



# Office of Command Counsel Newsletter

April 2000, Volume 2000-2

## AMC Command Counsel Newsletter Survey Results--What you said & What we'll do

During the month of March we conducted an informal survey of AMC legal offices to gain your thoughts, suggestions and recommendations on the AMC Command Counsel Newsletter. I appreciate the comments supplied from those who took the time to reply, including CECOM, TACOM, IOC, SBCCOM, STRICOM, and ARL.

As the veteran's of your office know, we have published a bi-monthly Newsletter for the last nine years, and we are starting our third year using the Internet to reach you. When we first went to the Web we had problems in that not all our legal offices had access. The primary reason we went to the Web was to provide a quicker and wider distribution to you, rather than having you wait for internal hard copy distribution.

We are pleased to report that no office reports access or distribution difficulties, the major barrier we faced since 1991. This is a significant, long-sought develop-

ment. Thus, we are committed to continuing web distribution. We are also listening carefully to you and want to respond to improve the quality of the product.

Survey comments included the following:

1. **The Watermark** (background—Command Counsel Newsletter) seems to make reading more difficult in that it hides the text. This problem has been reported before. It appears to be an issue when the Newsletter is printed—but not on every printer. Not sure what we can do about this. We could discard it or seek to lighten the watermark.

2. **Scrolling** the Newsletter from one column to the next to read each article seems to be an issue, especially to our speed-readers. We will try to increase the use of designing articles in a format such as across multiple columns.

3. **Indexing** the Newsletters appears as a recommendation several times. An index was prepared semi-annu-

ally during the hard copy era of the Newsletter. It was a lot of work and there was never a comment made indicating that you considered this a worthwhile endeavor. We will explore the possibility of doing so for the on-line version.

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# Survey Results...Continued

## What You Can Do

**T**he Office of Command Counsel receives favorable comments from both government and non-government sources after publication of each issue. This is nice to receive and we hope each of you realize this is good for our legal community. Many of you regularly submit articles for publication, for which we are very grateful.

In order to make the Newsletter even better, we ask you to consider the following:

1. **Contributions** from the AMC field offices in the acquisition area have been outstanding. We ask **labor counselors** and **ethics counsel** to especially expand their efforts. Thus far most of the articles in these two disciplines come from the Headquarters teams in these areas.

2. **AMC Legal Office Profiles** became a regular feature of each Newsletter last year. Comments are universally fa-

vorable, as these profiles are a tool to get to know our colleagues. Unfortunately, our true volunteers have already contributed. As you will see, we have no profile in this issue despite both an E-Mail request and an AMC Chief Counsel VTC request (plea?). We are looking for profiles from all AMC offices, especially the smaller ones. Please think about making this contribution.

3. **Consider sending** the Newsletter to or making your clients and commanders aware of the Newsletter

Much thanks goes to **Joshua Kranzberg**, AMCCC Web Master and **Holly Saunders** for their unique expertise in delivering the Newsletter to you on time and in great shape. The three of us look forward to hearing from you.

Thanks for your cooperation.

**Steve Klatsky**, editor,  
DSN 767-2304

### **Newsletter Details**

#### **Staff**

*Command Counsel*  
Edward J. Korte

#### *Editor*

Stephen A. Klatsky

#### *Layout & Design*

Holly Saunders

#### *Administrative Assistant*

Fran Gudely

#### *Webmaster*

Joshua Kranzberg

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Contributions are encouraged. Please send them electronically as a Microsoft® Word® file to [sklatsky@hqamc.army.mil](mailto:sklatsky@hqamc.army.mil)

Check out the Newsletter on the Web at [http://www.amc.army.mil/amc/command\\_counsel/](http://www.amc.army.mil/amc/command_counsel/)

Letters to the Editor are accepted. Length must be no longer than 250 words. All submissions may be edited for clarity.

# Acquisition Law Focus

## Proposal Preparation Costs--Unsolicited Proposals

AMCOM's **Rachel Howard**, DSN 897-1294, has written an excellent article on the subject of proposal preparation costs for unsolicited proposals (Encl 1 ).

