

APPENDIX B

D R A F T

INTERAGENCY COMMITTEE
ON PROPERTY MANAGEMENT

SUBCOMMITTEE
ON
FEDERAL LOGISTICS PROFESSIONAL DEVELOPMENT

MEMORANDUM OF LEGAL RESEARCH

SUBMITTED TO:

Steve Mahaney
Chair, ICPM Subcommittee on Professional Development

MEMORANDUM OF RESEARCH

Table of Contents

I.	Executive Summary	1
II.	Background	1
	A. Legal Framework.....	2
	B. Analysis.....	3
III.	Conclusion.....	4
IV.	Appendix	
	1. DOE Career Development Plan.....	5
	2. Snapshot of Career Fields	15
	3. HHS Training and Certification Program.....	18

I. EXECUTIVE SUMMARY

The federal government faces unique and pressing challenges as it attempts to recruit, train, and retain property management talent. Regarding training, the property management profession has long identified the need to create a mandatory government-wide professional development program.

This research deals with the legal authority to establish a mandatory program, focusing primarily on (1) statutory authority that prompted mandatory acquisition training and (2) how the Office of Federal Procurement Policy (OFPP) provides an avenue for the formulation of authority necessary to accomplish our objective.¹

Professional development of talented and experienced property managers who work in the federal arena is essential to a nation that aims to provide citizens with cost-effective government. Of equal importance, a trained and committed federal property workforce is tantamount to a high performing government civil service that earns and retains the confidence of the American public.

II. BACKGROUND

The Defense Acquisition Workforce Improvement Act (DAWIA), enacted in 1991 and applicable to Department of Defense (DOD) agencies only, required the establishment of career development programs with mandatory training in acquisition related responsibilities for advancement to critical acquisition positions; more rigorous qualifications requirements than were applicable to civilian agency positions both at entry level and for promotion within critical acquisition-related positions; a Defense Acquisition University (DAU); and a budget line item to pay for the mandatory training. The Act prompted DOD to establish education, training, and experience standards for their acquisition-related positions and to provide a common foundation of knowledge necessary to ensure that the acquisition workforce was fully proficient. DOD's implementation of DAWIA encompasses many acquisition-related career fields in addition to contracting and procurement; it includes the career field of Industrial/Contract Property Management.

Over the last few years, concerns have been expressed by those in past Administrations, the Congress, and the Federal acquisition community that the civilian agencies' workforce would be perceived over time as being markedly less

¹ The objective of the team is to create a mandatory and funded property management career development program. We are aware of past initiatives to do the same and took under advisement their experiences associated with this effort.

professional than its DOD counterpart. To address these concerns the Office of Federal Procurement Policy (OFPP) issued Policy Letter 92-3, dated 24, 1992, to establish policies and a government-wide standard for skill-based training for the Federal civilian agency acquisition workforce. The Policy Letter was implemented as a change to Federal Acquisition Regulation (FAR) 1.603-1, linking the training in performing contracting and purchasing duties. In addition, Public Law (P.L.) 93-400, enacted in 1995, amended the OFPP Act (Section 4307) and expanded OFPP's responsibility to include civilian agencies comparable to those established in 1991 for DOD. On September 12, 1997, OFPP issued Policy Letter 97-01, entitled "Procurement System Education, Training, and Experience Requirements for Acquisition Personnel," which implemented P.L. 93-400.

In acting to implement OFPP Policy Letter 97-01 that in part identified other *acquisition-related occupations* as eligible for training, some agencies in fact identified personal property management as an acquisition-related occupation. For example, the Department of Energy was concerned with having a well-trained workforce of qualified personal property management professionals to improve the effectiveness and efficiency of the Department's personal property management program. Accordingly, in 1999, the Department developed a non-mandatory property management professional development program and is currently seeking mandatory status.² For agencies that seek to increase the property management profession within their programs, the OFPP policy provides a viable basis to plan career development programs for property management professionals to enable them to become more competitive for higher-level positions both within and outside of their agency.

A. Legal Framework

Congress enacted DAWIA and Public Law 93-400 to promote a policy of acquisition education, training, and experience requirements for DOD and civilian agencies respectively. Neither the statute nor the legislative history addresses directly the issue of property management training. However, to implement P.L. 93-400, OFPP issued Policy Letter 97-01 that, among other things, expanded the acquisition community to include "other acquisition-related occupations." In doing so, OFPP acknowledged that other occupations are vital to the acquisition corps and therefore should arguably be eligible to benefit from the statutory authority.

The term "other acquisition-related occupations" can be interpreted broadly to apply to any occupation that has a normal career path associated with the

² See appendix one for excerpts of plan.

acquisition corps.³ Arguably, personal property management easily falls into the acquisition-related career field. Therefore, the requirement to develop a workforce training program for the property management profession pursuant to the OFPP Policy Letter and to submit it to a governing body, and the authorities to use funds (discussed below), would arguably fall within the scope of the Public Law. Of course, this does not preclude the need to pursue more definitive language from OFPP or even to pursue specific legislative authority on point with property management.

Authorities and funds for the implementation of a mandatory training program would be derived from sources other than Public Law 93-400 or the OFPP policy letters. A primary source for funding is 5 U.S.C. Section 5757 (Public Law 107-107, Section 1112) which states, “[a]n agency may use appropriated funds or funds otherwise available to the agency to pay for –

- (1) expenses for employees to obtain professional credentials [in our case, property management training] including expenses for professional accreditation, state-imposed and professional licenses, and professional certification; and
- (2) examinations to obtain such credentials.”

B. Analysis

The above legal basis for a government-wide property management program, especially a mandatory one, is important but cannot stand-alone. In addition to statutory provisions, much of the team’s proposal must center on the text of existing professional development programs. In other words, it is plausible that some stakeholders may suggest that we pilot a professional development program before considering our proposal on the merits. Assuming *arguendo* that a pilot requirement is imminent, we could address this issue at the outset. In order to develop and schedule non-mandatory property management career development training, some agencies created programs designed to meet the needs and expectations of the individual agencies for a highly skilled personal property management workforce, and to provide the personal management community with a common foundation of knowledge, tools, and capabilities necessary to successfully support the accomplishment of the agencies mission. For example, DOE and Department of Health and Human Services⁴ have designed programs to cultivate skills and capabilities needed to be comparable to the unique requirements of these agencies and to meet the career changes and

³ Over 22 career fields are involved in some degree with property management functions (*see* appendix two).

⁴ *See* appendix three for excerpts of program.

challenges of the future. Accordingly, the ICPM subcommittee could choose to adopt and implement these programs as a model to build upon.

III. CONCLUSION

For reasons discussed above, it is concluded that both Public Law 93-400 and OFPP Policy Letter 97-01 construed together arguably supports our efforts to develop a property management career development program.