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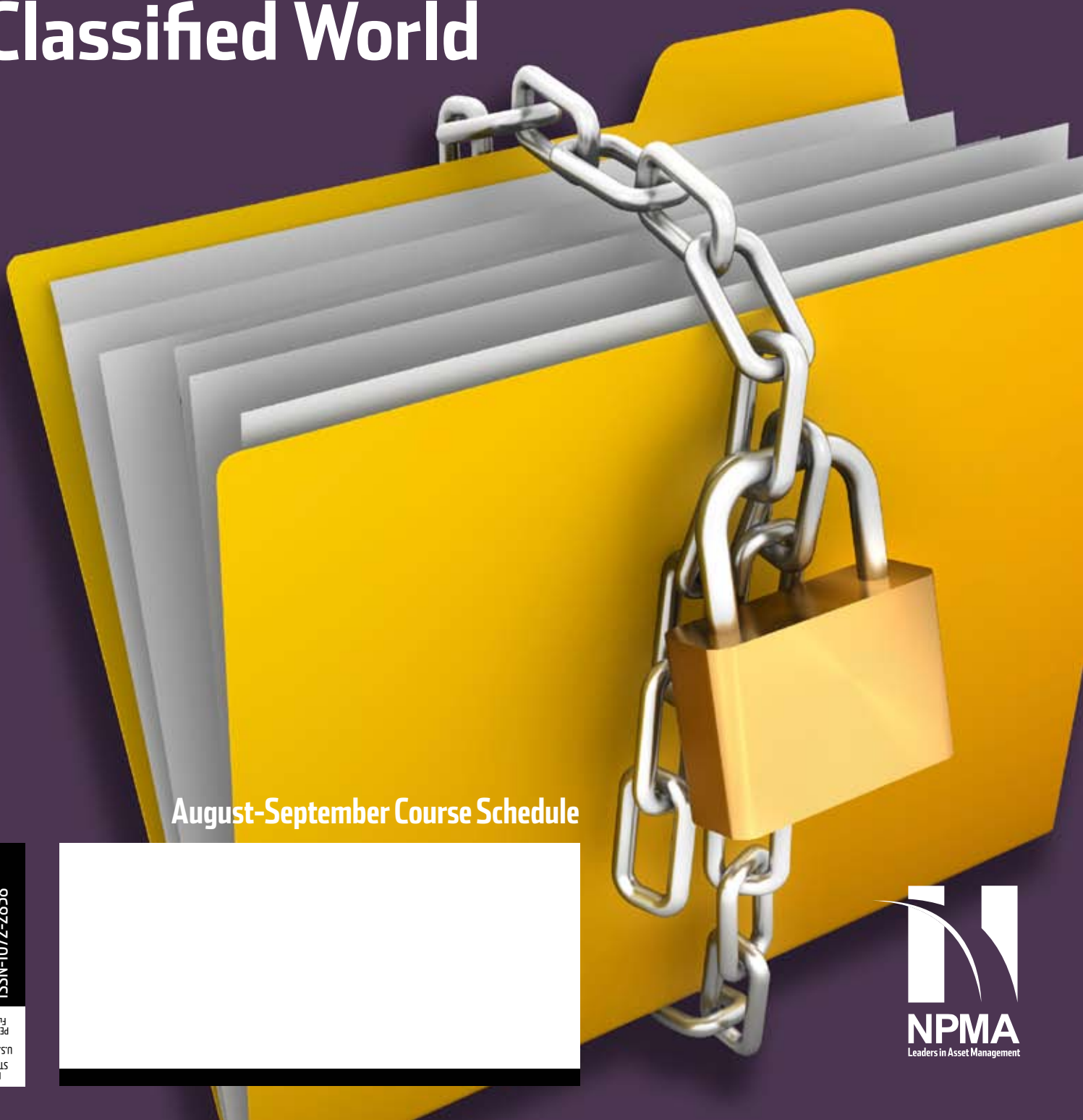
the Property Professional

Leaders in Asset Management

Property Management in a Classified World



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Chris Thompson, CPPM

Puzzling Facts about Property

Welcome to another edition of *The Property Professional* and 40 years of contributions to the property management profession!

This is my first column since I have officially retired from Federal Service. One of my activities as part of my "retirement preparation" was making an "inventory list" of the best songs that would be the most appropriate for my retirement occasion!

So, I called upon a dear friend, who proceeded to develop my final federal *working* physical inventory: 1: Working Man – Rush, 2: Work – Leo Sayer, 3: Just Got Paid – ZZ Top, 4: Chain Gang – Sam Cooke, 5: Maggie's Farm – Bob Dylan, 6: Dead End Street – The Kinks, 7: Slave to the Grind – Skid Row, 8: Part of the Union – The Strawbs, 9: Career Opportunities – The Clash, 10: Workin' for the Man – Roy Orbison, 11: Diary of a Working Man – Blackfoot, 12: God Damn Job – The Replacements, 13: Salt of the Earth – The Rolling Stones, 14: Working on the Road – Ten Years After, 15: Bang the Drum All Day – Todd Rundgren, 16: Don't Talk to Me About Work – Lou Reed, 17: Working on the Highway – Bruce Springsteen, 18: We Gotta Get Out of This Place – The Animals, 19: Welcome to the Working Week – Elvis Costello, 20: Working in the Coal Mine – Lee Dorsey (or DEVO), 21: Takin' Care of Business – Bachman-Turner Overdrive, 22: It's Not My Place (In the 9 to 5 World) – The Ramones, 23: Working Class Hero – John Lennon (or Green Day version) 24: Take This Job and Shove It – Johnny Paycheck (Written by David Allan Coe), 25: Workin' Man Blues – The Doc Watson and Frosty Morn version (or Merle Haggard's version if you prefer, yahee!)

That is one heckuva inventory and a great way to musically remember a great career! Does any of this speak to you?

