Commerce Acquisition Solutions
Procurement News
St. Patrick's Day Edition

Vol. 1 No. 2   3/5/04   Quotable: *Aristotle*

🍀 "Quality is not an act. It is a habit." 🍀

WHAT'S INSIDE?

Services Acquisition Reform Act Defines Acquisition

Government Reform Committee Chairman Tom Davis (R-VA) was instrumental in getting the H.R. 1837, the Services Acquisition Reform Act (SARA), one of Davis' top priority reform bills, through Congress. SARA, in a nutshell, builds on the critical procurement reform initiatives of the 1990s by recognizing that the economy and the needs of our government have become increasingly service and technology oriented.

"This is a huge win for fans of good government," Davis said. "While procurement reform may not be the sexiest issue before Congress, improving the way we acquire goods and services can help make the government leaner, meaner, more responsible, and more accountable to taxpayers."

"The current acquisition system, although much improved by the reforms of the 90s, is simply inadequate to leverage the best and most innovative services and products our vigorous private-sector economy has to offer. We have not kept pace with the dynamics of an economy that has become, over the last few years, increasingly service- and technology-oriented. Without change, the current system cannot support the President's vision – expressed in his Management Agenda – of a government that is well run, results oriented, citizen centered, and market based."

"The procurement reforms in this legislation take aim at the root causes of our current dilemma. They will allow us to put the tools needed to access the commercial service and technology market in the hands of a trained workforce that will have the discretion necessary to choose the best value for the government -- and be held accountable for those choices."

"Each year the federal government spends over $200 billion buying goods and services. More than half of that, over $135 billion, is now spent on services, making services the government's single largest spending category. With these reforms, we ensure that we're spending that money more wisely."

The main features of the legislation follow:

Workforce

The legislation establishes a civilian acquisition workforce-training fund within GSA, financed by depositing 5% of the fees collected by various agencies under their government-wide contracts, including the GSA Schedules. This will stabilize training funding for civilian agencies and thus allow our hard-working acquisition professionals to get the training they need to transition to the new service oriented and technology driven federal market.

The legislation permits the head of a government agency under regulations issued by the Office of Personnel Management to recruit and directly hire acquisition employees with high qualifications.

Business Structure

The legislation reforms the antiquated business environment that currently surrounds the government's acquisition functions. It provides for the appointment of a "non-career" Chief Acquisition Officer for most major agencies to eliminate stovepipes and serve as a high-level focal point for acquisition in day-to-day operations, as well as in agency-wide strategic planning and performance evaluation processes.

The legislation authorizes the establishment of a Chief Acquisition Officers Council to monitor and improve the federal acquisition system. The Council will be chaired by the Deputy Director for Management (DDM) of the Office of Management and Budget (OMB) and is comprised of agency Chief Acquisition Officers and other high-level acquisition officials. The Council will develop recommendations on Government-wide acquisition policies and other innovative acquisition initiatives, promote effective business practices, and work with the Office of Personnel Management to assess and address hiring, training, and professional development needs related to acquisition.

The legislation establishes an advisory panel of experts in acquisition law and policy who represent diverse public and private sector experiences to review acquisition laws and regulations. The panel will make recommendations for the modification of laws, regulations, or policies to eliminate unnecessary provisions and encourage the appropriate use of commercial practices and performance-based contracting.

Acquisition of Commercial Items

The legislation establishes a government-wide preference for the use of performance-based service contracts by treating certain service contracts under $25,000.00 as contracts for "commercial items." This will authorize the use of simplified procedures for the award of performance-based service contracts and apply to those contracts existing waivers of requirements and certifications. These authorities, along with increased workforce skills and knowledge facilitated by the new workforce training fund, should go a long way towards establishing well-managed performance-based contracts as the norm for the acquisition of services.

The legislation clarifies the existing statutory definition of commercial item to authorize the use of time and material and labor-hour type contracts for certain commercial services that are commonly sold to the public through such contracts and are purchased by the Government on a competitive basis.