The paper addresses the question of whether you actually have an unsolicited proposal under FAR 15.601. FAR 15.601 defines an unsolicited proposal as "a written proposal for a new or innovative idea that is submitted to an agency on the initiative of the offeror for the purpose of obtaining a contract with the Government, and that is not in response to a request for proposals...or any other Government-initiated solicitation...."

### General Rule #1

As a general rule, proposal preparation costs are allowable when the government has solicited submission of the proposal, inducing the contractor to expend the cost of preparing it, and

then behaved in an arbitrary and capricious manner in the evaluation of it or in the award of the contract (such as by failing to consider the proposal in a fair and honest manner).

### General Rule #2

The paper addresses case law concluding that as a general rule, unsolicited proposers are not entitled to proposal preparation costs. In one Comptroller General decision, the court held that one who submits an unsolicited proposal becomes a "volunteer, and as such, is not entitled to compensation for his work in preparing the proposal." Matter of Charles G. Moody, 1978 U.S. Comp. Gen. LEXIS 2471, \*6, B-191181, April 27, 1978.

Of course, further reading suggests that things are not as clear as might be suggested by the general rules.

## List of Enclosures

1. Proposal Preparation Costs--Unsolicited Proposals
2. Competition Advocate--Roles & Responsibilities
3. Partnering & the WLMP
4. Voluntary Services
5. Direct Sales Statute
6. Using GSA Federal Supply Schedules
7. Due Diligence in the WLMP Acquisition
8. Union Recognition in the DA
9. EEO--Offers of Resolution
10. Witness Preparation
11. ELD Bulletin--Jan 2000
12. ELD Bulletin Feb 2000
13. Modelling Your Federal Facility Agreement
14. EPA--Institutional Controls Policy
15. Interim DA Guidance & Update--Government Credit Card

# Acquisition Law Focus

## Competition Advocate: Roles & Responsibilities

The Federal Acquisition Streamlining Act (FASA) of 1994 (Sec. 8104, paragraph 2377 of Public Law 103-355), established a preference for the acquisition of commercial items, and also expanded the duties of Competition Advocates by assigning them responsibility for promoting the acquisition of commercial items (Sec. 8303, Additional Responsibilities for Advocates for Competition). FAR Part 6 implements this increased responsibility as follows:

“Agency and procuring activity competition advocates are responsible for promoting the acquisition of commercial items, promoting

full and open competition, challenging requirements that are not stated in terms of functions to be performed, performance required or essential physical characteristics, and challenging barriers to the acquisition of commercial items and full and open competition such as unnecessarily restrictive statements of work, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses” (FAR 6.502).

There is no guidance or policy for the Competition Advocates stipulating how the responsibility for promoting commercial items is to be fulfilled.

The enclosed paper describes the role and functions of the CECOM Competition Advocate in executing the responsibility of promoting the acquisition of commercial items:

- through participation in acquisition planning and the review of acquisition strategy documents
- assistance with market research
- participation in training sessions with requiring activities and contracting personnel

POC is **Marla Flack**, Competition Management Division, CECOM Legal Office, DSN 992-5057 (Encl 2).

## Partnering & the WLMP: The Journey Begins

The FY 2000 DoD Authorization Act, Public Law 106-65, requires the use of Partnering on WLMP as follows: The Army Materiel Command should encourage partnerships with the con-

tractor, with the primary goal of providing quality contract deliverables on time and at a reasonable price.

CECOM's **Larry Asch**, DSN 987-1076, CECOM's original Lead Partnering

Champion has written an excellent paper “The Wholesale Logistics Modernization Program Partnering for Success Journey Begins”, describing the benefits of Partnering to the WLMP (Encl 3).

## Voluntary Services

The issue of the acceptance of voluntary services has Anti-Deficiency Act ramifications as described in the enclosed paper by CECOM's **Lea Duerinck**, DSN 992-3188.

The Anti-Deficiency Act ("ADA") greatly limits the Government's ability to accept voluntary services. Specifically, the ADA provides:

An officer or employee of the United States Government or the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. See also, Army Regulation 37-1, para. 7-6, which incorporates the statutory prohibitions. 31 U.S.C. § 1342 (1999).

