

### **Defense Systems Acquisition Management Course Announcement**

The National Defense Industrial Association (NDIA) is sponsoring an offering of the Defense Systems Acquisition Management (DSAM) course March 21-25, 2016, at the Hyatt Regency Denver Tech Center, in Denver, Colorado.

The DSAM course meets the needs of defense industry program managers in today's dynamic environment, providing the latest information related to:

- Defense acquisition policy for weapons and information technology systems including discussion of the DoD 5000 series (directive, instruction, and guidebook).
- Defense acquisition, and reform and initiatives.
- Defense acquisition procedures and processes.
- The Planning, Programming, Budgeting, and Execution process, and the Congressional budget process.
- The relationship between capability needs determination, resource allocation, science and technology activities, and acquisition programs.

The course will include blocks of instruction in: Management in the Acquisition Environment, Acquisition Life Cycle Process, Challenges to Program Management, and Application of Acquisition Procedures. Taught by Defense Acquisition University (DAU) professors and other guest speakers, the course uses the same acquisition policy information provided to DoD students who attend DAU courses for formal acquisition certification.

Prospective DSAM students are industry program managers, assistant program managers, systems engineers, industry personnel serving on DoD Integrated Product Teams, and other personnel that must interface with DoD program offices involved in program development and execution.

The result of successful completion of this course is a comprehensive understanding of the environment and driving forces affecting program managers, which will significantly increase awareness and effectiveness in dealing with programmatic issues.

The course is also open to a limited number of government mid- to upper-level managers, tuition-free. Government personnel may apply the DSAM course towards fulfillment of government continuous learning (CL) points. DSAM counts for 34 CL points, or 3.4 Continuous Education Units (CEU). Attending a DSAM course does not provide any credit or equivalency toward Defense Acquisition Workforce Improvement Act certification in any acquisition career field.

All course materials and handouts will be provided to students on CD ROM. Please bring a laptop computer that is equipped with a CD ROM with you to the class. If you do not have access to a laptop, please contact the respective meeting planner as soon as possible. There will be a limited number of laptops available for use through NDIA, so please call early.

For further information, contact Angie DeKleine, NDIA Operations, at [adekleine@ndia.org](mailto:adekleine@ndia.org) or 703-247-2599. Register online for the March 2016 course offering at <http://www.ndia.org/meetings/courses/Pages/DSAM.aspx>.

### **DAU - Senior Service College Fellowship (DAU-SSCF)**

Are you a high performing GS-14, GS-15, or broadband equivalent looking for the leadership tools to help you assume positions with higher levels of responsibility within the government?

If so, the DAU-SSCF program is waiting for you! This 10-month program is taught at Aberdeen Proving Ground, Maryland; Huntsville, Alabama; and Warren, Michigan; and offers leadership and acquisition training to prepare senior-level civilians for senior leadership roles. The announcement for the DAU-SSCF program is open now through March 23, and classes are scheduled to begin in mid-July. For questions, please contact Chandra Evans-Mitchell at 703-805-1247 or [chandra.l.evansmitchell.civ@mail.mil](mailto:chandra.l.evansmitchell.civ@mail.mil).

### **Army Director of Acquisition Career Management Announcement**

#### **2016-2017 Defense Acquisition University (DAU) Senior Service College Fellowship (SSCF) Program Announcement**

The U.S. Army Acquisition Support Center (USAASC) Army DACM Office is pleased to offer the 2016-2017 SSCF program. The SSCF program will start in mid July 2016 at the following locations: Huntsville, Alabama; Warren, Michigan; and Aberdeen Proving Ground, Maryland.

This announcement is directed to permanent Department of the Army acquisition civilians who currently occupy positions in grades GS-14/15 or broad band equivalents. Non-Army acquisition applicants will have the opportunity to apply as long as they submit their applications in accordance with the Army process. Non-Army applicants will be reviewed by the Board along with Army applicants; however, they will be considered on a space available basis.

USAASC Army DACM Office will fund the cost of the program at each location for local Army acquisition civilian par-

ticipants. Non-Army participants will be responsible for the cost of tuition and any per diem and travel cost.

Review the general program information at <http://asc.army.mil/web/wp-content/uploads/2016/01/Updated-2016-2017-DAU-SSCF-Announcement-Revised-Opening-Date.pdf>.