The legislation clarifies the definition of "commercial item" to recognize the changing dynamics of the commercial marketplace for services. The new definition recognizes that services that are sold on the basis of specific outcomes in addition to those for specific tasks should fit within the definition of commercial services. Thus, benefits that attach to commercial items will now be available not just for services sold in the marketplace for specific tasks such as grass cutting but for more sophisticated services such as management consulting services used to improve agency processes.

The legislation will allow all federal agencies to use approaches other than contracts to buy research and development and prototypes for new technologies to fight terror. The Department of Defense has long had such authority. The new Department of Homeland Security has recently been granted the authority. The legislation makes it government-wide.

The legislation provides for special streamlined procedures, based upon flexibilities in current

law, for the procurement of property or services when the head of the agency determines the property or services are in support of a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. This will provide structured streamlined authorities to buy the most high-tech and sophisticated products and services to defend against such terror attacks.

The legislation ensures that firms will be able to include in their offers for Federal contracts plans to allow the firm's employees to telecommute without being arbitrarily disqualified or downgraded simply for offering such plans.

"The Federal government faces historic challenges. At the same time, it sits at the brink of unprecedented opportunity," Davis concluded. "We need to develop new methods to harness the magic of our dynamic private market to meet the critical needs of the American people. This legislation does just that. It places us on the road to a flexible, responsive, and impartial competitive acquisition system that will enable our government to leverage the best services and technology the private sector has to offer -- at fair and reasonable prices."

Acquisition Defined

The Services Acquisition Reform Act, formally and finally defines the term 'acquisition.' Acquisition means (a) the process of acquiring, with appropriated funds, by contract for purchase or lease, property or services (including construction) that support the missions and goals of an executive agency, from the point at

which the requirements of the executive agency are established in consultation with the chief acquisition officer of the executive agency; and (b) includes (i) the process of acquiring property or services that are already in existence, or that must be created, developed, demonstrated, and evaluated; (ii) the description of requirements to satisfy agency needs; (iii) solicitation and selection of sources; (iv) award of contracts; (v) contract performance; (vi) contract financing; (vii) management and measurement of contract performance through final delivery and payment; and (viii) technical management functions directly related to the process of fulfilling agency requirements by contract."

The Services Acquisition Reform Act may be accessed at the following web address:

http://reform.house.gov/UploadedFiles/Title%20XIV%20of%20H.R.%201588%20Conference%20Report.pdf

Wage Rate Determination
By Dan Alexander

Labor Website provides single point of entry for COs

Department of Labor website Http://www.wdol.gov/ provides a single point of entry for federal contracting officers to obtain appropriate Service Contract Act (SCA) and Davis-Bacon Act (DBA) wage determinations (WDs) for each official contract action. The website is available to the public as well. Guidance in selecting WDs from this website is provided in the

WDOL.gov User's Guide.

Alternately, the WDOL.gov Program also provides contracting officers direct access to the Department of Labor's (DOL's) "e98" website to submit a request for SCA WDs for use on official contract actions. In some instances, the WDOL.gov Program will not contain the appropriate SCA WD, and contracting officers will be directed to use DOL's e98 website to obtain the required SCA WD. DOL will provide the contracting officer with an SCA WD through the e98 system.

Questions pertaining to the application of contract labor standards or the selection of appropriate WDs for specific contract actions should be referred to the contracting officer or to the designated agency labor advisors. Questions pertaining to this website may be referred to the WDOL.gov Webmaster.

The WDOL.gov Program and the User's Guide do not relieve the contracting officer or other program user of the requirement to carefully review the contract or solicitation, federal acquisition regulations, and/or DOL regulations related to these actions.

Where the contracting officer selects an SCA or DBA WD using the WDOL.gov Program and DOL later determines, whether before or after contract award, that the appropriate SCA or DBA WD was not incorporated in a covered contract, the contracting officer, within 30 days of notification by DOL, shall include in the contract the applicable WD issued by DOL.

