

100th Congress }
2d Session }

COMMITTEE PRINT {

{ No. 26

DEFENSE ACQUISITION: MAJOR U.S.
COMMISSION REPORTS (1949-1988)

Volume 1

PREPARED FOR THE USE OF THE

DEFENSE POLICY PANEL

AND

ACQUISITION POLICY PANEL

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION



NOVEMBER 1, 1988

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C. November 1, 1988.

MEMORANDUM FOR MEMBERS, COMMITTEE ON ARMED SERVICES

Subject: Materials prepared for the Panels on Defense Policy and Acquisition Policy on major U.S. Defense Acquisition Commission Reports.

Attached is a review by the Congressional Research Service on Major U.S. Commission Reports: A Review of Findings and Recommendations (1949-1988) and Appendices, Volume I. The report reviews six major executive branch commissions' findings and recommendations to improve weapons procurement.

LES ASPIN, *Chairman,*
Defense Policy Panel

NICHOLAS MAVROULES *Chairman,*
Acquisition Policy Panel

Enclosure.

Approved for printing: Les Aspin.

(III)

FOREWORD

Military procurement reform may indeed be like the weather. As this volume shows, everyone does talk about it; this report details six executive branch commissions that have poked and probed the procurement issue over the last four decades. But, like the weather, no one seems to do much about it; this report shows that the bulk of the cures proposed as far back as 1948 were still being proposed in 1983 because they had never been implemented.

In early 1988, two panels of the committee, Defense Policy and Acquisition Policy, initiated a review of previous efforts to "reform" and improve weapons procurement.

Since World War II, there have been dozens of executive commissions, investigations and reports examining the defense acquisition system.

The panels asked the Congressional Research Service of the Library of Congress to prepare an anthology of reform recommendations. This volume includes the reports of six major executive branch commissions beginning with the Hoover Commission in 1949 and concluding with the Packard Commission of 1986.

Also included in this volume are the 1953 Hoover Commission review of the Department of Defense, the 1969 Fitzhugh Commission review of the organization and management of DOD, the 1972 Commission on Government Procurement review of the efficiency of procurement within the executive branch, and the 1982 Grace Commission task force report on the efficiency of military procurement.

This volume on defense acquisition, and a companion volume including reports focusing more exclusively on the defense acquisition process, are designed as a reference for the next Congress and the new Administration as they attempt to restore public confidence to the military procurement system.

Two striking aspects of these examinations of procurement emerge from the anthology. The first is the regularity with which many of the same procurement problems reappear time after time. These issues include the need:

- to increase professionalism of the acquisition work force;
- to streamline regulations;
- to regulate constructively the "revolving door" between government and industry;
- and to restructure the defense acquisition organization.

This continual identification of the same problems prompted the Fitzhugh Commission to ask, "Why doesn't the patient respond to treatment?"

The second striking aspect of the anthology is the other side of the coin—the Defense Department's unflagging resistance to institutional change. A case in point is the 1953 Hoover Commission

(v)

recommendation to create a separate defense supply agency to improve the procurement of common defense supplies. This 1953 recommendation resulted in the creation of what is now the Defense Logistics Agency, but only nine years later in 1962.

The four recurring issues—professionalism, streamlining regulations, the revolving door, and acquisition organization—require a closer look.

PROFESSIONALISM OF ACQUISITION PERSONNEL

The 1953 Hoover Commission found that the Defense Department had issued a directive intended to address the lack of expertise among its procurement personnel but had made little concrete progress. The commission made the following recommendations:

1. Strengthen career opportunities;
2. Establish definite criteria for staffing;
3. Increase pay in the upper grades;
4. Confine rotation of military managers to specialized support areas; and
5. Assign officers to management positions for longer periods.

The 1969 Fitzhugh Commission recommended a military career field be created for program managers. The Fitzhugh Commission also recommended increased use of civilians as program managers. The 1982 Grace Commission called for the development of professional procurement personnel. The 1986 Packard Commission recommended increased authority “to establish flexible personnel management policies necessary to improve defense acquisition.”

STREAMLINING REGULATIONS AND STATUTES

The 1972 commission recommended development of a uniform, government-wide procurement system to overcome the “burdensome mass and maze of regulations.” This was accomplished, in part, with the establishment of the Office of Federal Procurement Policy and the development of the Federal Acquisition Regulations (FARs). The 1982 Grace Commission called on the Department of Defense to prepare simple procurement policy statements to replace the Defense Acquisition Regulations which the commission found to be overly detailed. The Packard Commission also called for a recodification of Federal laws governing procurement to simplify existing statutes.

REVOLVING DOOR

The “revolving door” was recognized as a problem as early as the 1953 Hoover Commission, which said the existing conflict of interest laws were too restrictive and should be modified “so that presidential appointees are not forced to liquidate lifetime business equities in order to accept Federal appointment.”

The 1969 Fitzhugh Commission found that prior restraints adversely affected the attractiveness of government service, and that the emphasis of conflict of interest laws should be redirected toward prohibiting and punishing specific post-government employment activities. While the commissions have focused on attracting qualified people to government service, the public debate has cen-

tered on how to preclude them from taking advantage of their positions.

ACQUISITION ORGANIZATION

The 1949 Hoover Commission discussed the benefits to be gained from a single centralized defense procurement agency for all three services.

The 1955 Hoover Commission summarized the problem with Pentagon acceptance of a centralized and streamlined defense procurement system when it attempted to sort out who should have the responsibility of determining "what" to buy and who should have the responsibility of determining "how" to buy.

The 1969 Fitzhugh Commission called for increased authority for program managers.

The 1982 Grace Commission noted the "massive duplication of effort among the services and between the services and OSD." A total consolidation of day-to-day acquisition functions at the OSD level was recommended.

The Packard Commission recommended a streamlined defense acquisition organization in which authority and responsibility flowed from the Defense Acquisition Executive to the Services. This new defense acquisition organization has been in place only a few years, but it is not clear whether, in practice, the Department of Defense has really streamlined the acquisition process or just added another layer atop an already burdened structure that was left intact.

FUTURE AGENDA

Four decades have produced six different commissions with six reports on the acquisition process. A review of this literature makes two points clear.

First, contrary to popular wisdom, there has been no shortage of thought and analysis focused on these problems. The acquisition process may be vast, but it is not uncharted. We don't need another Lewis & Clark expedition.

Second, these repeated investigations have come up with similar proposals for reforming the system. That so many minds reach similar conclusions does not automatically mean they are right, but it does give added weight to the proposals.

Perhaps the next executive commission on acquisition should be created, not to propose the reforms, but to implement them.

LES ASPIN, *Chairman,*
Defense Policy Panel

NICHOLAS MAVROULES, *Chairman,*
Acquisition Policy Panel

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DEFENSE ACQUISITION: MAJOR U.S. COMMISSION REPORTS: A REVIEW OF FINDINGS AND RECOMMENDATIONS (1949-1988)

SUMMARY OF PRINCIPAL REPORTS

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November 1988

MAJOR U.S. COMMISSION REPORTS: A REVIEW OF FINDINGS AND RECOMMENDATIONS (1949- 1988)

I. INTRODUCTION AND OVERVIEW

A. PURPOSE AND SCOPE

Any comprehensive survey of reports on U.S. defense acquisition organization and procedures during the 40-year period from 1949 to 1988 encounters a potential problem of overload. The need to be selective becomes immediately apparent. Hundreds of reports—some broadly focused, others more narrowly so—have been issued. Some are ground-breaking and innovative in content; others are derivative. In order to achieve “manageability”, we have divided the pertinent literature into three categories.

In the first group are six reports issued by major commissions established either by the President or the Congress. Included in this group are reports by the two Hoover Commissions, the Fitzhugh Commission, the Commission on Government Procurement, the Grace Commission, and the Packard Commission—as they are known informally.

The mandates of these six commissions, in all cases, were broadly formulated to cover organization and operations of the entire executive branch, the Department of Defense as a whole, or U.S. Governmentwide procurement. Defense acquisition organization and procedures received significant attention, but were not the sole (and, in some cases, not even the most important) focus. The level of authority and extensiveness of effort, however, serve to set these six commission reports apart from all others. These commission reports are the subject of the present volume—organized as follows: (1) general commentary; (2) individual summaries of major findings and recommendations; and, (3) original texts of the commissions’ principal reports (as appendices).

The subject of another potential volume is a somewhat larger group of reports and studies which focus more exclusively on the defense acquisition process. While not enjoying the stature of the six major commission reports, they represent an important source of information on efforts to improve defense acquisition policy formulation and program implementation. Included in this group are internal DOD products, the work of “think tanks,” congressional reports, and industry group position papers. As examples, one might cite the Rockefeller Committee’s Report on DOD Organization (1953), the Report of the Acquisition Cycle Task Force, Defense Science Board (1978), and the CSIS report titled “U.S. Defense Acquisition: A Process in Trouble” (1987).

(1)

In the third group are reports which, by their narrow focus, as well as sheer, overwhelming number, are unsuitable for inclusion in a general survey of this kind. Hundreds of reports during the post-WW II period have analyzed single aspects of the acquisition process (e.g., study of price competition in the Department of Defense, Logistics Management Institute, 1982), selected weapons programs (e.g., lessons-learned study of the F-16, Defense Systems Management College, 1978), or service-centered concerns with organization and procedure (e.g., Affordable Acquisition Approach study, U.S. Air Force Systems Command, 1982). Some of these undoubtedly contain valuable insights into the working of DOD's acquisition process, and, in certain cases, may have had significant impact. In general, however, the reports in this group represent a more restricted level of review and authority than those included in the first two groups.

A few words are in order concerning the terms "procurement" and "acquisition" which appear throughout the reports of the six major commissions. Although "procurement" more accurately describes the production (as opposed to the research and development) phase of the overall "acquisition" process, the terms are frequently used interchangeably. Other than drawing attention to the point, we have not attempted in the following review and summaries to impose consistency where it does not exist.

B. GENERAL COMMENTARY

Before commenting in general terms about the six important post-World War II commission reports, it is worth noting that concern over military procurement practices goes back to the earliest days of the nation. In the course of the French and Indian Wars, there were frequent complaints about high prices and inferior goods. During the Revolutionary War, Gen. George Washington referred to war profiteers as "murderers of our cause." It was disclosed that procurement officials had purchased goods for the Government from themselves, and practiced nepotism, favoritism, and various other forms of corruption.

Another example of early concern over acquisition practices was the establishment of a select committee of Congress in 1861 to inquire into allegations of waste and corruption involving military contracts. For more than a year, the committee investigated the purchases of arms, horses, blankets, and food, as well as other items and services. The discovery of extensive waste and fraud brought demands for stronger laws to curb the abuses.

While such historical parallels and precedents abound, suggesting the possibility of inherent limits in the perfectibility of the defense acquisition process, post-WWII developments exhibit a number of unique and important differences. First is the increased significance of weapons acquisition during peacetime, as a result of the U.S. Government's assumption of the role of principal defender of democratic values worldwide. Second, and closely related, is the increasingly vast cost of the above undertaking—resulting, inevitably, in intensified competition with non-defense programs for limited funds. These post-WW II differences in the economic-political environment have made U.S. defense acquisition a much more broad-

ly visible and sustained public policy issue than at any time in the past.

Indeed, the demand for increased accountability to the public only now seems to be peaking. Close and critical scrutiny of the defense acquisition system has occurred on three occasions since WW II—in the early 1960s, from 1969 to 1972, and, most recently, during the 1980s. The first two reform cycles maintained a generally high level of vitality for approximately two to 3 years each. The current cycle, however, has lasted 8 years, and shows no sign of significant lessening at this time. Such sustained interest and publicity represent something of a double-edged sword. On the one hand, it keeps Pentagon officials continuously alert to their responsibility for maintaining an efficient acquisition system. On the other hand, the defense acquisition issue's high visibility has produced a flood of "solutions," some of them possibly poorly conceived and likely to end up doing more harm than good, if implemented.

In addition to growing public awareness, other key discernible trends of the post-WW II period include an increasing emphasis on (1) major weapons systems, (2) organizational solutions, and (3) the role of Congress. In regard to the first of these, the two Hoover Commissions stressed the need for greater centralization and efficiency in the Government's purchasing systems, civilian and military. This was to be accomplished, however, with as little disruption as possible to the time-honored, traditional service-centered acquisition structure. The first Hoover Commission (1949) urged the Secretary of Defense to use his oversight mandate to reduce duplication and increase standardization. But the emphasis here was on common supplies and not on major systems acquisition. Even when the second Hoover Commission, 6 years later, recommended further action by way of creating a separate, civilian-managed DOD agency to administer supply and service activities, major weapons systems were not included within the scope of the plan.

A major shift occurred 15 years later in 1970 when the Blue Ribbon Defense Panel (Fitzhugh Commission) touched only lightly on common supply issues. Its attention was directed primarily at the mounting problems of major system acquisition. The evident failure of Robert McNamara's attempt during the 1960s to achieve a leaner and more efficient operation by modeling DOD's system along the lines of a large successful private corporation contributed to this reorientation. It is interesting to note, in this connection, the later Packard Commission's adoption of the same general premise that the defense acquisition system can be significantly improved by emulating the organization and procedures in outstanding commercial programs.

Each major commission subsequent to the Fitzhugh Commission ("Government Procurement," "Grace," and "Packard") has shown a predominant interest in weapons systems and major related components. This is not surprising considering the scale of spending on these items and the inherent vulnerability of these programs to cost overruns, delayed delivery, and disappointing technical performance. There has been a noticeable progression in the reports of the last four commissions toward increasingly detailed examination of the acquisition process. This is most clearly exemplified, perhaps, in the concern of both the Commission on Government Pro-

curement and the Packard Commission over the need to clarify technical data rights—an issue not addressed by any of the previous commissions.

On the other hand, the commissions exhibit a clear pattern of revisiting certain key issues, such as improving the quality of the acquisition work force, increasing competition, solving the conflict-of-interest problem, reducing the statutory and regulatory burden, increasing stability of the acquisition process, and emphasizing realistic (operational) tests and evaluation. The working groups/task forces of these commissions were not ignorant of the findings and recommendations of previous commissions. Their revisiting of certain key issues indicates the intractability of these problems, leading to gradual movement away from reliance primarily on procedural solutions toward increasing interest in major structural or organizational changes.

In its initial comments about defense acquisition, the Fitzhugh Commission observed that “the difficulties do not appear to be amenable to a few simple cure-alls, but require many interrelated changes in organization and procedure.” Its discussion of organizational change, however, was at a relatively low level of application, focusing as it did on the program manager’s office and the relative merits of vertical versus matrix management systems. Thirteen years later, the Grace Commission adopted a more extreme position when it proposed the consolidation of the procurement function (not research and development) into a single agency within the Department of Defense. It explained that, as its OSD Task Force analyzed the DOD acquisition process, “it became apparent that many of the acquisition-related problems are rooted in the department’s organizational structure.”

Similarly, the Packard Commission found that:

Responsibility for acquisition policy has become fragmented. There is today no single senior official in the Office of the Secretary of Defense working full-time to provide overall supervision of the acquisition system. . . . [T]he Commission concludes that the demands of the acquisition system have become so weighty as to require organizational change within that office.

The Commission proceeded to recommend the creation of a new position of Under Secretary of Defense for Acquisition (a so-called “acquisition czar”). In taking this step, the commission acknowledged that it had considered the more radical proposal of establishing a centralized, civilian-run acquisition agency but judged it to be inconsistent with the need to maintain a system that was responsive to the technical requirements and demands of the user military services.

A major factor contributing to the sustained visibility of the current defense acquisition reform movement has been an increasingly involved U.S. Congress. Many members of the major oversight committees, as well as others, have taken an active interest in learning about the issues involved and in suggesting ways to improve the way the Department of Defense purchases its goods and services—especially those involving weapons systems. In this con-

text, it may be interesting to comment briefly on the views expressed by the major commissions regarding the role of Congress.

The two Hoover Commissions were cognizant of the congressional intent in the early post-WW II period to achieve greater unification and efficiency in the operations of the defense establishment. The first Hoover Commission recommended that Congress broaden the power of the Secretary of Defense to prepare and execute plans of reorganization. The second Hoover Commission expressed concern over the apparent "failure of the executive branch to comply with repeated congressional demands for unification, economy, and efficiency in the armed services." It identified the defense supply systems as an outstanding "horrible example," and explained that its recommendation calling for establishment of a centralized civilian supply agency developed from a recognition of just how deep-seated and resilient the parochialism was of the military services.

The Fitzhugh Commission report, which marks the shifting focus from "supplies" to "weapons," had relatively little to say about Congress' role vis-a-vis defense major systems acquisition. The Commission on Government Procurement, however, commented at length on the need for Congress to become a more informed and effective check and balance in the defense acquisition process. In order to perform this role well, "Congress should be given the information and analyses required to understand the need and goals of new programs in the context of national policy and priorities. Thereafter," the report goes on to explain, "Congress is in a better position to monitor all the development, procurement, and required funds going to programs to meet these needs."

By the time of the Grace and Packard Commissions, the oversight role of Congress and the volume of information flowing to Capitol Hill had expanded so greatly that they, in themselves, had become an issue. The Grace Commission was sharply critical of the Congress and its tendency to "micromanage" defense programs. The Packard Commission pointedly warned that executive branch efforts to improve the acquisition process would fail "if Congress does not do its part to improve its role in the process." The commission stated its belief that both the number and magnitude of changes resulting from congressional review of the defense budget were excessive and harmful. The most important reform, according to the commission, was adoption by Congress of biennial budgets tied to a 5-year plan.

It should be noted, in conclusion, that none of the six major commissions surveyed here focused exclusively on defense acquisition organization and process. The Packard Commission has come closest to meeting such a level of attention. Also, the cyclical or episodic quality of these high-level examinations of DOD's weapons-buying activity raises seemingly valid questions about the need for a more permanent review panel or commission. Recent proposals have called for the creation of an advisory or regulatory commission on defense acquisition. Such a group, advocates argue, would provide the expertise and perspective required to help DOD and the Congress deal constructively with the tensions, if not contradictions, that exist between the drive for greater military effectiveness, on the one hand, and the drive for greater economic efficiency, on the other.

II. THE FIRST HOOVER COMMISSION (1949)

In January 1949, Herbert Hoover, Chairman of the Commission on Organization of the Executive Branch of the Government, transmitted to Congress a series of reports that comprised the final product of a comprehensive, 18-month examination of executive branch agencies and operations. One of these reports addressed issues involving the "National Security Organization." A striking feature of this report, at least from today's perspective, was its general lack of emphasis on matters regarding procurement organization and procedure in the Department of Defense.

The study was conducted immediately following a major reorganization of the defense establishment (resulting from the enactment of the National Security Act of 1947); therefore, its emphasis on the Defense Department's overall structural integrity is understandable. The Commission found that the national security organization was "soundly constructed, but is not yet working well." The problem was attributed, in part, to "the youth of the organization," "lack of clear firm policy," and "the continuance of intense inter-service rivalry."

The Commission's report recommended strengthening the authority of the Secretary of Defense. More specifically, the three military departments should, under an amendment to the National Security Act of 1947, be administered by their civilian secretaries "subject to the authority and direction of the Secretary of Defense." In this latter regard, the full authority for the procurement and management of supplies and material should be vested in the Secretary of Defense. The Secretary could delegate this authority to other officers or agencies as he might determine, "with directions to expedite by all possible means the elimination of costly duplication in procurement and waste in utilization among the three services."

While the Commission's final report touched only lightly on issues involving defense procurement, the task force working paper on national security organization (from which the Commission drew its findings and recommendations) spoke at somewhat greater length on the need for increased efficiency and economy. Its observations are pertinent, and in dollar amount somewhat quaint, in the context of present-day concern over the scale of defense spending:

"The costs of the military establishment—currently about \$15,000,000,000 a year—appear to be unduly high, in terms of the ability of the economy to sustain them and of the actual return in military strength and effective national security."

"Nowhere is cost consciousness more essential than in the military establishment—that vast and complex organism which currently absorbs more than 30 percent of the annual national budget. The awful cost of reasonable safety—\$1,000,000 to \$4,000,000 for a modern bomber, over \$250,000 for a tank, \$10,000,000 to \$150,000,000 for a ship—has put a high premium upon military economy."

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In a section of the working paper titled "Principal Areas of Possible Economies ...," the task force recommended improvement in "the military establishment's methods of doing business." It found that there was substantial duplication in such things as cataloging and identifying material. It recommended the standardization of specifications as well as the preparation of common supply catalogs. Finally, in light of the Commission's strong emphasis on greater centralization of authority within the Office of the Secretary of Defense, it is important to note what the task force had to say about centralizing procurement:

"The efforts of the Munitions Board to concentrate procurement in the hands of single service responsibility should, in time, result in substantial economies. The overwhelming weight of evidence presented to the [task force] was against the formation at this time of a single centralized procurement agency for all three services."