Now that I have your attention, we are trying something new in this edition as a way to expand people's thinking! We are dedicating space to a *property puzzle.* The idea is that we will include either a crossword or a word search puzzle in each edition. Solutions to the puzzles will be in subsequent issues. We believe this will challenge many of your minds and we will be looking for other fresh ideas for the magazine to keep readers' interest and attention.

In this edition, we have four delightful articles. The first article is actually one of the presentations from the 2010 National Education Seminar and a subject we don't hear that much about called "Property Management in a Classified World" by Cheryl Sosa & David Perrin.

Our second article "They're Not Just for the President" by Lana El Eryan is a real delightful piece that focuses on the role of Chief of Staff in the Property Office.

Our third article is an interesting piece called "Achieving Successful Integrations: Can't we all just get along?" by Faisal Khan. Finally, the long awaited follow-up article on pecuniary liability called "Liable or Not Liable – That is the Question! Pecuniary Liability for Loss, Damage or Destruction of Government Property – Part II."

Ladies and Gentlemen, I present this edition of *The Property Professional.* ■

NPMA Educational Conference Series: **Invest in Yourself!**

Carl J. Iannacone, CPPS

What a beautiful venue with wonderful weather for our first Conference Series event. Phoenix was a magnificent location with spring training major league baseball games located nearby as an added bonus for us baseball fans. This was the first event for our Conference Seminar Planning Committee (CSPC) and they created a focused conference that attracted 100 participants with 27 from the university sector. It also generated 22 new members.

As I write this article, we have not yet met in Galveston for the Central Region Conference. The CSPC has, with input from the chapter and region, designed some very interesting educational offerings. I am looking forward to learning about disaster recovery. It is a very timely topic and one can never be too prepared. I also look forward to meeting with property professionals in the medical environment, an environment that I worked in for 18 years.

Our association continues to reach out to perspective new members in all property fields; however, our recent marketing efforts have been focused on university property managers. Many feel that one of our greatest growth areas should be universities. There are thousands of universities in the United States and whether public or private, property is a much regulated concern for each type. Last year's Central Region Seminar was also very successful in attracting university participants. In addition, this year at the National Education Seminar (NES) we will have over a dozen workshops specifically focused on the needs of university property professionals.

For the 2011 NES, our CSPC has worked diligently to create a balanced educational offering. The NES this summer will be one of the finest we have ever produced and without a doubt the largest. We will present over 100 workshops with focus meetings of our new Special Interest Groups as well as general sessions. The NPMA is offering four full days of workshops and other educational offerings. There will be a workshop or other offering for every property professional in almost every field. The work behind the scenes was done by more people putting in more hours than ever before to make this event one that you will find outstanding.

The 2011 NES will be located in Las Vegas, one of the most premier vacation destinations in the world at one of the finest hotels in the city. At the Rio every room is a suite and I have been told the accommodations are some of the best in the world. Who doesn't know that the city has one of the largest assemblies of performers in one location anywhere in the world? Between the educational classes, the great networking and the entertainment, the NES looks to be one memorable experience.

While I'm sure you will be entertained and pampered at the NES in Las Vegas, it is education that is the reason for our trip. Plan to have fun, but remember to take advantage of all the educational offerings that will be available and INVEST IN YOURSELF! ■

Executive Director


Paul Nesbitt, CPPS

Marketing Our Association

You may see some new faces at NES or in future Chapter meetings as we ratchet up efforts to attract new members to NPMA. This year, we're focusing more heavily on marketing and member retention. A key component of our marketing strategy is research, and hopefully you did your part in helping us by taking the survey we sent out in May. This kind of research is imperative in order for us to obtain data that you can use to support your position level and salary. It also helps us design training that better meets your needs and helps us create other resources that help you in your job.

Of course, to be successful, our marketing plan involves additional human capital as well. We've created some new NPMA volunteer director positions to aid in our efforts. One is a marketing director position for social media outreach. Under this director, you will continue to see more valuable activity on our Facebook, LinkedIn and Twitter sites. We also created a marketing director position focused on potential members who are employed by companies with government contracts. This director is helping us contact those companies not already represented by current NPMA members.

The overall marketing strategy will be carried out by NPMA's Marketing Manager but will involve the efforts of a number of member volunteers.

Marketing NPMA is something every NPMA member can do easily. Just by attending a course or seminar and sharing your experiences with others, you help market NPMA. In relaying the information you gained or the activities you experienced at the event, you paint a picture of the value of NPMA to others. Your involvement in NPMA chapter meetings, your attainment of NPMA certification, and your networking with others all helps market the value of NPMA.

You can also assist with actual lead generation by helping identify your counterparts in companies or organizations that may not be represented among the current membership. Be on the lookout when talking to vendors to see if they reference another customer who may not be an NPMA member.

Don't feel inhibited from reaching out personally to potential members and talking up NPMA. You'll find some template letters in the Chapter Toolkit of the website from which you can pull some talking points. But usually, just talking about your own experience and the value you attach to NPMA is what really 'sells' the Association. ■

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Cover Story

Property Management in a Classified World

By Cheryl Sosa, CPPM & David Perrin, CPPM, CF

Working in a classified environment is sometimes referred to as working on "The Dark Side." The secretive nature of classified programs usually sparks interest with those who have not worked in such areas and are unaware of the types of activities that take place. Realistically, it is not much different than working in an unclassified environment. We all still work to the same federal regulations, such as the Federal Acquisition Regulations (FAR), and have contracts that tell us what our requirements are. However, there are a few exceptions. In this article, the expectation is to familiarize the reader with some of the generalized major impacts and responsibilities of the property manager who operates in a classified environment.

