



Office of Command Counsel Newsletter

April 2001, Volume 2001-2

AMC Chief Counsels and PARCs Meet

The AMC Chief Counsels and the AMC PARCs met in a joint session in late February. Many issues and concerns impacting both communities were discussed.

A copy of the agenda is provided (Encl 1).

Additionally, there were separate sessions planned for each community.

General Coburn addressed the PARC/Chief Counsel Workshop on the afternoon of Tuesday February 27. The **CG's Top 10 Focus Items** was highlighted:

1. Single Stock Fund
2. National Maintenance Program
3. GCSS-A
4. Recapitalization
5. Revolution in military logistics (CS/CSS Transformation)
6. Technology in support of Army transformation
7. Force Protection
8. Army Field Support Centers
9. People (hiring, retaining, training, awards, EO/EEO)
10. QDR

Additionally, **General Coburn** made several important observations as to his view of AMC:

1. AMC —as the Army's Contracting Command: the warfighter should not be in the contract field.

2. PARCs should be involved earlier in development and sustainment planning.

3. HQ AMC expanded role in Source Selection process—SSA in A-76 process.

4. Awards to small business.

5. Contracting personnel shortages: actions up while personnel are down.

6. PARC/Legal Team: "The very essence of what we do. Great men and women doing great work and who understand the system."

See you at the AMC Continuing Legal Education Program..... 21-25 May 2001.

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Legal The Research Lexis Links "Corner"

The world of legal research has changed dramatically in the last generation. Oldtimers like this editor developed sneezing fits combing through old textbooks, while the young among us perhaps suffer callouses typing on the computer as they navigate Lexis.

The Natick Legal Office under the leadership of **John Stone** provides an outstanding four-page document--Legal Research Links to the courts, DOD and DA regulations, Federal statutes, libraries and ISP's that have legal links, and a topic listing with more than a dozen topics identified with multiple links for each topic.

Telephone and zip code directories on line are also addressed,

This is an outstanding effort and we are pleased to pass it on to our readers (Encl 2).

Rachel Hankins (LNG--Lexis-nexis Group) has provided an update snapshot on the latest legal research tips and tools(Encl 3).

The Tip of the Month:

Verify your work's accuracy in its earliest stages, pinpoint the right facts as you build your premise, and save research time.

LEXLink™ Feature - copies word-processing or html documents, counts the recognizable citations, and adds direct hyperlinks to full-text documents in the *lexis.com* research service and current reports in *Shepard's®* Citations Service.

Other topics covered in this edition include: Bankruptcy Deskbook, Patent Licensing, Star Pagination on *lexis.com* and enhancements to the public records database.

Newsletter Details

Staff

Command Counsel
Edward J. Korte

Editor

Stephen A. Klatsky

Layout & Design

Holly Saunders

Webmaster

Joshua Kranzberg

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Check out the Newsletter on the Web at 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.

Electronic Signatures

The Electronic Signatures in Global and National Commerce Act, 15 USC Sec. 7001, P. L. 106-229, provides at Section 101, that a signature, contract or other record relating to interstate or foreign commerce may not be denied legal effect, validity, or enforceability solely because it is in electronic form.

The Act further provides that a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

Oral communications do not qualify as an electronic record.

Retaining

The Act also provides that if there is a requirement that a contract or other record to a transaction be retained, that requirement is met by retaining an electronic record of the information, provided it accurately reflects the information set forth in the contract or other record and remains accessible to all persons who are entitled to access.

Definition of electronic signature

An electronic signature is defined at 15 USC Sec. 7006 as “an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.” An electronic record is defined as “a contract or other record created, generated, sent, communicated, received, or stored by electronic means.”

Exceptions

There are several specific exceptions one of which may be of particular interest to the legal community, is:

“(b) Additional Exceptions. – The provisions of section 101 shall not apply to –

(1) court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings; “

POC is **Jim Scuro**, CECOM, DSN 992-9801(Encl 4)

List of Enclosures

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Payment/Recover of Bid Preparation Costs

HQ AMC's **Maj Sandy Forston**, DSN 767-, provides a treatise that addresses the issue: What Authority is There for AMC to Pay Bid Preparation Costs? (Encl 5)

The discussion suggests that there is authority for a bidder to recover bid and proposal preparation costs if the government's review of its bid was arbitrary and capricious.