In summary, the first Hoover Commission was preoccupied with the challenge presented by the United States' emergence as the dominant world power and the necessity, for the first time in the nation's history, of maintaining a major peacetime military force. It was concerned about preserving adequate civilian control and coordination of the three military services. It was concerned, also, about controlling the cost of maintaining such a large military presence. In this last regard, we find some parallel to today. But, for the most part, the differences are more significant. The Commission's report contained little or no reference to many issues that currently dominate debate over weapons acquisition. There was no engagement in more arcane matters, such as dual sourcing as a means of achieving greater competition or establishment of an independent operational testing and evaluation office in the Department of Defense. Its views on military procurement organization and process were basic and elemental.

Indeed, perhaps the most striking feature of the first Hoover Commission report—in regard to defense procurement—is not so much what it said, but rather what it did not say. It did not include the Department of Defense in its recommendation for establishment of a unified Government supply agency for purchase of common goods and services. Subsequent passage of the Federal Property and Administrative Services Act of 1949 led to the creation of the General Services Administration (GSA). As permitted by law, the Department of Defense was exempted from the requirements on the grounds of national security. Furthermore, no effort was made at this time to apply the concept of unified purchasing of common supply items to the Department of Defense itself. The issue of military supply management, it seems, was overshadowed by other pressing concerns involving the basic organization and role of the Department of Defense and its constituent units.

III. THE SECOND HOOVER COMMISSION (1955)

The second Hoover Commission was established by Congress in July 1953. It was instructed to study important functions of the Government and to recommend changes policy and procedures that

would “promote economy, efficiency, and improved services in the transaction of the public business.” The Commission completed its work 2 years later. The report of the Committee on Business Organization of the Department of Defense contained 19 recommendations grouped into four major program categories for achieving improved management in the Department of Defense.

A. PROGRAM FOR IMPROVING BUSINESS MANAGEMENT ORGANIZATION

The basic objective of the Commission’s recommendations in this part was to strengthen coordination and control of management—in areas such as military requirements planning, logistics, research and development, personnel, and finance. In an effort to clarify the respective roles of the top civilian and military officers, the report states:

Whereas the military Chief of Staff, under the proposed definition, is responsible for stating what he needs, how much, when, and where, the Assistant Secretary for Logistics [includes procurement] should be responsible for review of how much and for execution, which means how and how well the operations of the support activities are conducted. [emphasis in original]

B. PROGRAM FOR IMPROVING THE MANAGEMENT OF COMMON SUPPLIES

This section of the Commission’s report is the one most concerned with procurement. Significantly, the emphasis is on “common supplies” or commercial-type items and does not include weapon systems and major related components (“military hard goods”). The study group on Business Organization in DOD considered four methods for improving coordination of common supplies: (1) single service or joint agency arrangements, (2) cross-servicing plans, (3) an integrated supply system, and (4) a single supply and service agency. According to the task group report, experience with the first two types of coordination by the Armed Services had revealed not only fragmentary implementation but also a general failure to achieve benefits anticipated.

The third method, an integrated supply system, would provide a more complete form of coordinated supply than the first two arrangements. In effect, this plan would assign to a single department full responsibility for the procurement, distribution, storage, and issue of common commodity classifications. While the report noted various advantages to this approach, it concluded that it possessed the weaknesses inherent in the other systems: (1) inertia or strong resistance on the part of the military departments; (2) difficulty in assuring equitable treatment, especially under pressing mobilization conditions, when one service tries to meet its own needs and simultaneously furnish the services desired by others; and (3) resistance to eliminating duplicate staffs, facilities, and distribution systems.

The fourth option—a separate supply and service agency—was favored by the Commission. It would provide, according to its

report, the highest degree of integration. While opponents of the plan argued "that each department should have control over a support system which is completely responsive to its own needs," the task force concluded that all objections could be avoided "by carefully defining the role of such an agency." Accordingly, the Commission recommended that:

Congress should enact legislation establishing a separate civilian-managed agency, reporting to the Secretary of Defense, to administer common supply and service activities.

C. PROGRAM FOR IMPROVING MANAGEMENT PERSONNEL

A considerable part of this section of the report is devoted to "support activities" which include supply/procurement functions. In its comments, the task force on Business Organization in DOD quotes from the report of another participating group, the task force on surplus property. The observation will have a familiar ring for those following the current defense procurement debate.

In this age of technological warfare, something must be added to the strictly military strategy; that something is the know-how of business and industry in the management of materiel, with due regard to the ability of the economy to carry the load. It would seem that the missing link is a permanent, experienced business organization.

This need was recognized, noted the Business Organization task force, by the Secretary of Defense in 1952 when he issued a directive (4000.8) providing that:

Within each military department, a definitive program will be established for the recruitment and training of competent military and civilian personnel to serve in the areas of procurement, production, warehousing, and distribution of supplies and equipment, and related supply functions. Rotation, promotion, and assignment policies within each military department will be adapted to assure the most effective use of trained personnel within these areas.

Despite this strong emphasis on the need for specialized competence in support activities, the Commission found little evidence of success in achieving the stated goal. It recommended the following corrective measures: (1) strengthen career opportunities in support activities including procurement; (2) establish definite criteria for determining military and civilian staffing; (3) provide for increased pay in the upper grades; (4) confine rotation of military managers to specialized support areas; and (5) assign officers to management positions for longer periods of time.

Another personnel-related recommendation involved conflict of interest laws which the Commission found too restrictive. They should be modified "so that presidential appointees are not forced to liquidate lifetime business equities in order to accept Federal appointment." It might be noted that, although this point has been mentioned on more recent occasion, the historical trend has been for the statutory requirements to become increasingly stringent.

D. PROGRAM FOR IMPROVING FINANCIAL MANAGEMENT

In this section of the report, the Commission noted the need for improving financial controls, particularly in the area of procurement (which, at the time, accounted for almost one-half of all defense dollars spent).

The most significant recommendation of the second Hoover Commission in matters of defense procurement was the proposal to establish a single DOD-wide supply agency. Subsequent legislation authorized the unified procurement and management, under civilian control, of common-use defense supplies such as food, clothing, and fuel. In this area, as well as some others, the Commission went considerably further than the first Hoover Commission in looking at procurement organization and procedure. Yet, it is a far cry from the level of detailed scrutiny to which DOD business activities are being subjected today. This is particularly the case in regard to weapon systems procurement.

IV. THE FITZHUGH COMMISSION (1970)

The Blue Ribbon Defense Panel was appointed by the President and the Secretary of Defense in July 1969 and instructed to study, report, and make recommendations on the organization and management of the Department of Defense. Within this broad charter, DOD's research and development efforts as well as its procurement policies and practices were identified as subject areas deserving special attention by the panel. In the preface to its report, the Fitzhugh Commission (so named after its chairman, Gilbert W. Fitzhugh) noted that its effort was the "first broad-scale study of the Department of Defense in many years—in fact since the two [Hoover] commissions . . ."

The absence of a major commission study for 15 years may have been the consequence of President Kennedy's appointment of Robert McNamara as Secretary of Defense. Concern over cost overruns, performance short-comings, and missed deadlines prompted the new Kennedy Administration to undertake a major review and overhaul of the weapons acquisition process. The solution, according to the prevailing view, was to adopt a more business-like approach. Secretary of Defense McNamara, the former president of the Ford Motor Co., brought just that kind of experience and management philosophy to the Pentagon job. It was not until the late 1960s, when McNamara-inspired changes themselves came under increasingly heavy fire, that the need for a new study commission to look at DOD's operations, including weapons acquisition, may have become clearly apparent.

The major findings and recommendations of the Fitzhugh Commission on acquisition-related matters were based on several separate staff studies included as appendices to the main report. In both sweep and detail, its examination of DOD's organization and operations far exceeds that of the two Hoover commissions. The Fitzhugh Commission's work is also different in that its primary focus in the acquisition area is on weapons rather than common-item supplies.

The Fitzhugh Commission report found, in general, that the policies of the Department on development and acquisition of weapons

and other hardware had contributed to serious cost overruns, schedule slippages, and performance deficiencies. Furthermore, it observed that "the difficulties do not appear amenable to a few simple cure-alls, but require many interrelated changes in organization and procedure." In this finding, as well as in many of its more specific comments, the Commission report addressed issues only too familiar to people who have followed the 1980s acquisition reform debate. It called for increased operational testing and evaluation, greater emphasis on career and professional development, clearer and more equitable conflict-of-interest laws, expanded use of competitive prototyping, avoidance of excessive "gold-plating," increased authority for weapon program managers, improved reliability in cost estimating, and so on.

Because of similarity and possible relevance to the current debate, four major categories of the Fitzhugh Commission's reform proposals are reviewed below. The original text is used to the extent possible consistent with the goal of presenting a clear and concise summary.

A. OPERATIONAL TEST AND EVALUATION

Findings: Operational test and evaluation has been too infrequent, poorly designed, and generally inadequate.

Recommendations: A Defense Test Agency should be created to perform the functions of overview of all Defense test and evaluation, designing or reviewing of designs for test, monitoring and evaluation of the entire Defense test program, and conducting tests and evaluations as required, with particular emphasis on operational testing, and on systems and equipments which span Service lines. The Defense Test Agency should be under the supervision of a civilian Director, reporting to the Secretary of Defense through the Deputy Secretary of Defense for Evaluation [whose responsibilities also include DOD systems analysis and internal audit and inspection services].

B. CAREER AND PROFESSIONAL DEVELOPMENT

Findings: The promotion and rotation systems of the Military Services do not facilitate career development in the technical and professional activities, such as research and development, procurement, intelligence, communications, and automatic data processing.

Recommendations: Specialist careers should be established for officers in such staff, technical and professional fields as research, development, intelligence, communications, automatic data processing and procurement . . . The duration of assignments for officers should be increased, and should be as responsive to the requirements of the job as to the career plan of the officer. Officers continued on assignment for this reason should not be disadvantaged in opportunity for promotion.

C. RESEARCH AND DEVELOPMENT

Recommendations: A new development policy for weapons systems and other hardware should be formulated and promulgated to cause a reduction of technical risks through demonstrated hard-

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ware before full-scale development, and to provide the needed flexibility in acquisition strategies. The new policy should provide for:

- (1) exploratory and advanced development of selected sub-systems and components independent of the development of the weapon systems;
- (2) the use of Government laboratories and contractors to develop selected sub-systems and components on a long term level of effort basis;
- (3) more use of competitive prototypes and less reliance on paper studies;
- (4) selected lengthening of production schedules, keeping the system in production over a greater period of time;
- (5) a general rule against concurrent development and production efforts, with the production decision deferred until successful demonstration of developmental prototypes;
- (6) continued trade-off between new weapon systems and modifications to existing weapon systems currently in production;
- (7) stricter limitations of elements of systems to essentials to eliminate "gold-plating;"
- (8) flexibility in the selecting type of contract most appropriate for development and the assessment of the technical risks involved;
- (9) flexibility in the application of a requirement for formal contract definition, in recognition of its inapplicability to many developments;
- (10) assurance of such matters as maintainability, reliability, etc., by means other than detailed documentation by contractors as a part of the design proposal;
- (11) appropriate planning early in the development cycle for subsequent test and evaluation and effective transition to the test and evaluation phase; and
- (12) a prohibition on total package procurement.

D. PROGRAM OR PROJECT MANAGEMENT

Recommendations: The effectiveness of program or project management should be improved by:

- (1) establishing a career specialty code for Program Managers in each Military Service and developing selection and training criteria that will ensure the availability of an adequate number of qualified officers. The criteria should emphasize achieving a reasonable balance between the needs for knowledge of operational requirements and experience in management;
- (2) increasing the use of trained civilian personnel as program managers;
- (3) providing authority commensurate with the assigned responsibility and more direct reporting lines for program managers, particularly those operating in matrix organizational arrangements; and

(4) giving the Program Manager directive authority, subject to applicable laws and regulations, over the contracting officer, and clarifying the fact that the contract auditor acts in an advisory role.

The Fitzhugh Commission report contains many other interesting and pertinent observations about the DOD acquisition process. On management of common supply activities (the subject of much attention by the second Hoover Commission), the Fitzhugh Commission notes that attempts to achieve greater efficiency by means short of consolidating the function within a single agency fell short of expectations. A Defense Supply Agency (DSA) had been established and became operational on January 1, 1962, when it assumed responsibility for managing a restricted number of commodities. By 1970, DSA was managing about one-half the item count in the total defense supply inventory.

Although filled with recommendations for "action," the Fitzhugh Commission report also urged restraint in some of the reform-related areas. For example, the Selected Acquisition Report (SAR) system was a relatively recent management tool, at the time, for reporting original and current estimates of program costs, schedule, and performance to top DOD management and the Congress. The Commission expressed concern that the "overwhelming concentration" appeared to be on cost and schedule—to the possible detriment of quality and mission performance.

In the area of conflict-of-interest, a subject that is very much at the center of current controversy, the Fitzhugh Commission identified two fundamental approaches to dealing with the situation: (1) the imposition of prior restraint on employment by certain classes of personnel, and (2) the prohibition of specific post-employment activity, enforced by penalties for violation. The Commission argued that the prior-restraint approach would adversely affect the attractiveness of military careers or Government service and, therefore, the emphasis of conflict-of-interest statutes should be directed toward prohibiting and punishing specific post-Government employment activities.

V. THE COMMISSION ON GOVERNMENT PROCUREMENT (1972)

The Commission on Government Procurement was established by Congress in November 1969 to study and recommend methods "to promote the economy, efficiency and effectiveness" of procurement by the executive branch of the Federal Government. Its period of operation roughly paralleled that of the Fitzhugh Commission, though its work was not completed until late 1972. The twelve members of the Commission included two Representatives, two Senators, two members of the executive branch, the U.S. Comptroller General, and several members of the public.

A. GENERAL PROCUREMENT CONSIDERATIONS

The Commission's initial finding was that "There is a void in policy leadership and responsibility and a fragmented and outmoded statutory base." Accordingly, the Commission recommended

the establishment of the Office of Federal Procurement Policy, within the Office of Management and Budget (OMB). Such an office was created by statute in 1974, and has been functioning ever since. The report identified the following major attributes of the office:

- It should be independent of any agency with procuring responsibility.
- It should operate on a plane above the procurement agencies and have directive rather than merely advisory authority.
- It must be responsive to the procurement policy decisions of Congress.
- It should consist of a small, highly competent cadre of seasoned procurement experts.

The Commission report noted that military procurement was governed by the Armed Services Procurement Act of 1947, whereas most civilian procurement came under the Federal Property and Administrative Services Act of 1949, and that there were inconsistencies between the two statutes. Thus, the Commission recommended that legislation be enacted to eliminate the inconsistencies.

Even more confusing and inconsistent, according to the Commission, was the “burdensome mass and maze of regulations.” It recommended the development of a uniform, Governmentwide system, under direction of the Office of Federal Procurement Policy.

Other significant recommendations made in the “General Procurement Considerations” section of Volume I included:

- (1) enactment of legislation to authorize the use of competitive negotiations as an alternative to formal advertising [the Competition in Contracting Act of 1984 finally enacted this into law];
- (2) raising the \$2,500 threshold for procurements subject to numerous socio-economic restrictions [some of these thresholds have been revised];
- (3) authorizing expanded use of multi-year contracts [this has taken place];
- (4) formalizing policy set forth in OMB Circular A-76 that encourages the Government to rely on the private sector for needed goods and services;
- (5) improved planning by the executive branch and Congress for the efficient and economical procurement of goods and services by eliminating delays in submitting and considering authorization and appropriations requests [this theme was later taken up by the Packard Commission, and some of these “streamlining” recommendations have been enacted into law];
- (6) restricting the furnishing of new Government production facilities to contractors as well as providing them with incentives to acquire their own facilities;
- (7) establishing new standards for measuring the success of Government procuring agency use of small businesses—not just statistical percentages.

B. ACQUISITION OF RESEARCH AND DEVELOPMENT

The Commission report identified the dual objectives in the acquisition of research and development: (1) supporting the nation's technological base, and (2) acquiring the capability for producing new products and performing new services. In its recommendations, emphasis was placed on basic, innovative research and the sharing of new ideas among Government agencies. Similarly, the report called for a more cooperative industry-Government relationship which maximized the creative energies of U.S. suppliers.

The Commission expressed concern over the Government's allowable cost policy as it applied to suppliers' claims for reimbursement of indirect expenses, such as those connected with independent research and development (IR&D) and bid and proposal (B&P) efforts. IR&D is conducted to advance the technological capability of the company, whereas B&P is conducted to convince a buyer the company is the most capable supplier for the particular need. The Commission concluded that those firms that performed 50 percent or more of their work in the commercial marketplace or under fixed-price Government contracts had the motivation to control indirect costs and, therefore, no administrative control by the Government was required.

C. ACQUISITION OF MAJOR SYSTEMS

While the Commission's terms of reference included the procurement activities of the entire executive branch, it devoted considerable attention to defense programs, and in particular to DOD's acquisition of new major systems. In this connection, the Commission report stated at the outset that: "The need to improve major system acquisition has been apparent from the succession of cost overruns, claims, contested awards, buy-ins, bail-outs, and defective systems that have drawn criticism to many programs in recent years."

(1) *Needs and Goals for New Programs.* The Commission declared that determining the needs and goals for a new program was the first vital area for improving system acquisition. It pointed out decisions made at this early stage have far-reaching consequences. More specifically:

DOD policy currently delegates the responsibility for deciding the needs and goals to each of the military services. Although new technological opportunities cannot be ignored, too often the focus has been on the system product and not on its purpose. The results have been to prematurely lock-in to a single system approach without giving adequate attention to why a new level of capability is needed in the first place and what it is worth before less costly system alternatives are eliminated.

Accordingly, the Commission recommended steps for achieving greater control and coordination of the requirements determination process-in both the executive and legislative branches. It stressed the need for Congress to assert itself more fully in the early stages of the budget process with an annual review of agency missions, ca-

pabilities, deficiencies, and the needs and goals for new acquisition programs.

(2) *Exploring Alternative Systems.* The Commission stated that funds spent on development of alternative systems served as insurance against the possibility of a premature and potentially costly choice involving only one system. Therefore, the Commission issued recommendations to: (1) create alternative system candidates; (2) finance the exploration of alternative systems; and (3) maintain competition between contractors exploring alternative systems. Of particular concern to the Commission was the need to encourage increased participation by smaller, growing firms in the procurement process, since they often exhibit greater initiative and more innovative technical approaches for a new system than large, established companies.

(3) *System Implementation/Testing.*

While acknowledging the benefits of competition in all stages of the acquisition process, including final production, the Commission noted that the cost to maintain competition throughout rises substantially. Thus, systems entering production and deployment normally do so under an evolved monopoly situation, with only a single system and contractor to meet the agency need. To avoid a situation in which this single source cannot supply the system as planned under the terms of the contract, the Commission recommended that procuring agencies and Congress withhold approval for full production and use of new systems until the need has been reconfirmed and system performance has been tested and evaluated in an environment closely approximating the operational conditions. The Commission report contained other pertinent concerns too numerous to discuss in detail. These included the need to:

- alleviate the problem of management layering and excessive staff reviews;
- develop a Governmentwide policy on technical data;
- extend the Truth in Negotiations Act and the Renegotiation Act to all Government procurement agencies; and,
- strengthen each agency's cost estimating capability.

D. ACQUISITION OF COMMERCIAL PRODUCTS

The Commission indicated the need for reappraising fundamental policy concerning commercial products procurement and for the establishment of a continuous oversight function (spearheaded by OFPP) to review agency policies. These and other related recommendations of the Commission, while relevant to the military procurement of common supply items, contained little that is noteworthy in the context of this particular review. An exception to this general appraisal, however, was the Commission's discussion of the concept of total cost. It pointed out the tendency of Government officials to focus on the initial price paid to the supplier rather than the total long-run cost of satisfying a Government requirement (i.e., including maintenance, spare parts, etc.) The cost of support activities tended to be "invisible" and, therefore, ignored. The Commis-

sion concluded that procurement decisions needed to be based on the total economic costs of various alternatives in order to insure that products were acquired with optimum economy and effectiveness.

VI. THE GRACE COMMISSION (1983)

President Reagan established the President's Private Sector Survey on Cost Control (PPSSCC), otherwise known as the Grace Commission, in June 1982. An executive committee comprised of high level executives from many of the nation's leading corporations was formed under the chairmanship of J. Peter Grace. The commission was organized into 36 "task forces," with each task force assigned to study a specific department, agency, or operational function cutting across the purview of Government. The overall objective of the Grace Commission was to identify opportunities for increased management efficiency and reduced costs "achievable by executive action or legislation."

One of the Commission's task forces, the Task Force on the Office of the Secretary of Defense (OSD Task Force), analyzed management efficiency and cost saving opportunities in the Department of Defense. Its findings and recommendations on acquisition agree in important respects with the views expressed in the reports of three related service task forces. The OSD task force estimated that, if fully implemented, improved management of the weapons acquisition process could result in a 3-year savings of \$18.3 billion, or 40 percent of the total projected savings (\$44.8 billion) for all Department of Defense operations. The OSD Task Force grouped its findings and recommendations on DOD acquisition into nine subject headings. Those, as well as two other subjects unrelated to major weapons procurement, are summarized below.