### **DAU Partner Offers Education Opportunity**

Defense Acquisition University has partnered with Trident University to offer employees, students, and alumni educational opportunities through exceptional service and affordable, flexible, high-quality, innovative academic programs. Through its regionally accredited bachelor's, master's, and doctoral programs, Trident University can help meet your personal and organizational goals.

With a rich tradition of serving the busiest of working adults—the women and men in military service—Trident is uniquely positioned to serve individuals who have to balance family and work commitments while striving to earn a quality education. A quality education now comes at an affordable price—up to 26 percent off standard tuition rates. Offering 100 percent online courses with 20 degrees and over 80 concentrations to choose from, there is an ideal program for almost all working professionals. Learn more about Trident at <https://www.trident.edu/partners/dau/>.

### **The Softer Side of DAU**

*(U.S. ARMY DIRECTOR, ACQUISITION CAREER MANAGEMENT OFFICE, JANUARY 2016)*

Defense Acquisition University (DAU) strives to help you achieve better acquisition outcomes by providing online and classroom courses for certification, all contributing to the role you play in the acquisition community.

But did you know that DAU also offers a wide range of online modules, workshops, and classroom courses to help you develop some of the “soft skills” you also need to achieve those better outcomes?

Maybe you're soon stepping into a management role. DAU offers over 50 modules from the Harvard Business School series developed by Harvard Business School Publishing. Each module only takes two or three hours to complete and covers a wide range of topics, from managing difficult conversations, to negotiating, motivating, and managing change. These courses are available through DAU's iCatalog at <http://icatalog.dau.mil/>.

DAU offers workshops for teams on critical acquisition topics like developing requirements, writing statements of

work, and creating a cost-benefit analysis. DAU also offers workshops on the “softer” topics that are critical to high-functioning acquisition teams: critical thinking, communicating through crucial conversations and accountability, leading at the speed of trust, the Myers-Briggs personality inventory, and team simulations like Mount Everest and Looking Glass. Already have years of experience as a Level III certified acquisition professional? Consider deepening your leadership skills through one of DAU's advanced leadership courses. The ACQ 450 series includes courses in leading in the acquisition environment, integrated acquisition for decision-makers, forging stakeholder relationships, and the leader as coach. The new TLR 350 course offers advanced technical leadership training for Level III acquisition professionals in engineering and technology career fields.

So the next time you plan for your individual development, consider taking advantage of the “softer” side of DAU.

### **DoD Instruction 5000.74 Issued**

Newly released Department of Defense Instruction 5000.74 brings changes to the Services Acquisition process, including establishing policy, assigning responsibilities, and providing direction for the acquisition of contracted services. It incorporates and cancels Enclosure 9 of DoDI 5000.02. This Instruction also outlines the “Seven Steps to the Service Acquisition Process and Key Deliverables.” Review the newly released instruction at <http://www.dtic.mil/whs/directives/corres/pdf/500074p.pdf>.

### **U.S. Army DACM Office: DAU Course Updates**

FY17 Defense Acquisition University (DAU) schedule build: The Army DACM Office is responsible for submitting the Army's DAU training demand. Commands and program executive offices will be solicited mid-December via the official Army tracker system to host DAU onsites in FY17. The intent of the onsites is to bring localized required DAU training to the students to save on travel cost, and they are ideal for locations where a DAU main or satellite campus is not available locally. The FY17 schedule will be available for student registration in ATRRS AITAS (<https://www.atrrs.army.mil/channels/aitas/>) on May 12, 2016.

### **FROM LEONARDO MANNING, DIRECTOR, CENTER FOR CONTRACTING**

#### **Sole Source Contracts for Women-Owned Small Businesses (Jan. 20, 2016)**

An interim rule that amends the Federal Acquisition Regulation (FAR) to implement changes made by the Small Business Administration to provide authority to award sole source contracts to economically disadvantaged women-owned small business concerns (EDWOSB) and to women-

owned small business concerns (WOSB) eligible under the WOSB Program, went into effect on Dec. 31, 2015. FAR 19.1506, has been amended to allow WOSB and EDWOSB sole source contracts. FAR 19.506 is summarized below:

- (a) A contracting officer shall consider a contract award to an EDWOSB concern on a sole source basis before considering small business set-asides provided none of the exclusions at 19.1504 apply and—
  - (1) The acquisition is assigned a North American Industry Classification System (NAICS) code in which SBA has determined that WOSB concerns are underrepresented in federal procurement;
  - (2) The contracting officer does not have a reasonable expectation that offers would be received from two or more EDWOSB concerns; and
  - (3) The conditions in paragraph (c) of this section exist.
- (b) A contracting officer shall consider a contract award to a WOSB concern (including EDWOSB concerns) eligible under the WOSB Program on a sole source basis before considering small business set-asides provided none of the exclusions at 19.1504 apply and—
  - (1) The acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are substantially underrepresented in Federal procurement;
  - (2) The contracting officer does not have a reasonable expectation that offers would be received from two or more WOSB concerns (including EDWOSB concerns); and
  - (3) The conditions in paragraph (c) of this section exist.
- (c) In order to do a sole source for either WOSB or EDWOSB, the anticipated award price of the contract, including options, will not exceed \$6.5 million for a requirement within the NAICS codes for manufacturing; or \$4 million for a requirement within any other NAICS codes. The EDWOSB concern or WOSB concern must be determined to be a responsible contractor with respect to performance, and the award can be made at a fair and reasonable price.

Read more of Manning's Blog entries at <https://dap.dau.mil/training/cl/blogs/default.aspx>.

**FROM STEVE SKOTTE, DAU PROFESSOR OF SPACE ACQUISITION**  
**Reflections from a Recent Program Manager (Dec. 8, 2016)**

Navy Rear Adm. "BD" Gaddis, Program Executive Officer (Tactical Aircraft), just released "Acquisition Leadership" located at <https://acc.dau.mil/CommunityBrowser>.

[aspx?id=736952](https://acc.dau.mil/CommunityBrowser.aspx?id=736952). It contains his reflections over about a 5-year period and has useful nuggets for anyone in the acquisition workforce.

**National Information Assurance Policy for Space Systems (Jan. 15, 2016)**

The Committee on National Security Systems (CNSS) establishes broad policies addressing national-level goals and objectives, all of which are binding on all U.S. Government departments and agencies.

CNSSP No. 12, *National Information Assurance (IA) Policy for Space Systems Used to Support National Security Missions*, helps ensure the success of national security missions that use space systems, by fully integrating information assurance into the planning, development, design, launch, sustained operation, and deactivation of those space systems used to collect, generate, process, store, display, or transmit national security information, as well as any supporting or related national security systems. Fully addressing information assurance is especially important for the space platform portion of space systems, since any vulnerability in them normally cannot be eliminated once launched.

To access the policy, go to <https://www.cnss.gov/CNSS/issuances/Policies.cfm> and select CNSSP No. 12 from the menu.

Read more of Skotte's Blog entries at <https://dap.dau.mil/training/cl/blogs/default.aspx>.

**FROM BILL KOBREN, DAU DIRECTOR, LOGISTICS & SUSTAINMENT CENTER**

**AFMC Offers Professional Logistics Certification Programs (Jan. 13, 2016)**

For those who may have missed it, let me call your attention to an Air Force Materiel Command Logistics Workforce Development Branch announcement from late last year entitled "AFMC Offers Professional Logistics Certification Programs."

Building on the successful Defense Acquisition Workforce Improvement Act (DAWIA) certification model that life cycle logistics workforce personnel are familiar with, according to this announcement, "Air Force Materiel Command has developed the Logistics Professional Development Program for civilian and military employees, working in a logistics career field, who are looking to formulate a career plan, determine job-related continuous learning objectives, and enhance their professional credentials." The article in part continues:

“LPDP currently consists of three certification programs targeting specific workforce categories within logistics”:

- Professional Maintenance Certification Program (PMxCP)
- Professional Deployment/Distribution and Transportation Certification Program (PDDTCP)
- Professional Supply Management Certification Program (PSMCP)

The Defense Department’s Logistics Human Capital Strategy established a vision for the logistics workforce to evolve into an “integrated, agile, and high-performing future workforce of multi-faceted, interchangeable logisticians that succeed in a joint operating environment.” In response, AFMC’s Logistics, Civil Engineering and Force Protection Directorate led a development effort beginning with PMxCP in 2010 based on active input and participation from an integrated process team consisting of maintenance professionals from each of the command’s air logistics complexes, the Air Force Test Center, Air Force Personnel Center, and headquarters AFMC’s Depot Maintenance Workforce Development Branch. Once PMxCP demonstrated results, the effort was expanded into the LPDP and now includes Deployment/Distribution and Transportation and Supply Management logistics workforce categories. More than 650 certifications have been awarded so far.