Generally, voluntary services may only be accepted in emergencies. The ADA provides that "emergencies" do "not include ongoing, regular functions of government the

suspension of which would not imminently threaten the safety of human life or protection of property." 31 U.S.C. § 1342 (1999).

The paper cites case law and discusses several exceptions to the general rule, such as student volunteers, US Forest Service, employment of disadvantaged groups, and cases such as an Army Reserve Officer be ordered to active duty without pay if statute provides for such.

An interesting section discusses voluntary services and government employees. Government officers or employees are generally prohibited from volunteering or gratuitously providing their services.

The general rule is that "it is contrary to public policy for an appointee to a position in the Federal government to waive his ordinary right to compensation or to accept something less when the salary for his position is fixed by or pursuant to legislative authority" (Encl 4).

IOC's **Terese Harrison**, DSN 793-8447, provides an article on issues related to 10 U.S.C. 2539b, "Availability of Samples, Drawings, Information, Equipment, Materials, and Certain Services," that are worth sharing. (Encl 5). This statute allows the Secretary of Defense and the secretaries of the military departments to: Sell, rent, lend, or give samples, drawings, and manufacturing or other information; sell, rent or lend government equipment or materials; and sell the services of/ make available any government laboratory, center, range or other testing facility.

**CLE 2000**  
**22-26 May 2000**

# Acquisition Law Focus

## Using GSA Federal Supply Schedules- The GAO Rules

During the last decade, there has been an explosion in Federal agency use of the General Services Administration (GSA) Federal Supply Schedules (FSS) Program. Almost all recent developments – be they regulatory, political or technological – have served to fuel that expansion.

A significant constraint, however, was imposed by the General Accounting Office (GAO) in 1999. In the case of

Pyxis Corporation, B-282469, July 15, 1999, 99-2 CPD ¶ 18, the GAO put a formal and complete end to the previously authorized practice of Federal agency ordering of non-FSS items through FSS contracts.

FSS contracts have become increasingly popular in recent years for a number of reasons: regulatory changes that allow agencies to place orders with unlimited dollar values and without any prior

notice to industry; dwindling numbers of acquisition personnel seeking to find alternatives to lengthy and costly, full-blown procurements; and, the availability of an increasing variety of items on FSS contracts.

An examination of the impact of this GAO case on our practice as well as GSA guidance is addressed in an article by CECOM's **Pat Drury**, DSN 221-3359 (Encl 6)

## Due Diligence in the WLMP Acquisition

Throughout the WLMP acquisition process, a concerted effort was made to maximize free and open communication between Industry and Government to the extent permissible by law and regulation. Among the numerous innovative acquisition practices used was a commercial business practice known as due diligence.

Due diligence has many meanings in the commercial world, ranging from the investigation process done prior to corporate acquisitions, initial public stock offerings or acquisition of real property to its use as an affirmative legal defense. In the context of the WLMP, due diligence was used to provide offerors with a vast array of information,

including, but not limited to information regarding the operations of the LSSC and ILSC IT systems and the operations and structural nature of the organizations supporting those IT systems.

For a detailed look at due diligence and the WLMP experience we provide an article by CECOM's **Lea Duerinck**, DSN 992-3188 (Encl 7).

## Professional Liability Insurance

This addresses implementation of the statute providing for payment of up to 50% of the cost of professional liability insurance for qualified federal employees.

1. The policy for implementation is still being developed by DOD. Bob Fano, Labor & Employment Law Division, OTJAG, who is the Army representative attending DoD's status meetings, believes that the policy will be issued within about a month. The draft provides for payment of either 50% of the cost or \$150.00, whichever is less (coverage has been priced at under \$300.00).

2. It looks as if the personnel community will probably have to accept "applications" and make the call as to whether or not the appli-

cant is covered, but roles and responsibilities are still being debated. DFAS will also be a player.