A. IMPROVED ORGANIZATION OF THE ACQUISITION FUNCTION

The task force report asserted that many of the acquisition-related problems were rooted in DOD's organizational structure. The report pointed to "massive duplication of effort among the services and between the services and OSD." The OSD Task Force recommended total consolidation of day-to-day acquisition functions at the OSD level. Under this proposal, the research and engineering functions would be assigned to the Under Secretary of Defense for Research and Engineering, and the procurement and production functions would be assigned to a new Under Secretary of Defense for Acquisition. The services would continue to determine mission needs, carry out test and evaluation, and exercise the right of final approval.

However, recognizing the difficulties of implementing such sweeping organizational reform, the task force suggested three progressively advanced alternatives leading up to the preferred solution: (1) a uniform system of procurement within the existing decentralized, service-centered structure; (2) a "single manager" approach whereby similar systems would be procured by a single office or group within the most logical service; and (3) consolidation of day-to-day procurement and production functions into a single

agency within OSD (the services would retain responsibility for research and engineering functions).

B. DEFENSE CONTRACT ADMINISTRATION CONSOLIDATION

The Department of Defense's management approach to contract administration, according to the OSD Task Force, permitted wide variations in procedures between the Defense Contract Administration Service at the OSD-level and the various related components at the service level. The Commission recommended that all contract administration should be consolidated at the OSD-level to accomplish three goals: (1) provide a single method of contract administration practices; (2) facilitate training, transfer, progression, and direction of contract administration personnel; and (3) reduce headquarters and overhead costs.

C. REGULATORY CONSTRAINTS

The OSD Task Force called for appropriate action to simplify the complex regulatory system which governs the acquisition of weapons systems. It proposed that, where feasible, overly detailed Defense Acquisition Regulations (DAR) should be replaced with policy statements which provide general guidelines for DOD procurement actions. Also, professional procurement personnel capable of operating within these broadly stated guidelines should be developed.

D. INDEPENDENT RESEARCH AND DEVELOPMENT COSTS

The OSD Task Force criticized the elaborate and time-consuming technical review process involved in DOD's reimbursement policy for independent research and development (IR&D) costs. The purpose of the review process was to insure that only defense-related IR&D costs were being claimed. The task force called for the elimination of technical review, arguing that IR&D costs should be recoverable in the same manner as other bona fide overhead expenses. Competitive forces should be allowed to operate to control IR&D costs, "subject to the test of reasonableness and audit in the same manner as other elements of overhead."

E. DEPARTMENT OF DEFENSE LABORATORIES

The OSD Task Force called for improved data exchange between DOD laboratories and the military services, so that information on emerging technology developments could be better integrated into the appropriate phases of the weapons acquisition process. Additionally, more effective coordination of research programs among the laboratories was needed to eliminate duplication of staff and research efforts. Finally, the OSD Task Force recommended that the DOD laboratories should phase out their involvement in the later stages of the development cycle.

F. COMMON PARTS AND STANDARDS

The OSD Task Force called for the increased use of standardized parts in weapons systems and the decreased use of military specifications. Procurement personnel should be "more selective" in requiring "only those military specifications that relate to the par-

ticular need of the end item being procured." Also, adequate funding should be provided to carry out cross-service military hardware design standardization studies as an integral part of the weapons acquisition process."

G. MAJOR WEAPONS SYSTEM NEW STARTS

The OSD Task Force recommended stricter entry requirements for new systems and imposition of limits on the number of new weapons programs started each year. Before a new start is approved, an estimate should be made of the projected cost of that new weapons system through production. DOD should then consider the impact of that incremental cost on the overall acquisition process, in view of the limited funds that would be available for that new system and other major systems already being developed or produced. "Limits on new starts would ensure that there are sufficient funds to carry out all weapons programs economically and efficiently."

H. ESTIMATING WEAPONS SYSTEMS COSTS

The OSD Task Force urged the Secretary of Defense to "establish procedures to ensure more accurate estimates of weapons costs in order to permit better planning and reduce cost overruns." Specifically, cost estimates should be made separately for the development and production phases of weapons systems. Responsibility for analyzing the affordability of weapons systems should be assigned to the DOD Comptroller. Higher estimates submitted by either the OSD Cost Analysis Improvement Group (CAIG) or the program management office should be used when budgeting the acquisition of a weapons system. A new production cost baseline should be established at Milestone III, the decision point to proceed into production. As an incentive to contractors to estimate costs more realistically, "contracts should be used which require contractors to absorb a greater share of cost overruns." Finally, DOD budget data should not be released to contractors in the pre-award stage, because such disclosures encourage contractors to "underbid their own internal estimates so as not to exceed DOD budget limits."

I. INSTABILITY OF THE WEAPONS ACQUISITION PROCESS

"The Department of Defense should commit to a stable 5-year spending plan for the acquisition of weapons systems at economical production rates. DOD should focus the attention of Congress on any significant increase in costs that would result from proposals to change the 5-year plan." Critical to achieving this program stability is DOD's ability to relate the financial affordability of proposed systems with the defense need for the system. Such efforts to "interlock affordability and need would help prevent starting new systems that cannot be funded in economical production quantities during the entire production cycle."

The Grace Commission also emphasized the importance of multiyear procurement as a vehicle for accomplishing program stability and minimizing attendant cost growth. Under the annual basis of procurement, the commission pointed out, the quantities of sys-

tems purchased can vary significantly from year to year. It called for the use of multiyear procurement on a wider and more regular basis.

In light of interest shown toward the management of common supply items and the contracting-out (OMB A-76) program by previous commissions, the Grace Commission's findings on these two subjects deserve brief comment.

J. TRANSFER OF CONSUMABLE INVENTORY ITEMS

The OSD Task Force pointed out that a "two-world system has become more or less formalized with regard to consumables: DLA [Defense Logistics Agency] manages commodity items, while the services retain more complex, weapons systems related items." The task force claimed that DLA had proven its ability to manage successfully consumable items with statistically superior results, and therefore recommended that 900,000 of the 1.2 million inventory items then being managed by the services be transferred to DLA.

K. IMPLEMENTATION OF OMB CIRCULAR A-76

The A-76 program, as explained by the OSD Task Force, is a Governmentwide incentive program to encourage Government agencies to contract out when the private sector can provide certain goods and services more economically. The task force called for the removal of various legislative requirements that served to restrict DOD's implementation of the program.

VII. THE PACKARD COMMISSION (1986)

The President's Blue Ribbon Commission on Defense Management, generally known as the Packard Commission, was established by President Reagan on July 15, 1985. It considered a number of fairly diverse problems involving the Department of Defense, prominent among which was reviewing the adequacy of defense acquisition organization and procedures. The members of the commission included 16 persons with extensive experience and national reputations in industry, Government, and national defense. The President designated David Packard as the commission's chairman.

As with previous commissions, several task forces were organized to study and report on discrete areas of policy concern. The most pertinent of these, for the purposes of this review, was the Acquisition Task Force which issued its report titled "A Formula for Action: A Report to the President on Defense Acquisition" in April 1986. The final Packard Commission report, released in June 1986, included findings and recommendations on acquisition substantially the same as in the task force report—with the exception of additional recommendations relating to rights in technical data and industrial mobilization.

The Packard Commission issued a long list of findings and recommendations grouped under eleven broad categories. A single compelling theme underlies the Packard Commission's long list of recommendations for improving the defense acquisition process, and that is the need for DOD to broadly emulate the procedures

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used in outstanding commercial programs. "In a few programs," the report stated, "DOD has demonstrated that this can be done. The challenge is to extend the correct management techniques to all defense acquisitions and more widely realize the attendant benefits in schedule and costs." The Commission's list of acquisition related findings and recommendations were grouped under eleven major headings.

A. STREAMLINE ACQUISITION ORGANIZATION AND PROCEDURES

In order to establish unambiguous authority for overall acquisition policy, clear accountability for acquisition execution, and plain lines of command for those with program management responsibilities, the Commission suggested the following five related actions:

- (1) creation by statute of a new position of Under Secretary of Defense for Acquisition (Defense Acquisition Executive);
- (2) establishment in the Army, Navy, and Air Force of comparable senior positions (Service Acquisition Executives) filled by top-level civilian Presidential appointees—the Commission's views at this point in the report concerning full consolidation of the acquisition function is worth quoting: The Commission considered recommendations to consolidate all defense acquisition activities under the Defense Acquisition Executive [Under Secretary of Defense for Acquisition], but concluded that such centralization would not serve the cause of reducing the bureaucracy, because it would tend to separate further the acquisition staff from the military user. We believe that it is important to maintain the Services' traditional role in managing new weapon programs;
- (3) appointment of several Program Executive Officers (PEO) by each Service Acquisition Executive;
- (4) recodification of Federal laws governing procurement into a single, greatly simplified statute applicable Governmentwide;
- (5) reduction by DOD of the number of acquisition personnel.

B. USE TECHNOLOGY TO REDUCE COST

The Commission called for increased emphasis on building and testing prototype systems "to demonstrate that new technology can substantially improve military capability, and to provide a basis for realistic cost estimates prior to full-scale development decisions." The Commission further recommended that the Defense Advanced Research Projects Agency should engage in prototyping and other advanced development work on joint programs and in areas not adequately emphasized by the services.

C. BALANCE COST AND PERFORMANCE

The Commission called for a restructured Joint Requirements and Management Board (JRMB) to assume a more active role in all joint programs and in all major service programs. The JRMB

would be responsible for “two decisions commonly made in industry, but not now an explicit part of DOD’s decision making process.” These were the “affordability” decision and the “make-or-buy” decision.

D. STABILIZE PROGRAMS

The Commission recommended two fundamental ways of enhancing program stability. First, it called for institutionalizing the practice of “baselining” major weapon systems at the beginning of full-scale engineering development. The term “baselining” means establishing agreement on cost, schedule, specifications, and other factors critical to program success. Second, it urged DOD and Congress to expand the use of multi-year procurement for high-priority systems.

E. EXPAND THE USE OF COMMERCIAL PRODUCTS

The Commission recommended that DOD make greater use of components, systems, and services available “off-the-shelf.” “It should develop new or custom-made items only when it has been established that those readily available are clearly inadequate to meet military requirement.”

F. INCREASE THE USE OF COMPETITION

It was important, the Commission declared, for DOD to focus on achieving more effective competition modeled after the procurement techniques used in industry, stressing quality and established performance as well as price.

G. CLARIFY THE NEED FOR TECHNICAL DATA RIGHTS

The Commission noted the delicate balance between the Government’s requirement for technical data and the benefits of protecting the private sector’s proprietary rights to such data. In the Commission’s view, DOD should adopt a policy that permits a contractor to retain ownership of data if it has provided not only “all” but even “significant” funding for development.

H. ENHANCE THE QUALITY OF ACQUISITION PERSONNEL

The Commission recommended that the Secretary of Defense be given increased authority “to establish flexible personnel management policies necessary to improve defense acquisition.” Among the steps that should be taken was creation of an alternate system to include senior acquisition personnel and contracting officers, as well as scientists and engineers.

I. IMPROVE THE CAPABILITY FOR INDUSTRIAL MOBILIZATION

The Commission called for the establishment of a comprehensive national industrial responsiveness policy for times of potential emergencies. The DOD and Service Acquisition Executives, it further stated, should consider such mobilization guidance in formulating and implementing acquisition policy.

J. GOVERNMENT-INDUSTRY ACCOUNTABILITY

Among other recommendations included in the Packard Commission report were the following concerned with industry and Government accountability. The Commission stressed the need for:

- (1) continued aggressive enforcement of civil and criminal law governing defense acquisition;
- (2) defense contractors to promulgate and "vigilantly" enforce codes of ethics;
- (3) DOD to vigorously administer current ethics regulations;
- (4) better coordination of oversight of defense contractors among DOD agencies and Congress;
- (5) Government actions to foster contractor self-governance;
- (6) limiting suspension and debarment only to cases where a contractor is found to lack "present responsibility"—such actions should not be taken punitively.

K. DOD-CONGRESSIONAL DEFENSE BUDGET PROCESS

Finally, the Packard Commission issued as series of recommendations aimed at improving the defense budget process. The one most closely associated with the acquisition process called for the President to submit to Congress a 2-year budget and a 5-year plan. Congress would be asked to approve the 2-year budget, authorizing and appropriating funding for major weapon systems at the two key milestones of full-scale engineering development and high-rate production.

The National Security Organization

*A report to the Congress by the Commission on
Organization of the Executive Branch of
the Government, February 1949*

Letter of Transmittal

WASHINGTON, D. C.
15 February 1949.

DEAR SIR: In accordance with Public Law 162, Eightieth Congress, approved July 7, 1947, the Commission on Organization of the Executive Branch of the Government submits herewith its report on the National Security Organization, and, separately, as appendix G, a part of the report of the task force assigned to examine this segment of the executive branch.

Secretary of Defense James Forrestal, a member of this Commission, took no part in the preparation or consideration of this report.

The Commission wishes to express its appreciation for the work of its task force and for the cooperation of the members of the National Security Organization and other departments and agencies concerned with this report.

Respectfully,

Wendell Hoagberg
Chairman.

*The Honorable
The President of the Senate.*

*The Honorable
The Speaker of the House of Representatives.*

**The Commission on Organization of The
Executive Branch of the Government**

HERBERT HOOVER, *Chairman*
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The National Security Organization

World conditions demand that the United States maintain a strong National Security Organization.

This need results directly from the total disruption of the old balance of power among nations, and from new forms of communications and warfare which have impaired America's ocean-moated isolation. Ours is a need for defense and our military strength must be predicated upon the degree of menace which we face. At present outlook, the United States' need for a strong Military Establishment is obvious.

In the past, the United States has maintained merely a nominal Army and Air Force, and its Navy has been sharply limited. The assumption was that war, and international crises which could result in war, would be rare and that there would always be ample time to build a strong military force around this permanent cadre. Now the United States, in the forefront of world affairs, must continuously deal with political and economic pressures.

The maintenance of a huge military force and of enormous military budgets in peacetime poses a severe problem. It introduces a new element into our social and political life; this spending, both as a drain on the taxpayers and as purchasing power, can vitally affect our economy. The degree

NOTE. Secretary of Defense James Forrestal took no part in the preparation or consideration of this report.

of our success in achieving efficiency of military operations and planning, economy in execution, and proper relationship of this new force to our political and economic fabric can make the difference between democracy and totalitarianism, both for our Nation, and for the whole world.

Military strength and efficiency is important, but it is only one element of national security. National strength depends upon economic, political, and human values. We must, therefore, assure ourselves that the military arm of Government, in its new strength, will not grow up as a thing apart. In particular, it must be unequivocally under the direction of the executive branch and fully accountable to the President, the Congress, and the people.

Throughout its history, the United States has been fearful of military cliques and has thrown up safeguards against this threat to democratic government. Under the Constitution, we have subordinated the military to civilian control by making the President Commander in Chief of the armed forces, and by installing civilian secretaries to direct the departments.

The pressure of events has resulted in a budget of approximately \$15,000,000,000 in the current fiscal year, more than a third of all Federal appropriations, and large military budgets must be the expectation for the immediate future. Under these circumstances, the Nation must make very sure that means of exercising civilian control are strong and effective. We repeat, that under these circumstances, we must hold the military rigidly accountable to the President, the Congress, and the people. We must do this not only to safeguard our

democratic traditions against militarism, but to insure that military policy shall be in close accord with national needs and national welfare; and also to insure that the huge military budget shall be used with efficiency, and that costs shall be commensurate with actual needs without damaging or destroying our national economy.

At present, we can be sure of none of these things.

What is Wrong with the Present Organization

The National Security Organization, as legislated in 1947 to establish unification of the armed services and unified national policy on security, has achieved gains. Further improvement may be expected since the organization is still young, but there is evidence that the utmost that can be accomplished under the present statute will fall far short of national needs.

The Commission on Organization of the Executive Branch has had the benefit of an investigation into the National Security Organization by a distinguished committee. The committee found continued disharmony and lack of unified planning. Extravagance in military budgets and waste in military expenditure show a serious lack of understanding of the effect of military costs and spending upon the total economy. True national security depends more upon economic stability and political strength than upon military power.

Interservice rivalries indicate a lack of understanding of the fact that military security depends upon cooperation and balance among the Army, Navy, and Air Force, and upon the creation of a genuinely unified military arm. There is a lack of close working relationships among such important elements as the Research and Development Board

and the Joint Chiefs of Staff and the Central Intelligence Agency.

Some part of these weaknesses undoubtedly can be traced to the newness of the operation, but the Commission believes that they show serious organizational defects. The lack of central authority in the direction of the National Military Establishment, the rigid statutory structure established under the act, and divided responsibility, have resulted in a failure to assert clear civilian control over the armed forces.

Over-All Department Management

In our first report we have urged that the foundation of good departmental administration requires that the Secretary have authority from the Congress to organize and control his organization, and that separate authorities to component subordinates be eliminated.

In our Report on the Budget we propose a new form of "performance" budget for all departments. We also propose that each department or agency keep its own administrative accounts in the manner prescribed by an Accountant General in the Treasury and subject to the approval and audit of the Comptroller General.¹ The Commission also recommends that personnel recruitment be performed by the Department (except possibly in the lower grades), subject to standards and methods of merit selection to be proposed by the Department, but with the approval and enforcement of the Civil Service Commission.² The Commission likewise

¹ Report on Budgeting and Accounting.

² Report on Personnel Management.

recommends elsewhere that the procurement of supplies peculiar to the Department be decentralized into the Department, under standards and methods established in the Office of General Services.³ The items of common use would of course be handled by the latter office. Further, we propose that the Department should strengthen its management research unit, working in cooperation with a comparable staff unit under the Office of the Budget.⁴

Civilian Control and Accountability

In its study of the executive branch the Commission has established certain principles that must underlie systems of organization in order to assure the three essentials of good Government management: efficiency, economy, and clear accountability to the Congress and the people.

These principles call for centralization of authority and control in the President and the department heads, for clear lines of command and accountability, and for provision of adequate staff for policy formulation and for supervision of operation. Without these, the President and the department heads cannot exercise positive control and hence cannot be held responsible by the Congress and the people for failures or deficiencies of performance.

In the establishment of the present organization for national security, these principles have been repeatedly violated.

³ Report on the Office of General Services.

⁴ Report on General Management of the Executive Branch.

a. The President's authority has been curtailed by statutory stipulation of the membership and duties of both the National Security Council and the National Security Resources Board—the Cabinet committees concerned with vital defense policies.

b. The authority of the Secretary of Defense, and hence the control of the President, is weak and heavily qualified by the provisions of the act of 1947 which set up a rigid structure of federation rather than unification.

c. In direct proportion to the limitations and confusions of authority among their civilian superiors, the military are left free of civilian control.

The Commission's report on departmental management⁵ has pointed out the weaknesses and fallacies of a department in which statutory authority is delegated to subordinate units, and the department head is left with only the most general supervisory powers over policies, operations, and budgets. In such cases, the department head cannot enforce consistent policies and obtain the necessary efficiency and economy. Nor can he be held strictly accountable since he lacks authority to carry out the mandates of determined policy. The National Military Establishment as set up under the act of 1947, is perilously close to the weakest type of department.

The Secretary of Defense, at present, has only "general" authority over the service departments—the Army, Navy, and Air Force. He cannot hire and fire subordinates except on

⁵ See report on General Management of the Executive Branch.

his immediate staff. Almost all appointive power not in the President's hands is in that of the subordinate service secretaries. The powers of the Secretary of Defense over the budget for the National Military Establishment, and over expenditures, are inadequate. He is inadequately provided with staff and has no authority to reorganize the Establishment, most of whose machinery is rigidly prescribed by statute.

The principle of federation, rather than firm unification, is implicit in the statutory provision that "all powers and duties relating to such departments (the Army, Navy, and Air Force) and not specifically conferred upon the Secretary of Defense" are reserved to the departments. The pattern does not cease at that point. Within the service departments, subordinate units—such as the Corps of Engineers in the Army insofar as its civilian functions are concerned—have direct authority from the Congress exclusive of control even by their own secretaries.

Moreover, the service secretaries are given specific authority to resist the supervision of the Secretary of Defense in budgetary matters by appealing over his head to the President or to the Director of the Budget. The service secretaries set with the Secretary of Defense on the National Security Council and can "out vote" him in that body's deliberations. They have more staff for planning and execution and, in fact, operate as almost fully autonomous units.

Under these circumstances centralized civilian control scarcely exists. Each military branch follows its own pur-

Defense, and the service secretaries. Each will tend to answer much more to the service secretary who is his direct superior than to the single policies of a unified Establishment.

Here, too, it is clear that divided responsibility and allegiance are tantamount to an almost complete absence of control. Under this system, the Joint Chiefs of Staff are virtually a law unto themselves, as evidenced in the fact that their activities are not well-coordinated with intra-Military Establishment operations, nor with the policy work of the Cabinet councils. The Joint Chiefs of Staff, like the rest of the National Military Establishment, are not firmly under civilian control.

Budget and Expenditure

The present budget of the armed forces represents about \$100 per capita for the Nation, as contrasted with some \$2.25 before the First World War. Our task force reports that the current preliminary budget estimates of the three military departments for the fiscal year 1950 were for more than \$30,000,000,000.

Such a budget would be justifiable only if the Nation were actually involved in warfare. It would require a sharp reduction in production for civilian consumption, precipitate the need for controls over the economy and enormously increase inflationary pressures. It reflects a lack of realistic understanding by the three military departments of the economic and social factors of national security.