A bidder that incurs substantial costs in preparing a response to a solicitation may seek to recover bid and proposal preparation (B&P) costs if it contends that the Government did not fairly and honestly consider its bid. Keco Industries, Inc. v. U.S., 203 Ct.Cl. 566, 492 F.2d 1200, 1203, 16 G.C. ¶ 104 (1974); 31

U.S.C. 3554(c)(1)(B)(2000); FAR 33.102(b), 33.104 (h).

Protesters may request B&P costs by filing a protest with the agency, General Accounting Office (GAO), or the United States Court of Federal Claims (COFC).

The Conclusion

There is clear authority for bidders to recover B&P costs from the agency, GAO, or the COFC, if a timely bid protest or proper claim is filed.

Likewise, under certain circumstances, specific authority exists to recover B&P costs from the agency or GAO, when an untimely bid protest is filed.

However, there is no specific authority for agencies to resolve a bidder's request for B&P costs when the bidder has not filed a bid protest requesting said costs. Hence, the conclusion must be that if a bidder fails to file a timely agency bid protest for B&P costs, AMC can only pay these costs if it determines that a good cause or significant issue exists for AMC to consider an untimely bid protest on the merits. In that case, the bidder should be advised to submit its untimely bid protest for action. If no good cause or significant issue exists, then the bidder must file a claim with the COFC to recover these costs.

Workers' Comp--Overseas Performance

The military is becoming increasingly dependent on U.S. civilian contractors to support its operations overseas. The FAR provisions and clauses which address compensation for detention, injury and death of the civilian contractor workforce outside the United States is the sub-

ject of this article submitted by CECOM's **Janet Baker**, DSN 879-0662 (Encl 6)

At the outset of World War II, Japanese forces attacked the strategically important Wake Island in the Pacific Ocean. During the battle numerous contractor employees were killed or wounded; 1146 were captured

and detained by Japan for the duration of the War.

A number of legal avenues of relief are currently available for contractor employees (or their survivors) who, like the construction workers on Wake Island, are captured, injured, or killed while supporting military operations.⁷

Federal Contractors Must Inform Their Employees--Concerning Union Dues

Federal contractors must inform their employees that they have the right not to join a union, and to limit the amount they pay in union dues, according to a recent Executive Order.

Issued the same day as Executive Order 13203, which dissolved the National Partnership Council, Executive Order 13201 mandates the notice federal contractors must give their employees about their right not to pay certain union dues or fees.

Under E.O. 13201, federal agencies must include in their contracts the following provisions:

(1) During the term of the contract, the contractor will post a conspicuous notice stating that employees cannot be required to join a union or maintain membership in a union in order to keep their jobs; and

(2) The contractor's notice will also advise employees that in certain cases, the law allows a union and an employer to enter into an agreement requiring employees to pay periodic dues and initiations fees, but that employees who are not union members can only be required to pay costs relating to collective bargaining, con-

tract administration, and grievance adjustment.

Non-union member employees cannot be required to pay other costs, and are entitled to reduced dues and fees.

Contractors who fail to comply with these notice provisions may have their contracts cancelled, terminated, or suspended. The same notice language must also be included in all federal subcontracts. E.O. 13201 was published in the February 22, 2001 Federal Register, Vol. 66, No. 36, pp. 11219-11224.

Unacceptable License Terms

ARL's **Bob Chase**, DSN 390-1599, reports that there has been an increase in the number of cases wherein license agreements contain terms that the government is unable to accept (Encl 7).

His paper states that the problem was seen originally in software licenses but now it also involves online subscriptions.

Some of the problems that are identified include:

Merger Clauses that do not recognize the validity of other contract clauses required by the government.

Applicable Law when we must remind the vendor that Federal law applies, not just state law.

Disputes and the appli-

cability and relevancy of the Disputes Clause.

Credit Card Buys and the applicable law under the Contract Disputes Act.

Vendors are often surprised that doing business with the government mandates certain mandatory terms, conditions and clauses.

