



Executive Summary

A Publication of the Association of Proposal Management Professionals (APMP) National Capital Area (NCA) Chapter

Fall 2006

Volume XII, Issue IV

President's Corner

Test Driving APMP's Foundation Level Accreditation Exam

Special points of interest:

- As an NCA member you have more opportunities for networking and education than anywhere else in the country!
- Access presentations from previous APMP-NCA Roundtables at www.apmp-nca.org/apmplibrary.html
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Michael Scruggs, APM.APMP, APMP NCA President

Recently, I found myself with enough downtime between proposals to explore APMP's new proposal management accreditation program. I first heard about it at the NCA Chapter's 2005 Professional Day event, and with the additional information I picked up at APMP's National Conference in May, I decided to take a "test drive" of the accreditation process.

The accreditation program is designed for those working in the bid and proposal environment and allows them to demonstrate their mastery of the profession. There are three levels of accreditation—Foundation, Practitioner, and Professional. Each level has its own type of exam and requires third-party verification of your professional experience. The program was

You have only one hour to complete the Foundation Level exam, so be sure to set aside a time, and do this when you won't be interrupted. The exam does not allow you to pause and return to the exam later.

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Refresh your knowledge of winning practices and make connections that count on October 25!



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APMP-NCA's Professional Day — October 25, 2006 — Northrop Grumman, Fairfax, Virginia

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Attend this Roundtable and learn about the “right pricing arrangements” and contract types.



Join APMP NCA and learn the latest critical “must-have” components of successful Performance-Based contracts.

Performance-Based Contracting: Today’s Best Practices and Answers to Your Most Frequently Asked Questions

APMP-NCA’s September Roundtable September 20, 2006 5:30–8:30 p.m.

Will your next proposal measure up to the very latest Performance-Based Contract requirements?

More and more Government contracts have performance-based requirements, and as a seasoned proposal professional, you know that procurement officers’ preferences are always changing. Come to the September 20 Roundtable and give your next proposal a real competitive edge!

Here are just a few of the questions you’ll get answers to at the September 20 Roundtable...

- What are the latest critical “must-have” components of successful Performance-Based contracts?
- What are the correct performance metrics to include?
- What is the best way to structure the contract incentives?
- What is the right pricing arrangement or contract type?
- What does it really take to achieve high performance?

Bring your specific questions to the Roundtable for expert answers from our presenter, Gregory A. Garrett.

Gregory A. Garrett has led more than \$30 billion of high-technology complex contracts and projects—and is a leading authority on Performance-Based Contracting.

Gregory A. Garrett, CPCM, CPM, PMP, is the Chief Compliance Officer, U.S. Federal Government Programs at Lucent Technologies–Bell Labs. He is an educator, consultant, and effective speaker who has taught more than 25,000 people from more than 40 countries.

Before going to Lucent, Mr. Garrett was a Partner and Executive Director of Global Business for ESI International where he led the sales, marketing, negotiation, and implementation of Government contract management, bid/proposal management, commercial contracting, and project management training and consulting programs for a number of Fortune 100 multinational corporations.

Mr. Garrett is a best-selling and award-winning author of 10 books and more than 60 published articles on Government and Commercial Contract Management, Capture/Bid/Proposal Management, Supply Chain, and Project Management and Leadership.

He also served as a highly decorated officer in the U.S. Air Force (USAF), and completed his active duty military career as an Acquisition Action Officer for the USAF at the Pentagon. He has a Bachelor’s degree in Chemistry/Engineering from Miami University, a Masters degree in Systems Management from the University of Southern California, and he completed Executive Education in Advanced Project Management at Stanford University.

Join our Corporate Sponsor Guest Host, Boss Staffing, and more than 100 of your colleagues on September 20.

Agenda: 5:30 p.m. Networking
6:15 p.m. Dinner (vegetarian entree upon request)
7:15 p.m. Announcements and Program

Registration Fees: Cost: \$50 (payment received in advance) or \$65 (pay at the door)

Location: Marriott Fairview Park, 3111 Fairview Park Dr., Falls Church, VA 22042-4550 703.849.9400

Register now...space is limited! If you plan to attend...please register and pay online by September 15, 2006 using PayPal at <http://apmp-nca.org/news> or RSVP via email at rsvp@apmp-nca.org and mail your check to APMP NCA, POB 3063, McLean, VA 22103-3063.