3. According to **Bob Fano**, DA's official position is that we will not "endorse" liability insurance if asked. Many labor lawyers do not believe that such insurance is really necessary. The policies do not cover criminal charges, and the government is generally substituted for individual defendants in civil actions. However:

a) We represent the Army in discrimination complaints and named supervisors who feel obliged to protect their personal interests are entitled to separate representation at their own cost. These insurance policies cover 3rd party proceedings,

so they might be useful in these circumstances (although the interests of the Army and the supervisors usually diverge only in sexual harassment cases).

b) The policies probably pay for the defense of an employee being disciplined or fired - it may be paradoxical for us to pay half the cost of insurance for this purpose, but it could be the result.

c) \$150.00 per year is probably not a lot to pay if it will help you sleep better at night or reduce your anxiety when you're named as an alleged "discriminator."

4. Law enforcement officials are the most logical beneficiaries of the new statute.

POC is **Linda Mills**, AMCCC, DSN 767-8049.

## Union Recognition in the DA

Enclosed is a paper detailing union recognition in the Army based on OPM's publication, Union Recognition in the Federal Government, dated January 1999.

Twenty-four different unions represent 133,221 Army employees in 505 bargaining units. About 60% of the civilian population is represented by a union. There

were 14,418 (9.8%) fewer Army employees represented by a union compared to OPM's January 1997 data (Encl 8).

## Statute of Limitations on Back Pay

On December 28, 1999, OPM published an interim regulation in the Federal Register (64 Fed. Reg. 72457) which, among other things, applies a six-year statute of limitations on back pay awards to include settlements of grievances and arbitration awards under 5 U.S.C. 7121.

The regulations implement section 1104 of Public Law 105-261, the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, which amended section 7121 by adding section 7121(h) which provides that “[s]ettlements and awards under this chapter [chapter 71 of title 5, U.S.C.] shall be subject to the limitations in section 5596(b)(4) of this title [title 5, U.S.C.]. The Act added the new section 5596(b)(4) establishing the six-year statute of limitations. Under section 5596(b)(4), other limitations on back pay authorized by applicable law, rule, regulations, or collective

bargaining agreement continue provided they do not go beyond the six-year period.

Section 5596(b)(4) provides as follows:

“(4) The pay, allowances, or differentials granted under this section for the period for which an unjustified or unwarranted personnel action was ineffect shall not exceed that authorized by the applicable law, rule, regulations, or collective bargaining agreement under which the unjustified or unwarranted personnel action is found, except that in no case may pay, allowances, or differentials be granted under this section for a period beginning more than 6 years before the date of the filing of a timely appeal or, absent such filing, the date of the administrative determination.”

Back pay claims dealing with payments under the Fair Labor Standards Act, the 2-year statute of limitations (3 years for willful violations) continue to apply.

## Dual Comp & Census Positions

CPMS FAS TRACK #93-3 (June 18, 1999) indicates that the Undersecretary of Defense for Personnel and Readiness issued a memorandum dated May 8, 1998 authorizing most DoD civilian employees to accept temporary, intermittent CENSUS 2000 positions.

See the article entitled “Waiver of Dual Employment Limits for CENSUS 2000” at <http://www.cpms.osd.mil/fas/fastrack/ft699.htm#PAY> for additional information.

## FLRA Guide on Labor Relations in the New Millenium

The Office of the General Counsel, FLRA, has developed a slide presentation, Labor Relations Issues in the New Millennium. The slide presentation is available on the Web at

[http://www.flra.gov/shows/gc\\_shw2/gc\\_shw2.html](http://www.flra.gov/shows/gc_shw2/gc_shw2.html)

## Designing ADR Programs--A Three-Step Model

**Steve Klatsky**, Assistant Command Counsel for ADR, DSN 767-2304 uses a three-step model in describing the design of ADR programs in presentations he makes:

### **I. Step 1—Planning and Preparation**

Motivation—why are you looking at ADR? What are the facts and circumstances on your installation or at your activity that leads you to consider using ADR processes?

Analysis of Disputes—from what organizations? Concerning what issues? Are your disputes primarily in the EEO or MER arena? Do they come from a specific organizational unit? Is a specific issue the subject of an unusual number of cases (performance appraisal, AWOL)?