Purchase Card News

by Frank Krempa

When you apply for a DOC Government Purchase Card, one of the most important blocks on the Government Purchase Card Set-Up form (CB 001) is the Master Accounting Code. That is the block that codes in a default Accounting Classification Code Structure (ACCS), for use when you make a purchase using your purchase card. The form has a line that asks for your Master Accounting Code, and limits you to a 75-character input. Because the instructions don't do a good job of explaining how to structure that code, most users were a little casual providing their codes, and that led to inconsistent formatting in the system. The inconsistent formatting led to some accounts being defaulted to a generic Department-wide code during the monthly statement reconciliation. The inconsistent formatting also led to some accounting and reporting problems internal to some offices.

The Agency Program Coordinators worked with the Commerce Purchase Card System (CPCS) help desk, the Commerce BankCard Center managers, and the Office of Executive Budgeting, to analyze the problem and to see what solutions could be generated and implemented. The CPCS help desk prepared some expanded and detailed instructions for providing the Master Accounting Code, and to use a more accurate Accounting Classification Code Structure (ACCS). The ACCS

should synchronize, at least format wise, with the codes that you see when you reconcile your purchase card statement each month. The reconciliation should be easier to manage once you have your own default ACCS input for purchase card account. For your specific accounting codes, see your Administrative Officer or your Budget Officer.

The Master Accounting Code Instructions will be forwarded to cardholders and Approving Officials by email. You may also want to visit the CAMS website at http://www.nist.gov.admin/cams_external/cams_ed_matls/accs.html

Here is an *example* of the Bureau Default Code structure format for the Office of the Secretary:

The number of characters in each field is very important.

FY	=	2004
Bur	=	51
Proj	=	0153000
Task	=	000
Org 1	=	11
Org 2	=	09
Org 3	=	0000
Org 4	=	00
Org 5	=	00
Org 6	=	00
Org 7	=	00
Obj 1	=	25
Obj 2	=	99
Obj 3	=	00
Obj 4	=	00

DO NOT use commas, back slashes, dashes, or any other character between fields. Spaces are allowed.

By following the Master Accounting Code instructions, the set-up, use, and reconciliation of the Purchase

card should be easier and more effective to use for the whole Department. Thanks for your attention. If you have any questions call your Agency Program Coordinator, Frank Krempa, at 202- 482-0997, or email fkrempa@doc.gov.

Departmental Purchase Card Guidance Issued

by Dan Alexander

Department Purchase Card procedures have been modified effective February 1, 2004 and may be found in the Commerce Acquisition Manual (CAM) Part 13, Section 301. Please look to ensure that you are up-to-date at http://oamweb.osec.doc.gov/stage/app/cam.htm. Training materials are being updated to reflect these changes.

Highlights of changes are provided as follows:

* A new purchase card delegation memo has been developed for immediate implementation.

* A requirement of the purchase card holder to be "Environmentally Friendly" or they now address "**Green**" in making their purchasing decisions.

* New guidance has been provided regarding the Purchase Card program review, oversight, and risk management processes.

Purchase Card (BankCard) Training Program

by Frank Krempa

As part of the Department of Commerce Purchase Card program, the Customer Outreach and Programs (COAP) team, of Commerce Acquisition Solutions is charged with managing the Purchase Card program, including processing of purchase card and Approving Official (AO) set-up and maintenance forms, providing assistance, and conducting annual reviews. To help make the program more effective, COAP provides customized training to augment the on-line training that is offered by GSA. This GSA training is required before a Purchase Card can be issued. This training has usually been offered "en masse" a few times a year, open to all cardholders and AO's on a "drop-in" basis. We have found that sometimes there are problems or situations that are peculiar to a particular office, and that there would some benefit to tailoring the training to suit the office or group. We have streamlined the material that we used last year to make the training easier to understand, to use, and to remember.