Personal Responsibilities and Impact

For property management personnel who work in classified environments, the personal responsibilities and personal impacts can be much greater than for those who work in unclassified environments. Security plays a much larger role with greater requirements and restrictions when working in a classified atmosphere. For example, you will probably be required to undergo a security investigation, polygraph test, or other applicable security requirement depending on the type of program you will be supporting. You may also be asked to sign documentation such as a Non-Disclosure Agreement (NDA) that has severe consequences for disclosing information which may result in prison time and/or cash penalties. Some people call this "Signing your life away." Bottom line is that security's role encompasses all aspects of work and some aspects of home life. As always, if you ever have questions that may be related to a security issue, you should always consult your security department and ask for guidance.

A major element of the job will be that you are not allowed to discuss anything about the contract outside of the program area. This can create some difficulty in your work and personal relationships. From a work perspective, it is much more difficult to keep your management apprised of your work assignments, especially if they are not briefed to the program level. In many instances you may not provide specific data or metrics to show your effectiveness within the program, specific issues related to property management, or data related to the amount of property you manage. As always, if management does not know or understand what you are doing within the program, there is potential that you could be passed by for special assignments, promotions, or acknowledgments. It is important to keep constant face-to-face contact with your manager and, if possible, get your manager briefed to the highest level possible. Remember, there must be a "need to know" for your manager, and you will probably be asked to justify his/her briefing requirement.

Another concern, with possibly greater personal impact, is that you are forced to keep information about your job from your significant other. This may create a sense of distrust or resentfulness from your partner. For example, an employee may be asked not to disclose travel destinations, reasons for travel, or telephone contact information. Usually working couples come home from work and let each other know about the trials and tribulations of the day. That is not the case when working with classified contracts. Your significant other may not like the fact that you cannot disclose information. Unfortunately, this is just something that he/she will have to accept. There are no exceptions to the rule. On a positive note, you can never take work home with you. Once you finish your day at work, everything stays at work.

General Security Impact and Challenges

Much of the time, some of the technology and processes that we use on a daily basis in an unclassified environment cannot be used in a classified area. Most corporations use, at a minimum, barcode technology to perform physical inventories. In some cases, barcode scanners may not be allowed in classified areas. Due to restrictions on bringing portable electronic devices in and out of a Secure Compartmentalized Information Facility (SCIF), you may not be able to carry a barcode scanner into the building without security approval. If you do bring one into a classified building without security approval it can be confiscated and all data may be removed. This could also have ramifications on your security clearance, which may include the removal of your current clearance and denial of future clearances. No clearance = no job. Even if you are able to bring such a device into the SCIF, you may not be able to upload the scanned information into any computer. There may also be restrictions on what can be connected to certain computer

systems. This would also have to be approved by the security department.

For those contractors that use RFID or equivalent technology, it may also be restricted in SCIF areas. The radio frequency could interfere with testing or production in certain areas. This could also apply to unclassified environments. The classified property personnel may be reduced to performing their physical inventories using pencil and paper. This could cause inefficiencies such as time-consuming inventories and the possibility of human error when writing down tag numbers and locations. A written Concept of Operations (ConOps) may be possible to overcome transmitting devices and will need to be signed off by program security.

In some cases, the property that belongs to classified contracts may need to be kept in a classified property database. Once again, the security department will have to tell property management what contracts apply and what systems will be allowed to house the data. Dependent on who your customer is, there may also be separate system requirements for reporting, disposition, Loss, Theft, Damage, Destruction (LTDD) and more. These requirements should be included in your contract, classified or not.

The classified property manager will most definitely be required to wear more "hats". He/she will be asked to provide more support than the defined property management functions. For example, you may be asked to coordinate special shipments or support security activities such as data destruction, the sanitization of computers and other equipment that contains memory. The property manager will also need to have a greater knowledge about how property management fits into the bigger picture and the intricacies between property and other departments. If your management is not briefed to your level, you may be called into high level meetings for information and guidance. One aspect of the classified realm is that you will have greater visibility with your program and customer at a much higher level.

Customer and Vendor Relationships

Some relationships with customers, subcontractors, and vendors may be held at different classification levels within the contract. This could prove to make communications difficult for problem resolution and vender auditing. Much of the information can be communicated on a "need to know" basis only. It is very important that you are aware of the security classification of the vendors you contact, along with who is briefed and at what level. This will be the same case for documentation which could create issues for reporting or information sharing. There is also

potential conflict when working with unclassified or multi-layered contracts and dealing with the same vendor personnel. When performing subcontractor property reviews you may have to refrain from providing company affiliation. This also complicates visiting subcontractors when you and the property manager know each other through professional associations such as NPMA.

In some cases, the customer may not be briefed at certain levels associated with the contract. This could create some challenging interaction during audits or on-site visits. There may be areas within the SCIF that the auditing customer cannot enter. For example, during physical inventory audits the property personnel may be asked to shut down areas or, if possible, move items into areas the auditor can enter. Worst case scenario is that the customer auditor would be denied access and would not be allowed to view the item. If necessary, another customer cleared at the higher level may be asked to verify the item.

Conclusion

With the exception of tighter security constraints and impacts to personal responsibilities, the property management processes in a classified environment are similar to that of the unclassified world. Regardless of the type of government contract, we all work to the FAR requirements and must be knowledgeable of the constraints of our contracts. There must always be a sense of 24/7 vigilance to protect critical information, which applies to both classified and unclassified contracts. Every property manager that works in a classified environment should consider it a privilege and honor to be trusted with protected information. ■

BIOGRAPHY

Cheryl Sosa, CPPM is a Subcontracts Administrator for Lockheed Martin Space Systems Company. Previously, Cheryl worked as a Property Administrator and has more than 15 years experience associated with the administration of property control. She is excited and proud to bring that knowledge into her new subcontracts position. Cheryl has been an NPMA member since 2003, and belongs to the Bay Area Chapter.

