in 1989 citing problems in which contract administration services were being performed, recommended the creation of a joint command to perform contract administration services for DoD.

Defense Contract Management Agency (DCMA)

The Defense Contract Management Command was renamed the Defense Contract Management Agency, on March 27, 2000, as an independent agency. All DoD activities are now required to delegate contract administration functions to DCMA, except for specific exceptions detailed in DFARS.

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President's Message

By Joni Shirley



This time of year means different things to different people all around the world. For many, the season focuses on treasured religious observances. For some, it's a time for carols, feasts and holiday festivities. For others, it's a time for family and friends. Whatever it means to you, though, I think we can all agree that it is a season of warmth and goodwill. I personally take this holiday season to reflect on the past year and how much I have to be grateful for. I am especially reminded of how blessed I am and how fortunate I am to live in such a great country. I give thanks every day to the men and women selflessly serving our nation to maintain our freedom. As we move toward the end of another year, I hope that each and every one of you can reflect back positively on this past year. Before leaping into 2008, please take time to smell the roses, to express the appreciation we have for one another, and to share the camaraderie with our friends and family. I wish all of you a very Merry Christmas and a Happy and Prosperous New Year!

NCMA-SD November Seminar Debrief

By Maurice Caskey

The San Diego Chapter presented "Contract and Subcontract Closeout," a seminar on closing U.S. Government contracts. The authors and presenters were Kenneth Adam, an administrative contracting officer at DCMA San Diego, Maurice Caskey, recently retired Contracts Manager at General Dynamics NASSCO, and Diane Peluso of DPM Consulting. They started by defining closeout and identifying the conditions under which a contract may be closed. The roles and responsibilities of both Government and contractor personnel were discussed. The importance of prime contractors following a similar process with subcontractors under Government contracts was emphasized.



L to R: Kenneth Adam, Maurice Caskey, Diane Peluso, Mark Cook

They also discussed the financial aspects of closing contracts, with an emphasis on actions to take through the contract's life to facilitate close-out when a contract is physically complete. Alternate closeout methods were identified and discussed. Financial considerations are very important when using either a "standard" closeout or an alternate closeout method.

Keys to success in closing a contract include planning and preparing for closeout from the time of preparing the proposal through delivery of the last goods and/or services as well as the Government and the contractor working jointly to ensure their respective actions are completed. Timely actions through the life of a contract help expedite closeout when a contract is physically complete. Timely closeout benefits both the contractor and the Government.

If one "message" was received from the comment sheets received after the seminar, it was that this is a very complex topic that takes more time than was available with this seminar. Should the Chapter membership desire other seminars focused on various aspects of closeout, please remember to identify that on the annual survey next spring. Your suggestions provide a major input to the Chapter's planning process for a year's luncheon and seminar schedule.

The Upside of Cancelled Solicitations

By: Gunnar Schalin, PTAC

Toward the end of a government or public agency fiscal year we often see the flurried release of solicitations. Perhaps a potential respondent makes a bid decision, selects a strategy, appoints a proposal manager, holds a kick-off meeting with all departments and begins the intense process of creating the winning proposal. After the entire organization is fully energized and exercised, Marketing informs everyone that the solicitation has been cancelled.

Following the anger or disappointment, the respondent starts to calculate the lost time and resources already invested in the proposal. How can there be any “upside” to all of this?

First let us review some of the many possible reasons for the cancellation. 1) The Agency received so many questions and requests for clarification that it realized that the statement of work was flawed. 2) The Agency had under-budgeted so they moved the project to the next FY. 3) The Agency needed to direct the funding to a higher priority project. 4) The Agency decided to use in-house resources to perform the project. 5) The user no longer considers the requirement to be valid.

Well you are correct; it appears that all of this could have been avoided if the Agency had coordinated and planned a little better. But now that we have already invested so much in proposal development, what can be the upside?