The bulk of the training reflects the material that addressed in the on-line GSA course, but we can use this opportunity to emphasize any areas of confusion, to make the examples more relevant to the group, to provide the latest information if there have been regulatory changes, and to provide a question and answer session. The COAP team (Dan Alexander and Frank Krempa) encourages you to forward any issues or suggestions that can be incorporated into training sessions to make them more effective and a better training experience.

Purchase card statement reconciliation has been identified as an area of concern by many people. Because reconciliation is last step in the funds availability, purchase action, and reconcile process, it can be considered the basis for managing funds. The purchase card training sessions won't go into great detail on the mechanics of reconciliation, but COAP can make arrangements for a group training session, and have staff from Commerce Purchase Card System (CPCS) at NIST provide on-site training at HCHB for new cardholders and AO's or people who desire some refresher training. If there is a need for training only one or two people, they can be accommodated by attending training at the NIST site. (See the related article on Accounting Classification Code Structures)

Vendor Outreach

by Frank Krempa

Source Code Escrow Vendor Visits Commerce

The CEO and the Business Development Manager of sourceharbor visited the Department of Commerce on March 3, to discuss the growth of Software Code Escrow in Information Technology contracts. They met with Mark Langstein, Chief of Contract Law, Jerry Harper, Office of Chief Information Officer, and Frank Krempa, Small Business Specialist for Commerce Acquisition Solutions. Bea Wray and Edna Shattuck explained that source code escrow is a risk management tool being incorporated into IT contracts to help protect customers who pay for software development from loss if their software developer goes bankrupt or for any reason is unable to finish the programming task.

What is source code escrow?

When you make monthly mortgage payments, your lender is a third party that holds some of your payment and then makes payments to your city and county for taxes, and to your insurance company. With software, the source code is held by a third party to protect the licensee (user) in the event that the software developer fails to complete the task, and to protect the developer. By having the source code, progress and quality can be checked periodically to increase the likelihood of project completion, without the developer having to turn over their intellectual property. The escrow company may also assist with product technical verification, establishing release triggers, and the release of payments.

Source Code Escrow has been common in industry for over ten years, but until recently the Government was usually a customer with so much influence and leverage that they could demand that source code developer turn over the source code as a deliverable. The Government now finds itself in a position where programmers and vendors will sometimes balk at turning over the source code for a programming product. Source code escrow offers

a valuable and useful compromise between failure to reach an agreement because the vendor is unwilling to release their code, which is a type of intellectual property, and paying extra for the rights to a proprietary product.

If you are having a significant amount of programming done for a project, consider source code escrow. You may want to make it a contract requirement. Find out more about source code escrow by visiting the Licensing Executive Society website at www.LES.org , the Computer Law Association at www.cla.org , or the Government Contract Intellectual Property Institute as follows:
www.fedpubseminars.com/seminar/ipinst.html.

Samples of Escrow Agreements are available for your review. Just contact Frank Krempa at Customer Outreach And Programs (COAP), (202) 482-0997.

Small Business Corner
by Frank Krempa

> *"Small Businesses are vital to the economic health of our nation!"*
> *Donald L. Evans*

Secretary of Commerce, Donald L. Evans has stated that each Department employee who has a role in the acquisition process has a responsibility to support the Department's overall mission of economic development and the Federal Government's public policy objectives.

One such public policy objective is the establishment of annual or biannual Small Business Goals in accordance with 15 U.S.C. § 531 as implemented by the Small Business Administration. These goals represent a percentage of the total dollars spent by the Department.

The Department's Small Business goals for this year are as follows:

Category	Goal
Small Business	44.80 %
Small & Disadvantaged Business	10.35%
8A	6.11%
Women Owned Small Business	7.80%
HUBZone (Historically Underutilized Business Zone)	3.00%
Service Disabled Veteran Owned Business	3.00%
Veteran Owned Small Business	4.00%

So as you develop your requirements please remember the Department's policy and the Secretary's call to support small businesses.