Management Decision Documents and Task Orders under ID/IQ Contracts

There are a number of statutes that deal with advisory and assistance services. These statutes either require identifying to Congress the amount of funding used for these services or determinations to be made before issuing contracts for advisory and assistance services. These are **Management Decision Documents**. For example:

31 USC 1105 requires "The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section." This section identifies the terms for the 3 categories of advisory and assistance services i.e. management and professional support services; studies, analyses, and evaluations; and

engineering and technical services.

10 USC 2212 provides the meanings of the terms used in 31 USC 1105. Each year the Secretary of Defense must conduct a review of services expected to be performed under contract to ensure that advisory and assistance services are properly classified in the advisory and assistance services object class.

The paper also addresses other laws, DOD regulations, ARs and AMC Circulars that address task orders and IDIQ contracting.

The paper suggests that requiring a MDD or a mini-MDD for task orders when a full MDD has already been approved adds little and may be contrary to acquisition streamlining principles (Encl 8).

POC is **Sharon Patterson**, AMCOM, DSN-746-6133 (Encl 8).

Commerciality Decision & Documenting Market Research

The Federal Acquisition Streamlining Act (FASA) of 1994 (Section 8104, paragraph 2377 of Public Law 103-355), established a preference for the acquisition of commercial items. The FASA requires documentation of the Government's commerciality decision.

A commerciality decision is a determination of the availability of commercial items that will meet the Government's requirements. Notwithstanding Government acquisition reform initiatives that have emphasized the preference for acquisition of commercial items, it is still evident that many obstacles exist to ensuring this legislative preference is understood and effectively implemented.

How can Government acquisition personnel make more informed decisions with respect to whether to acquire a commercial item? This is a question that forms the basis by an excellent article prepared and submitted by **Marla Flack**, CECOM Competition Management Division, DSN 992-5057 (Encl 9).

Labor-Management Partnerships No Longer Mandated

On February 17, 2001 President Bush signed Executive Order 13203. The Executive Order abolishes the requirement to form labor management partnerships and partnership councils. It also revokes the requirement to bargain on those “permissive” matters covered by 5 USC Section 7106(b)(1).

The XO revokes Executive Order 12871, Labor-Management Partnerships. It also revokes the Presidential Memorandum of October 28, 1999 entitled “Reaffirmation of Executive Order 12871 — Labor Management Partnerships.”

It should be noted that the President Bush’s Order specifically provides that “Nothing in this order shall abrogate any collective bargaining agreements in effect on the date of this order.” It also directs OPM and heads of executive agencies

to “promptly move to rescind any orders, rules, regulations, guidelines, or policies implementing or enforcing Executive Order 12871 of October 1, 1993, or the Memorandum, to the extent consistent with law.” (Note that the Order does not direct installations to take any specific action at this time.)

What does the Order mean to you? Well, first of all, President Bush’s Order does not preclude partnerships, it simply does not require them as EO 12871 may have been interpreted. Likewise, the new Order does not seek to reverse cooperative labor-management relationships. Further, the Order specifically provides that it does not abrogate any collective bargaining agreements. As such, labor-management agreements requir-

ing partnerships or bargaining overpermissive matters remain enforceable until renewal. If either party wants to modify any “partnership” language contained in their agreement, it must do so during the open window period. Otherwise, an automatically renewed agreement would continue to contain the previously agreed to “partnership” language. (Even if the parties wish to maintain their contractual “partnership” language, they should remove all references to EO 12871 during the renewal period.)

Thanks to **Dave Helmer**, DAPE for providing this information.

Enclosed for your information are:

Executive Order 13203 (Encl 10) and

OPM Guidance on the Implementation of the executive Order (Encl 11).

Installation-CPOC Coordination on Grievances and EEO Complaints

DAPE--Civilian Personnel Policy issued a memorandum on March 16, 2001, reemphasizing the requirements for coordination between installations and CPOCs when processing grievances and EEO complaints involving CPOC actions (Encl 12)

All formal grievances challenging CPOC actions must be coordinated with the appropriate CPOC upon receipt. Coordination is also required before settling or resolving EEO complaints or grievances if the terms of the agreement or the remedy require action by a CPOC or have the effect of changing or overruling a CPOC action. These requirements are specifically described in paragraphs 1 and 4 of reference 1.a and paragraph 3 of reference 1.b.