An employee of your competitor comes to you with a copy of your competitor's technical proposal. Should you accept it?



Legal Corner

Marketing Intelligence: Staying on the Right Side of the Law

Shlomo D. Katz

Imagine that you are a Vice President of Sales making one of your regular visits to a contact within a U.S. Government Agency. Your contact tells you that she cannot talk to you anymore because she has been appointed to a technical evaluation team for a procurement on which you plan to bid. Is there such a rule, or is your contact being overly cautious?

Or, imagine that you ask a Government contact for the prices that the Government has paid for a product during the last 10 years? Your contact says that it is illegal to provide that information. Is this true?

Finally, imagine that an employee of your competitor comes to you with a copy of your competitor's technical proposal. Should you accept it?

All of these questions touch on the Procurement Integrity Act (PIA)¹—also referred to as section 27 of the Office of Federal Procurement Policy Act—one of a series of laws designed to keep the Government procurement process fair

and above board. As Senator John Glenn explained during the debate over the PIA:

This bill is intended to break the back of the "old-boy" network where information and favors are given to contractors, often via consultant intermediaries, in an effort to provide individual competing corporations with an unfair advantage over their more scrupulous competitors.²

Senator Glenn's colorful explanation succinctly summarizes the two problems that the PIA addresses. First, it prohibits Government officials from giving, and contractors from receiving, certain types of sensitive information. Second, it prevents, or is supposed to prevent, contracts from being given in exchange for the promise or possibility of future employment. (Note that the PIA is only one of an arsenal of laws that serve complementary purposes. As Federal Acquisition Regulation ("FAR") §3.104-2 reminds us, other laws governing contractor-Government relations cover subjects including:

- Offering or accepting of bribes, gratuities, or even gifts;

(Continued on page 8)

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Shipley Associates is currently the only APMP-approved training organization in the U.S. that can prepare you for the Foundation Level exam.

(APMP Foundation Accreditation...Continued from page 1)

developed by the APMP-UK Chapter and is administered by the APM Group. You can learn more about it at www.ukapmp.org/certificationUS.html.

I started the process with the sample online exam for the Foundation Level—a six-question multiple-choice test. At the end of the test, you are simply notified of pass or fail results with no details of the questions missed. It took me three tries to get a passing grade. This wasn't going to be as easy as I thought.

The actual Foundation Level exam consists of 75 multiple-choice questions. To pass, you need to answer at least 42 correctly—a score of 56% or better.

The accreditation process is not cheap, especially when it's coming out of your own pocket. The basic cost of the Foundation Level exam is \$534. It's unclear if you get any type of credit if you fail the exam.

APMP advises you to prepare for the Foundation Level exam by reviewing the *APMP Glossary of Terms*, *Shipley Proposal Guide* by Larry Newman (\$59.95 plus shipping), and *Bids, Tenders and Proposals: Winning Business Through Best Practice* by Harold Lewis (\$55 plus shipping). They also recommend studying on-line Microsoft (MS) Office training workshops for the best practices in document

writing. The 300-page, on-line *APMP Glossary of Terms* is available free. It's a useful reference, although heavy on U.S. Department of Defense proposal-related terms.

My *Shipley Proposal Guide* is always on my desk, and reviewing it again—cover-to-cover—was a refreshing exercise. I passed on Harold Lewis' book as it appeared to focus on the UK side of business development. The suggested MS Office training takes you to the MS Word 2003 on-line training. There is much to study here, but without specific guidance, it wasn't much help.

APMP also suggests reviewing *Merriam-Webster's Manual for Writers and Editors* and the *Chicago Manual of Style: For Authors, Editors, and Copywriters*. I had my *Franklin Covey Style Guide for Business and Technical Communication* nearby if needed.

APMP designated certain approved training organizations to prepare individuals for the Foundation Level exam. Shipley Associates is currently the only such organization in the U.S. They charge \$445 for APMP members or \$495 for non-members. Additional information can be found at www.shipleywins.com.

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To join the NCA Chapter, simply send an e-mail to Barry Fields, APMP's Member Services Representative, at apmpmemserv@msn.com.