How can you help?

We recommend as you identify, establish, and/or generate your program's requirements - keep small business in mind. Don't bundle requirements so that only large businesses are capable of handling the work.   Simply recognize the capabilities of a typical small business and design your requirement accordingly, to fall within their range of abilities. For example, is your requirement Department wide, Bureau wide, or office wide?   This applies to services like security, communications, IT and almost any service you can think of.

If you have any questions, contact your Small Business Specialist Mr. Frank Krempa or contact your local Contracting Officer. They will be glad to help you.

White House Delay Keeps Pay Raise in Limbo

Federal Times

The retroactive pay raise for nearly 1.8 million civilian employees remains in limbo, a month after Congress approved it, because of inaction by the White House.

President Bush first must issue an executive order that spells out how the total 4.1 percent increase, which he signed into law Jan. 23, will be divided between base pay and locality pay. The Office of Personnel Management then would issue pay tables reflecting the new raise, which employees would begin receiving once agencies reprogram their pay systems. The raise will be retroactive to the first paycheck of 2004.

The executive order is "moving through the final clearance process" and should be issued soon, an Office of Management

and Budget spokeswoman said Feb. 20.

Colleen Kelley, national president of the National Treasury Employees Union, said a similar delay last year left some employees waiting until summer for their full raise to take effect. "Federal employees have waited long enough," Kelley said.

The president's pay advisers already have recommended splitting the raise between a 2.7 percent across-the-board increase and a 1.4 percent variable raise based on employees' locality zones.

Most General Schedule employees received a 1.5 percent base pay raise and a 0.5 percent locality increase in January, but Congress voted Jan. 22 to increase the total raise to 4.1 percent to match the average hike for military members. The 4.1 percent raise also will apply to the 200,000 blue-collar employees in the Federal Wage System, who have not received a raise this year.

Dealing with Human Speed Bumps *by Robert Bacal*

Mary Duncan, Director of the XYZ branch, left the staff meeting with her stomach churning and her blood pressure high. Sitting down alone in her office she wondered to herself whether John, an office head was going to continue to obstruct implementation of anything new or different. "He must know that the politicians had already decided about the changes, and that it is our job to implement the changes", she thought to herself. She knew that others in the meeting had shown their

impatience when John, yet again, cautioned about the need to go very slowly, or face disaster. The rolling of eyes, the heavy sighs when John spoke didn't bode well, she thought. What to do?

Mary is contending with a common situation, one that we have labeled the human speed bump syndrome. Many work groups and teams have at least one of these bumps in the organization, and they attempt to function just like those speed bumps in mall parking lots; encouraging others to slow down. In the worst cases the human speed bump seems to stall the entire organization, and can be relied upon to puncture any enthusiasm others may have about changes in the organization.

Speed Bump Behavior

At one time or other most of us operate as human speed bumps. In fact, as we will see later, speed bump behavior isn't all bad; organizations can make effective use of speed bumps to avoid reckless or badly though-out decisions. Here are some behaviors commonly used by human speed bumps.

* pointing out negative or problematic aspects of a plan, process, or change.

* presenting their objections (sometimes with well thought out reasons, sometimes with only vague, ill-defined objections).

* resists change, often questioning the need to change.

* often advises a "go slow" approach, even when it is clear

that going slow is impossible or will result in severe negative consequences.

* may stall or procrastinate on doing his/her part, thereby slowing down the entire organization.

Speed Bump Fall-Out

Speed bumps can affect an organization in a number of negative ways, particularly if their abilities aren't channeled effectively. For example, human speed bumps:

* are usually perceived as negative and defeatist by other members of the group, and tend to frustrate others. As a result, they may become involved in open arguments as people lose patience with them.

* can actually slow down changes or actions that an organization MUST take.

* can negatively affect group morale and enthusiasm.

* may become performance problems if they perceive that their speed bump contributions are ignored or unwanted.