Army personnelists, EEO officers and labor counselors are strongly encouraged to review the above references and ensure compliance in processing and set-

tling grievances and complaints. The references are available at http://cpol.army.mil/library/armyregs/memos2k/mer_cpoc_griev.html and <http://www.cpol.army.mil/library/armyregs/memos/eeocpoc9.html>, respectively.

The document encourages communication between the installation and activity to develop a process that works for all concerned. Importantly, it recommends feedback to and from the CPOCs to the serviced activities and installations.

Although not required by the memo, the document suggests that the same coordination be accomplished for employment issues that are not grievances or EEO matters.

The document is a product of the work of the OTJAG Labor and Employment Law Office, DA EEOCRA and DA Personnel.

MSPB: Gov't Smaller

The Merit Systems Protection Board has just updated its findings concerning a number of federal-sector Human Resources issues that it has studied over the past five years.

First, the MSPB says that while many believe that the federal government has gotten bigger over the years, the fact is that the number of federal employees has decreased as the U.S. population has increased. In fiscal year 1970, there were 14.4 federal workers per 1,000 people. In FY 1995, that number declined to 10.9 federal employees per 1,000, and dropped even further in FY 1999, to 9.9 per 1000.

The MSPB also found that the percentage of the federal workforce that is perceived as unsatisfactory is small. In the MSPB's Merit Principles survey 2000, federal employees believe that only 3.9 percent of their fellow employees are performing poorly enough to be fired. Only 25 percent of survey participants believed that corrective action is taken when employees fail to meet performance standards. For more information, contact the MSPB at 1-800-209-8960, or by e-mail at studies@mspb.gov.

Hiring During a RIF

Unfortunately, Reductions in Force (RIF) have been an all too familiar experience within the Department of Defense over the last few years. Fortunately, however, many of our employees are ready to retire, or are willing to take a buyout and move on to greener pastures. Often times, our organizations must down size because the mission of the organization has changed. Certain skills that were once required are required no longer and new skills—and positions—are needed. In many cases, employees who are to be separated under a RIF do not have the qualifications necessary to be placed into the new positions and management is unwilling to waive qualifications because the positions are critical to the success of the new organization and success is needed quickly. Not surprisingly, employees facing separation believe they are entitled to vacant positions in the new organization, even if they are not qualified.

What is particularly hard to swallow for employees facing separation is when their organization competitively fills positions with personnel from outside of the organization. The fact of the matter is that hiring during a RIF is legal.

“Each agency is responsible for determining the categories within which positions are to be required, where they are to be located, and when they are to be filled, abolished, or vacated.” 5 CFR § 351.201(a)(1). That decision is for management alone. *Griffin v. Dept. of Agriculture*, 2 M.S.P.B. 335, 337 (1980). In a RIF appeal to the Merit Systems Protection Board (MSPB), once an agency has proved by preponderant evidence that the reorganization was bona fide and based on good faith with appropriate management consideration, the MSPB will defer to the agency’s decision. There is no regulatory requirement for an agency to fill vacancies during a RIF. *Klegman*

v. DHHS, 16 MSPR 455, 457 (1983). However, once an agency determines to fill vacancies during a RIF the agency must fill those positions based on employee retention standing and their respective assignment rights through the use of “bumping” and “retreating”. The situation is different when an agency decides to fill its vacant positions competitively. If during a RIF an agency decides to fill positions competitively, RIF regulations do not apply to the selection procedures. Peter Broida, *A Guide to Merit Systems Protection Board Law and Practice*, Dewey Publications, Inc. (1999), p. 1985; *Dante v. National Science Foundation*, 16 MSPR 314 (1983). The MSPB has no jurisdiction over RIF appeals based upon a claim of non-selection for vacant positions filled competitively.

For more on this subject from Steve Kellogg, OSC, DSN 793-7364, your attention is invited to Enclosure 13

Briefing Commanders on Environmental Justice

In 1994 President Clinton issued Executive Order 12898 on Environmental Justice to ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Since then there has been a wealth of development of policies and strategies for implementing this Executive Order.

How do our Army actions comply with this directions, and what does it mean?