David Perrin, CPPM, CF has 46 years with Lockheed Martin. He started as lead field marine biologist for environmental monitoring of the southern California coast at the Ocean Systems Labs in San Diego and subsequently was responsible for facilities management. He transitioned to the Palo Alto Research Labs and was responsible for property management. David spent several years supporting various proposals and became a member of the Special Programs Remote Sensing property team where he now oversees management of all customer property. He has served in several positions in the NPMA Bay Area Chapter including vice president. David has a bachelor's degree in biology and an MBA in business.

They're Not Just for the President: The Role of the Chief of Staff in a Property Office

By Lana El Eryan, CPPS

Your organization likely has a President, a CEO, and a CFO -- but is there a person who holds the position of "Chief of Staff, Property Office"? The answer, most likely, is no. Chiefs of Staff are generally found in the office of the President or a member of Congress, but an article recently published in *Fortune* magazine discusses how all types of organizations are naming Chiefs of Staff at the highest level. This article will discuss the main functions and duties of a Chief of Staff and subsequently, why a "Chief of Staff, Property Office" is a necessary position within any organization. Property professionals have known for years what those working in other industries are just beginning to realize: personal property is crucial to mission execution for every facet of every organization. From federal agencies, to private corporations, to universities and beyond, virtually every person in every organization needs equipment to be able to do their job. Hence, the functions of the Property Office are mission-critical and integral to the operations of

every organization, and can range from executing day-to-day tasks, to establishing organizational policies, to gaining insight into the use of property, to communicating property-related information throughout the organization.

However, we only seem to notice how crucial a smooth-functioning Property Office is during times of crisis-- when something is needed and can't be located, when our equipment isn't functioning properly, or when an external inquiry or audit requires immediate action. So how are all of these duties of an effective Property Office accomplished while mitigating risks and maintaining smooth operations?

The answer requires an investigation into the composition of a typical property office. A property office generally includes staff who create policy, staff who manage physical property, and an individual who manages the staff and office functions, commonly referred to as the "Property Manager." The Property Manager is focused on positioning property strategically within the organization and defining the requirements for the next set of tasks that must be executed. The policy staff is strictly focused on defining policy, and the organization's property custodians are busy on the ground, executing the day-to-day tasks of managing the organization's property. Which of these players, then, manages the development of messages, packaging of information and dissemination of that information to other parties within the organization? Who controls access to the Property Manager? Who ensures that the Property Manager has insight into the use of property in the field? Who ensures that policies are enforced throughout the organization? With each team focused on its individual objectives, a gap remains that must be filled by a team member who will assume the responsibility of keeping the operations running while regulating the information coming into and going out of the Property Office. Enter the Chief of Staff whose main purpose is to act as both a liaison with other groups within the organization and as a "filter" to control what information flows into the Property Office (specifically, to the Property Manager). Additionally, the Chief of Staff is tasked with ensuring that the policy set forth by the Property Manager is adhered to. Chances are that you already have a person who fills this role, your 'go-to' person, whose title could be Inventory Control Specialist, so why not name this position what it truly is?

Any person who employs a Chief of Staff will likely testify to the fact that it is an indispensable position. By managing certain tasks and activities, the Chief of Staff allows a President or a CEO to tune out the noise and to identify those matters that truly require their attention and action. Let's take a look at some of the functions of a Chief of Staff, and, subsequently, why this position is integral to any Property Office. It seems so logical to us that a President or CEO would establish a Chief of Staff for these reasons, but few of us have considered what a Chief of Staff could potentially do for a Property Manager.

Because property affects everyone in an organization, at any point in time, anyone from any office can be reaching out to the Property Office to request information. For example, the Chief Information Officer of an organization might ask for a list of all laptops assigned to employees in a particular region, the Chief Financial Officer may need insight into all capital assets acquired and put in service for a particular fiscal year, and the Contracts Office can reach out for a last minute policy clarification to include in a bid that is due in two hours. The Property Manager, who may currently be focused on another issue, such as ensuring that all property is procured for use in a building, will likely not be able to respond in a timely manner to these requests that are streaming in, let alone be able to focus on the daily operations of the Property Office. The operations of the property team require a unique individual who will keep the office running smoothly at all times, by maintaining communications coming into and going out of the office and allowing the property team members to focus on their specific missions and objectives.

Like most Chiefs of Staff, the Chief of Staff for the Property Office will wear many hats and act in several capacities on any given day. Therefore, it is imperative that he or she establish good working relationships throughout the organization to ensure that Property Office activities have stakeholder buy-in; that the activities are effectively communicated throughout the organization, and that issues are mitigated and addressed so that tasks can be completed on time. To this end, the Chief of Staff will also fill the role of Property Office Communications Manager. The ability of the Chief of Staff to determine the best way to communicate projects, updates and changes translates into how well these projects are received and executed by the participants. Additionally, by filtering incoming communications through a Chief of Staff, this individual can address issues as appropriate and direct those requiring specific attention to the correct person for resolution, thereby increasing the efficiency of the property team while controlling access to the Property Manager. Overall, the Chief of Staff will essentially function as the Property Office Operations Manager. While the Property Manager is focused on executing the strategic goals of the Property Office and ensuring that

all initiatives are progressing, the Chief of Staff, who is establishing relationships throughout the organization and managing communications, is already positioned to focus on executing the day to day, tactical operations of the team to ensure that all operations run smoothly, and all tasks are completed on time and within scope.