Speed Bump Upsides

While it may sound that human speed bumps are not an asset to an organization, it isn't necessarily so. Speed bumps can contribute by helping group members reflect on their actions and decisions, and acting as "sober second thought" so that the organization doesn't make decisions in a flurry of

excitement, emotion or group-think. Not only can the human speed bump slow down the organization's ride on the highway s/he can also avoid the vehicle hurtling headlong over the cliff. Just like a car needs brakes to function safely, so does each organization need an ability to look at the downside of decisions and actions.

Dealing With The Speed Bump

We are going to assume that the human speed bump is a competent employee; someone with knowledge and skill. Incompetent speed bumps are a different type of problem, often best handled via standard performance management/coaching processes. If we scratch the surface of a speed bump, what we may find is someone who is particularly adept at finding the flaws in new plans, decisions, and actions. What we need to do is to allow the speed bump to use that capability in an officially sanctioned way. Consider having the speed bump do a critical analysis of a projected course of action. For example, if the organization has three options, ask that the speed bump analyze and identify BOTH the strengths and weaknesses of each option. It may be necessary to help the person by making sure that the problem is properly defined and the goals of the problem-solving are clear.

It is important that we do not encourage, or even permit the speed bump to take pot-shots at others ideas at every turn. For this reason, it is important that the following rule be followed. If you have criticisms of an approach or plan, feel free to express your concerns, but you will be expected to suggest a better idea. If the group follows this rule, you will find that even the most ardent

speed bumps will exercise caution, knowing that they will be asked for their recommendation if they are offering criticism.

It is also important that objections be taken seriously (eg. at meetings, etc), rather than being brushed off as "just so much negativity". Clearly there must be limits, though. There is a point where it becomes obvious that the speed bump has no really good reasons for his/her cautions or objections, and it is at this point that further discussion will be wasteful. Try to listen for two forms of objection. The first seems logical and thought out, while the second sounds more emotional and related to personal discomfort. Do not let the person pass off his/her personal vague discomfort with something as logical argument.

There are situations where the speed bump has become a bona fide impediment to the organization, due to consistent and persistent obstruction. When this occurs, direct manager/team leader intervention is indicated. It is legitimate to talk to the individual privately, to discuss how his/her comments are affecting other organization members. Remember that the human speed bump is a style of interaction, and that the person in question may not be aware that the approach is difficult for others. A good way to begin such a discussion is to ask some questions first. For example:

* Have you noticed that people seem to be getting a little frustrated at our meetings?

* Have you any ideas why frustration might be increasing?

* Have you considered that the way you are communicating may

be putting you in a difficult situation?

* If possible, get the human speed bump to generate the solutions, rather than supplying them.

Conclusion

Organizations need people to help them reflect on decisions and actions, and to prevent them from plunging over cliffs because of group-think, over-enthusiasm, or decision-making done under stressful and pressure situations. That said, speed bumps can be disruptive and frustrating. Searching for the positive through all the negative certainly is a huge job. Like panning for gold or digging for diamonds, the work is intense but the pay incredible.

And please keep in mind that it is far easier to <u>channel the abilities </u>of a "speed bump" into useful action, than to change the style of the <u>"speed bump."</u>

Happy St. Patrick's Day!

St. Patrick's Day is Ireland's greatest national holiday. The March 17th marks the anniversary of the death of the missionary who became the patron saint of Ireland.

The Blarney Stone is a stone set in the wall of the Blarney Castle tower in the Irish village of Blarney. Kissing the stone is supposed to bring the kisser the gift of persuasive eloquence.