Planning Committee/Defining “stakeholders”—EEO, Civilian Personnel, Legal, Management, Senior Leadership. The issue of *ownership*.

Gaining Commitment  
Barriers to Adopting  
ADR

Scope of ADR Program  
Resources Supporting  
ADR

Education of the Workforce  
Union Role  
Information brochure—What is in it for me?  
Reasons for looking at ADR.  
Coverage and scope. Process and Procedures

Publicity—Methods:  
Newspaper, bulletin boards, E-Mail, Town Hall Meetings, Commander’s staff meeting

### **II. Step 2—The Process & Procedures**

Voluntary—For employees: always. For management: maybe mandatory. Trend is to making it mandatory for individual managers once Management offers ADR, ADR Process or Processes—One method or a menu of ADR options. Don’t stop at mediation

How will ADR be raised? Who will initiate ADR? Consideration of an issue for ADR.

Relationship to other dispute resolution processes—Time limitations.

Agreement to use ADR—Get the parties’ commitment up front. Answer questions on the process early.

Resolution/Settlement Agreement—Authority of participants. Reduce agreements to writing. Legal/CPO review. Confidentiality.

Third-Party Neutrals—Where they are? What they cost? Growing your own.

Representatives—Impact on the ADR process.

Pilot or Test—Start small. Duration.

### **III. Step 3—Evaluation and Assessment**

How will measure success? Use of Statistics. Dollar Savings: will be tough. Days from Intake to Resolution: Traditional v. ADR.

Use of Intake Form—Time measurement.

Evaluation by participants

What questions should you ask of participants?

Query employees and managers

Important question: Why did you refuse offer to use ADR?

Renewal of Commitment—by Senior Leaders and “Stakeholders”.

Reports—Build on existing reporting requirements.

# EEO--Offers of Resolution

## Army-Wide ADR Program Established

AMCCC Employment Counsel **Mike Lassman**, DSN 767-8040, has written an excellent article on Offers of Resolution as they pertain to EEO cases (Encl 9).

Offers of Resolution are now possible due to the rule changes made pursuant to 29 C.F.R. 1614.109(c).

The purpose of the offer of resolution is to provide incentive to settle complaints and to conserve resources where settlement should reasonably occur.

This revised regulation eliminates the ability of agencies to dismiss complaints for failure to accept a certified offer of full relief. The prior offers of full relief were difficult for the agency to make and difficult for the complainants to understand.

Thus, these offers of full relief under the old rules were not very effective in the resolution of cases.

The new rule provides that the offer of resolution must be in writing and must

contain the following information: a notice explaining the consequences of failing to accept the offer; attorney's fees and costs, to date; any non-monetary relief must be specified; and monetary relief, which may be offered as a lump sum or may be itemized in amounts and types. It is important to note that although a comparison of non-monetary relief may be inexact and difficult in some cases, non-monetary relief can be significant and cannot be overlooked.

The revised regulation is similar to Rule 68 of the Federal Rules of Civil Procedure offer of judgment rule. The intent of the rule is to limit attorney fees and costs when a complainant rejects an offer and obtains less relief after a hearing.

The paper also includes model language for an Offer of Resolution, and discusses the important ramifications of both the acceptance and rejection of the offer.

In response to a regulation requiring all federal agencies to have an ADR program for discrimination complaints in place by January 1, 2000, the Army will offer servicewide mediation and other alternative dispute resolution processes as a way to settle discrimination complaints in the workplace. Under the program, an EEO office would provide a trained neutral to conduct sessions to assist the participants in finding solutions to the problem through candid discussions on the issues. Mediation sessions are often the first time that an employee and a supervisor sit down and frankly discuss an issue. Early indications from the Military District of Washington EEO Directorate are that the ADR program works, based on several employment-related workplace disputes that have already been resolved to the mutual satisfaction of all parties.