How Do I Become An NCA Member?

Michael Scruggs, MAPMP

At the conclusion of the July 19th Roundtable meeting, several attendees asked me how to become a member of the NCA Chapter. It's easy to join the chapter, and it's free.

If you are just now joining APMP, simply note on the APMP application that you wish to be affiliated with the NCA Chapter. That's all you need to do—APMP will provide your information to NCA, and we will include you in our mailings.

If you are currently an APMP member and want to join the NCA Chapter, simply send an e-mail to Barry Fields, APMP's Member Services Representative, and

let him know that you wish to affiliate yourself with the NCA Chapter (apmpmemserv@msn.com). If you prefer, call Barry directly at (406) 788-9840 and tell him of your intention.

With almost 600 members, the NCA Chapter is APMP's largest chapter. Joining the NCA Chapter allows you to learn about our latest networking and presentation events. Best of all, it's free.

Contact Barry now, and let him know you want to join the NCA Chapter.



With 75 question and one hour to take the test, you basically have 48 seconds to answer each question.

(APMP Foundation Accreditation...Continued from page 4)

After two full evenings reviewing the glossary and the *Shipley Proposal Guide*, I felt ready to take the exam. You have only one hour to complete the exam, so be sure to set aside a time and do this when you won't be interrupted. The Foundation Level exam does not allow you to pause and return to the exam at a later point.

You start the process by entering your APMP member number and credit card information. You also need to provide a reference's e-mail address to verify that you have at least one year's experience in the proposal field. Next, you receive a password. The actual exam starts when you enter the password.

I couldn't detect any rhyme or reason in the presentation of the questions. A question on production or capture management is followed by a question on kick-off meetings or font style. A site map at the bottom of every screen allows you to maneuver quickly from question to question. Just because this is a multiple-choice test doesn't mean it is easy. The choices are pretty tricky, and I had some difficult decisions to make.

This is also an open-book exam, and at first I referred to a few materials. With the countdown clock running, I

realized that referring to materials took too much time. With 75 question and one hour to take the test, you basically have 48 seconds to answer each question. You can return to any question at any time as long as there is time left on the clock.

I completed the exam with two minutes to spare. When the clock expired, I received an instant notice of "PASS." Three weeks later, I received my Foundation Level Accreditation certificate in the mail. I've completed the Practitioner Level exam, and I am working on the final phase of the accreditation program.

Do I think this formal accreditation process is worth the time and money? Well, I hate to leave you hanging on this question. Preparing for the exams allowed me to focus on best practices and other important processes and standards that sometimes get obscured in the rush of moving from one deadline to another.

For those who engage in the process, perhaps the real benefits are yet to come—most notably in the form of developing benchmark standards and credentials that will identify true proposal professionals. I'll keep you posted.



Multiple proposals causing headaches?



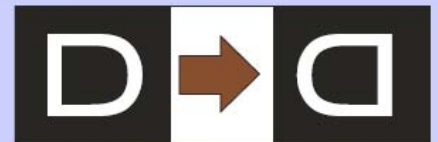
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EVMS...will effectively integrate the work scope of a [project] with the schedule and cost elements for optimum program planning and control.

Hot Topic For Hot Times

Malcolm Higgins

“**New EVM Rules: How to Compete on OMB’s Changing Playing Field**” was the theme for NCA’s July Roundtable. EVM was billed as a very hot topic for this summertime event, and our guest presenter, Wayne Abba of Abba Consulting, did not disappoint a packed house of 120 APMP members and 19 guests. All those in attendance gained valuable insight into the importance of EVM from the customer’s perspective with Mr. Abba giving an overview of EVM basics, providing insight into what it takes to be EVM compliant, and relaying and interpreting key issues associated with the Office of Management and Budget’s (OMB) newly published (July 2006) EVM regulations.

EVMS...will effectively integrate the work scope of a [project] with the schedule and cost elements for optimum program planning and control. The primary purpose of the system is to support program management. –ANSI/EIA 748-98A, Industry Standard Guidelines for EVMS

The presentation started with the origins of EVM in DoD contracting, the evolution of EVM from reporting to management, and the growth beyond DoD to commercial industry, other Government Agencies and OMB, international government and industry, and the Project Management Institute (PMI). Included in the discussion was using EVM effectively in acquisition and project management, issues associated with compliance/certification, and a summary of the tools available to support EVM. The presentation was engaging enough to keep everyone in their seats until the conclusion, with open discussion and questions from the audience.