Maintaining the overall operations of the organization's Property Office not only gives the Property Manager's Chief of Staff unique insight into the property team's activities, but allows him or her to establish valuable relationships throughout the organization as an extension of the Property Manager. How do you establish the Chief of Staff position within your Property Office? The first step would be to evaluate your current Property Office's structure to identify the teams within the office as well as their areas of responsibility. The next step would be to align the people with these areas, and chances are you will quickly be able to identify the person who is performing the Chief of Staff tasks. The third step would be to create the Chief of Staff position, and with your analysis from steps one and two, provide justification for it. Once you officially assign the tasks and the Chief of Staff position to the person in your office who has been executing these tasks all along, you as the Property Manager can finally begin to focus on the big picture. ■

BIOGRAPHY

Lana El Eryan, CPPS has more than six years of asset management experience specializing in the federal agencies sector. Currently a Solutions Director at Sunflower Systems, Lana works with clients to provide solutions for business challenges ranging from new solution implementations to adopting new processes that comply with new regulations. Lana has over 13 years of system implementation experience documenting requirements, designing solutions to training, and supporting the user community. Lana is an active member of the NPMA Federal Center Chapter.

Achieving Successful Integrations:

Can't We All Just Get Along?

By Faisal Khan

Everywhere we go we are surrounded by "property," which makes us as property professionals very much involved in peoples' everyday lives. Recently, however, I noticed a startling parallel between the property management industry and the world in which we live and how our industry provides a metaphor for our society. I was going about my day when I took a moment to observe the people around me, specifically, their diversity and their differences. I realized that families are often comprised of individuals who can be vastly different in so many ways--in appearance, attitude, or behavior—yet somehow these people come together to form a cohesive, harmonious (ok, mostly harmonious) unit. Children possess characteristics of two parents that can be so very different from one another, and therefore maintain a persona that integrates traits from both. Rather than focusing on these differences, family members focus on what's most important—the love they have for one another. I had a revelation: "Integrated families are no different than integrated systems and teams! Despite their differences, they can work very well together in harmony to achieve a specific outcome!" But as we all can attest to, sometimes it's not that easy. Let's explore some myths that can commonly make this integration challenging.

Myth #1

Integration is done through computer programs.

Myth #2

We can just hire an IT guy who can transfer the data elements from one system to another to complete integration.

Myth #3

The "best of the breed" systems are more difficult and cumbersome to integrate than traditional ERPs (Enterprise Resource Planners).

Myth #4

Implementation and integration of customized systems are more time consuming and costly than generic large scale ERPs because of the multiple vendors that must be involved in the process.

Myth #5

An integration performed on a home grown system is less likely to meet enterprise business needs and objectives.

If we let ourselves be convinced by these myths, we may miss opportunities to significantly improve business functions. I propose these as the facts:

Fact #1

An integration is a collaborative effort by several business owners of an enterprise to effectively combine business processes to streamline business operations.

Fact #2

In order to successfully complete an integration related implementation, the key is to develop an understanding of the objectives of the departments involved so that all requirements are addressed.

Fact #3

While it is advantageous to minimize the number of systems in an enterprise, "best of the breed"systems (as opposed to one enterprise system) have become much easier to implement with batch load processes due to the advancements in technology.

Fact #4

"Best of the breed" systems substantially reduce project implementation time due to their adaptability and their focus on a specific solution. A major cause of ERP failure is miscalculation of the effort and time it will require to complete the implementation.

Fact #5

ERPs broad focus often does not offer the depth of functionality for specific business functions like asset management, procurement or accounts receivable.

There is no debate that ERPs play a significant role in business operations and help develop business strategies and operations at the enterprise level. However, specific business functions are becoming more and more interested in exploring systems that will focus on their respective departmental objectives and provide comprehensive solutions. So how does this affect integrations? This shift in thought process will not only require sophisticated integration technologies but will also require close coordination among departmental leads and the IT professionals who will eventually be developing the solutions.

In early e-commerce implementations, systems played a minimal role in business strategies and operations. Over the past several years however, the strategic value of conducting online business has become much clearer. A back office asset management tool, for example, can provide a powerful infrastructure to manage an organization's assets including a comprehensive reporting structure. But making the most of this tool requires integration with an e-commerce suite that will collect data from other financial or procurement systems to provide a web-based CRM (Customer Relationship Management) solution to satisfy customer inquiries, organizational reporting requirements and executive management needs.

In a modern world, most chief information officers of multi-national and mid-sized organizations feel that their success lies in their ability to automate business processes and integrate these processes with an enterprise solution. The past decade has seen this integration among areas such as accounts payable, accounts receivable, and supply chain management, and most large organizations are now working to do the same for their property management processes. Hence, property managers should focus on building close ties with all other organizational elements, including information technology staff, to better integrate themselves with the rest of the organization, achieve a comprehensive and automated solution and render the property management process a vital organ of the organization's procurement, financial and operational processes. In other words, figure out how property management fits into the puzzle of organizational processes, how it can both enhance those processes and benefit from those processes through integration, and communicate those benefits throughout your organization.

A common complaint among most business owners, including property professionals, is that it can be difficult to develop and manage a close relationship with IT professionals due to a difference in interests and personality types. Throughout several decades of dealing with IT professionals, there is one thing that I have learned about IT staff which has lead to my success in

building close relationships with many. Their work is difficult, deadline driven, and at times very stressful, and they must keep up with the latest advancements in technology in order to best meet requirements. Those people working with IT staff must be mindful of these issues and not make demands expecting immediate outcomes. Just as families are comprised of many members with different personalities and interests, so are implementation teams. Of course, not everyone is going to be in agreement all the time, but recognizing and respecting our differences is key to both managing a successful implementation and maintaining a happy family! And, most important, communication is the key. The IT staff can be your most important and valuable partners in successfully achieving an easy to use, integrated and automated business solution.

In conclusion, there are several keys to completing a successful integration of property management with the rest of the enterprise. First, organizations must perform their due diligence to ensure that they choose the best asset management solution for their unique business needs. Next, it is crucial that property managers build relationships with other departments to understand their challenges so that any solution will address the needs of all areas of the organization. Lastly, integration with the organization's ERP will be necessary not only to enhance property management processes, but to prove the value that property management can add to the organization as a whole. Remember these keys, and remember to keep your IT staff involved at all stages of implementation and you'll be on your way to a successful integration.