# Witness Preparation

Preparing an individual to be a witness in an administrative or judicial proceeding is one of the most important aspects of the practice of law. **Kay Krewer**, Chief, of the TACOM-Rock Island Legal Office, DSN 793-8414, provides an excellent preventive law paper on Witness Preparation from the perspective of the witness reading the document (Encl 10).

The paper has 20 bullets raising excellent points for the prospective witness. Among these are:

**Be truthful.** You are under oath when you testify in court or on deposition. Testifying falsely under oath can subject you to criminal penalties for perjury. Sometimes being truthful will require you to say "I don't know" or "I don't remember." When you tell the truth, no one can confuse you!

Give **positive, definitive answers** when possible. Avoid saying "I think" or "I believe" if you can be positive. However, if your answer is only an estimate about distances or time or other such factors, be sure to state it is

only an estimate. If asked about details you do not remember, simply say "I don't remember." Unless certain, do not say "That's all the conversation" or "nothing else happened." Instead say "That's all I recall" or "That's all I remember happening." It may be that after more thought or another question, you will remember something important.

**Be courteous.** Being courteous is one of the best ways to make a good impression on the court and the jury. Respond with, "Yes sir" and "No sir" and address the judge as "Your Honor. Courtesy includes dressing neatly and professionally.

**Be attentive.** You must be alert when you are in the witness chair so that you can hear, understand, and give an intelligent answer to every question. If the judge or jury gets the impression you are indifferent, they may not believe your story.

**Think before you speak.** Give your attorney an opportunity to pose an objection, if necessary, and take a moment to think. Hasty and

thoughtless answers may be incorrect and may cause problems. This is particularly true when the opposing lawyer is cross-examining. The cross examiner may ask you leading questions - questions which suggest only one answer. Make sure you understand the question; then answer it as accurately as you can. If you do not know the answer or cannot remember, say so.

**Speak clearly.** Nothing is more annoying to a court, jury, and lawyers than a witness who refuses to speak clearly enough to be heard. An inaudible voice not only detracts from the value of your testimony, but it also tends to make the court and jury think that you are not certain of what you are saying. Everyone in the courtroom is entitled to know what you have to say, and the court reporter who is recording the proceedings must be able to hear all your testimony. Don't chew gum.

The paper concludes with an excellent list of questions that are tricky and may contain traps (Encl ).

# Messing with Migratory Birds-- Be Careful!

The Migratory Bird Treaty Act (MBTA) makes it unlawful for any person, by any means or any manner, to 'take' (i.e. pursue, hunt, trap, wound, capture, kill, or collect) any migratory bird (50CFR Part 10.13) without first receiving a permit from the U.S. Fish and Wild Life Service (USFWS). The courts have been issuing varying opinions on whether the MBTA applies to Federal agencies.

In direct opposition to two federal circuit courts of appeals, the federal district court for the District of Columbia held that the MBTA does apply to Federal agencies, who must therefore obtain appropriate permits be-

fore engaging in activities resulting in the taking of migratory bird species. If upheld on appeal, this ruling could require installations to revert to traditional means of obtaining 'take' permits from USFWS, including intentional degradation permits for the control of nuisance birds.

The Army policy issued in 1997 still stands. If you are involved with either primary (e.g. nuisance bird control) or secondary 'take' via implementation of INRMPs or PMPs, continue consultation with your local USFWS Field Office regarding the need for permits. Based on our experience, the USFWS will be satisfied with keeping them apprised of your actions.

However, it is in your interests to maintain a written administrative record of your actions in this regard until this issue is resolved by additional legal opinion or Executive Order.

Additionally, installations need to focus on the difference between "intentional take" (e.g. nuisance birds) and "unintentional take" (e.g. timber harvest) which is generally the take of migratory birds incidental to an otherwise lawful action.

**Intentional Take:** The Army should adopt the same conservative approach; i.e., apply for and obtain permits prior to the taking.

**Unintentional Take:** The USFWS has not traditionally issued permits for unintentional take (e.g. birds, nests and eggs taken during timber harvest). They do not have an established regulatory process for doing this. So, the guidance: coordinate with USFWS, consider impacts in project NEPA documentation, address impacts/management in INRMP - remains good advice for activities.