The SBCCOM environmental team, **Peggy Giesecking** and **Ruth Flanders** recently putting together a briefing for their Commanders and program people. It is provided here for your use, including hyperlinks to the many sources of information (Encl 14)

April 2001

EPA Issues Stricter Lead Standards

As part of EPA's ongoing efforts to protect children from lead poisoning, the Agency in December 2000 announced tough, new standards to identify dangerous levels of lead in paint, dust and soil.

These new national standards are more protective than previous EPA guidance and will, for the first time, provide home owners, school and playground administrators, childcare providers and others with standards to protect children from hazards

posed by lead, including children in federally-owned housing.

Under these new standards, federal agencies, as well as state, local and tribal governments, will have new uniform benchmarks on which to base remedial actions taken to safeguard children and the public from the dangers of lead.

The new EPA rule and other information on lead programs can be found at <http://www.epa.gov/lead/>

Environmental Reviews: Actions Abroad

The Department of Defense Office of General Counsel recently wrote an opinion critical of the Air Force for not conducting a review of whether the requirements of Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, applied to a program which the

Air Force had with the Czech Republic regarding collection of data from the open air testing of chemical agents (Encl 15).

Ruth Flanders, SBCCOM DSN 584-4652, provides an analysis of the opinion and its possible application to other Army programs abroad (Encl 16).

ELD Bulletin

The January/February edition is provided (Encl 17).

Ethics Focus

Civilian Visitors Operating Military Equipment

DEPARTMENT OF THE ARMY
WaSHiNGTON, D.C. 20310
March 2, 2001

MEMORANDUM FOR PRINCIPAL OFFICIALS
OF HEADQUARTERS, DEPARTMENT OF THE
ARMY

SUBJECT: Civilian Visitors Operating Military Equipment

Department of the Army message subject: Civilians Operating U.S. Army Equipment dated 191 326Z Feb 01 is rescinded.

The Secretary of Defense has directed in a memorandum dated February 22, 2001, same subject, a DoD-wide moratorium on permitting civilian visitors to operate military vessels, aircraft, vehicles, and crew-served weapon systems (to include equipment under the control of the Army National Guard and Air National Guard) when such operation could cause, or reasonably be perceived as causing, an increased safety risk. This moratorium is effective regardless of how closely military personnel supervise civilian visitors.

Civilian and contractor employees who must operate military equipment as part of their duties are not considered civilian visitors for the purposes of this memorandum and are not covered by this moratorium.

The moratorium imposed by the Secretary of Defense is to be observed by all units and organizations in the U.S. Army. In addition, commanders will ensure that civilian operation of other types of equipment, including small arms, is done safely, under the direct supervision of Department of Defense employees or military personnel and in accordance with prescribed policies and regulations. In those instances where established policy or regulation does not cover the situation, approval authority will rest with the first general officer in the chain of command.

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Interactive Simulators

During CLE 2001 visit and tour the STRICOM Technical Center and try out simulators.

Protecting Non-Public Information

At the CG's last townhall meeting, **Mike Wentink** gave a short presentation about contractor employees in the Federal workplace, with the primary focus on the protection of nonpublic information, because this is where there is a significant vulnerability. In continuing to raise our awareness of these issues, Mike decided to reissue this Ethics Advisory from 1998.

There are a number of laws and regulations that protect nonpublic information, such as:

Σ The procurement integrity law restricts the release of source selection and contractor bid and proposal information, and provides civil fines and criminal penalties for improper release.

Σ The trade secrets act makes it a crime to improperly release contractor trade secrets and other confidential business information outside the Government.

Σ *The Standards of Ethical Conduct for Employees of the Executive Branch* prohibits us from releasing, exploiting, or allowing others to exploit nonpublic information.

In addition, restrictions on our use of information can arise in other ways:

Σ We often buy technical data and computer software with restrictions on our release outside the Government.

Σ A release of advanced procurement information to a potential competitor could result in a contracting officer determining that this source is barred from competing for the requirement.

Σ An improper release of information outside the Government could result in having to re-do or fix a procurement as a result of a successful protest.

The full article is at Enclosure 18,

Contractors in the Workplace-- GAO Protest Decision

In a recent case, we were not sensitive to the issues, and did not protect anyone — everyone lost when the GAO sustained the protest.