“Air Force senior leaders are charged with supporting and encouraging professional education and training for our logisticians and mentoring our people to ensure they are highly qualified members of the Total Force team,” said AFMC Deputy Director of Logistics, Civil Engineering and Force Protection Lisa Smith. “LPDP builds upon these deliberate efforts and takes it to the next level.”

Based on the original PMxCP framework, each certification program offers eligible applicants a common framework of functional training requirements, formal and developmental education, work and supervisory experience, and career broadening experience within other logistics disciplines. There are five levels of certification, beginning with a basic entry level (Level 1), working through journeyman and advanced journeyman (Levels 2 and 3), and culminating in the development of enterprise logisticians (Levels 4 and 5). As part of the continuing effort to develop enterprise logisticians, LPDP ensures the three certification programs remain more than a set of static requirements by sustaining a common framework comprised of series-specific, workforce category and enterprise training, formal and developmental education, and years of experience.

Each certification program shares the same “enterprise” training requirements at each of the five levels. This is part

of the deliberative effort to develop logisticians with an enterprise, “big-picture” perspective and to help reinforce other efforts within formal and developmental education and supervisory experience. Each program augments this enterprise training with both workforce category training and series-specific training that is determined by the various IPTs. Workforce category training is specific training applicable to all personnel within maintenance, DDT or supply, and represents the required knowledge for anyone working within these specific workforce categories for specific levels of certification. Series-specific training applies to personnel within any specific occupational series (maintenance, supply, or DDT) generally considered eligible for a certification program and represents coursework those personnel should complete when working within a specific series and workforce category at specific levels of certification.

Currently, information about the PMxCP can be found in AFMCI 36-402, Professional Maintenance Certificate Program. A new instruction (AFMCI 36-202, Logistics Professional Development Program) that will provide information on all of AFMC’s logistics certification programs is in coordination and will be published when the review process is complete early in 2016. Information and application forms for each certification program, as well as a list of local POCs can be found at <https://cs1.eis.af.mil/sites/afmc-lpdp/SitePages/Home.aspx>.

### **Supply Chain Risks (Jan. 21, 2016)**

Given the criticality of supply chains both within and outside the department, Supply Chain Risk Management (SCRM) remains a vitally important topic. SCRM is a multi-faceted issue that deals with a myriad of potential threats to effective, efficient, and secure supply chains in both the public and private sectors. One particular threat highlighted in a recent CBS News *60 Minutes* story entitled “The Great Brain Robbery” caught my eye, and may be of interest to members of the logistics and product support community. The episode may be downloaded from <http://www.cbsnews.com/news/60-minutes-great-brain-robbery-china-cyber-espionage/>.

### **Updated DMSMS Guidebook Now Available (Jan. 21, 2016)**

The Defense Standardization Program Office (DSPO) today released an updated January 2016 edition of the highly regarded SD-22 *Diminishing Manufacturing Sources and Material Shortages (DMSMS): A Guidebook of Best Practices for Implementing a Robust DMSMS Management Program*. A copy of the new version is posted on the DMSMS Knowledge Sharing Portal (DKSP) at <https://acc.dau.mil/dmsms-guidebook>.

According to the DSPO Director, “because Department of Defense (DoD) system life cycles are longer than technology life cycles, Diminishing Manufacturing Sources and Material Shortages (DMSMS) issues are inevitable. DoD cannot afford to be reactive in this area—reactivity may lead to a combination of schedule delays, readiness degradations, and higher cost.

Leadership attention must be brought to bear on this problem, and adequate resources must be provided to minimize its impact. The return on investment from these resources can be substantial because resources devoted to proactivity lengthen the window of opportunity to take corrective action. There will be a larger number of low-cost options available when the window to address the issue is longer. Therefore, cost-effectiveness improves. This is the primary theme of the better buying power initiatives—better value for the warfighter.

This guidebook ... provides best practices for robust and proactive DMSMS management. It explains things to do and why those things are important. Examples include the following:

- Fully fund DMSMS management activities and resolutions and ensure that the right people are trained and involved.
- Get the contract language right. This is critical to proactive DMSMS management.
- It's never too early to begin. Starting early in design, proactively monitor critical, highly vulnerable items, software, assemblies, and materials to identify potential problems before negative impacts occur.
- Link DMSMS health assessments with the program's product roadmaps to mitigate issues before they materialize.
- Ensure that resolutions minimize life-cycle costs; solutions that are inexpensive upfront may have significant future cost.
- Obtain comments from the DMSMS community on designs and redesigns to avoid the inclusion of obsolete items.