## ELD Bulletins

Environmental Law Division Bulletins for January (Encl 11) and February 2000 (Encl 12) are provided for those who have not received an electronic version from ELD or who have a general interest in Environmental Law.

# Environmental Law Focus

## Modelling Your Federal Facility Agreement

Last year the Department of Defense reached closure with the United States Environmental Protection Agency on additional model language to supplement the existing 1988 model Federal Facilities Agreement (IAG) language and address issues raised in the FFERDC report.

Some of our installations are negotiating Federal Facilities Agreements for installations newly listed on the National Priorities List (NPL) and there is always the potential for additional installations to be listed. Attached in the newly revised Model Language (Encl 13)

## Interim UXO Management Procedures for Ranges

The Department of Defense and the Environmental Protection Agency have completed work on a set of managerial principles to address Unexploded Ordnance (UXO) at Closed, Transferring and Transferred military ranges. This consensus document is the *Interim Final Management Principles for Implementing Response Actions at Closed, Transferring, and Transferred Ranges*.

These principles will be in effect until the final version of the Range Rule is promulgated. For a copy of the guidance please contact **Stan Citron**, DSN 767-8043,

## EPA Issues It Institutional Controls Policy--

The United States Environmental Protection Agency (USEPA) has finally issued its policy on considering and using Institutional Controls in the remediation and transfer of property.

This policy indicates what the EPA will expect in documents that institutional controls are effective and enforceable, in relation to Findings of Suitability to Transfer (FOST) for our properties (Encl 14).

**See You In Florida  
At CLE 2000**

## Conference Planning--New Rules

The military and civilian travel regulations recently added new requirements to DoD's conference planning process.

O As summarized below, the changes express conference planning policy, add certain planning requirements, and authorize certain conference costs.

O Regarding conference planning policy, the regulations:

- oo Express a policy of minimizing costs, including travel costs, administrative costs, and costs of attendees' travel time.

- oo Encourage conference planners to identify methods to reduce overall conference costs, such as planning conferences during the off-season.

O Regarding conference planning requirements, the regulations:

- oo Require activities to conduct and document a cost comparison among different possible conference sites.

- oo Require agencies to

determine whether a Government facility is available at a lesser rate or whether other alternatives, such as video teleconferencing, could be used.

- oo Emphasize that activities must have contracting authority to obligate the Government in connection with conference arrangements. This means that a contracting officer or ordering officer must sign all contracts and agreements with hotels and/or conference facilities.

- oo Establish special rules, required by law and regulation, for conferences held in the District of Columbia.

- oo Require activities to use FEMA-approved accommodations in the United States, unless the authorized conference sponsor determines in writing that waiver of this requirement is necessary and in the public interest for this event.

- oo Require activities to include certain notices of the FEMA-approved accommodations requirement in any conference advertisement or application.

O Regarding conference costs, the regulations:

- oo Establish a "conference lodging allowance" – which permits activities, under certain circumstances, to increase the lodging portion of the authorized per diem rate by up to 25 percent.

- oo Authorize agencies to include the cost of "light refreshments" in a conference administration costs, to the extent consistent with the policy of minimizing conference costs.

- oo Require a proportional meal rate to be deducted from a traveler's per diem reimbursement, where meals are furnished at Government-expense or included in a registration fee.

O These changes apply to conferences where attendees are in a travel status and to certain training conferences. They do not apply to meetings or non-training conferences held in and around attendees' principal duty station.

POC is **Lisa Simon**, AMCCC, DSN 767-2552.

# Government Credit Card--Early Guidance and Recent Developments

On October 19, 1998, the President signed the Travel and Transportation Act (TTRA) of 1998 into law. This legislation gave the Administrator of the General Services Administration (GSA) 270 days to develop implementing regulations.

On July 16, 1999, GSA issued Interim Rule 8, which is nothing more than a series of questions and answers about TTRA. Interim Rule 8 did establish that the provisions of TTRA would be effective for all official government travel on or after December 31, 1999.