Moreover, military budgets are not drawn with careful

poses and, due both to the weakness of the Defense Secretary's powers and to the confusion of authority over them, has very much a free hand. In effect, divided responsibility means no responsibility. Civilian control thus depends directly upon the Congress whose chief mechanism is the tightening or loosening of the purse strings. In the present unsatisfactory state of military budget practices and procedure, the effectiveness of this mechanism in the hands of the Congress is highly attenuated.

In the period ahead when national security will demand a large military budget, this time-honored device for subordinating the military to civilian control will be ineffective. The remedy must be sought through organization of the executive branch to establish firm lines of authority and accountability. Otherwise, civilian control will continue to be a label instead of a reality.

What is true of the National Military Establishment is equally true of the operations of the Joint Chiefs of Staff. Three of the four members are spokesmen for separate service arms. The Secretary of Defense, and his viewpoint for the unified Establishment as a whole, is not represented in their deliberations. Thus, though the Secretary of Defense is, under the act, the principal assistant to the President, in military matters, he cannot, as a practical matter, maintain effective civilian control over this most powerful of military units. The Joint Chiefs of Staff, as a unit, report to two officials—the Secretary of Defense and the President. As individuals, they report to the President, the Secretary of

consciousness of cost factors. For example, an examination of the 1950 budget revealed estimates requesting modernization of 102 more tanks of a certain type than the Army actually possessed. In another case, a misplaced figure added some \$30,000,000 to budget estimates.

The committee which examined into these matters for the Commission on Organization of the Executive Branch was unable to compare with any degree of accuracy the cost of similar functions in the three services because of varied organizational structures and differing budgetary and accounting classifications and procedures.

Firm control over the budget and over military expenditures, as authorized by the Congress, is of the utmost importance to the national economy. Full control in the hands of the Secretary of Defense, under the authority of the President, would accomplish three main purposes: (a) It would assure budgeting and spending from the standpoint of national welfare, rather than from the standpoint of service rivalries; (b) it would assure clear and direct accountability to the President, the Office of the Budget, and the Congress through a single official, and by these means would assure a budget that conformed to national policy; (c) it would provide the Secretary of Defense with a most effective mechanism for asserting civilian control over the military.

Recommendation No. 1

The Commission, therefore, recommends:

- a. That full power over preparation of the budget and over expenditures as authorized by the Congress be

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vested in the Secretary of Defense, under the authority of the President.

- b. That the Secretary of Defense direct and supervise a major overhaul of the entire budget system; that the budget be of a performance type with emphasis on the objectives and purposes to be accomplished rather than upon personnel, supplies, and similar classifications; that uniform terminology, classifications, budgetary, and accounting practices be established throughout all the services along administrative lines of responsibility, so that fiscal and management responsibility go together.

Under the performance budget system, each major organizational unit with management responsibility would have to prepare, and defend before the Secretary of Defense, complete estimates for its activities on the basis of functions and performance, and therefore could be held responsible for any money it might spend. Accountability would extend to accounting for operating results and to the measurement of performance against standards set through budgetary planning and cost estimates.

Such a system would accomplish a great deal, not only for efficiency, but to establish the authority of the Secretary of Defense and hence to assure civilian control.

- c. That the armed services be required, at least in peacetime, to keep complete, accurate, and current inventories.

* This system of budgeting is discussed in detail in the Commission's report on Budgeting and Accounting.

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What Should Be Done To Improve Organization

The Commission calls attention to the findings of its task force report submitted separately to the Congress. The Commission is in general agreement with the conclusions and recommendations of the task force. However, the Commission feels that certain of the measures suggested by the task force for carrying out the policies need strengthening from the broader standpoint of reorganization of the entire executive branch—particularly to insure firm civilian control.

The Commission, in its first report, has recommended that all statutory restrictions on the National Security Council and the National Security Resources Board which limit the authority of the President should be removed and that the President have entire discretion over their membership, assignments, and direction.

The Commission recommends that the post of Chief of Staff to the President be abolished.

Civilian Control

Singleness of control is the essence of efficiency. The present scattering of authority is expensive, promotes rather than curtails service rivalries, and destroys the very principle of unification. Accountability is most strongly enforced when the President and the Congress, in the people's name,

can call a single official to book for his conduct of a Government operation.

Recommendation No. 2

Therefore the Commission makes the following recommendations:

- a. That the principle of unified civilian control and accountability be the guiding rule for all legislation concerned with the National Military Establishment and that full authority and accountability be centered in the Secretary of Defense, subject only to the President and the Congress.
- b. That all statutory authority now vested in the service departments, or their subordinate units, be granted directly to the Secretary of Defense, subject to the authority of the President, with further authority to delegate them as he sees fit and wise.
- c. That the Secretary of Defense shall have full authority, subject only to the President and the Congress, to establish policies and programs.
- d. That the service secretaries be deprived of their privilege of appeal over the head of the Secretary of Defense; that they be directly and exclusively responsible to him; that the Secretary of Defense be the sole agent reporting to the President; that the service secretaries, to clarify their positions, be designated the Under Secretaries for Army, Navy, and Air Force.¹

¹ Commissioners Hoover, Flemming, Manasco, and Mead dissent from the recommendation to change the designation of the service secretaries to Under

e. That specific provisions be made that the three military services shall be administered by the several under secretaries subject to the full direction and authority of the Secretary of Defense.

f. That there shall be Joint Chiefs of Staff representing the three services, appointed by the President and subject to confirmation by the Senate and that the Secretary of Defense, with the President's approval, shall appoint a chairman to preside over the Joint Chiefs of Staff and to represent, and report to, the Secretary of Defense.²

g. That all administrative authority be centered in the Secretary of Defense, subject only to the authority of the President, including full and final authority over preparation of the military budget and over the expenditure of funds appropriated by the Congress.

h. That the Secretary be provided with an Under Secretary of Defense, who shall be his full deputy and act for him in his absence, and three assistant secretaries; and that the Secretary of Defense be empowered to set up such personal assistants to himself as he shall require to relieve him of day-to-day detail, to advise and assist him in planning and carrying out programs, and to organize this staff as he sees fit.

i. That full authority for the procurement and management of supplies and matériel be vested in the

Secretaries as they believe that the importance of these positions, the magnitude of the departments, and the danger of diluting civilian control over the military at the departmental level by a change of title, outweigh considerations favoring a change.

² Separate views of certain Commissioners are stated later.

Secretary of Defense. The Secretary can delegate this authority to the Munitions Board (or to other officers or agencies as he may determine) with directions to expedite by all possible means the elimination of costly duplication in procurement and waste in utilization among the three services. Our further recommendations regarding the coordination of military with civilian supply management are contained in the Commission's report on the Offices of General Services.

Recommendation No. 3

The following recommendations are made regarding personnel:

- a.* That, in line with our recommendation below for an integrated system of military personnel administration, military education, training, recruitment, promotion, and transfers among the services be put under the central direction and control of the Secretary of Defense.
- b.* That the recruitment of civilian employees should be decentralized into the National Military Establishment under standards and procedures to be approved and enforced by the Civil Service Commission.^a
- c.* That full authority be vested in the Secretary of Defense, subject only to policies established by the Congress and the President, to prescribe uniform personnel policies for civilian and military personnel throughout the several services.

^a See the Commission's report on Personnel Management.

Teamwork

Recommendation No. 4

Teamwork and coordination throughout the National Military Establishment should be improved. For these purposes, the Commission recommends:

- a.* That more adequate and effective relations be developed at the working level among the appropriate committees of the Joint Chiefs of Staff on the one hand and the National Security Council, Central Intelligence Agency, Research and Development Board, Munitions Board, and the National Security Resources Board on the other hand.
- b.* That the jurisdiction and activities of the National Security Resources Board be further defined and clarified by the President.
- c.* That vigorous steps be taken to improve the Central Intelligence Agency and its work.

The present system of military administration does not allow for interchange of military and civilian personnel in administrative positions. Economy and efficiency would be fostered by a flexible system permitting the use of military or civilian skills in the higher posts of military administration and the Secretary should have authority to make such shifts as circumstances dictate.

Supervision over military personnel is now vested in the service department heads and in the President, not in the Secretary of Defense. There are, in addition, many statu-

tory prescriptions of certain administrative services such as promotion boards, retirement boards, and others composed of military personnel, all of which serve to restrict the authority of the Secretary and his top civilian administrators. Moreover, statutory specifications of the numbers and grades of military personnel to be assigned to specific organizational units limit the most economical utilization of available military manpower when conditions require transfers and changes among organizational units.

The Secretary should have full authority to organize personnel management throughout the Military Establishment for greater efficiency and economy, and present hampering restrictions should be removed.

Medical Services

Recommendation No. 5

That steps be instituted to implement the recommendations which the Commission will file later concerning the medical departments of the three services, and their coordination with other medical programs of the Federal Government, as detailed in the Commission's separate report on medical services.

Civilian and Industrial Mobilization

For the security of the Nation, the formulation of plans for civilian and industrial mobilization should be completed at the earliest possible date.

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Recommendation No. 6

The Commission therefore makes the following recommendations:

- a. That emergency plans for civilian and industrial mobilization be completed promptly and continuously revised.
- b. That use of civilian advisory boards should be continued.
- c. That full responsibility and authority for formulating stock-pile policy and for its execution be clearly determined and centralized.
- d. That further steps be taken immediately under the President's direction to prepare plans for civilian defense. Such an effort will require the participation of many agencies of Government. Similar action should be taken under the President's direction with respect to internal security. No clear allocation of responsibilities has been worked out among the agencies involved. The Commission believes that the problem in this area is one of determining what needs to be done and designating administrative responsibilities.
- e. That defenses against unconventional methods of warfare be developed promptly and more vigorous and active attention be given to psychological warfare.
- f. That the economic warfare section of the National Security Resources Board develop a comprehensive economic warfare program aimed at supporting national security both in peace and war.

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Conclusions

These provisions should insure the full control and accountability of the National Military Establishment and the full subordination of the military to civilian control by establishing the Secretary of Defense as the principal assistant to the President in military matters, responsible to him and to the Congress for the conduct, efficiency, and economy of the National Military Establishment. Lines of command would be clear; interservice rivalries reduced by the fresh emphasis on the singleness of purpose of the total military effort; efficiency promoted and economy achieved through consistent policy and program, and through centralized control.

Related Task Force Reports

The Commission has had printed volume I of the task force report and it is submitted to the Congress separately as Appendix G, National Security Organization. Other volumes of the task force report are submitted to the Congress separately in typescript.

Acknowledgment

We wish to acknowledge the able service of the task force on National Security Organization comprising:

Chairman

FERDINAND EBERSTADT, president, F. Eberstadt & Co., New York City; chairman, Army and Navy Munitions Board, 1942 and former vice chairman, War Production Board 1942-43.

Committee

RAYMOND B. ALLEN, president of the University of Washington.
THOMAS ARCHER, vice president, General Motors Corp.
HANSON W. BALDWIN, of the New York Times.
CHESTER I. BARNAB, president, Rockefeller Foundation.
DR. CHARLES W. COLS, president of Amherst College.
JOHN COWLES, president, Minneapolis Star and Tribune.
JAMES KNOWLSON, president of Stewart-Warner Corp.
JOHN J. McCLOY, president, International Bank for Reconstruction and Development.
DR. FREDERICK A. MINOGLABUSI, President of the University of Missouri.
ROBERT P. PATTERSON, of Patterson, Belknap & Webb.
LEWIS L. STRAUSS, Commission member, Atomic Energy Commission.

J. CARLTON WARD, Jr., chairman of the board, Fairchild Engine & Airplane Corp.
GEN. ROBERT E. WOOD, chairman of the board, Sears, Roebuck & Co.

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CHARLES E. WILSON, president, General Electric Co.

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Separate Statement by Vice Chairman Acheson, Commissioners Mead, Pollock, and Rowe

We cannot agree with the recommendation of the other members as to the Joint Chiefs of Staff. We feel this Commission should go one step further and recommend to the Congress the creation of a single Chief of Staff over the Joint Chiefs of Staff.

The full Commission is, we think, in complete agreement as to the *problem* inherent in the present system of the Joint Chiefs. Our differences lie in the way it should be solved.

Stated simply, there are several major flaws today which are for the most part caused by deficiencies in organization. The existing structure operates to prevent our disinterested and able—indeed often brilliant—high-ranking military men from performing the best service of which they are capable for their country. We think these faults can be remedied by the improvement in organization and structure which we suggest.

As presently organized the Joint Chiefs are, for one thing, "too remote," to use the words of our task force report. They are remote from the control of their civilian heads, the constitutional Commander in Chief and his chief adviser and assistant in the field of national security, the Secretary of Defense. Our task force tells us also that they are remote from the civilian scientists who must try to arm them wisely for

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the future—the Research and Development Board. They are remote from the Munitions Board which must arm them now and in the immediate years ahead.

For another thing, they appear to be too deeply immersed in the point of view of their particular services. Since they occupy dual roles—they are heads of separate services as well as members of the Joint Chiefs—they must, perforce, be advocates. The task force report has said:

. . . the individual Chiefs of Staff have allowed themselves to be influenced far too much by considerations of service particularism and aggrandizement and have failed sufficiently to recognize and accept their responsibilities as an integrating agency of national military policy. . . . individually they have been too heavily burdened with departmental obligations to give their important duties as members of the Joint Chiefs of Staff the time and thought that those duties demand.

We feel that only by the creation of the post of a single Chief of Staff can these faults be remedied. Essentially, they are the same—a lack of civilian control and damaging service rivalries—which by its findings the full Commission has recognized do exist throughout the military establishment. We think we should take this one step more. For if we are really to achieve economy and efficiency in the military the place to begin is here. As the annual report of the Secretary of Defense has put it, “the nerve center of unification lies in the Joint Chiefs of Staff.”

Just as the Commission has recommended centralizing authority in the Secretary of Defense (as in all other departmental heads), and has suggested adequate civilian staff assistance so that such control will be exercised effectively,

we likewise believe his control and authority should be bolstered in the military sphere by giving him the technical staff assistance he needs, in the form of a single Chief of Staff as his adviser.

If the President and the Secretary of Defense are to decide intelligently the civilian head must have staff advice responsive to him and not to one of three services. If the Congress is to legislate wisely, to appropriate judiciously, it must be advised from an *over-all* strategic point of view, not on the basis of a compromise of desires of three separate services.

A single Chief of Staff, with adequate staff, will, we believe, escape from the particularistic view of one service; a tradition aimed toward the over-all defense needs of the Nation will begin, and today's habit of advocacy will diminish and gradually disappear.

Civilian control can be either strong or weak. It is strong if the information on which civilians—the President, the Secretary, the Congress—must rely to make their decisions is objective and complete; and it is weak if these decisions must be made without such information. It is strong if there is a clear line of responsibility for carrying out these decisions, once made; and it is weak if responsibility is dispersed and accountability is proportionately diffused, as is the situation in the military establishment today. It is strong if the military program is unified to a degree so that the whole is stronger than the sum of its parts; and it is weak if the whole must be determined by civilians through attempts to judge the merits of separate service programs which do not merge.

A President, a Secretary cannot judge wisely without professional aid directed at the problem as a whole and not at its parts.

We believe that a single Chief of Staff will strengthen, not weaken, the tradition of civilian control of the military, a tradition which is held most closely by our people and one which we think needs reaffirmation by action.

Accordingly we recommend the post of Chief of Staff for the Armed Services.

He would have staff functions only, *not* command functions. He would be a staff adviser to the Secretary who should make the decisions, and to the President whenever the latter so requires.

He would preside over the Joint Chiefs of Staff, with the power to initiate and terminate discussions. He would bring to the Secretary for decision the recommendations of the Joint Chiefs, including disagreements. He would give his own recommendation to the Secretary on such agreements and disagreements. In the absence of the Secretary at meetings he would give the Joint Chiefs the Secretary's views, if formulated.

The Joint Staff would be subordinate to him. He would have such personal staff assistance as the Secretary would decide.

He would be called the Chief of Staff and not "chairman," "responsible head," "principal adviser," or some other temporizing title.

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We would emphasize his importance by his rank. His post should carry the most senior active rank in the services. Like all other officers, he would of course be appointed by the President and confirmed by the Senate. His would be the post to which every young professional soldier, naval officer, and airman would aspire, instead of, as now, to be the head of a separate service.

He would advise the civilian policy makers on the over-all strategic problems they must take into account. In turn, he will be familiar with our national policy, particularly with national economic considerations and, at the direction of the Secretary, will transmit them down through the three services so they will become more economy-minded than they now are.

His awareness of considerations other than military, his over-all defense point of view, and his technical military skill would enable him to advise the Secretary on the military budget; he could distinguish the necessary from the merely desirable.

The solution we recommend is not new to the United States. In a previous period of our history it was tried and not found wanting. Elihu Root, when Secretary of War, found the cavalry, infantry, and artillery immersed in dangerous service rivalries and found himself making hard decisions without benefit of over-all technical advice. He recommended that the post of Chief of Staff be created in the Army. Through the years since it has often been filled by our most brilliant officers.

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Today's problem while larger and more complex is, we believe, the same one. We feel its solution is so urgent, so vital to our national security, that we should not temporize any longer.

DEAN ACHESON.
GEORGE H. MEAD.
JAMES K. POLLOCK.
JAMES H. ROWE, JR.

Business Organization
of the
Department of Defense



A REPORT TO THE CONGRESS

by the

COMMISSION ON ORGANIZATION OF THE
EXECUTIVE BRANCH OF THE GOVERNMENT

JUNE 1955

Letter of Transmittal

June 20, 1955.

DEAR SIR:

In accordance with Public Law 108, Eighty-third Congress, approved July 10, 1953, the Commission on Organization of the Executive Branch of the Government submits herewith its Report on Business Organization of the Department of Defense.

The Commission has had the services of an able Committee presided over by Mr. Charles R. Hook, Sr., Chairman of the Board of Armco Steel Corporation of Middletown, Ohio. He and 15 members of the Committee served during the last war in connection with the business organization of the Defense services.

The Commission endorses the recommendations of the Committee on Business Organization of the Department of Defense and includes its report as a part of the Commission Report.

Respectfully,

Chairman.

**Commission on Organization of the Executive
Branch of the Government**

HERBERT HOOVER, Chairman

HERBERT BROWNELL, Jr. ROBERT G. STOREY
JAMES A. FARLEY CLARENCE J. BROWN
ARTHUR S. FLEMMING CHET HOLIFIELD
STYLES BRIDGES JOSEPH P. KENNEDY
JOHN L. MCCLELLAN SIDNEY A. MITCHELL
SOLOMON C. HOLLISTER

*The Honorable
The President of the Senate
The Honorable
The Speaker of the House of Representatives*

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Acknowledgments

The investigation into the business organization of the Department of Defense was performed by a committee under the chairmanship of Mr. Charles R. Hook, Chairman of the Board of ARMCO Steel Corp., and comprising the members listed below:

Chairman

Charles R. Hook. Middletown, Ohio. Executive. Chairman, ARMCO Steel Corp. Served in Department of Defense and other Government activities during World War II. Member, Business Advisory Council, Department of Commerce, and various civic activities.

Vice-Chairman

Reuben B. Robertson, Jr. Cincinnati. Executive. Yale University. Served in U. S. Army during World War II. Trustee, various institutions. Member, Business Advisory Council, Department of Commerce. Headed Survey Group to evaluate Mutual Security operations in Germany. Now President, Champion Paper & Fibre Co.

Members

Joseph P. Binns. New York. Executive. Cornell University. Colonel, Army Air Force in World War II; Chief of Supply and Service, ATC of the Army Air Force in Europe. Now Managing Director, The Waldorf-Astoria, and Vice President, Hilton Hotels Corp.

George C. Brainard. Cleveland, Ohio. Executive. Cornell University. Served with Army Ordnance Department in both World Wars; later with Office of Production Management and War Production Board. Now Chairman of the Executive Committee, Addressograph-Multigraph Corp.

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Frank M. Folsom. New York, N. Y. Executive. Formerly Vice President and Director, Montgomery Ward & Co. During World War II served as member of National Defense Council and as Special Assistant to the Under Secretary of the Navy. Now President, Radio Corp. of America.

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Clifford E. Hicks. New York, N. Y. Civil Engineer. New York University. President, New York Dock Co. and New York Dock Railway. Former Member, Munitions Board Storage and Handling Industry Advisory Committee.

Mervin J. Kelly. Short Hills, N. J. Research Engineer. Missouri School of Mines and Metallurgy, University of Kentucky, and University of Chicago. Formerly physicist with Western Electric Co. Served on various governmental committees. Formerly physicist, now President, Bell Telephone Laboratories.

Arthur Franklin King. San Francisco, Calif. Publisher. Ohio Wesleyan University. Formerly with McGraw-Hill Publishing Co. Now President, King Publications.

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John R. Lotz. New York, N. Y. Executive. University of Illinois. Former Chairman of Board, Stone & Webster Engineering Corp. Industrial Advisory Committee for revision of reparations and dismantling plants in Germany. Retained by Secretary of War to report on impact of reparations on Japan, and by Government of Iran to study necessity for and implementation of its 7-year development plan.