This guidebook, while designed primarily for the DMSMS practitioner, should also be useful for program managers, engineers, and life-cycle logisticians. It is updated periodically. This (new) version of the SD-22 guidebook replaces the version published in February 2015.”

Read more of Kobren's Blog entries at <https://dap.dau.mil/training/cl/blogs/default.aspx>.

**FROM PATRICK WILLS, DEAN, DEFENSE SYSTEMS MANAGEMENT COLLEGE**

**Registration Procedures & Instructions for RQM 310-Advanced Concepts and Skills for Requirements Managers (Oct. 26, 2015)**

Unlike the many acquisition courses offered at DAU regional campuses, RQM 310 is only offered at the Fort Belvoir, Defense Systems Management College. FY16 course offerings follow:

Offering	Date	Class Size (Students)
4	March 7-11	48
5	April 25-29	30
6	June 6-10	30
7	July 11-15	48
8	Sept. 12-16	30

Most importantly, if you would like to attend the course, you must contact your Requirements Management Certification Training (RMCT) Component Appointed Representative (CAR). Each military service, Defense Agency, and Combatant Command has a CAR responsible for RQM 310 registration:

USAF	James Weyer	703-695-6244	james.e.weyer.civ@mail.mil
USA	Michael Smith	703-692-7425	michael-f-smith@us.army.mil
USMC	Capt Frank Brown	703-784-6183	frank.l.brown@usmc.mil
USN	LCDR April Malveo	703-692-5651	april.malveo@navy.mil
4th Estate *	Lori Frumkin	703-693-3527	lori.e.frumkin@ctr@mail.mil

\*Government civilians NOT employed by a military service.

If you have further questions/concerns, please contact the Requirements Management Certification Training (RMCT) Program Manager: Matthew Ghormley, 703-805-3721 or [Matthew.Ghormley@dau.mil](mailto:Matthew.Ghormley@dau.mil).

**FROM PROFESSOR FRED SCHLICH, OVERHEAD MANAGEMENT OF DEFENSE CONTRACTS**

**Shallow and Deep End of Indirect Cost Pools (Dec. 23, 2015)**

Recently a senior program manager asked me, “Can a contractor choose to allocate from either the deep end or the shallow end of an indirect cost pool?” My answer was no.

In effect, the program manager was curious if a contractor has discretion to use a different indirect rate depending on the circumstance. Not only is consistency in accumulating, allocating, estimating, and proposing costs a requirement for an acceptable accounting system in federal contracting, it is a necessity for good cost or managerial accounting.

The purpose of managerial accounting is to provide information to management to help it make decisions. As with all forms of accounting, there is a principle of aligning or matching cost to benefit. Managers rely on managerial accounting to determine total costs associated with a product or product line in order to make determinations of profitability. If contractors follow government cost principles and cost accounting standards, contracting officers and program managers will know that only those portions of indirect costs from which they receive benefit will be allocated to their contract. Rates are used to fairly portion out indirect costs. They must be applied consistently; otherwise, cost reimbursement or government contracts could end up carrying a greater share than fixed price contracts or commercial work from which contractors must absorb overruns out of profits.

Indirect cost pools have no shallow or deep end. Overhead and General and Administrative are applied proportionally to fairly benefit the appropriate business or contract objective. So we should expect a large production contract “cannonballing” into the manufacturing overhead pool to displace a larger splash of cost than the wave-free “swan dive” of a research and development contract.

### **Cost Behavior (Jan. 19, 2016)**

Understanding the behavior of different types of costs is critical when forecasting indirect cost pools and projecting indirect rates for future accounting periods. To support their proposals, contractors should be able to demonstrate how each of the pooled costs has been estimated for the future and that they have properly discriminated between the various categories of costs. Unfortunately, even some of the most experienced cost estimators confuse terms and costs categories. Let’s look at how direct versus indirect costs relate to fixed versus variable costs as well as recurring versus nonrecurring costs.