Acquisition Newsletter Cross Word Puzzle
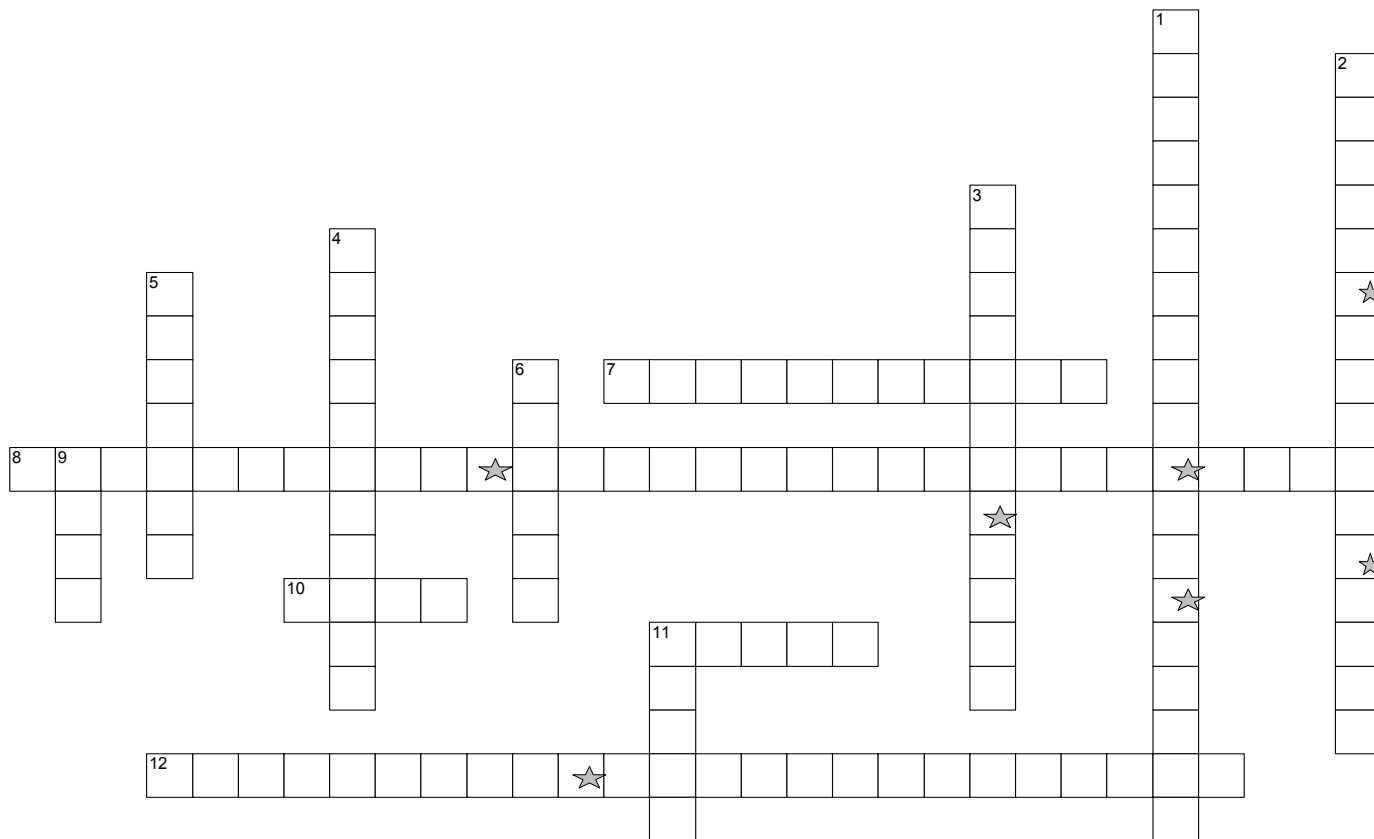
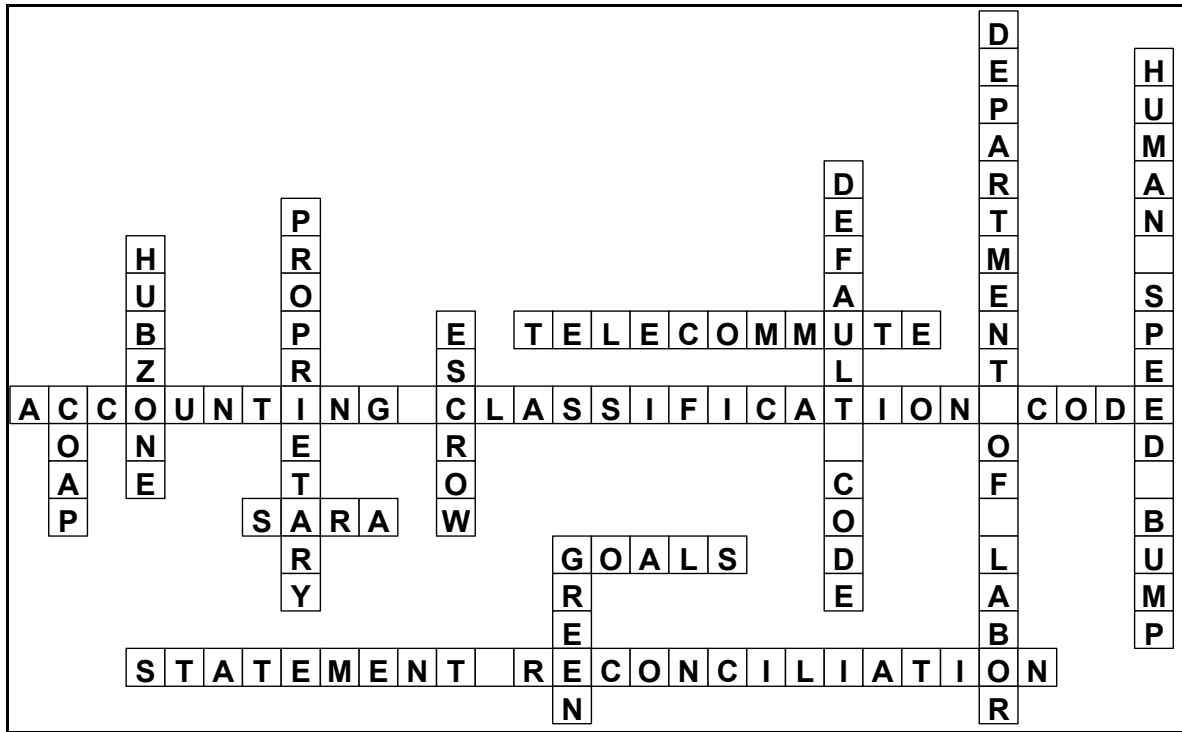Dan Alexander and Frank Krempa