George Houk Mead. Dayton, Ohio. Executive. Hobart College and Massachusetts Institute of Technology. Member and Chairman, Business Advisory Council, United States Department of Commerce; various government boards and commissions during World War II. Now Chairman of the Board, Mead Corporation. Member, first Hoover Commission.

Frank H. Neely. Atlanta, Ga. Formerly with Westinghouse Electric & Manufacturing Co. Now Chairman of the Board of Rich's in Atlanta. Chairman, Federal Reserve Bank of Atlanta.

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Thomas R. Reid. Dearborn, Mich. Executive. University of Arkansas. Presently Director of Civic Affairs, Ford Motor Co. Former Chairman, Surplus Manpower Committee, Office of Defense Mobilization, now on consulting basis.

Franz Schneider. New York, N. Y. Executive. Formerly Financial Editor of New York Post. Served in the Army during World War I; was Deputy Administrator of War Shipping Administration during World War II; Special Advisor to the Director of the Office of War Mobilization. Now Executive Vice President of Newmont Mining Corp. Staff member, first Hoover Commission.

Perry M. Shoemaker. Summit, N. J. Railroad Executive. University of Michigan and Yale University. With Pennsylvania, Erie and New Haven Railroads until 1941. Now President, Lackawanna Railroad.

J. Harold Stewart. Boston, Mass. Certified Public Accountant. Northeastern University. Past President of Massachusetts Society of Certified Public Accountants and of American Institute of Accountants. During World War II, Chairman, Committee on Cost Prin-

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principles, Joint Contract Termination Board and later Assistant Director, Office of Contract Settlement.

Robert W. Wolcott. Paoli, Pa. Manufacturer. Lehigh University. President, Lukens Steel Company, 1925-49. Now, Chairman of the Board. Director, American Iron and Steel Institute; Member of the Industrial Committee, Iron and Steel Division, War Production Board, and also liaison representative, Department of Commerce during World War II.

Robert E. Wood. Chicago, Ill. Executive. United States Military Academy. Director of Panama Railway and Chief Quartermaster General of the Army in construction of the Panama Canal, 1905-15; Acting Quartermaster General, U. S. A., during World War I. Until recently Chairman of the Board, Sears, Roebuck & Company. Member, task force on National Security Organization, first Hoover Commission.

Assistant to the Chairman and Liaison Director

Frank Urman, Jr. Stamford, Conn. University of Virginia. Served as Chief Engineer and Highway Commissioner, Connecticut; Chief Liaison Officer for President's Congested War Production Area's Committee; Director of Transportation, Allied Control Commission, Italy; member of General Review Board passing on disposal of War Surplus Real Property; consultant to National Security Resources Board on special security matters.

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The commission wishes to express its appreciation of the services and devotion of the members of the committee and to record its appreciation for the information and assistance provided by the officials of the various Federal agencies.

Commission Report and Recommendation

The studies of the first Commission on Organization of the Executive Branch of the Government of 1947-49 were based mainly upon studies of individual agencies. The studies of this Commission and its task forces have been based, with one exception, upon studies of similar functions straight across the whole executive branch. The single exception was the Department of Defense. This comprehensive study of the business—mostly civilian—side of this Department has been made for two reasons:

First, many of our functional task force studies led into the Department and each of them developed the possibilities of savings of considerable dimensions.

Second, the Department of Defense alone expends annually about \$35,000,000,000 or nearly 60 cents out of each of the taxpayers' dollar.

It therefore was imperative to give special study to the business structural organization of a Department which spends such enormous sums.

Therefore this Commission organized the "Committee on the Business Organization of the Department of Defense" to make this overall study.

Much of its work was based partly upon the work of separate task forces and subcommittees.

| <i>Task Forces and Subcommittees</i> | <i>Chairmen</i> |
|--|---------------------|
| Budget and Accounting..... | J. Harold Stewart |
| Business Enterprises..... | Joseph B. Hall |
| Depot Utilization..... | Clifford E. Hicks |
| Food and Clothing..... | Joseph P. Binns |
| Legal Services and Procedure..... | James M. Douglas |
| Medical Services..... | Dr. Theodore Klumpp |
| Personnel and Civil Service..... | Harold W. Dods |
| Procurement..... | Robert W. Wolcott |
| Real Property..... | John R. Loz |
| Research Activities..... | Dr. Mervin J. Kelly |
| Special Personnel Problems in the Department of Defense..... | Thomas R. Reid |
| Transportation..... | Perry M. Shoemaker |
| Use and Disposal of Surplus Property..... | Gen. Robert E. Wood |

The chairman or members from 12 of these task forces and subcommittees were also members of the overall "Committee on the Business Organization of the Department of Defense." Including the members of the committee and subcommittees, more than 100 men distinguished in their business and professions have taken part in this study, its findings and recommendations.

The various task forces have estimated that probably upward of \$2,000,000 of annual savings could be secured by the business organization of the department which they propose.

Neither we nor the task forces of this commission consider this situation as the fault of individual officials. On the contrary, they and we express our admiration for both our civilian and military officials.

The fault lies in the outmoded systems of administration.

(a) Many of these weaknesses are due to the expansion of the military services in 20 years from a civilian personnel of about 140,000 to 1,180,000 and a military personnel of 250,000 to nearly 3,000,000. Many of these systems, efficient in the smaller dimensions of the past, are inefficient today.

(b) Many of these faulty systems are encumbered by traditions, admirable enough at one time but not adapted to the immense business problems of today.

(c) Many of these faulty systems arise from static laws from other days which create roadblocks to effective improvement.

(d) Many of these faulty systems are not responsive to the changes in structure of the military establishment as a result of the National Security Act of 1947 and its amendments, and need to be modified as a result of experience in their practical working.

When our task forces point out examples of the workings of these outmoded systems, it is for the purpose of illustration and not in criticism of officials or departments or agencies. These officials have struggled manfully with these tangles and have brought about many improvements. Considering the difficulties under which they labor, the Defense Department is better administered than might be expected.

The Report of the Committee on the Business Organization of the Department of Defense is so succinct that it cannot be condensed. The committee makes 19 recommendations, of which 9 are within the present authority of the departmental officials and 10 would require legislation.

This report presents four major programs for achieving improved management in the Department of Defense and the reasons therefor:

First.—Recommendations for realignment of civilian staff duties and lines of authority in the conduct of the business operations of the Department and coordination with the military commands.

Second.—Recommendations for compliance with the congressional mandate for unification of the supply of common use commodities and common use services by the branches of the military establishment, and the method of organization.

Third.—Recommendations for improvement of personnel in the management of business activities.

Fourth.—Recommendations for improving and fixing responsibilities in the financial management of the business activities of the Department.

This Commission has but one recommendation.

Commission Action

We endorse the recommendations of the Committee on Business Organization of the Department of Defense. To avoid repetition we include its report as a part of this commission report.

This recommendation does not, however, constitute an endorsement of all the recommendations of the various subcommittees which are summarized in appendix A, these having been dealt with in other reports.

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Report on Business Organization of the Department of Defense

☆

Programs for Improving Management

☆

Prepared for the

COMMISSION ON ORGANIZATION OF THE
EXECUTIVE BRANCH OF THE GOVERNMENT

by the

COMMITTEE ON BUSINESS ORGANIZATION
OF THE DEPARTMENT OF DEFENSE

Letter of Submission

May 31, 1955.

The Honorable HERBERT HOOVER,
*Chairman, Commission on Organization of the
Executive Branch of the Government*
Washington 25, D. C.

MY DEAR MR. HOOVER: In accordance with your instructions, the Committee on Business Organization of the Department of Defense has evaluated all task force reports, and is transmitting herewith a final report setting forth recommendations for a more efficient, economical and businesslike defense organization.

Our work dealt primarily with the top management structure represented by the Secretariats, and with the management of those areas classified as "support activities." These areas include the functions of financial management, personnel management, research and development, and the provision of materiel and services to the operating forces.

This report presents four major programs for achieving improved management in the Department of Defense. These are:

First.—Improve organizational framework. In this manner civilian control will be made more effective, the support activities will be better organized, and better opportunity for executive teamwork will be provided.

Second.—Integrate common supply and service activities. This will result in greater support effectiveness, efficiency and economy.

Third.—Increase tenure, motivation and skill of both civilian and military executives. This will result in improving the total management of the support activities.

Fourth.—Establish better financial control throughout all levels of the Department of Defense, thus enhancing top management control and economy of operation.

In developing our recommendations, we have been guided by the suggestions of other task forces and our own subcommittees. In

addition, we have carefully studied all other major reports concerning the organization and management of the defense establishment. The task forces and subcommittees which were of major assistance to us were:

Task Forces

- Budget and Accounting
- Food and Clothing
- Legal Services and Procedure
- Medical Services
- Personnel and Civil Service
- Procurement
- Real Property
- Use and Disposal of Surplus Property

Subcommittees

- Business Enterprises
- Depot Utilization
- Research Activities
- Special Personnel Problems
- Transportation

An examination of the basic organization for conducting military operations was beyond our assigned mission, and this Report contains no comment on that subject. The basic military structure is, however, inseparably interwoven with the business management and support structure.

We wish to recognize the cooperation received from both civilian and military officials in the Department of Defense. Further, we wish to express to you our appreciation in having been privileged to serve with the Commission.

Respectfully and sincerely yours,

CHARLES R. HOOK, *Chairman*
Committee on Business Organization of the
Department of Defense.

IMPORTANCE OF IMPROVING BUSINESS
MANAGEMENT IN THE
DEPARTMENT OF DEFENSE

- *The Unique Characteristics of the Department of Defense*
 - *The Importance of Support Activities*
-
-

Introduction

Importance of Improving Business Management in the Department of Defense

This committee has studied the organization and management of the Department of Defense, paying particular attention to support or "business-type" activities.

The most obvious opportunity to make real savings in the cost of Government is in the Department of Defense because it has three-fourths of the Government's payroll and more than 60 percent of its total budget. The tools, services and materiel needed in the defense effort, together with their management, constitute the major cost of national defense.

The commission decided that the business organization of the Department of Defense should not be reported in piecemeal fashion, but coordinated into an overall report. This committee, therefore, has reviewed the task force reports to the extent that they have dealt with the military establishment. To cover subjects not included in task force studies, five subcommittees were formed to render separate reports.¹

In any assessment of the findings of these studies, it must be kept in mind that the Department of Defense is unique

¹ Appendix A to this committee's report summarizes the recommendations of 8 task forces and 5 subcommittees concerning the business organization of the Department of Defense.

in its size, complexity and organizational structure. Thus, its management practices must be geared to these unique characteristics.

The Unique Characteristics of the Department of Defense

The Department of Defense has many characteristics which make it unlike any other organization known to the free world.

It is, by any yardstick of measurement, the largest organization. Its expenditures consume one-seventh of our national income. The Department employs 4,300,000 people, which is more than twice the manpower of the 10 largest corporations of the Nation combined, and is 7 percent of the active national labor force, including military personnel. Its assets, real and personal, approximate \$149,000,000,000, which is equal to the value of all privately owned land in the United States. Its activities are spread throughout the 48 States, in 16,000 cities, and extend abroad to 53 other countries.

The activities of the Department of Defense encompass a wider range than those of any other enterprise. Not only does it have counterparts of almost every commercial and industrial enterprise found in the civilian economy (many being on a much vaster scale than those of the civilian economy) but in addition it has the task of recruiting, training, and organizing for combat operations, a task which has no counterpart in civilian enterprise.

Because national survival is at stake, cost cannot be the primary factor. In the words of a prominent flag officer, "our military people are not hired primarily to see how little they can get along with; they are hired primarily to seek to get enough material to meet their responsibilities."

An Assistant Secretary of Defense said along the same line, "••• it is not unreasonable to expect responsible military personnel to desire sufficient manpower and material at any place and at any time to minimize potential military risks. Cost, even though given active and sympathetic recognition, tends to assume a secondary role."

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The Subcommittee on Special Personnel Problems concluded: "Military leaders should emphasize military requirements and should not be expected to give first concern to the capabilities of the national economy. On their shoulders rests the heavy responsibility of defending the country; someone else needs to determine what the country can afford within the risks the country is willing to assume."

From a management viewpoint, the Defense establishment is made even more complex by three different sets of executives. First, there are the highly trained and disciplined military leaders upon whom the Nation must depend for the planning and conduct of defense. Second, there are the career civilian managers who provide continuity and skills usual to the civilian economy. Over both are top civilian administrators—the Secretariat²—whose responsibility is to insure that the military machine is used as an implement of public policy, to give it the overall direction that stems from the authority of the President, and to see that it is operated with all possible economy and efficiency.

Over a period of years, the ablest leaders in the country have attempted to organize and manage the national defense along the same successful and economical lines that our Nation is accustomed to in business and industry. These efforts have resulted in the establishment of the Department of Defense. (Appendices B and C indicate steps in the development of the Department of Defense and its present organization.)

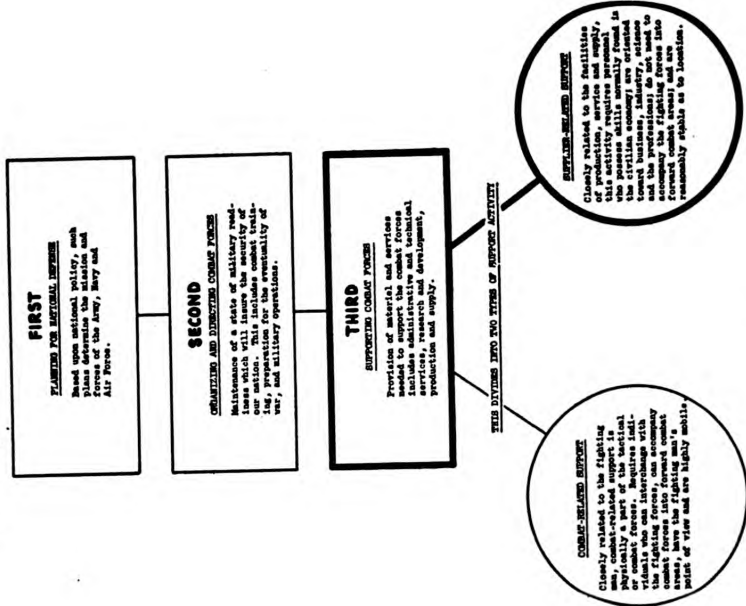
The committee wishes to give full recognition to important accomplishments since World War II, and to pay tribute to the civilian and military executives who are continuing to

² "Secretariat(s)," as used in this report, refers to the top group of civilian administrators in the Office of the Secretary of Defense and in the 3 military departments, consisting of the Secretary, Deputy Secretary, and Assistant Secretaries of Defense; the Secretaries, Under Secretaries, and Assistant Secretaries of the military departments; and comparable officials.

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EXHIBIT I

THE THREE BASIC TASKS OF THE DEPARTMENT OF DEFENSE
(showing the relationship of support activities)



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struggle with the most difficult management responsibilities imposed on any group of men in our society.

The Importance of Support Activities

Exhibit I illustrates and defines the basic tasks involved in the National Defense effort. They are as follows:

Planning for national defense involves laying down broad guidelines within which the Department of Defense will work. This planning must consider the national policy established by the Congress, the President and the National Security Council, and determine the mission, forces and weapons of the military services.

Organizing and directing combat forces. After the national defense plans have been established, it is necessary to organize for military readiness and to direct combat forces in the defense of the country. This task includes recruiting, training, military exercises and other military operational activities.

Providing support to the combat forces. The remaining task is that of providing the material and services required to support the combat forces. The support activities are those concerned with procurement, production, distribution, facilities, research and development, and personnel and finance related to these activities. These activities are further divided into two types:

Combat-related support, which includes activities closely related to the fighting man, and which are physically a part of the tactical or combat forces. These activities require individuals who can interchange with the fighting forces, can accompany combat forces into forward combat areas, have the fighting man's point of view, and are highly mobile.

Supplier-related support, which includes activities closely related to the facilities of production service and supply. These activities require personnel who possess skills normally found in the civilian economy; are oriented toward business, industry, science and the professions; do not need to accompany the fighting forces into forward combat areas; and are reasonably stable as to location.

It is with the management of the supplier-related support activities that the studies of this committee chiefly are concerned. Studies show that the structure of the military departments has not kept pace with the vastly increased importance of support activities which has resulted from fundamental changes in the concept of military operations. It appears that the organization of the departments has given inadequate recognition to the impact of the new military support demands on—

- The available natural resources
- The industrial resources of the Nation
- The national labor force
- The public purse.

The Secretary of the Army's 1954 plan for reorganization had this to say about the insufficient recognition of logistics, or support, in the actual test of war.

For both major wars fought in this century, the Army has had to change its organizational structure radically in order to perform under wartime conditions. Each time the primary weakness was in the logistics area. • • • •

These statements contained in the Riehlman and Davies reports attest to the growing realization of the importance of supply:

The Riehlman Report. "In recent years the entire art of warfare has been completely transformed. This has come about through the application of science and technology to weapons and their uses. • • • This means that the Nation is faced with keeping underway a mobil-

^a Secretary of the Army's Plan for Army Organization, June 14, 1954.

ized research and development program which goes all out to maintain our military superiority."⁴

The Davies Report. "Continuing technological change, the persistent development of firepower, and the prospect that this country's Army will be faced by an enemy with vastly superior manpower make the development of the best possible weapons and equipment a matter of transcending importance. Hence, a large proportion of the Army's manpower—military and civilian—is engaged in the essential tasks of developing, procuring, producing, and distributing munitions and supplies and providing essential services for the combat forces."⁵

President Eisenhower, in proposing Reorganization Plan No. 6 of 1953, said that: "Immediate attention will * * * be given to studying improvements of those parts of the military departments directly concerned with the procurement and distribution of munitions and supplies and the inventory and accounting systems within each military department."

In this message the President directed that an organization study be conducted in each military department. These studies, together with action for their implementation, represent steps toward making an organizational distinction between the military operations and the support activities.

The new organization plan for the Army moves toward a distinction between tactical and support activities in that the logistical services have been placed under the direct command jurisdiction of a Deputy Chief of Staff for Logistics. This official is responsible concurrently to the Assistant Secretary of the Army for Logistics and to the Chief of Staff.

⁴ Riehlman Report: *Organization and Administration of the Military Research and Development Programs*; 24th Intermediate Report of the House Committee on Government Operations; Aug. 4, 1954.

⁵ Davies Report: *Organization of the Army*; Report of the Advisory Committee on Army Organization; Dec. 18, 1953.

The Navy's organization plan places the active responsibility for the business and production activities with the Under Secretary. The distinction between tactical and support activities in the Navy, therefore, is made at the secretarial level.

In the Air Force, organization for support is found in major air commands, which represent a mission type of organization. For example, the Air Materiel Command is responsible for all matters of supply, and the Air Research and Development Command has responsibility for research and development. These support activities are part of the line organization, responsible to the Chief of Staff.

This description of current organization for support activities in the three departments serves also to illustrate basic differences in their overall organization.

One theme is implicit in the Hoover Commission task force and subcommittee reports:

The management of the Defense establishment is no longer principally one of managing tactical operations. Of equal importance today is the development and production of implements, supplies and services of war—and this aspect of Defense management has come to require as much specialized knowledge and expert direction as is traditional in the command of tactical operations.

The objective of this report is to improve management in the Defense establishment, with particular reference to the support activities. Programs for achieving this objective are presented in the succeeding four parts of this report.

Part I

**PROGRAM FOR IMPROVING BUSINESS
MANAGEMENT ORGANIZATION**

- The Role of Principal Members of the Defense Management Organization
- Primary Obstacles to More Effective Management Coordination
- Proposed Revisions in Management Organization

Program for Improving Business Management Organization

The conclusions of Hoover Commission task forces and subcommittees underscore the need for continuing improvements in the organization of the Department of Defense to accomplish three objectives:

First, clear and unchallenged direction of the entire defense establishment by the Secretary of Defense, the Secretaries of the three military departments and their Secretariats.

Second, logical delegation of responsibilities to the members of the Secretariats so that each has a manageable set of duties and adequate authority to carry them out.

Third, close teamwork among all members of the top executive organization, including the members of the Secretariats and those responsible for the military command of the operating forces.

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The committee has evaluated the organization of the Department of Defense in the light of these objectives, and proposes the changes outlined in this chapter.

The Role of Principal Members of the Defense Management Organization

The management structure of the Department of Defense is illustrated in exhibit 2, annotated to show the present prescribed role of its principal members. Most of these definitions are drawn from President Eisenhower's message accompanying Reorganization Plan No. 6.

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The Secretary of Defense and the three Departments Secretaries have unquestioned responsibility, and full authority, in all matters relating to the Defense establishment. All other members of the Secretariat, as well as the principal military executives (the military Chiefs of Staff), are responsible to 1 of these 4 top managers. While the committee presents a number of recommendations in this report on organization, it desires to emphasize at the outset that accountability for final results is lodged in the four Secretaries, and that all improvements suggested are designed to assist them in the discharge of their responsibility.