If you missed this event, you can find more information on APMP-NCA’s web site (www.apmp-nca.org/). For the first time, both the presentation material (www.apmp-nca.org/apmplibrary.html) and a link to streaming video (twoworldwide.com/events/g4ii060719/) from this NCA Roundtable are available via our web site.

APMP-NCA Job Bank

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9300 Lee Hwy., Fairfax, VA 22031
Attn: Dan Unruh, resumesdu@icfi.com

Proposal Manager

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46169 Westlake Dr., Sterling, VA 20165
Attn: Sheila Thompson, sthompson@govg4i.com

Proposal Writer

KENROB IT Solutions
45207 Research Pl., Ste. 150, Ashburn, VA 20147
Attn: R. Ricci, ryan.ricci@kenrob.com

Senior Proposal Manager

Senior Technical Writer

Business Development Manager

Lohfeld Consulting Group Inc.
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careeropportunities@lohfeldconsting.com
or (410) 336-6264



What keeps you awake at night? What proposal-related problems return again and again? Discover the answers at APMP NCA’s Roundtables.



Did You Know?

Presentations from previous APMP-NCA

Roundtables and copies of prior newsletters are available for downloading at www.apmp-nca.org/apmplibrary.html

Check out this valuable source of proposal-related hints and tips!

What keeps you awake at night?

If you have recommendations on subjects for upcoming Roundtables that would be helpful to you or your team, or better yet, if you also know of a potential guest speaker, please contact the APMP NCA Board of Directors (www.apmp-nca.org/aboutapmp-nca.html) or send your ideas to info@apmp-nca.org.



Find your perfect job or fill a proposal or business development position using NCA's Job Board.

How Does the Chapter's Job Board Work?

Rick Patterson, Chapter Ombudsman

Does your firm have a proposal or business development position to fill? Are you looking for a proposal or business development position? If so, the NCA Chapter's Job Board can be a dynamite resource.

The Chapter started the Job Board last year. All listed job postings must be in the business development career field and contain categories including business development, capture management, proposal management, technical writing, proposal operations, and graphic design.


The Chapter's Job Board reaches a target audience beyond the Chapter's 600 members. Employers post a job profile by:

- Accessing the NCA web site;
- Selecting "Add Job Posting"; and
- Completing the form.

After submission, the Chapter Ombudsman reviews and, as necessary, edits the job posting. The cost is \$45,

payable using PayPal or by check, and the posting is effective for 21 days.

Effective this year, Job Board postings are also published in the Chapter's newsletter, the *Executive Summary*, further increasing exposure to this valuable professional audience.



**APMP
and NCA
Missions**

APMP's Mission is to advance the arts, sciences, and technology of new business acquisition and to promote the professionalism of those engaged in those pursuits.

Our Chapter's Mission is to provide our members with information and opportunities to improve their professional performance and advance their careers in Proposal and Acquisition Management.

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Anyone who plans to do business with the U.S. Government had better be sure he or she is familiar with all of the applicable laws and regulations.



The rules of a particular technical evaluation team may prohibit any contacts with competitors—even those that are permitted by law.

(Marketing Intelligence...Continued from page 3)

- Maintaining contacts with an offeror during the conduct of an acquisition that constitute “seeking employment”;
- Disqualifying officials from participation in acquisitions in which they or a future employer have a financial interest;
- Limiting the post-Government employment of certain officials;
- Releasing information that is subject to the PIA, Trade Secrets Act, or other laws; and
- Using nonpublic information to further an employee’s private interest or that of another and engaging in a financial transaction using nonpublic information.³

Anyone who plans to do business with the U.S. Government had better be sure he or she is familiar with all of the applicable laws and regulations.