The distinction between direct and indirect costs is a feature of managerial or cost accounting and stems from an objective to relate company expenses to final cost objectives. In government contracting, we can generally view contracts as final cost objectives for ease of understanding. Expenses that relate to only one contract and are incurred by the contractor only because of one contract are direct costs. Other activity or expenses of a contractor may benefit multiple contracts

and must be proportionally allocated to all contracts that the activity benefits; these are indirect costs. Because the purpose of managerial or cost accounting is to inform decision makers or oversight functions, companies have latitude in categorizing costs as direct or indirect based on the logical consequences of assigning a causal beneficial relation between costs and cost objectives. Once established, the determination of which costs are direct or indirect must stay consistent to maintain the validity of the outcome.

Contrasting fixed and variable costs represents a micro economic view of company expenses. Classically, fixed and variable costs are contrasted relative to quantity of production or output at a total or aggregate level. A cost is fixed if the expense will be the same irrespective of the number of units being manufactured, delivered, or sold. A simple example is the cost of building a factory; it will be the same whether one item or many are planned for production. A variable cost (for example, the cost of material) may be constant for each unit produced, but in total will vary such as increasing as more units are being manufactured for delivery. The idea of fixed and variable costs is in reality conceptual, and in fact is only stable within a range of quantities. Fixed costs remain fixed only up to a point; at some large quantity of production, a bigger factory will be needed and the fixed price will become a larger expense. Conversely, cost per unit may change as more units are planned for production; for example, demand for material may drive up the cost per unit of raw ingredients.

Finally, differentiating between recurring and nonrecurring costs is an aspect of accounting associated primarily with the periodicity of expenses. Nonrecurring costs, once incurred, should not reappear as future costs. Recurring will be incurred periodically over a given timeframe; for example, a contractor may have a licensing fee every month that is independent of its volume of sales or quantities produced.

The challenge for an analyst is to recognize that indirect cost pools have a mixture of expenses that may behave differently given a change in size of business base, the passage of time, or changes in contractor organization or methods. Typically, indirect cost pools consist of a large portion of fixed costs. We would not expect to see a proportional growth in the size of a legal or human resources department—usually indirect costs—as a company grows. But there is some relationship, and a contractor should understand the nature of this cost relationship so that it can properly forecast. Contractors do have the responsibility for validating that indirect cost pools have been properly structured so that forward priced rates ultimately prove accurate once incurred costs are audited. Even though a contractor may have a good track record at forecasting rates, diligence is needed on the part

of the government to monitor that the contractor has an ongoing method to test its cost pooling and cost allocating for prediction accuracy.

Read more of Schlich's Blog entries at <https://dap.dau.mil/training/cl/blogs/default.aspx>.

### FROM DAU INTERNATIONAL ACQUISITION PROFESSOR FRANK KENLON

#### **The Five Myths of Tech Security/Foreign Disclosure and Export Control (Jan. 12, 2016)**

As we all welcome the New Year, it's worth spending a few minutes addressing the challenging (and often vexing) International Acquisition and Exportability (IA&E) competency of Technology Security/Foreign Disclosure (TSFD) and Export Control (EC).

For those of you who have read some of my previous blogs you're already familiar with TSFD and EC as one of the variables in the Unified Field Theory of IA&E:

Requirements + Technology Security and Foreign Disclosure (TSFD)/Export Control + Funding + International Transaction Mechanism + Contract = Capability Delivered to U.S. & Foreign Warfighters

Our 'local' paper (the *Washington Post*) has a "Five Myths" section every Sunday that attempts to provide a lighthearted (but hopefully accurate) perspective about popular misconceptions on various topics. Here's my best shot at "The Five Myths of TSFD and EC" for your consideration:

#### **Myth 1: TSFD and Export Control are the same thing.**

In my experience, this is a commonly held misunderstanding. The TSFD 'system'—which is described in DoDD 5111.21, "Arms Transfer and Technology Release Senior Steering Group [ATTR SSG] and Technology Security and Foreign Disclosure Office [TSFDO]"—is actually a set of around a dozen separate U.S. Government (USG)/DoD TSFD decision-making processes that are loosely governed by the ATTR SSG assisted by the TSFDO. The USG's Export Control 'system' is run by the State Department (for defense articles and services), Commerce Department for (dual-use items and technologies), as well as various other USG organizations. The USG's TSFD and EC 'systems' are governed by separate and distinctly different sets of U.S. laws, regulations, policies and procedures, and both systems must grant approvals prior to sale or transfer of U.S.-origin defense or dual use articles/technologies to foreign entities. If you don't believe this, try to export a defense or dual-use item and see how far you get ... on second thought, don't do this! (for answer on 'why not try it,' see response to Myth 4).