Within the Office of the Secretary of Defense, those who assist the Secretary are (1) the Joint Chiefs of Staff who are responsible for military planning, and (2) the Deputy and Assistant Secretaries who are responsible for planning, coordination and direction as assigned by the Secretary. The committee endorses and supports President Eisenhower's statement that the role of the Assistant Secretaries is to provide a continuing review of the programs of the Defense establishment and to assist in instituting major improvements "without imposing themselves in direct line of responsibility and authority between the Secretary of Defense and the Secretaries of the Departments."

Within each military department, those who assist each Secretary are (1) the military Chief of Staff who has command of the operating forces, and (2) the Under and Assistant Secretaries who assist the Secretary in the overall administration of the department and in the management of support activities.

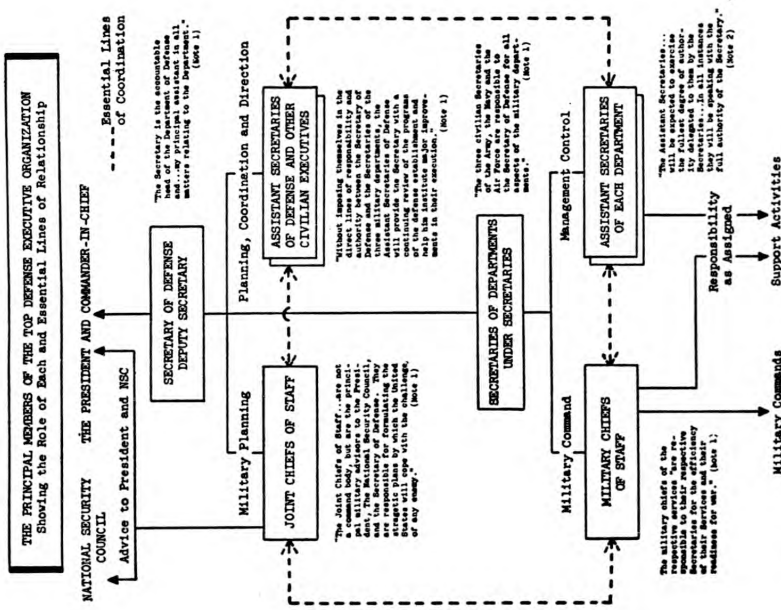
The Committee confirms the soundness of these roles.

Primary Obstacles to More Effective Management Coordination

Four obstacles are impeding close and productive working relationships among top defense executives. These obstacles are as follows:

First, decisions and information do not flow freely from the Joint Chiefs of Staff to the Assistant Secretaries of Defense. Thus, a weakness exists in top defense management which deprives our Na-

EXHIBIT 2



Note 1 - President Eisenhower's message transmitting reorganization Plan No. 6, April 29, 1953.
 Note 2 - Secretary of Army's Plan For Army Organization dated June 14, 1954.

tion of the intended benefits of full civilian participation in the formulation and execution of national defense plans and programs.

Second, the assignment of responsibilities among members of the Secretariat in the Office of the Secretary of Defense impedes effective coordination. This is due to the numerous interrelationships among the functions for which these executives are responsible. Further, there is a lack of similarity in assignments to the Assistant Secretaries in the Office of the Secretary of Defense and in the military departments.

Third, the responsibilities of the Assistant Secretaries in the military departments differ significantly in nature and scope—a condition which complicates coordination and understanding between each department and the Office of the Secretary of Defense and among the departments themselves.

Fourth, responsibility for the management of support activities is not clearly defined between the principal military and the principal civilian executives.

These obstacles are shown graphically in exhibit 3.

Proposed Revisions in Management Organization

To remove these obstacles the committee recommends the organizational revisions described in the following paragraphs.

Planning for National Defense

The studies of the task force on procurement reveal important deficiencies in defense planning:

Guidance furnished the military departments for basic procurement planning is inadequate because of weaknesses in unified military planning. The primary causes for these weaknesses are the sheer difficulty of the task; the inevitable partisanship of the Joint Chiefs of Staff; their lack of time for planning; their reluctance to share the planning task with the Assistant Secretaries of Defense and others; and the reluctance of civilian Secretaries to assume responsibilities on military planning.

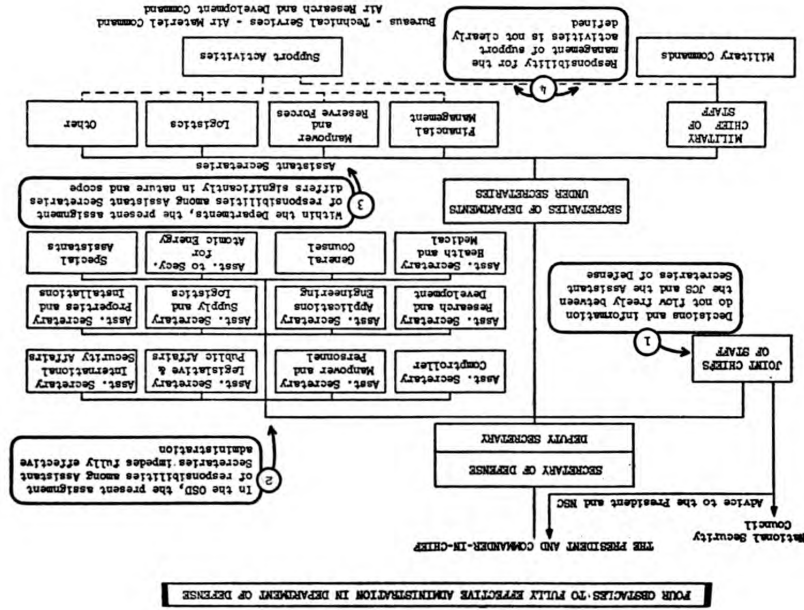


EXHIBIT 3

FOUR OBSTACLES TO FULLY EFFECTIVE ADMINISTRATION IN DEPARTMENT OF DEFENSE

Insufficient consideration has been given to the industrial feasibility of military plans.

While fiscal controls have been vigorously employed, such controls though important are not an effective substitute for orderly planning. Requirements computation practices in the departments suffer from excessive detail, inadequate knowledge of usage, and insufficient coordination with research and development activities.

The Secretary of Defense and the three departmental Secretaries are not conducting a sufficiently penetrating analysis and review of defense requirements.

President Eisenhower, in his message transmitting Reorganization Plan No. 6, emphasized that one of its major aims was to improve "our machinery for strategic planning for national security." It was the hope that the Chairman of the Joint Chiefs of Staff, through the assumption of greater responsibility, would bring about "the fullest cooperation of the Joint Staff and the subcommittees of the Joint Chiefs of Staff with other parts of the Office of the Secretary of Defense. * * *" This same objective was incorporated in Department of Defense Directive 5158.1, July 26, 1954, which reads in part as follows:

The Joint Chiefs of Staff, including its entire substructure, subordinate elements, staffs, committees and subcommittees shall effectively, fully and completely collaborate with all parts of the Office of the Secretary of Defense to insure broadened participation in strategic and logistic planning, at the early stages of staff work, on any major problem being considered. Thus, at the initial, developmental and succeeding progressive stages of important staff studies by all subordinate elements of the Joint Chiefs of Staff, there will be a proper integration of the views and special skills of the other staff agencies of the Department of Defense, such as those responsible for budget, supply, research, engineering and intelligence.

The committee feels that this directive, if complied with,

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will improve the operations of the Joint Chiefs of Staff, but that these steps alone cannot be expected to achieve a full solution to the problems described. The committee has concluded that the desired relationship between the Joint Chiefs of Staff and the Assistant Secretaries of Defense can be brought about only by the direct exercise of the Secretary's authority. No other member of his present executive group, including the Chairman of the Joint Chiefs of Staff, is in a position to achieve adequate coordination.

To assist the Secretary of Defense in meeting these problems, the following recommendation is made:

Recommendation No. 1

The Secretary of Defense should create in his office a civilian position invested with sufficient stature and authority to insure the establishment and maintenance of effective planning and review of military requirements. The official occupying this position would, on behalf of the Secretary:

- (a) Maintain active liaison with National Security Council, Joint Chiefs of Staff and their staffs;
- (b) Coordinate all guidance provided at the Office of the Secretary of Defense level to the military departments covering the preparation of requirements programs; and
- (c) Provide for a system of effective review and analysis of defense plans and requirements computations.

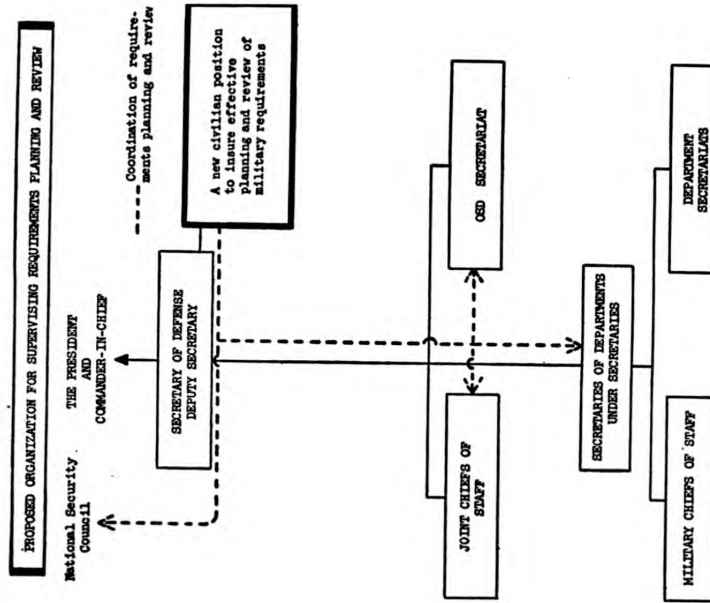
This proposal is illustrated in exhibit 4.

Management Responsibilities of the Assistant Secretaries of Defense

The total management job in the Office of the Secretary of Defense has been subdivided in a manner which creates

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EXHIBIT 4



problems of coordination among some of the Assistant Secretaries (particularly in the areas of supply, facilities, research, and applications engineering). Furthermore, the present organization results in awkward working relationships with the military departments, since it is more elaborate than the Secretariats within the three departments where actual operations are performed.

The studies of the commission, including those of this committee, called attention to the need for better integration and stronger administration in the Office of the Secretary of Defense. To meet this need, the committee recommends that the present structure be modified as follows:

Recommendation No. 2

The Secretary of Defense should emphasize the management areas of logistics, research and development, personnel and finance, and should regroup certain functions under Assistant Secretaries to strengthen coordination of these four principal management areas.

Exhibit 5 illustrates the four major management responsibilities of the Office of the Secretary of Defense. These involve policy formulation and management coordination in the areas of logistics, research and development, personnel, and finance. While there are other important policy functions such as legal, legislative, and public affairs, etc., it is through these four management areas that the Secretary must exercise his responsibility for the effective and economic utilization of defense assets—human, physical, and financial. It is therefore proposed that the Secretary make the follow-

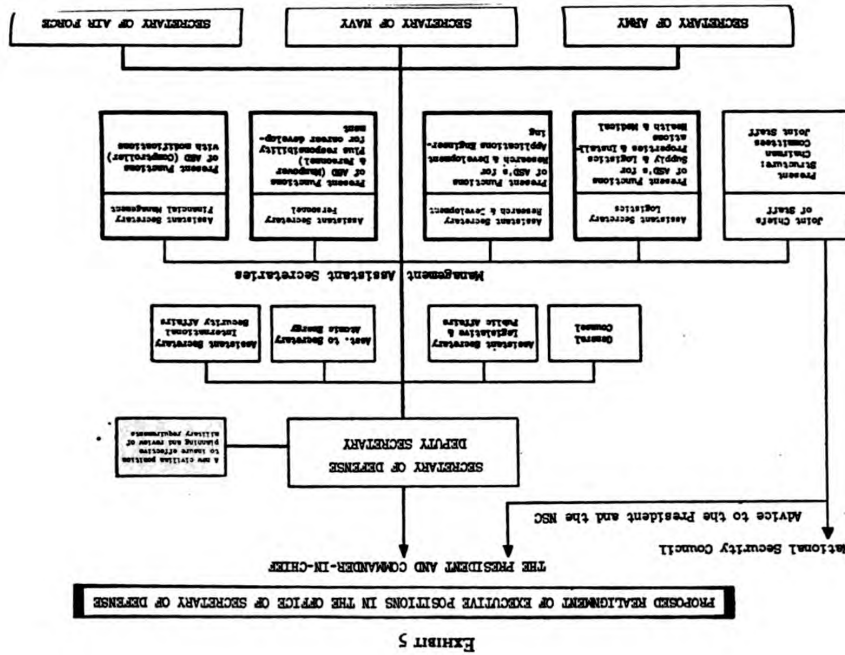
ing assignment of responsibilities to four "management Assistant Secretaries":

1. *Assistant Secretary for Logistics.*—Responsibility covering material and services, including functions now assigned to the Assistant Secretary (Supply and Logistics), the Assistant Secretary (Properties and Installations), and the Assistant Secretary (Health and Medical).
2. *Assistant Secretary for Research and Development.*—Responsibilities of the present Assistant Secretary (Research and Development) and the present Assistant Secretary (Applications Engineering).
3. *Assistant Secretary for Personnel.*—Responsibilities now assigned to the Assistant Secretary (Manpower and Personnel), but with increased attention to career development.
4. *Assistant Secretary for Financial Management.*—Responsibilities now assigned to the Assistant Secretary (Comptroller), but with increased attention to accounting policies and practices.

Each of the management Assistant Secretaries should be responsible for, but not limited to—

- Formulating the policies that shall prevail throughout the functional area for which he is responsible;
- Screening requirements and participating in the formulation, and continuing review of budgets for activities under his jurisdiction as outlined in part IV of this report;
- Prescribing the data required to evaluate the effectiveness of operations and establishing reporting processes that will insure a regular flow of needed information;
- Appraising the effectiveness of the organization and operations of subordinate organizational units; and
- Approving the selection and appointment of key officials and participating in the development of career support managers as outlined in part III of this report.

In addition to the improvements which will result from a more logical grouping of management responsibilities, the committee urges recognition of the importance of providing capable career assistants to each member of the Secretariat.



Recommendation No. 3

The Secretary of Defense should appoint a principal career assistant to each Assistant Secretary of Defense of such stature and competence that continuity of administration will be improved.

Furthermore, it is believed that continuity will be improved by having staff positions in the Office of the Secretary of Defense increasingly filled by trained career specialists.

Management Responsibilities of the Departmental Assistant Secretaries

The responsibilities proposed for the management Assistant Secretaries of Defense establish logical assignments for the administration of logistics, research and development, personnel and finance. Corresponding assignments of management responsibility in the Secretariats of the three military departments will facilitate communication and working relationships between the departments and the Office of the Secretary of Defense.

The duties of the departmental Assistant Secretaries are far from uniform today, as shown in exhibit 6.

It is recommended, therefore, that the Secretary of Defense take the following action:

Recommendation No. 4

The Secretary of Defense should revise the assignments of departmental Assistant Secretaries to secure a uniform grouping of management responsibilities similar to that proposed for the four management Assistant Secretaries of Defense.

EXHIBIT 6

PRESENT ASSIGNMENT OF RESPONSIBILITIES FOR MANAGEMENT FUNCTIONS AMONG ASSISTANT SECRETARIES

| MANAGEMENT FUNCTION | DEPARTMENT OF THE ARMY | DEPARTMENT OF THE NAVY | DEPARTMENT OF THE AIR FORCE |
|----------------------|--|--|--|
| Logistics | Assistant Secretary (Logistics and Research and Development) | Assistant Secretary (Material) | Assistant Secretary (Material) |
| Research | Assistant Secretary (Logistics and Research and Development) | Assistant Secretary (AFR) | Assistant Secretary (Research and Development) |
| Personnel | Assistant Secretary (Personnel) | Assistant Secretary (Personnel) | Assistant Secretary (Personnel) |
| Financial Management | Assistant Secretary (Financial Management) | Assistant Secretary (Financial Management-Comptroller) | Assistant Secretary (Financial Management) |
| Other | Assistant Secretary (Civil Military Affairs) | Assistant Secretary (AFR) | No other Assistant Secretaries |

The principles of the proposed plan are as follows:

With respect to logistics, it is recommended that the Assistant Secretary assigned to this function concentrate his full attention on materiel, facilities, and services, and that, in addition, his authority over support activities be strengthened (as outlined later).

With respect to research and development, it is recommended that a separate Assistant Secretary be appointed in each department, with strong coordination over research and development programs within his department (as outlined later).

With respect to financial management, the Assistant Secretary responsible for this function should have exclusive supervision over (or be) the departmental Comptroller (as outlined in part IV).

With respect to personnel, it is proposed that present assignments be continued and strengthened (as outlined in part III).

The management responsibilities of the above department Assistant Secretaries should parallel those of the Assistant Secretaries of Defense, including appropriate participation by each in personnel management, financial management, and in developing improvements in organizational and major procedures.

Career assistants. Each Assistant Secretary should be aided by a principal career assistant, as proposed earlier for the Assistant Secretaries of Defense.

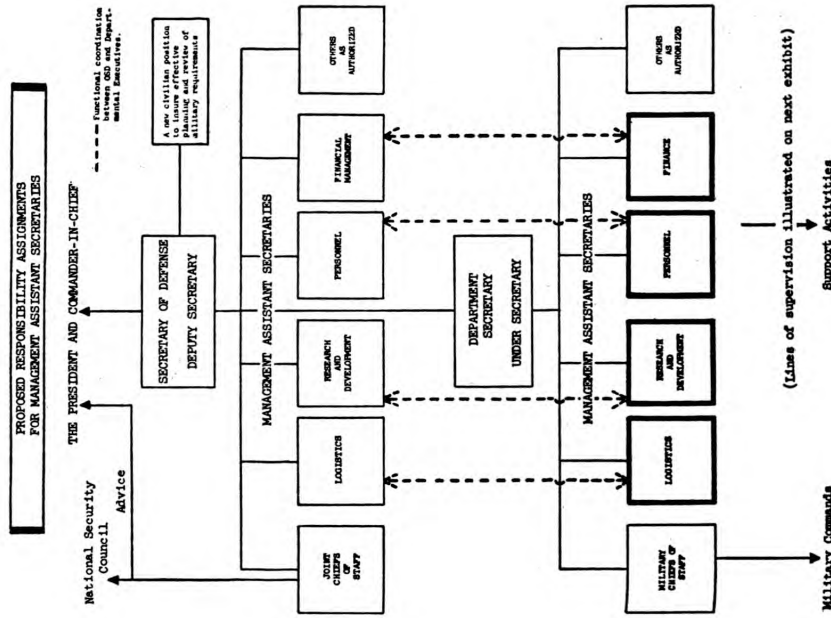
It is recognized that in order to accomplish the foregoing assignments, additional departmental Assistant Secretaries may be needed. If so, the Secretary of Defense should seek the necessary legislative authority. (See exhibit 7.)

Clearer Definition of Responsibility for Support Activities

A major finding of the committee is the pressing importance of securing greater recognition of the support activities. The history of the military departments reveals that the management of support activities has been one of the most controversial and difficult aspects of military organization:

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EXHIBIT 7



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Traditionally, the bureaus of the Navy and the technical services of the Army have enjoyed a high degree of autonomy, brought about by such factors as legally established corps and separate appropriations. In the Army, the pendulum has swung widely during and following two world wars, from the imposition of strong integration and direction of the technical services during wartime, to their return to autonomy during peacetime. In the Navy, the bureaus have been relatively autonomous, but strong Secretaries have exercised direct supervision, and the Chief of Naval Operations has had a military command relationship.

As a result of organizational revisions following Reorganization Plan No. 6, the three departments are beginning to establish stronger management over support activities. This is represented in the Army by the recent appointment of a Deputy Chief of Staff for Logistics with full control over the technical services. In the Navy, the Under Secretary has been given full supervision of the bureaus. The Air Force has a single command (the Air Materiel Command) responsible for supply activities and another command (the Air Research and Development Command) responsible for research and development.

Despite this progress there is still vagueness in the assignment of responsibility for support activities between the military Chiefs of Staff and the civilian executives. The committee has concluded that a much clearer blueprint is desirable to clarify and strengthen the role of the Assistant Secretaries in each military department.

Exhibit 8 presents the committee's proposals covering the roles of (1) the military Chief of Staff, (2) the Assistant Secretary for Logistics, and (3) the Assistant Secretary for Research and Development.

Role of the Military Chief of Staff

Regardless of organization structure, it must be recognized that the ultimate purpose of the military departments is to

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keep our Nation in a state of preparedness for war and to conduct military operations in the event of war. This principle means that the top military executives plan and request the materiel, services, facilities, and specialist personnel they consider necessary to support the operating forces. However, military requirements must be evaluated and given final approval by the departmental Secretaries and the Secretary of Defense (with the assistance of their Secretariats), the President, and the Congress. Furthermore, the military Chiefs of Staff must have direct authority over tactical and combat-related support activities performed by the logistics organization such as training of personnel for tactical operations.

The line of authority and responsibility which runs from the military Chief of Staff to the bureaus, technical services and the Air Materiel Command is shown in exhibit 8.

Recommendation No. 5

The Secretary of Defense should define the relationship of the military Chief of Staff to the support activities as that of: (1) planning and requesting the materiel, services, facilities and specialized personnel required to support the operating forces subject to the review and approval of the Secretariat; and (2) exercising direct authority over tactical and combat-related support activities performed by the logistics organization.