Happy Integrating! ■

BIOGRAPHY

Faisal Khan has more than 16 years of experience designing and implementing large scale enterprise level integrations. As Technical Director at Sunflower Systems, Faisal has successfully integrated enterprise applications at multiple federal agencies, universities, and hospitals, with a focus on financial, procurement, property management and IT systems. Faisal is involved in the development of international standards for integrations and performing InterOp tests under the umbrella of IEC. Faisal is a member of the NOVA Chapter.

LIABLE OR NOT LIABLE – THAT IS THE QUESTION!

Pecuniary Liability for Loss, Damage or Destruction of Government Property – Part II

By Chris Thompson, CPPM

(Views expressed are those of the author.)

We knew a long time ago that documentation in property and asset management is an absolute must.

In my last article titled "Pecuniary Liability for Loss, Damaged or Destroyed Government Property," a major focus was the impact of the decision by the Comptroller General (CG) in the *Matter of Department of Defense—Authority to Impose Pecuniary Liability by Regulation*, B-280764, *May 2000*. That decision, in summary, prevented an agency's ability to issue policies and hold employees financially liable because the agency did not have statutory authority. That decision, at the time, raised many eyebrows and lawyer interest levels across the Federal Government and established new precedents in how pecuniary or financial liability for negligent conduct relating to lost, damaged or destruction of property could be assessed within federal agencies.

As I noted in that first article, liability can be a very complex subject. More often than not, we never fully realize the depth of its complexity, what drives the rules and how they should be applied. We have seen this in the contract world and more recently, in the federal world. This article presents new arguments from the Attorney General (AG) about the authority that federal agencies had been given under "housekeeping" rules to assess pecuniary or financial liability. The decisions from the CG are considered non-binding on the Executive Branch, but may be useful as references.

In May 2000, the CG issued the *Matter of Department of Defense—Authority to Impose Pecuniary Liability by Regulation*, B-280764. The Department of Homeland Security's Chief Counsel supported the CG and decided we could not assess pecuniary liability without specific statutory authority. This left us with disciplinary action as the only real avenue that could be taken by managers for employee negligent conduct relating to loss, damage or destruction of property. This was until a decision in 2008 by the AG.

In May 2008, the Environmental Protection Agency (EPA) sought guidance from the AG as to whether they could hold employees liable for negligent loss, damage, or destruction of government personal property or for the unauthorized personal use of agency-issued cell phones.

EPA based their position on the fact that the policy on the treatment of government personal property was contained in the agency's *Personal Property Policy & Procedures Manual* (better known as the Property Manual), available to employees on the agency Intranet. The EPA felt that the Property Manual *constitutes the authoritative reference for EPA's management of personal property and that EPA employees are responsible for properly caring for, handling, utilizing, and being accountable for EPA personal property assigned for their use within or away from an EPA facility, as well as for*

ensuring that personal property in their possession, custody or control is used only for official authorized duties, except as allowed per EPA Order 2100.3, Policy on Limited Personal Use of Government Office Equipment. The Property Manual *notifies employees of their duty of care and requires them to acknowledge that responsibility by completing certain forms before taking custody of EPA property.* In addition, the EPA Property Manual *expressly provides that employees may be held liable for any government property in their care that is lost, damaged, or destroyed through their negligence.*

The AG took into account the initial EPA position and found that federal departments and agencies may appeal to several sources of authority to promulgate rules concerning their employees' care for government property. In this particular case, 5 U.S.C. § 301 provides the heads of "Executive departments" with a general "housekeeping" authority to prescribe rules for the conduct of their department's employees and "the custody, use, and preservation of its records, papers, and property." Historically speaking, 5 U.S.C. § 301 goes back to when statutes were enacted to give heads of early government departments authority to govern internal departmental affairs.

The AG subsequently determined that the EPA Property Manual and EPA Order 2100.3 regulated the custody, use, and preservation of EPA property and the conduct of its employees. Thus, these rules concern "internal departmental affairs," and would constitute a proper exercise of "administrative power" pursuant to the statute, which includes the authority to establish penalties for violations of agency regulations. They also concluded that the rules contained within the Property Manual and EPA Order 2100.3 constitutes binding and enforceable regulations. If EPA had submitted these rules for notice and comment and published them in the *Federal Register*, there would likely be little ambiguity about whether they constituted regulations binding within the agency. EPA has not done so in this case, however, because the Administrative Procedure Act (APA) expressly exempts rules related to internal agency governance from those procedural requirements. Accordingly, the fact that EPA's rules were not promulgated in a notice and comment rulemaking process does not deprive them of legal effect; rather, as courts have held in analogous circumstances, an agency personnel manual may constitute a "regulation" that is binding within an agency even if "it was not promulgated and published in accordance with the requirements of the APA."

The AG continued its review and found that statements contained within agency policy manuals constitute binding agency regulations and is a question that has arisen in a variety of contexts. Although not every agency statement constitutes a binding regulation, "the general consensus is that an agency statement, not issued as a formal regulation, binds the agency . . . if the agency intended the statement to be binding." Applying this standard here, we believe that the EPA rules in question bind both the agency and its employees. The Property Manual describes itself as constituting the "*authoritative* reference for EPA's management of personal property" and states that it "provides basic policy and procedures *governing* the personal property management of EPA." The manual also expressly notes that it is a "supplement to the portions of the *Code of Federal Regulations (CFR)* and the *Federal Management Regulations (FMR)*" that provide the legal framework for the treatment of federal property.

Similarly, EPA Order 2100.3 A1 states that it "provides *the EPA policy* permitting limited personal use of government office equipment during non-work time" and replaces "any previous memoranda and policies regarding personal use of government office equipment." EPA Order 2100.3 A1 (emphasis added). Like the Property Manual, EPA Order 2100.3 A1 describes its status as on par with other binding legal authorities. Accordingly, the EPA policies at issue make clear "that they were designed to be binding on the agency" and on employees alike. Those policies therefore qualify as regulations enforceable by EPA when agency property is damaged due to employee negligence or additional costs are incurred due to unauthorized use.