It seems that the successful contractor's subcontractor had access to nonpublic information (the sub maintained a database under another contract) that gave it a competitive advantage when preparing the proposal.

Not understanding the potential for organizational conflicts of interest, and not working to set up walls or otherwise to minimize it, the successful contractor had an unfair competitive advantage. See Johnson Controls World Services, Inc., GAO, B-286714.2, 2/13/01).

Ethics Focus

Government Support to Contractors...

Related to the important issue of government support to contractors, HQ AMC promulgated a guidance statement with respect to the Future Combat Systems Program

Recently, the Defense Advanced Research Projects Agency (DARPA) awarded four "Section 845 Other Transactions" for development work for the Future Combat Systems (FCS) program. Success of the FCS program will require interaction and cooperation between the contractor teams and the Research, Development and Engineering Centers and the U.S. Army Research Laboratory.

Before we establish such relationships, we need to consider the ramifications such actions will have on our resources and the integrity of

the future acquisition process for the FCS. .

This program is being executed in a new way and there is some risk inherent in the approach.

In order to maximize chances of success, we must make ourselves available to the contractor teams to the maximum extent possible consistent with good practice and available resources.

In doing so, we must take necessary steps to ensure that a "level playing field" is maintained and that no perception of impropriety is allowed to develop. We must ensure the integrity of the process.

The complete policy guidance statement to include new approval staffing requirements is provided for you (Encl 19).

...And moving contractors from the Pentagon

In the March 5, *Inside the Army*, we enclose a report that the Pentagon has moved about 30 contractors, as an

expression of concern regarding its ongoing review of the government-contractor relationship (Encl 20).

Collection of Internet and E-Mail Addresses...and Conducting Intelligence Operations

We have provided a recent policy statement entitled "Principles Governing the Collection of Internet Addresses by DOD Intelligence and Counterintelligence Components." (Encl 21)

The document lays the groundwork for determining how to apply intelligence oversight principles to the conduct of intelligence and counterintelligence activities.

The single question addressed in the paper is: Does obtaining an e-mail or site address constitute a collection of information about a United States person?

The paper addresses the impact that EO 12333 and the implementing DOD 5240.1-R has on the issue, although both predate the development of the Internet.

Faces In The Firm

Hail and Farewell

Arrivals

HQ AMC

Bill Adams has been hired to a position in the HQ AMC Intellectual Property Law Division. Welcome back Bill. Retired JAG Colonel and former AMC SJA began his new career on April 8.

CECOM

CPT Robert Paschall left active duty and has become a civilian attorney in Business Law Division B. In connection with his departure from active duty, CPT Paschall received a Meritorious Service Medal on 29 March for exceptionally meritorious service while serving as Environmental Law Attorney, Ethics Counselor and Special Assistant United States Attorney.

AMCOM

CPT Douglas J. Becker, who is assigned to the Acquisition Law Division. CPT Becker comes to us from Hunter Army Airfield, Ft. Stewart, Georgia.

Departures

HQ AMC

Cassandra Johnson, who had been with HQ since 1984 and previously with ARL and MERADCOM at Ft. Belvoir, departed to assume the senior employment law counsel position with the DA Office of General Counsel.

Maj Cindy Mabry, resigned her commission for family reasons—to take care of two beautiful young children—Ben and Olivia.

OSC

Joanne Lieving, Legal Assistant, General Law, has accepted a position with the Rock Island District Corps of Engineers. She has accepted a position as a Real Estate Specialist with the Corps.

TACOM

Paul S. Clohan, Jr., will be resigning from Federal Government service to pursue outside interests. Mr. Clohan will be leaving his Team Leader position within the ARL Office of Chief Counsel, Intellectual Property Law Branch.

Recognition

CECOM

Jignasa Desai, William Kampo, Kim Sawicki, Lea Duerinck and Marc Moller, received the CECOM Quality Team award for the First Quarter, FY2001.

Promotions & New Positions

CECOM

1LT Michael Stephens was promoted to Captain on 1 February 2001

AMCOM

Emanuel A. Coleman was recently promoted to the position of Chief, Adversary Proceedings Division.

TACOM

David Kuhn has been selected as the Chief, Intellectual Property Law Division.