Role of the Assistant Secretary for Logistics

Whereas the military Chief of Staff, under the proposed definition, is responsible for stating *what* he needs, *how much, when* and *where*, the Assistant Secretary for Logistics should be responsible for review of *how much* and for execu-

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tion, which means *how* and *how well* the operations of the support activities are conducted. It is in this phase of Department of Defense work that civilian executives with business and industrial experience can make their most important contribution. It is here, also, that defense programs must be closely geared with the Nation's industrial capacity.

Thus, as shown in exhibit 8, the committee proposes that:

Recommendation No. 6

The Secretary of Defense should assign to the Assistant Secretary for Logistics in each department direct management control over supply and service activities.

Role of Assistant Secretary for Research and Development

In addition to large-scale supply and service activities, the support organization also is responsible for research and development, a function of vital importance in this era of technological warfare. Thus, the Assistant Secretary for Research and Development must have a clearly established role in coordinating this phase of support work. This means that he must have a comprehensive knowledge of, and strong influence over, both research and development and applications engineering within his department. He also must take the leadership in reviewing research and development budgets and in approving departmental plans for the obligation of funds (with authority to recommend to his Secretary the withholding of funds for any development project), as well as in personnel management, and in the improvement of organization and procedures within his assigned area. It should be noted that a "coordinating" role is recom-

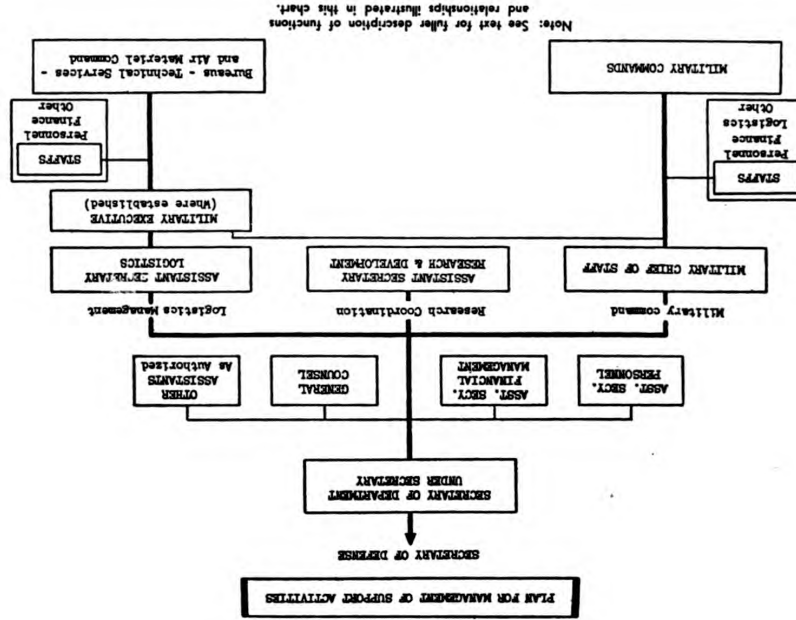


Exhibit 8

mended for the Assistant Secretary for Research and Development, as compared with the "execution" role recommended for the Assistant Secretary for Logistics. This arises from the fact that in the Army and the Navy, research and development are dispersed among the technical services and the bureaus, along with supply and service activities. Only in the Air Force is there a separation of research and development under one command. Thus, at this time, as concluded by the Subcommittee on Research Activities, it is not practicable to assign line authority to the Assistant Secretaries responsible for research and development.

Recommendation No. 7

The Secretary of Defense should assign clear responsibility for the coordination of research and development programs to an Assistant Secretary for Research and Development in each department.

In order to effectuate the blueprint illustrated in exhibit 8, certain steps would be required in each department, either now or in the future, as follows:

The Department of the Army.—The new organization of the Army would meet the proposed blueprint if these steps are taken: clearly establish the differentiation in responsibilities of the Chief of Staff and the Assistant Secretary for Logistics as defined above; reestablish under the Chief of Staff an Assistant Chief of Staff for logistics planning (G-4); and appoint a separate Assistant Secretary for Research and Development.

In addition, the logistics operations commander (the present Deputy Chief of Staff for Logistics) should take appropriate steps to simplify and strengthen the organization of the technical services.

The Departments of the Air Force.—Here the present responsibility of the Assistant Secretary for Logistics is reported to be essentially

that which is proposed, although the organization chart does not show a direct line to the Air Materiel Command from the Assistant Secretary. Thus to make the Air Force structure conform more closely to what is suggested, delineation of responsibilities between the Assistant Secretary for Logistics and the Chief of Staff would be required. Some augmentation might also be required in the responsibilities of the Commander, Air Materiel Command, for other logistics functions, for logistics personnel, for funds and for the administration of support activities on a worldwide basis. With respect to research and development, the Air Force is the only department which now has a separate Assistant Secretary.

The Department of the Navy.—Navy Department organization conforms in general to the principles stated, but places the Under Secretary in the role of the principal civilian executive over the bureaus, without an intervening military commander. The closest counterpart to a top military executive in the administration of support activities is the Chief of Naval Material, but this officer has only staff responsibilities for procurement and production.

The committee suggests further consideration by the Secretary of the Navy of the advisability of increasing the line authority of the Assistant Secretary for Logistics over the materiel bureaus; and establishing a separate Assistant Secretary for Research and Development.

As an objective the committee believes that the support organizations should be relieved of tactical and combat-related support activities to the extent that such activities can be taken over by the tactical commands.

Summary of Recommendations to Improve the Management Organization of the Department of Defense

The committee has found certain obstacles to more effective management, which are urgently in need of attention; it offers seven recommendations which will assist in removing these obstacles:

The Secretary of Defense should create in his Office a civilian position invested with sufficient stature and authority to insure the

establishment and maintenance of effective planning and review of military requirements. The official occupying this position would, on behalf of the Secretary:

- (a) Maintain active liaison with National Security Council, Joint Chiefs of Staff and their staffs;
- (b) Coordinate all guidance provided at the Office of the Secretary of Defense level to the military departments covering the preparation of requirements programs; and
- (c) Provide for a system of effective review and analysis of defense plans and requirements computations.

The Secretary of Defense should emphasize the management areas of logistics, research and development, personnel and finance, and should regroup certain functions under Assistant Secretaries to strengthen coordination of these four principal management areas.

The Secretary of Defense should appoint a principal career assistant to each Assistant Secretary of Defense of such stature and competence that continuity of administration will be improved.

The Secretary of Defense should revise the assignments of departmental Assistant Secretaries to secure a uniform grouping of management responsibilities similar to that proposed for the four management Assistant Secretaries of Defense.

The Secretary of Defense should define the relationship of the military Chief of Staff to the support activities as that of: (1) planning and requesting the materiel, services, facilities, and specialized personnel required to support the operating forces subject to the review and approval of the Secretariat; and (2) exercising direct authority over tactical and combat-related support activities performed by the logistics organization.

The Secretary of Defense should assign to the Assistant Secretary for Logistics in each department direct management control over supply and service activities.

The Secretary of Defense should assign clear responsibility for the coordination of research and development programs to an Assistant Secretary for Research and Development in each department.

Part II

PROGRAM FOR IMPROVING THE MANAGEMENT OF COMMON SUPPLY AND SERVICE ACTIVITIES

- Congressional Mandate for Unified Supply System
 - Approaches to the Coordination of Common Supply and Service Activities
 - Criteria for Selecting Common Supply Items and Services for Transfer to a Separate Agency
 - The Proper Form of Organization for a Separate Supply and Service Agency
 - Continuing Improvement in the Supply and Logistics System
-
-

Program for Improving Management of Common Supply and Service Activities

Steps to eliminate duplication in the procurement and supply activities of the Army and the Navy were being studied and discussed long before the issue of unification was considered. Prior to and during World War II, varying degrees of coordination existed in the purchase of items such as lumber, subsistence, medical supplies, chemical warfare equipment, tractors, small arms, and small arms ammunition.

In order to preserve and extend the benefits of wartime coordination, Secretaries Forrestal and Patterson sponsored a joint review in 1945 (the Strauss-Draper study) which laid the groundwork for many subsequent developments in the coordination of purchasing. Even then, the need for more complete coordination throughout the whole field of supply—including storage, distribution, transportation and other aspects of supply—was recognized. That report commented: "We believe that closer coordination in these areas would be found entirely possible and highly desirable."

Congressional Mandate for Unified Supply System

Since the passage of the National Security Act in 1947, efforts have been made to find ways to achieve coordination

under the existing organization, but without an acceptable degree of success.

The Munitions Board was charged by the Secretary of Defense with developing the most practical supply system which would provide "adequate cross-servicing among the departments with a minimum of overlapping and the maximum of efficiency and economy in the handling of items of supply common to two or more departments . . . and that priority study shall be given to the feasibility of assigning to a single military department the responsibility for procurement, distribution, including depot, storage and issue for classes of common items of supply and equipment, and depot maintenance of such equipment . . ." While headway was made under the Munitions Board in securing coordinated purchasing in some 35 commodity areas, other phases of supply coordination lagged.

Soon after the outbreak of the Korean hostilities, Congress became concerned over how well the Department of Defense was marshaling the Nation's resources, and subjected the military supply system to a series of investigations. During the ensuing 3 years, the record reveals the dissatisfaction growing out of these reviews.

The Bonner Subcommittee,¹ in its Report of June 27, 1951, stated ". . . unification, from the standpoint of military supply, rests largely on paper."

One year later, after further investigations by four committees, Senator Paul Douglas introduced a bill providing for "integration of supply and service activities within and among the military departments" under the direction of an Under Secretary of Defense for Supply Management. The debate on this proposal ended on a compromise known as the O'Mahoney rider, which required the Secretary to issue regulations aimed at fostering an "integrated supply system designed to meet the needs of the military departments without duplicating or overlapping of either operations or functions . . ."

In May and June of 1953, the Richlman Subcommittee,¹ after reviewing the situation, found that the "good intentions expressed by the various directives and by the O'Mahoney Amendment have

¹ Subcommittee of House Committee on Government Operations.

brought about only a slight degree of progress . . ." This subcommittee concluded its findings by stating, "It is hoped that a bold philosophy of the Administration's Assistant Secretaries of Defense can provide an enlightened and businesslike guidance to assure the Nation that it is getting maximum military security with a minimum of waste due to poor management."

At about the time that the Richlman hearings were being held, General Brehon Somervell, in a letter to Senator Margaret Chase Smith, expressed himself strongly in favor of unification of supply and service functions:

Duplicate communications systems . . . are entirely unnecessary, as are duplicate transportation, engineering, ordnance, and quartermaster services . . . Broken legs and disease are mended and cured in the same fashion for men in brown and blue uniforms. An undershirt is an undershirt to a soldier, sailor, or airman. Some progress, notably in transportation, has been made in unification, but this is only the beginning.

In 1954 and early 1955, several Hoover Commission study groups again posed the necessity of stronger action.

The commission, in its food and clothing report, concluded that a central agency should make all food and clothing purchases for the armed services upon their stated requirements; and that it should store and distribute this material to the armed services.

The task force on medical services concluded that medical supplies should be procured centrally for the entire Federal Government, and that within the Department of Defense there should be established a single military system for integrated storage and distribution of medical supplies.

The subcommittee on depot utilization has advocated the elimination of the concept of ownership of storage facilities by individual military departments, so as to clear the way for ready transfer of such facilities within the Department of Defense.

Finally, in May 1955, the house committee on government operations conducted hearings on the Commission's Report on Food and Clothing. In these hearings, congressional spokesmen strongly restated the desire of Congress, as embodied in law, for the integration

of supply support, and the extreme dissatisfaction with the "consistent pattern of resistance by the military departments" to such integration.

In the face of this accumulating evidence, this committee has concluded that a definitive program must be outlined which will eliminate duplicate stocks, facilities, distribution and overhead personnel. In order to devise such a plan, the committee first considered various approaches to achieving coordination of common supply and service activities.

Approaches to the Coordination of Common Supply and Service Activities

Exhibit 9 illustrates four types of coordination for common supply and service activities.

1. *Coordinated Purchasing*

The task force on procurement has reviewed the single service and joint agency arrangements under which 35 categories of items are now being procured. The value of the purchases under such arrangements was reported to be \$5,400,000,000 in the fiscal year 1954, of which \$1,900,000,000 represented purchases made by one service for another.

The task force found that while coordinated buying is sound in principle, many of the arrangements were made in haste and without adequate planning, with the result that the potential benefits are not being achieved. Furthermore, this form of coordination has inherent limitations. Planning of requirements is not coordinated, and the purchasing service is not informed of the inventories and usage rates of the requisitioning services. Thus, the purchasing service cannot evaluate procurement requests or take steps to redistribute

excess stocks. Also, coordinated buying does not achieve integration of storage and distribution, where glaring instances of duplication have been noted.

2. *Cross-Servicing*

Another form of coordination is known as "cross-servicing"—a plan whereby one department arranges with another to draw on its facilities, stores or services within a specific geographic area. A number of cross-servicing agreements are now in effect at local levels covering a miscellany of supply items and services such as laundries, automotive maintenance, and commissary stores.

However, these arrangements are fragmentary, and, at best cross-servicing is an expedient, dependent on cooperation among three independent supply systems which differ widely in their organization and procedures. The Commission's Report on Food and Clothing summed up its conclusions on cross-servicing as follows:

The difficulty of securing teamwork among independent systems has already proved the impracticability of this method in time of peace, and the difficulty is much greater in time of war • • • Thus the task force concludes that cross-servicing could not bring about the necessary efficiency and economy in food supply.

3. *Integrated Supply Systems*

A more complete form of coordinated supply would result from assigning to a single department full responsibility for the procurement, distribution, storage, and issue of common commodity classifications.

Three studies having this objective were initiated by the Munitions Board in 1951 (medical and dental, subsistence, and automotive ma-

teriel). While these reviews were completed, no further studies were initiated, and this concept was dropped by the Assistant Secretary of Defense (Supply and Logistics), who issued a policy, dated November 13, 1953, stating that "• • • emphasis at this time would be more advantageously directed toward greater efficiency within individual departmental systems and supply management functions, development of fiscal procedural means for effective and economical cross-servicing among the military services, and the closest practical coordination of departmental supply systems."

The adoption of an integrated supply system for major items of common supply would appear, on the surface, to present a practical means of eliminating overlapping supply systems within the existing military departments. The committee has concluded, however, that such arrangements possess the inherent weaknesses of the other types of coordination—namely:

Inertia or strong resistance on the part of the military departments in collaborating on such matters.

The difficulty of assuring equitable treatment, under tight mobilization conditions, when one service tries to meet its own needs and simultaneously furnish the degree of service desired by others.

The difficulty of eliminating duplicate staffs, facilities and distribution systems. Long experience with single service procurement assignments has not produced identifiable economy in the reduction of administrative costs. In fact, one defense official states that total administrative costs have been increased. The purchasing service justifiably expands its staff to handle the increased workload, but the requisitioning service finds little opportunity, or incentive, to decrease its staff.

The period of time which still will be required to develop and install uniform requisitioning, purchasing, accounting and inventory control procedures is a major deterrent. Experience has shown that the services cannot deal with each other efficiently until basic procedures are standardized.

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4. *A Separate Supply and Service Agency*

The highest degree of integration would result from the creation of a separate agency, within the framework of the Department of Defense, to serve all departments equally in purchasing, inventory control and distribution to the end of the wholesale pipeline.

The opponents of such a plan argue that each department should have control over a support system which is completely responsive to its own needs. This objection undoubtedly reflects the fear that a separate agency might gradually swallow the entire military support structure and impair the ability of the combat arms to execute their missions with the flexibility essential in time of emergency.

The advantages of such an agency are that it cuts across the barriers of interservice rivalries and nonstandardized procedures, and brings into being an activity staffed by specialists and operated with the efficiency of a commercial enterprise.

The committee has concluded that the objections cited can be readily avoided by carefully defining the role of such an agency. The committee is further impressed by the ample precedents for the centralized administration of common services found both within industry and within Government:

Within major corporate enterprises, it has long been a practice to centralize the administration of common service functions in the interest of securing maximum utilization of manpower and facilities. The primary test applied in industry, just as it must be in the Department of Defense, is that a central service must meet all of the legitimate requirements of the line organization and in no manner interfere with production of a quality product at the lowest unit cost. At the same time it is recognized that firm financial control over decentralized operations is essential to such a system.

Within the Federal Government, one can readily find ample precedents for the centralization of support services. The General Services Administration and the Government Printing Office provide central

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services to the departments and agencies. Within Federal departments and major units, centralized services are a commonplace device. Within the Department of Defense itself, there are numerous precedents. The cataloging project being administered as a common service for the entire Department is recognized as a highly successful effort. The Armed Services Petroleum Purchasing Agency and the Armed Services Medical Procurement Agency are notable examples of service activities which would undoubtedly function as effectively if they were detached from any single department. Within the operating forces themselves, the use of centralized support units has long been practiced, particularly during wartime.

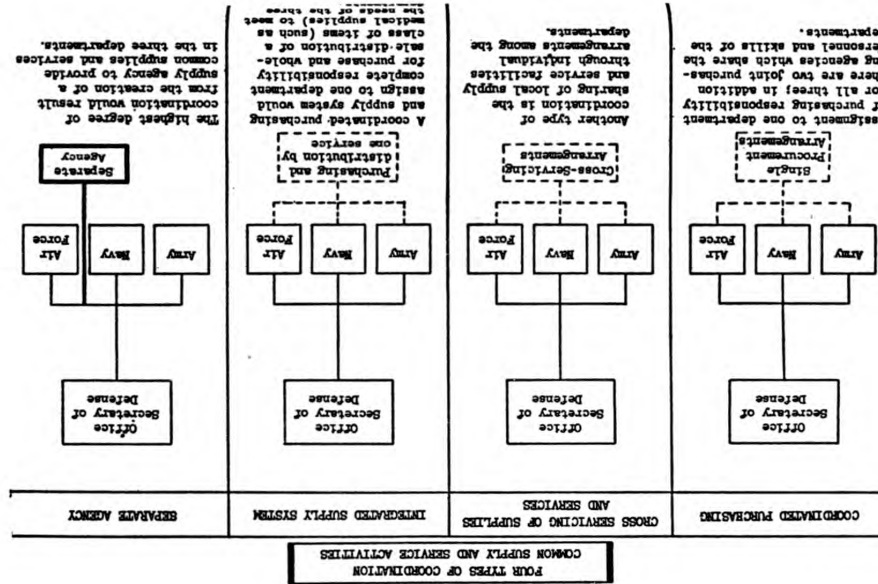
In addition to its other advantages a common supply and service agency would provide a supply system more quickly expandable in wartime without need of drastic reorganization, remove commercial-type operations from the military departments and thereby free professional military personnel of unnecessary administrative burdens.

Recommendation No. 8

Congress should enact legislation establishing a separate civilian-managed agency, reporting to the Secretary of Defense, to administer common supply and service activities.

In order to effectuate this recommendation, the committee has considered (1) the "ground rules" which should be followed in selecting common supply items and services for transfer to the separate agency, and (2) the proper form of organization for the agency.

Criteria for Selecting Common Supply Items and Service for Transfer to a Separate Agency
 Materiel procured by the military departments is divided into two broad classifications:



Military hard goods which comprise the weapons of war: aircraft, ships, tanks, guns, ammunition, spares, components and other military-type items. Expenditures for this classification of items in the fiscal year 1955 are estimated to be \$12,500,000,000, or more than 75 percent of total DOD procurement expenditures.

Commercial-type items commonly used among the departments and readily found in the civilian economy. Examples are food, clothing, medical and dental supplies, fuels and lubricants, hardware, household-and-office-type supplies and equipment, commercial automobiles, and vehicular spare parts. Expenditures for this classification of items in the fiscal year 1955 are estimated at \$4,000,000,000.

A separate agency would be expected to assume supply responsibilities only for commercial-type items and services.

It is important that well-defined guides be established which will prevent the separate agency from performing any but service functions or assuming responsibilities which would impair the carrying out of each department's combat mission. In fact, it would be desirable for Congress to specify criteria which will preserve the service and supporting role visualized by the committee. The committee, therefore, recommends:

Recommendation No. 9

The legislation establishing the separate supply and service agency should specify criteria which will assure a strict supporting role for the agency.

The following four criteria are recommended:

(a) Requirements always must flow from the military departments under policies established and reviews conducted by the Office of the Secretary of Defense. For example, requirements for food stem basically from (1) the number of people to be fed, (2) the deployment of these people, and (3) the standard of feeding. None of these determinations should be made by the service agency, but by the individual departments in accordance with policies of the Office of the Secretary of Defense.

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(b) Specifications for technical items also must flow from the customers to the service agency. For example, professional medical personnel should decide upon specifications for medical supplies and equipment under Office of the Secretary of Defense policy.

(c) A buyer-seller relationship should be established. Each buyer department should continue to request and justify the funds required for its total needs so that it actually buys supplies and services from the separate agency, which should be financed through a stock fund.

(d) The commodities and services placed in a separate agency should be of a commercial-type commonly used in the civilian economy.