The Office of the Under Secretary of the Defense (Comptroller) (OUSD©) established several working groups to develop implementing guidance for the Department of Defense (DoD). These working groups have completed their work, but to date, OUSD© has not finalized their guidance and provided it to DoD components.

We provide an early

memorandum, dated 9 December 1999 from the Deputy Assistant Secretary of the Army (Financial Operations) for background information (Encl 15).

The memorandum includes entries on Use of the Travel Card, Collection of Amounts Owed, and Reimbursement of Travel Expenses.

### Important Development

The implementation of Section 2 requiring the use of the Government-sponsored, contractor-issued travel charge card has been delayed once again. It was to have applied to travel beginning after 29 February 2000. On 1 Mar 2000, the USD(C) issued a Memorandum stating that it will not apply to travel beginning after 30 April 2000!

The TTRA includes the "reform" of requiring employees to use the contractor-issued, individually billed travel

card. GSA issued implementing regulations with an effective date of 1 March (however, the ASA(M&RA) said that the requirement has already been in effect in the Army because DA guidance was already issued effective 1 January — I don't know if that is the ASA(FM) position).

DoD has finally issued its implementation of the GSA regulation. You will find the implementation here:

<http://www.dtic.mil/comptroller/travel.html>

In an earlier e-mail, I provided the GSA final rule and the DA interim guidance. So that you have all of this in one place, I provide you with these references below:

This is the GSA final rule:  
[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000\\_register&docid=00-695-filed](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000_register&docid=00-695-filed)

Now that is a URL befitting this subject.

# Faces In The Firm

## Hello & Goodbye

### HQ AMC

**Cherell Gerald-Lonon** is the new Legal assistant in the Protest Litigation Branch. She can be reached at DSN 767-2303, 703 617-2303. She joined us on Monday, 28 Feb 00. She previously worked at the Federal Election Commission in DC and is currently taking classes to be a paralegal. Cherell will be handling all admin and report duties for our branch.

### CCAD

Two paralegals have recently joined the CCAD Legal Office. **Lloyd Van Oostenrijk** moved from Iowa where he has worked as a paralegal in a private law firm and a member of the Civil Rights Commission for Iowa as a civil rights investigator as well as has worked for the federal government in Iowa.

**Eloy G. Solis** has worked for private law firms, the Department of Protective and Regulatory Services and the Attorney General of the State of Texas.

### CECOM

**Jignasa Desai**, a general attorney assigned to Business Law Division A, was recently promoted to a GS-13. Before joining the CECOM Legal Office in February of 1999, Jignasa served a one year clerkship with a New Jersey Superior Court Judge and worked for four years as an associate with a law firm, specializing in litigation and appellate matters.

**Staff Sergeant Daniel C. Smith**, the CECOM's Senior Legal NCO is leaving for a brigade NCO-in-Charge position with the First Infantry Division, Engineering Brigade, in Bamberg, Germany. SSG Smith is a recognized expert in military claims and has provided extensive automation support to the Legal Office.

## Retirement

### HQAMC

**Craig Hodge**, retired from the Air Force Reserves after 30 years. His beard is looking great, for an ex-Colonel.

## Awards & Recognition

### HQ AMC

In an awards ceremony presided over by AMC Chief of Staff **MG Charles Mahan** many AMCCC personnel were recognized, including the following:

**Bill Medsger**, Meritorious Civilian Service Award; **Ed Stolarun**, Commander's Award for Civilian Service; **MAJ Ed Beauchamp**, Army Achievement Medal; **Steve Klatsky** Achievement Medal for Civilian Service.

Additionally, the following received government service awards: **Bill Medsger**, 5 years; **Mike Lassman**, 5 years; **Mike Wentink**, 10 years; **Stan Citron**, 15 years; **Jeff Kessler**, 20 years; **Debbie Reed**, 25 years; and **Holly Saunders**, 30 years.

## New Positions

### HQ AMC

**Debbie Arnold** has moved to the Intellectual Property Branch where she will be Legal Assistant. Her new telephone is DSN 767-2553, 703 617-2553.

**Lisa Simon** has moved to the Intellectual property Branch where she will be a technology law attorney.