#### **Myth 2: There is single USG TSFD 'system'.**

As noted in the previous answer, the USG's TSFD 'system' is actually a collection of parallel TSFD decision processes established over time though several U.S. laws, regulations, and policies. Experience has shown that complex international cooperative programs or foreign military sales require between 5-10 specific approvals from various TSFD processes. This is why DoD established the ATTR SSG and TSFDO. They are supposed to help DoD Components and their acquisition program offices to navigate this labyrinth of separate (but related) USG TSFD processes. The USG and DoD use these various processes, as applicable, to assess proposed release of classified or sensitive U.S.-origin defense capabilities as well as the related products (communications security, intelligence, mapping, etc.) needed to operate U.S. equipment sold or transferred to foreign allies and friends.

#### **Myth 3: There is a single USG Export Control 'system'.**

As mentioned in the answer to the first myth, USG's Export Control 'system' is also a collection of EC policies and decision processes established over time though various U.S. laws, regulations, and policies. Fortunately, at the macro level the USG's EC system is much simpler than its TSFD system. It consists of three primary aspects:

- The Arms Export Control Act (AECA) and the State Department's International Traffic in Arms Regulation (ITAR) that govern export of defense articles and services.
- The Export Administration Act (EAA) and the Commerce Department's Export Administration Regulations (EAR) that govern export of "dual-use" articles that have military utility.
- The Treasury Department (responsible for the Committee on Foreign Investment in the U.S. (CFIUS)) and various USG enforcement organizations (Department of Justice, Immigration and Customs Enforcement, etc.) that conduct specific EC oversight and enforcement activities.

Unfortunately, at the micro level this system can be incredibly complex and difficult to comply with if you are (or plan to become) a U.S. arms or dual-use exporter. If you don't believe this assertion, read the ITAR and EAR from cover-to-cover and decide whether you could comply with them without professional help!

#### **Myth 4: The ITAR and EAR govern DoD organizations' activities.**

Strictly speaking, they don't. The ITAR and EAR govern the activities of private sector entities, not DoD organizations. DoD forces operate around the world on a 24/7/365 basis to defend the country and project power—they don't need export license approvals to do this. Put another way, de-

ploying the 3rd Infantry Division (and all their equipment) to Elbonia on a USG-approved mission is not an arms or dual-use export. However, DoD organizations must still comply with U.S. laws—including the AECA and EAA—as well as a plethora of other USG regulations, policies, and procedures that have the same “net effect” as the ITAR and EAR when it comes to export control measures. Moreover, DoD contractors must comply with the ITAR and EAR in their worldwide activities or face civil (and even criminal) penalties for violations, and DoD can’t ‘protect them’ if they misbehave (another common misconception). Finally, in the government ‘world’, DoD military and civilian personnel are subject to administrative actions (including dismissal) as well as criminal prosecution for particularly egregious TSFD and EC violations. Don’t go there.

### **Myth 5: The USG TSFD and Export Control systems are broken.**

Many criticize the USG’s TSFD and EC systems as overly complex, often arcane, and unduly burdensome (kind of like the taxes, health care, and financial sector regulations, I guess). However, I think we all want U.S.-origin defense and dual-use capabilities, equipment, and technology strictly controlled. Just imagine the benefits potential adversaries would gain, and the additional threats our country would face, if we failed to adequately control our defense sales and transfers. What’s really at issue here is finding the best approach to:

- ensure timely and efficient approvals of defense exports to allies and friends; while,
- disapproving unwise transactions to foreign entities that pose known security risks as well as preventing unauthorized exports to potential enemies.

Most informed observers think our current TSFD and EC systems could be substantially improved, but I maintain they are not fatally flawed. The idea of “blowing them up and starting over” just doesn’t make any sense—despite the rhetoric we occasionally hear advocating this as a solution.

I hope this attempt to capture several key aspects of USG/DoD TSFD and Export Control ‘systems’ provides a few useful insights that might help you implement day-to-day international acquisition program activities.

*Read more of Kenlon’s Blog entries at <https://dap.dau.mil/training/cl/blogs/default.aspx>.*