★ indicates a space in the phase.

Across

7   Work at home practice supported by the Services Acquisition Reform Act.
8   The Structure or format in which the FY, BUR, Proj, Task, Org, and Object class codes should be to ensure proper charging of accounts.
10   Acronym for legislation that defines the term Acquisition?
11   15 U.S.C. § 531 requires the setting of Small Business _____.
12   Considered the basis for managing purchase card funds - the last step in the process!

Down

1   Agency responsible for determining Wage Rates
2   Term for person in an organization that "encourages others to slow down."
3   The accounting code that is charged when no other accounting has been specified by the card holder.
4   Information or data contained in a bid or proposal that contains trade secrets and/or information that is commercial or financial, and confidential or privileged, that is protected from release in accordance with the Freedom of Information Act.
5   Geographical area that suffers from chronic business underutilization.
6   When source code is held by a third party it is called Source Code _____.
9   Acronym for organization that published this newsletter.   *(Hint - Customer Outreach And Programs)*
11   Card holders must be Environmentally Friendly or _____ when making their purchasing decisions.

Cross Word Puzzle Solution

ACCOUNTING CLASSIFICATION CODE

TELECOMMUTE

STATEMENT RECONCILIATION

DEPARTMENT OF LABOR

HUMAN SPEED BUMP

PROPRIETARY

HUBZONE

DEFAULT CODE

SOAP

ESCROW

SARA

GOALS

GREEN

CODE

Good is not enough when you dream of being great!!