Assuming the project will be resurrected in some form and will be put out for bid in the future, you now have the opportunity to work with and get to know the Agency team a little better. Remember, besides the anger and disappointment for your organization, your Agency counterparts are experiencing the same thing. Image how much effort went into creating the solicitation. If you approach your counterpart with an understanding attitude and a willingness to help them get ready for the new release, there is potential for you to improve the relationship between your organizations.

You also have the opportunity to revise language or requirements that may not have been as favorable as you would like them to be. For example, if your company has a strong small business program, you might suggest that the FAR Clause 52.219-10 or -26 (Incentive Subcontracting Program or SDB Participation Program – Incentive Subcontracting) be inserted. Likewise if your small business program is not strong, you might argue for the removal of FAR Clause 52.219-16 (Liquidated Damages – Subcontracting Plan).

While the Contracts Department can be maneuvering regarding the clauses, terms and conditions etc., Marketing has a renewed opportunity work with the end user to shape or refine the project’s functional requirements to better match your company’s overall capabilities. At the same time, Advanced Programs or Engineering can revisit the underlying technological demands of the project.

Assuming that your original proposal was being written in well defined building blocks, the postponement of the solicitation does not void all that has been done, but gives you new opportunities. The first opportunity allows you to build stronger relationships with your Agency counterparts. Second it allows you to help the Agency shape the upcoming solicitation into one that better suites their needs and yours. All is not lost, there really is an upside.

January 8th Audio Seminar - Save the Date!!!

Please join us for an audio seminar on the New Compliance requirement that takes effect January 24, 2008 and March 24, 2008. This affects not only large prime corporations, but also subcontractors that have government contracts over \$5 million **or** with a performance period of over 120 days.

The New Mandatory Compliance Requirements: Contractor Ethics and Compliance Programs and What You Need to Know

Tuesday, January 8, 2008

9:00am–10:30am Pacific

Integritys Corporation

8787 Complex Drive, Suite 400

San Diego, CA 92124

Joni Shirley: shirley_joni@integritys.com

(858) 300-1609 voice

\$5 per person (check payable to NCMA San Diego or by cash at seminar)

Recently, the government enacted new government contracting ethics and compliance rules that require immediate implementation in FAR Part 3.10.

The new requirements are:

- By January 23, 2008, contractors must have a formal government contract compliance program in place, including a written code of business ethics and conduct; and
- By March 24, 2008, contractors must have an internal control system in place regarding contractor ethics and compliance.

Who does this effect (the textbook answer)?

Prime contractors holding contracts over \$5 million;

Prime contractors holding contracts with a performance period of over 120 days; and

Subcontractors meeting the same threshold (holding a subcontract worth over \$5 million or with a performance period of over 120 days).

Why does this impact all government contractors (the real world answer)?

While smaller contracts and commercial item contracts are exempt from the rule, the regulation sets the "standard of care" for acceptable business integrity under the responsibility rules, and will almost certainly be taken into account for past performance ratings regardless of the contractor's size.

Furthermore, any company doing government business will need a substantially identical program to take advantage of various formal and informal "safe harbors" related to government contracting.

Since a variety of statutes and regulations governing contractor conduct, including the False Claims Act and the False Statements Act, apply to all contractors, this sort of compliance program is virtually mandatory for all firms doing business with the government.

Participants will learn:

- Insight into the new rules,
- Immediate steps companies can take to comply with the rules within such a short time frame, and
- Where an extension of time may be possible.

This fast-paced seminar will address the above issues and more while giving you plenty of opportunity to ask our experts for advice about your unique concerns.

Presenters: **William M. Weisberg**, partner and chair of the Government Contracts Practice, Sullivan & Worcester; and **Joyce L. Tong**, associate, Litigation Department, Sullivan & Worcester.