The PIA, implemented by Part 3.1 of the FAR, defines two categories of information that Government officials must protect and contractors may not receive. The first is “contractor bid or proposal information,” defined as:

any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

- (A) Cost or pricing data...
- (B) Indirect costs and direct labor rates.
- (C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.
- (D) Information marked by the contractor as “contractor bid or proposal information”, in accordance with applicable law or regulation.⁴

In short, “contractor bid or proposal information” is sensitive or confidential information that originated from and is about your competitor. The other type of information controlled by the PIA is “source selection information.” This term refers to:

any of the following information prepared for use by a Federal agency for the purpose of evaluating a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

- (A) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening.
- (B) Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices.

- (C) Source selection plans.
- (D) Technical evaluation plans.
- (E) Technical evaluations of proposals.
- (F) Cost or price evaluations of proposals.
- (G) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.
- (H) Rankings of bids, proposals, or competitors.
- (I) The reports and evaluations of source selection panels, boards, or advisory councils.
- (J) Other information marked as source selection information” based on a case-by-case determination by the head of the agency, his designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.⁵

This category of information includes items that would give a contractor an unfair competitive advantage.

Let’s return to our original questions. First, your regular contact tells you that she cannot talk to you anymore because she has been appointed to a technical evaluation team for a procurement on which you plan to bid. Is this prohibited by the PIA, or is your contact just being cautious?

The answer is that this contact most likely is not prohibited by the PIA. That law makes clear that the Act is not intended to discourage normal interactions between Government and industry. The law says:

This section does not...prohibit individual meetings between a Federal agency official and an offeror or potential offeror for, or a recipient of, a contract or subcontract under a Federal agency procurement, provided that unauthorized disclosure or receipt of contractor bid or proposal information or source selection information does not occur[.]⁶

For example, it was not deemed objectionable when a military officer who had visited an offeror’s booth at a trade show and discussed the offeror’s cockpit mockup with company representatives was appointed two months later to the evaluation team in a procurement for the same item.⁷ So, it could be that your contact is just being cautious and avoiding an appearance of impropriety. Alternatively, it is possible that the rules of that particular technical evaluation team prohibited any contacts with competitors—even those that are permitted by law. However, the PIA does not appear to have been violated by the contact if no prohibited discussion took place. (Of course, as a practical matter,

(Continued on page 9)



Contractors are well advised to respect a procurement official's desire to avoid even an appearance of impropriety.

contractors are well advised to respect a procurement official's desire to avoid even an appearance of impropriety.)

Our second question was whether the PIA is violated if a Government contact provides a contractor with the prices that the Government paid for a product during each of the last 10 years. It would appear that this does not violate the PIA. In fact, this question has been litigated in the context of a bid protest, and the ruling was that a communication between a bidder and a Government official regarding historical bid prices was found not to violate the PIA.⁸ (Note that the result might have been different if the Government provided other contractors' cost information.)

Finally, we asked whether you may accept a copy of your competitor's technical proposal from an employee of your competitor. The answer is no. Note that this question does not involve any disclosure by a Government employee. However, the PIA not only prohibits Government officials from disclosing the types of information listed above—it also prohibits contractors from obtaining those same types of information. In other words, a violation of the law can involve an improper disclosure by an official coupled with an improper receipt of information by an offeror, or it can involve just an improper receipt of information. Specifically, the law says:

A person shall not, other than as provided by law, knowingly obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.⁹

Thus, accepting that technical proposal from your competitor's employee could subject you and him to criminal liability. This is not just a hypothetical concern; contractor and Government employees have been charged and punished criminally for violating the PIA.¹⁰ Moreover, because the PIA prohibits contractors from even obtaining the specified types of information, violations may occur even where there has not been an exchange of information. For example, in *Protest of Computer Technology Associates, Inc.*,¹¹ a help-desk operator for the incumbent contractor was able to obtain access to a Government email server—possibly because the client and the contractor were co-located—and downloaded transcripts of the oral presentations of other offerors. Those transcripts clearly were “contractor bid or proposal information or source selection information.” Thus, upon learning of the help-desk operator's action, the contracting officer disqualified

the incumbent contractor from the recompetition. (Contractor employees also should note that, in that case, the help-desk operator, program manager, and deputy program manager all were fired for their roles in the incident.)