For the foregoing reasons, the AG concluded that EPA's rules regarding employee liability for loss, damage, or destruction of government personal property and for the unauthorized use of government personal property are supported by EPA's housekeeping authority.

This is a complete and distinct change of how and when pecuniary or financial liability can be assessed and reinforces the development and issuance of policies and procedures that have been the "authoritative reference for the agency's management of personal property" as the foundation for pursuing financial liability! What this really means is that there is much work to be done. As long as there is complete disclosure to the agency in writing, the intent to hold personnel liable and the methods involved in determining and documenting that liability, the agency can assess and collect finances for loss, damage or destruction relating to negligent conduct. However, this is not a simple snap of the fingers process. It takes months and possibly years of work to build and ensure the correct infrastructures are in place before an agency can ever reach a point of collecting finances for loss, damage, destruction or theft of personal property relating to negligent conduct. Any agency's collection

actions before ensuring all touch points have been carefully evaluated, that even smells of weaknesses or non-standard decision-making, could result in claims from unions or require subsequent return actions from the original board determining the financial liability.

Homeland Security has a long way to go before reaching the point where they can safely state that all potential touch points have been thoroughly evaluated and that they have a solid program for assessing, determining, calculating, reporting, reviewing appeals, collecting finances and making sure all the internal controls are in place and working for loss, damage, destruction or theft of personal property relating to negligent conduct. In the meantime, supervisors must make sure they are documenting actions and employee activities regard ing loss, damage, destruction or theft of personal property relating to negligent conduct. We knew a long time ago that documentation in property and asset management is an absolute must. There is nothing new here. ■

REFERENCES

Department of Justice, Office of Legal Counsel Decision, Authority of Environmental Protection Agency to Hold Employees Liable for Negligent Loss, Damage or Destruction of Government Personal Property, May 28, 2008

Government Accountability Office, Comptroller General (CG) Decision, Department of Defense – Authority to Impose Pecuniary Liability by Regulation, B-280764 of May 4, 2000

Thompson, Chris - Pecuniary Liability for Loss, Damaged or Destroyed Government Property, *The Property Professional,* Volume 20 Number 2

BIOGRAPHY

Chris Thompson previously worked for the US Customs and Border Protection, Department of Homeland Security. He recently retired from Civil Service with 34 years of experience working with property and asset management, including 25 years in Contract Property Administration with the Department of Defense. He obtained his BSBA from the University of Phoenix and is considering returning to school to work on his MBA. He is the National Editor and a frequent contributor to The Property Professional. He is a member of the NPMA Federal Center Chapter.

PROPERTY PUZZLE: Literature Terms

Welcome to the Property Professional Puzzle. We felt the use of puzzles to challenge the working mind, maintain some fun and prepare you for the next "Property Challenge" would be a good stimulus for the NPMA audience. In this edition, we have given you the challenge of a word search puzzle based on terms taken from our literature base. Solutions to the puzzle will be in the next issue. Take a look, consider the facts, rack your brain for some of those hidden answers and good luck!

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l	p	e	a	c	y	c	l	e	n	c	e	u	l	a	v
s	e	n	r	p	t	o	f	o	h	m	d	e	d	d	a
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p	i	r	i	u	a	o	r	l	p	o	s	a	o	n	p
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Word Search

Pop	property
culture	asset
cross	accountability
pollination	balancing
life	risk
cycle	export
asset	controls
management	value
property	added
administration	cannibalization
pecuniary	definition
liability	asset
shipboard	disposals

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	Sponsored by **NPMA Western Region** Hosted by **Saguaro Chapter**	Sponsored by **NPMA Central Region** Hosted by **Johnson Space Center** and **Houston Lone Star Chapters**	Sponsored by **NPMA Eastern Region** Hosted by **Federal Center**, **Harbour Lights** and **NOVA Chapters**	Sponsored by **NPMA National Seminar Committee** Hosted by **NPMA National Office** and **Las Vegas Chapter**
Capitalized Property	X			X
Contract Property	X	X	X	X
Excess/Disposition				X
Federal Agency Property			X	X
Medical Property		X		X
Property 101/Basic Training	X	X	X	X
Research Property	X			X
Risk Management & Disaster Recovery		X		X
State and Local Government Property		X		X
University Property	X	X		X
And much more!				X
CEU's Earned	2	2	2	4

NPMA strives to deliver the most relevant educational topics of greatest interest to our membership. Each of these events will have at least two days of educational content in each specialized area, in addition to general sessions.

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August

COURSE

Property Awareness – An Industry Leading Practice

Las Vegas, NV
August 22 - 24

Through this course you will find the keys to creating a sound property educational plan to help employees understand their role within property management. You'll learn how to evaluate system gaps, gain customers' and leadership's support while developing your awareness approach, awareness tools and creating training courses. This course will conclude with group exercises that will analyze and highlight educational needs to eliminate deficiencies. You'll begin developing a property awareness plan to enhance your employee base knowledge of their role within the property life cycle.

COURSE

Fundamentals of Property Management

Rockville, MD
August 22 - 24

Every organization, regardless of its size or type has critical business functions that are integral parts of meeting its objectives and accomplishing the mission. Personal property managers are directly accountable to a higher authority for the acquisition, use, redistribution, and disposition of personal property. As stewards of our company or agency's personal property, we have a fiduciary responsibility to manage property in a prudent and compliant way. The Fundamentals of Property Management course is designed to teach the basics of property management, cradle-to-grave, including how to effectively manage personal property.