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GOLDWATER-NICHOLS ACT

In 1986, Congress passed the Goldwater-Nichols Act-legislation that created the most significant reorganization of the Department of Defense (DoD) since its formation in 1947. The act integrated service capabilities, strengthened DoD joint elements, and designated the Chairman of the Joint Chiefs of Staff (CJCS) as the principal military adviser to the president, National Security Council and Secretary of Defense.

The Goldwater-Nichols Act also established combat support agencies - major DoD organizations that provide direct support to the war fighters. Further, the act stipulated that these combat support agencies would receive periodic oversight from the Joint Chiefs of Staff.

DCMA's designation as a combat support agency in March 2000 represented a significant expansion of the role it performed as a command under the Defense Logistics Agency (DLA).

THE CHANGED ROLE OF DCMA

One significant change to the DCMA is that its director now reports to two chains-of-command, receiving functional oversight from the Under Secretary of Defense for Acquisition and, Technology & Logistics and operational oversight from the CJCS. The Joint Staff and the war fighters' Commanders-in-Chief (CINC) are now DCMA direct customers and they are responsible for overseeing the agency's operational activities.

DCMA Combat Support Center (CSC)

DCMA has established a Combat Support Center (CSC) to perform critical communications and emergency planning for all actions and events that affect defense contractors. Working closely with DCMA District Office emergency planners during recent emergencies, the CSC staff processed situation reports from the Seattle earthquake and the energy shortage in California, when power companies were promising intermittent brown-outs of defense contractor facilities. Throughout the California energy crisis the CSC, acting as the nerve center for emergency planning, processed information from the DCMA District Offices regarding contractor capabilities and quickly passed it along to the Department of Energy.

The CSC really has two major roles: to be a central communication and integration link between DCMA, the Joint Staff and the field activities, and to establish the policy for how DCMA is to perform as a stand-alone combat support agency.

DCMA Realignment from Geographic Districts to Product-Based Divisions

The DCMA continues the transformation of its organizational structure from geographic-based Districts to product-related Divisions – they include the following:

- Aeronautical Systems Division
- Ground Systems & Munitions Division
- Naval Sea Systems and Space & Missile Systems Division
- International Division
- Special Programs Division.

In order to better serve customers, DCMA is re-aligning to a customer-based product focus for its 44 CONUS Contract Management Offices (CMO), a move that allows it to gain customer focus and to build product-specific skills.

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Program Executive Offices (PEO) from the Air Force, Army, Navy, Marines and NASA will now map to a single district director within DCMA. Previously, customers had complained that it was difficult to identify the one person within DCMA who could apply resources to solve their specific problems. Now, each district director will be in charge of all activities that support a particular PEO, a move that is intended to resolve this issue.

Currently DCMA is planning on grouping the PEO under one of five enterprise commodities. Each of the five enterprise commodities will be assigned to one district director and the CMO's that support those enterprises will be realigned under that district director. The proposed five commodities are:

- Aeronautical
- Space & Missiles
- Ground Vehicles & Munitions
- Electronics Systems & Ships Systems
- Sustainment & Life Cycle Support

DCMA Contract Disputes Resolution Center (CDRC)

The Contract Disputes Resolution Center, co-located with the Virginia Contract Management Office (CMO), was created in 2000 to resolve contract disputes between the Agency and defense contractors that are likely to, or do, end up in litigation. The Center currently has a staff of 15 attorneys divided into three trial teams: the West Team, which consists of four attorneys located in Carson, CA, Chicago, IL and Twin Cities, MN; the East Team, with four attorneys divided between Boston, MA and Manassas, VA; and the Manassas team, comprised of five attorneys located in Manassas, VA and Philadelphia, PA. The Center also employs a chief trial attorney, located in Manassas, and an Alternate Disputes Resolution (ADR) specialist located in New York City. The CDRC team also includes two paralegals and one legal technician, both located in Manassas, VA.