Note, however, that in order for a disclosure of another offeror's information to be prohibited, that information must have been confidential. Thus, when the Government gave one offeror information about a competitor that the recipient could have obtained by attending a trade show, there was no violation of the PIA.¹² Similarly, information that is outdated and of thus questionable relevance to a pending procurement is unlikely to be considered “contractor bid or proposal information.”¹³

On the other hand, even when a permitted exchange takes place, the Government Accountability Office (GAO) may, in connection with a bid protest, separately review whether a bidder obtained an unfair competitive advantage as a result of the exchange. For example, in *Protest of Hughes Space and Communications Co.*,¹⁴ both the NASA Administrator and Associate Administrator for Legislative Affairs met with an offeror in a pending procurement as part of a routine visit to discuss the Congressional outlook for NASA and its programs. During the meeting, the offeror apparently raised the subject of the pending procurement, but the NASA officials refused to discuss it. Thus, GAO found that no violation of the PIA had taken place. Nevertheless, GAO went on to consider “the larger issue of whether [the offeror] was able to gain a competitive advantage over other offerors by virtue of this meeting[.]” GAO concluded that

there is no evidence in the record to support such a conclusion... [D]espite Hughes' attempts to characterize the meeting as unfair or inappropriate, there is nothing inherently improper about an agency head meeting routinely with representatives of industry, even if such meetings occur during an ongoing procurement in which the industry is participating.

Sales and marketing personnel and all contractor employees must take the strictures of the PIA to heart, as failure to do so can lead to disqualification from a procurement, the loss of your job, and even criminal liability. At the same time, the law should not discourage potential contractors from making legitimate contacts with procurement personnel. The key is, of course, to know what interactions are permitted or prohibited by the PIA and other related laws.

(Continued on page 10)



Accepting that technical proposal from your competitor's employee could subject you and him to criminal liability.



Even when a permitted exchange takes place, GAO may, in connection with a bid protest, separately review whether a bidder obtained an unfair competitive advantage as a result of the exchange.

(Marketing Intelligence...Continued from page 9)

1. 41 U.S.C. §423.
2. *Pikes Peak Family Housing, LLC v. U.S.*, 40 Fed.Cl. 673, 681 n.15 (1998) (citing 134 Cong. Rec. 32156 (Oct. 20, 1988)).
3. Citations to these laws are found in FAR §3.104-2.
4. 41 U.S.C. §423(f)(1).
5. *Id.* paragraph (f)(2).
6. *Id.* paragraph (h).
7. *Lockheed Aircraft Service Co.*, B-255305, 94-1 CPD ¶1205 (GAO 1994).
8. *Gold Appraisal Company*, B-259201, 95-1 CPD ¶1144 (GAO 1995).
9. 41 U.S.C. §423(b).
10. See, e.g., "Ex-Boeing Workers Charged Over Lockheed Documents," *The Washington Post*, June 26, 2003, page E3.
11. B-288622, 2001 CPD ¶1187 (GAO, 2001).
12. *Synetics, Inc. v. U.S.*, 45 Fed.Cl. 1, 14 (1999).
13. *Avtel Services, Inc. v. U.S.*, 70 Fed.Cl. 173 (2005).
14. B-266225.8, 96-1 CPD ¶1199 (GAO 1996).

Shlomo D. Katz is Senior Counsel in the Washington, DC office of the national law firm of Epstein Becker & Green, a Corporate Sponsor of APMP-NCA. If you have any questions about these or other proposal issues, please feel free to contact Mr. Katz at (202) 861-1809 or skatz@ebglaw.com.



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**Executive Summary
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Circulation—Ralph Scherer
ralph@schererMedia.com

**APMP-NCA Board of
Directors Meetings
Open to Members**

The Board of Directors for APMP NCA meets the first Tuesday of every month. Every other meeting is a virtual meeting-telephone conference. These meetings are open, and APMP members may attend.

Anyone interested in the topic is invited to attend our meetings. You do not have to be an APMP member or even a proposal specialist to attend an NCA Roundtable. If you are interested in proposals, business development, and professional development, we'd like for you to join us!

**Mark Your Calendar for
2006 APMP-NCA Events**

- September 20** Roundtable (NCA Membership Meeting)
- October 25** Professional Day
- November 15** Roundtable (NCA Membership Meeting)

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