COURSE

Intermediate Property Management Studies

Rockville, MD
August 22 - 25

This course takes the property professional from the beginning life-cycle stages of property operations into the broader value-added world of organizational partnering and strategic property management concepts. Attendees will experience an in-depth examination of property management topics ranging from voluntary consensus standards, requirements determinations, contracting and assistance, risk, consumables, and fleet management to value-added solutions and environmental considerations. If you have at least one year of property management experience, this course provides the tools to succeed as a professional property manager.

COURSE

Applying Property Management Principles

San Francisco, CA
August 22 - 26

Expand your property knowledge and provide your company or organization with a total management solution! Through this course you will work through actual issues using case studies provided by attendees to determine recommendations and alternative solutions. Participants should be senior members or those who have management/supervisory responsibilities for property management, contracts administration, quality assurance, finance, production control and other functions related to property management responsibilities within their company or organizations. This will be a high-energy, demanding course designed to provide the tools necessary to meet your business requirements while providing value to your organization that can be measured by bottom line contributions to profitability.

September

COURSE

Shipboard Property Management

Orlando, FL
September 12 - 13

Shipboard property management is unique and presents situations often found nowhere else. This course will cover the lifecycle elements of shipboard property management and some of the basic scenarios that one might encounter onboard ships. This course will cover some of the duties and responsibilities for port engineers, chief engineers, chief mates, master, and storekeeper, (if applicable) responsibilities related to shipboard property management, This course will outline how important property management is regarding damage control, firefighting and abandon ship requirements.

COURSE

Understanding Unique Identification (UID) – The Clauses and Reporting Requirements for GFP

Virginia Beach, VA
September 12 - 13

This two-day course will provide you with an understanding of the government's Unique Identification (UID) Program and the DFARS clauses on UID. The course will provide the guidance and practical knowledge that contractors need to accomplish the initial report submittal to the IUID Registry and recognition of trigger events for subsequent reporting. This class will benefit property professionals and those who are responsible for GFP reporting.

COURSE

Developing Property Management Procedures

Virginia Beach, VA
September 12 – 13

This course will give you the fundamental necessary tools to develop property management procedures that will serve as the foundation for your property plan. Written procedures will indicate a sequence of activities, tasks, steps, decisions, calculations and processes that when undertaken in sequence produces the projected results, products or outcomes. Topics in this course will cover fundamentals of property management procedures, steps to developing property management procedures and examples of expected results or outcomes. Students will use presented methods to develop property management procedures.

COURSE

Managing Risks in a Property Management World

Virginia Beach, VA
September 12 – 14

The class will review the five steps of the risk management process and apply them to the management of property. Participants will review the primary sources of risk and exposures for property and how to effectively mitigate them while adding to managing their assets. Class participants will also be led through the development of a risk-based property management plan and will develop a custom plan for their organization.

COURSE

Intermediate Class for the Federal Acquisition Regulations (FAR)

Orlando, FL
September 12 – 15

Cultivate a higher level and a practical understanding of regulations, liabilities, and your property control system. This class is for the property professionals involved with the management of government property. Sometimes government property regulations are confusing and complicated to understand. This course goes through the FAR clauses at a higher level than the basic class, and is essential for property professionals who are seeking solutions by learning techniques within government contracting for the resolutions of every day problems.

COURSE

Export Control Issues for the Property Manager

Virginia Beach, VA
September 14 – 16

This course provides a basic understanding of the US nonproliferation policy and applicable statutes, directives, guidelines and procedures for handling proliferation-sensitive equipment, materials and technology. This course covers the basic types/categories of proliferation sensitive equipment, materials and technology plus exporting limitations and restrictions. In addition, the oversight and regulation of the exports of proliferation sensitive equipment, materials and technologies will be covered in this class.

COURSE

Inventory Methods & Techniques

Orlando, FL
September 19 – 21

Effective inventory processes are the cornerstones of a property control system. Ineffective inventory processes can cause inaccurate property records, resulting in over or under-stating the amount of property in the possession or control of a contractor. This class will provide the student with an understanding of contractual requirements and the various methods used to periodically perform, reconcile, record, and report physical inventories. Class presentations and discussions will focus on the various methods that may be used to perform inventories and the benefits an effective inventory can have on the overall property control system.

COURSE

Property Plan

Houston, TX
September 19 – 22

Students attending this course will gain a comprehensive understanding of the government's expectations for process outcomes, including the related use of voluntary consensus standards and industry leading practices, in relationship to internal business practices. Attendees will have the ability to apply new FAR requirements to internal business rules and processes, and document them into a formal property plan. This course is essential for contractors who have not yet developed a plan and are required to do so, as well as property management professionals who are looking to develop a foundation on which to build a property management level of knowledge and expertise.

COURSE

Contracts for Property Managers

Atlanta, GA
September 20 – 22

This course covers aspects of contracts that impact the property function, including contract clauses, understanding the contract, the FAR, FAR supplements and the different types of contracts. Contract close-out, commercial contracts and risk analysis also will be discussed. Property management professionals at all levels, and entry level contracting or subcontracting professionals who attend this course will gain a better understanding of the contracting process. Contracts for Property Managers will provide a basic understanding of the contracts field and how it relates to the property professional.

COURSE

Property Management System Audit (PMSA) and Contractor Self Assessment/Audit

Flushing, NY
September 26 – 30

Dr. Douglas Goetz offers the next logical sequence in the Contract Property Management series – the performance of the Property Management System Audit (PMSA) and Contractor Self Assessment/Audit. This four and one half day course will provide education in the traditional Auditing Process, embracing Generally Accepted Auditing Standards (GAAS) as well as Generally Accepted Government Auditing Standards (GAGAS).

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Modules 3 & 4
July 20 - 23: Las Vegas, NV (Pre-NES)
August 22 - 25: Rockville, MD

Certified Professional Property Manager (CPPM)
August 26: Rockville, MD

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