According to Mr. Arthur Taylor, deputy director and chief of the Manassas trial team CDRC, the Center is focused on providing the greatest level of support to its customers. The Center works very closely with the Agency contracting officers, administrative contracting officers and terminating contracting officers since they are the ones who issue the final decisions that may result in disputes. "Once [these officers] issue a final decision, they want someone in the Center who can represent them if a dispute arises. We work with them on a day-to-day basis," reiterated Mr. Taylor. The Center also reviews all final decisions before they are issued in order to help contracting officers "avoid making bad final decisions and strengthen the good ones."

DCMA Connection to the War Fighters

The International Division supports Contingency Contracting Administrative Services (CCAS). The CCAS mission provides the DCMA the opportunity to directly support the war fighter in a contingency environment, ensuring that essential services are provided to improve war fighters' lives in deployed locations.

Much of CCAS support to the war fighters and the combatant commanders focuses on the Logistics Civil Augmentation Program and Air Force Contract Augmentation Program contracts in the Middle East area of operations. Both contracts are supported by DCMA Iraq and DCMA Middle East.

DCMA Iraq and DCMA Middle East war fighter support extends to the Stryker reset, Stryker battle damage repair, tanker ballistic foam coating and Humvee reset contracts performed in Iraq, Qatar and Kuwait. Their vital oversight allows repair and overhaul to occur in theater, resulting in significant cost savings to the taxpayer and greatly reducing the turnaround time for returning equipment to the fight on terrorism.

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Although the focus for the war on terrorism is in the Middle East, DCMA supports an equally important CCAS mission in the Republic of the Philippines. DCMA Pacific oversees the Army Communications and Electronics Command's rapid response contract that supports the Joint Special Operations Task Force – Philippines counter terrorism mission.

FINALLY

Welcome to a new Era – DCMA has been designated a combat support agency subject to the provisions of the Goldwater-Nichols National Defense Reorganization Act. While this is a new designation and adds many new challenges and opportunities, supporting the war fighter is not a new concept for the Agency. DCMA responsibilities fall into three major categories. First, it provides sound acquisition and contract management support throughout the DoD. Second, it partners with the Department's acquisition and logistics organizations and America's defense industry in planning and developing the best ways to support operating forces during wars, threats to national security or humanitarian missions. And, finally, DCMA also deploys alongside America's war fighters to provide contingency contract administration services (CCAS).

The DCMA performance based management structure is seamlessly integrated with the war fighters.

About the Author

Shepard L. Mais Chairs the NCMA San Diego Small Business and Military Outreach Committee. He is president of SHEPARD'S Government Contracts Management Services, Inc. a firm that specializes in assisting organizations of all types to succeed in the Government marketplace.



Membership Focus – Meet Quyen Tran



Quyen Tran is the Contracts Administrator for Quantum Magnetics Inc., a wholly owned subsidiary of GE Homeland Protection. Quyen has 5 years experience in increasingly responsible roles in the area of contracts administration, subcontracting, government property administration, small business administration and facility security. Quyen holds a BA in International Business from San Diego State University. She has been an active NCMA member since 2003 and is currently serving as the San Diego Chapter's Arrangement Director.

NCMA-SD Board of Directors and Other Points of Contact

Board of Directors

Position	Officer	Email
President	Joni Shirley	shirley_joni@integrits.com
Vice President	Dan Chalfant	Chalfant_daniel@bah.com
Treasurer	Mark Cook	mark@kes.com
Secretary	Christine Powell	cpowell@syzygy-tech.com

Committee Chairpersons

Position	Chairperson	Email
Employment	Jack Friery	friery@earthlink.net
Education	Maurice Caskey	scracer@flash.net
Membership	Chrystal Piskor	Chrystal.l.piskor@saic.com
Arrangements	Quyên Tran	quyen.tran@ge.com
Small Business & Military Outreach	Shepard Mais	mshepards@cox.net

We are also looking to fill the following committee positions:

PUBLICITY – SPEAKERS – AWARDS