The Proper Form of Organization for a Separate Supply and Service Agency

It is recommended that the proposed agency be known as the Defense Supply and Service Administration. As illustrated in exhibit 10, the Administration would have the status of an additional operating arm of the Department of Defense, subject to policy direction and coordination by the Office of the Secretary of Defense in the same manner as the three military departments. Its head should be known as the Administrator, and he should be a presidential appointee. The staff of the Administration should be composed of career trained support specialists, including a principal career assistant, developed through the programs described in part III of this report. However, the initial organization should be formed by transferring necessary personnel and facilities from the military departments.

The initial functions of the Administration might appropriately be the two types suggested in exhibit 10:

Common Supply.—Here it is envisioned that the Administrator would establish a series of commodity divisions, each responsible for a

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related group of items which lend themselves to integrated management. In addition, the agency would be responsible for the storage and issue of those commodities throughout the wholesale depot system, both in the United States and overseas. The Administrator should have discretion in utilizing the most efficient distribution system for each commodity category, including the use of commercial facilities.

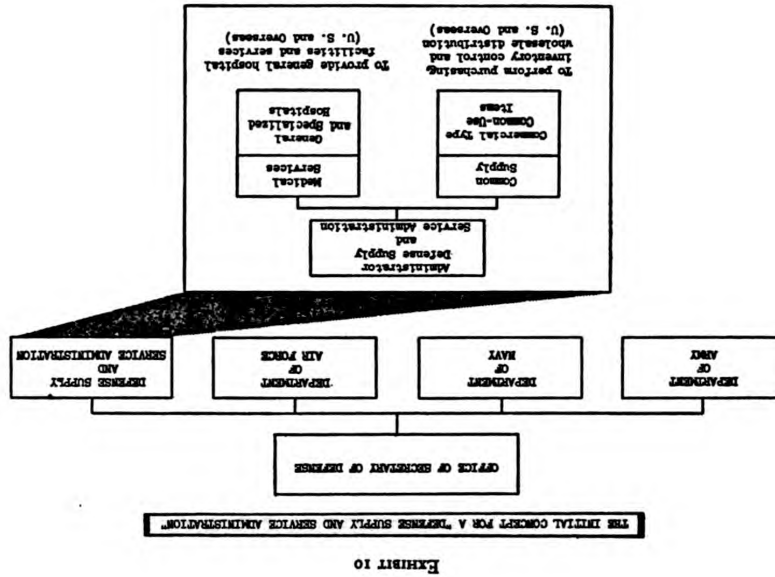
Medical Services.—Another facet of the agency's mission would be to provide common services which meet the criteria specified. The committee has made a preliminary review of a number of basic services which might be considered and suggests that the first to be incorporated be hospitals.² This conclusion is bolstered by the finding of the task force on medical services which (in the absence of a separate agency) recommended that—

The military medical and hospital services within continental United States be coordinated by assigning to a single military department the responsibility for hospital services in a defined geographic area, and that this concept be furthered wherever practicable in extracontinental areas.

While there are many commercial-type activities administered by the military departments which would qualify for inclusion in the Administration, attention should first be given to reducing or eliminating those which can be handled by private industry, following the principles advocated by the subcommittee on business enterprises.

It must be emphasized that the Administrator of the proposed agency is expected to use the effective management practices now common in the civilian economy. For example, he must be allowed considerable flexibility in determining the extent of centralization or decentralization required to provide economical and effective service. Further

² As defined in Department of Defense Directive 6015-8, dated Aug. 6, 1953. The committee's recommendation applies to general hospitals and specialized hospitals, and not to dispensaries and infirmaries.



ther, the Administrator must have authority to exercise control of costs through financial management measures to prevent oversupply and duplicate services.

In summary, the committee concludes that the proper form of organization for a separate supply and service agency is as follows:

Recommendation No. 10

The separate agency should be named the "Defense Supply and Service Administration," and its Administrator should be a presidential appointee. Initially, the agency should manage selected items of common supply, and operate general and specialized hospitals.

Continuing Improvement in the Supply and Logistics System

Preliminary studies indicate that the proposed Defense Supply and Service Administration ultimately may encompass activities now employing about 150,000 employees with expenditures in the range of \$6,000,000,000 to \$8,000,000,000 annually (approximately 20 percent of the defense budget). Operations on a selective basis can be initiated within a period of a few months, and Congress should keep the progress of the Administration under continuing scrutiny to prevent it from being retarded.

The fact must also be recognized that the proposed Administration will not cure all of the waste and inefficiency in the defense supply system. The committee wishes to emphasize that this is only one of the vital steps required. Between 50

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and 75 percent of procurement expenditures probably will always remain in the three military departments. Thus, the many other fundamental improvements which have been proposed in task force reports should be vigorously pursued under the watchful eye of Congress.

Recommendation No. 11

Congress should instruct the Secretary of Defense to report semiannually on progress being made in improving all phases of the supply and logistics system.

Such reports to Congress should deal specifically with the following matters:

Steps taken, and results obtained, in placing common supply items and services under the Defense Supply and Service Administration. The program planned for the coming year, and the need for any additional legislative authority required to facilitate development of the Administration.

The plans and accomplishments of the Department of Defense with respect to other fundamental improvements in the supply and logistics system, including:

The development of complete, timely and objective procurement plans; and more effective review and analysis of such plans.

The installation of inventory reporting systems to provide current and accurate information regarding stocks on hand.

The simplification of purchasing procedures.

The completion of the defense cataloging project, and progress in the development of standards and specifications.

The adoption of rational stock levels upon which to base replenishment action, and more effective control over spare parts procurement.

Reduction in the quantity and variety of items carried at depots through systematic analysis of the composition and turnover of stocks maintained at every major depot.

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- Reduction in order and shipping time, with a corresponding decrease in pipeline inventory.
- Improvement in traffic management and in the utilization of transport facilities.
- Improvement in the utilization of warehousing and storage facilities.
- Reduction or elimination of facilities and business enterprises which can be handled by private industry.

Summary of Recommendations To Improve the Management of Common Supply and Service Activities

The committee has concluded that a definite program must be outlined which will eliminate unnecessary waste—duplicate stocks, distribution systems, facilities and overhead personnel. To this end, four recommendations are made:

Congress should enact legislation establishing a separate civilian-managed agency, reporting to the Secretary of Defense, to administer common supply and service activities.

The legislation establishing the separate supply and service agency should specify criteria which will assure a strict supporting role for the agency.

The separate agency should be named the "Defense Supply and Service Administration," and its Administrator should be a presidential appointee. Initially, the agency should manage selected items of common supply, and operate general and specialized hospitals.

Congress should instruct the Secretary of Defense to report semi-annually on progress being made in improving all phases of the supply and logistics system.

Part III

**PROGRAM FOR IMPROVING
MANAGEMENT PERSONNEL**

- Increasing the Tenure of Presidential Appointees
- Specialization of Personnel in Support Activities
- Delineation of Civilian and Military Roles
- Comparable Personnel Standards for Civilian and Military Managers in Support Activities
- Responsibility for Developing Career Managers

Program for Improving Management Personnel

The preceding chapters have outlined the first steps advocated by the committee to improve management in the Department of Defense—simpler organization structure, more logical grouping of responsibilities, and clearer lines of authority. This chapter deals with another important step—getting the right man for each management job, improving his skill and keeping him in the job long enough to make a genuine contribution.

The Hoover Commission recognized the importance of competent personnel in improving the management of the Executive Branch of the Government by establishing two groups to study personnel management.

A task force on personnel and civil service was established and reported that, "The greatest weakness is in expert managerial direction. Management needs to be improved at all levels, from the noncareer political appointees and the career administrators down to the first line supervisors."

A subcommittee of this committee was also established to give specific study to the special personnel problems of the Department of Defense. This study concluded that, "the most important management problem confronting the Defense Department [is]: the selection, assignment, development and motivation of management personnel in the support activities."

Other Hoover Commission study groups which reviewed the Defense Department commented in the same vein:

The task force on budget and accounting observed, "The most important ingredient required in solving the problems of the Department of Defense is competent people."

The task force on procurement concluded that "long-term accomplishments require logistics executives with specialized competence, developed through training and experience and through rotation and personnel assignment policies which provide proper tenure in key positions. This requirement applies equally to military and civilian career executives."

The task force on surplus property stated that "No operation can succeed without qualified personnel. The normal training of military officers emphasizes rightfully the strategic and tactical responsibilities of modern warfare * * * While some elements of the military are trained in business management, much of such training is far from the experience required in the successful operation of competitive business enterprise."

The committee endorses the report of the subcommittee on special personnel problems, whose principal recommendations are summarized in exhibit 11. Because of the importance of these findings, the committee desires to offer further supporting recommendations.

The following discussion is devoted, first, to ways in which tenure of presidential appointees (the Secretariats of the Department of Defense) can be lengthened; and then, to various steps which will improve the performance of career management personnel, both civilian and military.

Increasing the Tenure of Presidential Appointees

Under our system of government, the Secretaries, with their immediate assistants, are responsible to the President for insuring that defense policies are in consonance with the public interest; that programs for military readiness are kept

EXHIBIT 11

**HIGHLIGHTS OF PROPOSALS
SUBMITTED BY SPECIAL PERSONNEL PROBLEMS IN THE DEPARTMENT OF DEFENSE**

1. Strengthen the Secretariat by:
 - . providing higher pay
 - . clarifying the conflict of interest statutes
 - . encouraging longer tenure
 - . providing competent career staffs.
2. Make it possible for civilian and military managers to pursue a full career in support activities by:
 - . establishing careers in the support activities
 - . establishing definite criteria for military and civilian staffing
 - . providing increased pay in the upper grades.
3. Erect changes in personnel policy with respect to military managers by:
 - . confining rotation to specialized support areas
 - . assigning officers to positions for a longer period of time
 - . providing career staffs to support activities
 - . providing opportunities for rotational convenience
 - . improving the career outlook for officers in support activities.
4. Erect changes in personnel policies with respect to civilian managers by:
 - . providing better opportunities for reaching responsible positions
 - . providing better opportunities more nearly equal to training for military managers.
5. Prepare for emergency expansion by:
 - . providing a civilian executive reserve
 - . providing stand-by legislation for emergency expansion.
6. Instill a zeal for efficient management by:
 - . delegating more authority and responsibility to managers
 - . making cost consideration an essential criterion of good management
 - . providing decentralized operating budgets
 - . providing working standards where they do not exist.
7. Organize more effectively for personnel administration by:
 - . associating manpower planning more closely with personnel administration
 - . making personnel authority in the operating manager's hands
 - . coordinating military and civilian administration more closely.

in balance with the capacity of the economy to support such readiness; and that national defense is sufficient but economical. It is imperative that these key posts be made attractive to able administrators and that obstacles to attaining this objective be removed.

The need for such steps is illustrated by the problems of attracting and holding presidential appointees. During the past decade, the average length of service of members of the Defense Secretariats has ranged from 16 months for Under and Assistant Secretaries, to 22 months for Secretaries.

Some of the steps needed to make these positions more attractive can be taken by the Secretary of Defense, while others will require congressional action.

Improvements in the management organization previously proposed will remove some of the present obstacles by securing a more logical grouping of responsibilities and providing principal career assistants.

Another improvement which can be made by the Secretary of Defense is the delegation of clear-cut authority to members of the Secretariats, commensurate with the assigned responsibilities.

But Congress also must assist by removing obstacles presented by inadequate compensation and the "conflict of interest" laws.

These observations lead to the following recommendation:

Recommendation No. 12

Congress should enact legislation to minimize present obstacles to Government service by outstanding citizens, and should provide positive incentives which will attract and hold able administrators. Examples of improvements which should be made are:

- (a) Increase the level of compensation for Assistant Secretaries, as already recommended by the task force on

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personnel and civil service, to an amount approximating \$25,000. It is further suggested that the pay for other members of the Secretariats be placed at appropriate rates above \$25,000.

(b) Modify the "conflict of interest" laws so that presidential appointees are not forced to liquidate lifetime business equities in order to accept Federal appointment. Instead, each new appointee should take an oath (as part of his regular oath of office) that he will disqualify himself from participation in any decision which involves his company or financial interests.

Furthermore, the President and the Secretary of Defense should encourage new appointees to accept appointment for much longer periods of time than at present, preferably for the duration of an administration. There is a need for increased public recognition of Government service as a public duty, reflecting credit both on the appointee and on the organization with which he is affiliated in private life.

Specialization of Personnel in Support Activities

The importance of the support activities within each military department clearly requires more specialization of career management and technical personnel than now exists. This need is forcefully stated in many of the task force and other reports, as for example:

The task force on surplus property says that: "In this age of technological warfare, something must be added to the strictly military strategy; that something is the know-how of business and industry in the management of materiel, with due regard to the ability of the economy to carry the load. It would seem that the missing link is in a permanent, experienced business organization."

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And the task force on food and clothing complained that: "The overall personnel management system for food service is inefficient, inadequate, wasteful of manpower, and demoralizing to the competent. It all too often results in truck drivers preparing the food, and food experts driving the trucks."

The Davies report on army organization concluded that: "Concrete steps should be taken to develop greater career opportunities within the army for individuals specializing in the fields of supply management, research and development, and financial management."

In addition, the Secretary of Defense in 1952 recognized this need in a directive (4000.8) which provided that:

1. Within each military department, a definitive program will be established for the recruitment and training of competent military and civilian personnel to serve in the areas of procurement, production, warehousing, and distribution of supplies and equipment, and related supply management functions. Rotation, promotion, and assignment policies within each military department will be adapted to assure the most effective use of trained personnel within these areas.

Despite this strong emphasis on the need for specialized competence in support activities, the committee has found little evidence of steps to overcome such fundamental deterrents as the following:

Despite the urging of Congress, career civilian managers are still being denied adequate opportunities by the practice of filling top positions in support activities with military personnel, many of whom are not trained for such responsibilities. The subcommittee¹ reported: "Most of the responsible jobs in the support activities are filled by military officers * * *"

Furthermore, civilian personnel are not given the same opportunity for training and development. The subcommittee found in a study of 4,500 Defense Department managers that only 16 percent of the civilians had received training at Defense Department expense, as compared with 73 percent of the military personnel.

¹The reference to "subcommittee" denotes the subcommittee on special personnel problems in the Department of Defense.

Despite the expenditures for training of military personnel, the present career management practices of the departments do not utilize this training effectively in recognition of the need for specialized competence in support activities. This is exemplified by the present practices of rotational assignment between military operations and support activities, and in the emphasis on the development of generalists in the military service—the concept that a military officer must be able to assume virtually any responsibility in a military activity. The subcommittee conservatively estimated the cost of this excessive rotation to be \$33,000,000 to \$50,000,000 each year.

These and related obstacles to making the most productive use of qualified civilian and military personnel in support activities have long existed, and their correction has been advocated by many. It is clear that careers should be planned and developed, selections should be made, training conducted, and assignments and promotions controlled within specialized support areas, consistent with the abilities and interests of the personnel concerned and the needs of the service.

The committee believes that the time for a vigorous legislative mandate has arrived: that strong traditions can be uprooted only by legislation which will accord the same recognition to a career management program in the support activities as has been given by the National Security Act to financial management. Accordingly, the following proposal is made:

Recommendation No. 13

Congress should enact a title V to the National Security Act to provide the legislative basis for specializing management and technical personnel in the support activities. This legislation should establish these basic principles:

(d) Military personnel will be limited primarily to posts in tactical organizations, and civilian personnel will be utilized increasingly in management and technical positions in support activities.

(b) Criteria will be established for use in determining those management and technical positions in support organizations which will be filled by civilian personnel and those which must be filled by military officers.

(c) Legal and administrative obstacles which prevent the most productive utilization of both civilian and military personnel in support activities should be promptly removed. The Secretary of Defense should submit to Congress recommendations covering any changes which are needed in existing law.

The remaining sections of this chapter outline further suggestions for an elaboration of the foregoing principles.

Delimitation of Civilian and Military Roles

Civilian and military relationships, the delineation of relative military and civilian roles, and the effective utilization of the two groups are problems peculiar to the Department of Defense. The only solution to these unique problems is to spell out clearly the respective roles for civilian and military managers and technical personnel in order to provide opportunity and incentive for both.

A further pressing need for a clear delineation is the unjustifiable waste which results from duplicate military-civilian staffing. The subcommittee estimated that there are 16,000 such duplicated assignments in the support activities today, representing an unnecessary payroll cost of more than

\$10,000,000 per year. Similar concern has been voiced in recent congressional reports:

It has resulted in legislative authority in the current defense appropriation act to transfer funds to make possible the substitution of civilian personnel for military personnel wherever possible.

The House of Representatives report on the current defense appropriation stated: "Studies and investigations have revealed three principal faults—overstaffing in support activities, utilization of military personnel in civilian-type positions, and the doubling of supervision by military and civilian personnel. While the Secretary of Defense has made admirable progress in this general direction, it is strongly urged that this aspect of military personnel continue to be reviewed with the view of establishing some overall criteria so that requirements are more closely checked, and positions primarily of a civilian nature be filled by civilians."² (Emphasis supplied.)

The committee endorses the criteria proposed by the subcommittee (see exhibit 12) and makes the following recommendation:

Recommendation No. 14

Congress should incorporate criteria in title V to the National Security Act which will clearly distinguish the proper roles for civilian and military support managers and technical personnel and should direct immediate application of these criteria by the Secretary of Defense.

The following steps should be taken by the Secretary of Defense to implement these criteria:

Analyze all support positions at the level of lieutenant colonel (Navy commander), GS-13 and above, using the criteria proposed, to identify the number and types of positions which should be filled by civilian and military personnel.

Report to Congress each year, for 5 years, on the number of positions formerly filled by military officers which have been opened to

² Department of Defense Appropriation Bill, 1954; H. Rpt. 686.

SUGGESTED CRITERIA FOR DETERMINING MILITARY AND CIVILIAN STAFFING FOR SUPPORT ACTIVITIES

EXHIBIT 12

| CIVILIAN PERSONNEL | MILITARY PERSONNEL |
|---|--|
| <p>Should be utilized in:</p> <ol style="list-style-type: none"> 1. Positions requiring management and technical skills usual to the civilian economy. 2. Positions in which continuity of management and experience can be better provided by civilians. 3. Positions which meet the above criteria and do not require the exercise of military command over tactical forces. | <p>Should be utilized in:</p> <ol style="list-style-type: none"> 1. Positions in combat-related support activities and positions in organizations immediately in support of operational forces exposed to potential enemy action. 2. Positions in supplier-related support activities necessary for the training of officers for combat-related support. 3. Positions necessary to provide military experience to supplier-related support. |

civilians, and the number of such positions which have been filled by civilian managers and technicians.

Prepare a study of the management personnel requirements of the Defense Department which might be met by the senior civil service recommended in the Hoover Commission report on personnel and civil service; and report to Congress on the positions which could appropriately be filled from the senior civil service. This same study might also consider, as an immediate step, the need of the Defense Department for additional supergrade positions (GS-16, 17, and 18).

Comparable Personnel Standards for Civilian and Military Managers in Support Activities

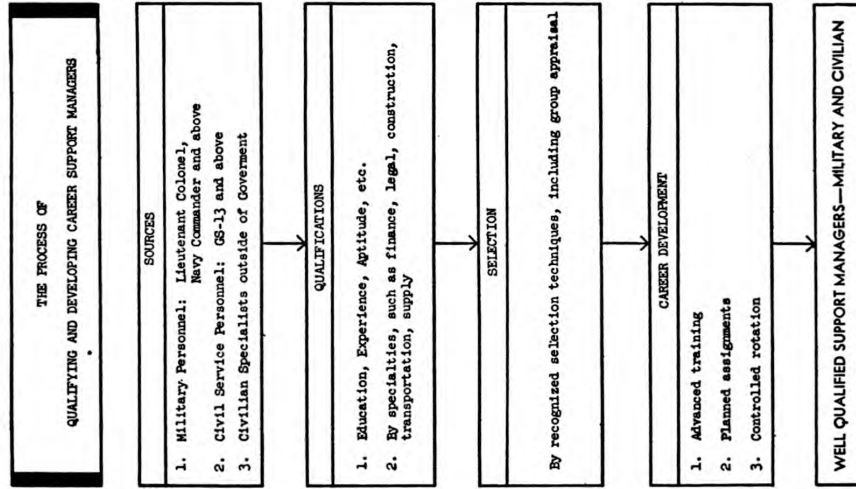
The proposed criteria will result in establishing more completely the number and types of positions requiring career-trained support managers and technicians, both military and civilian. Since a large number of both groups will be required, and since the management skills are alike, members of both groups who pursue a career in support management should be governed by comparable personnel standards administered under the authority of the Secretary of Defense. It is therefore recommended that:

Recommendation No. 15

The Secretary of Defense should establish a personnel system for support activities which provides comparable standards for selection, training, promotion and compensation of both civilian and military managers and technical personnel. Congress should enact necessary legislative changes in order to carry out this objective.

The principles of the proposed plan, illustrated in exhibit 13, are as follows:

EXHIBIT 13



The positions covered by the proposed personnel pattern should be divided into the principal specialties in support management (such as finance, construction, transportation and supply).

Specific qualifications should be established for each specialty, and the same standards applied to both civilian and military personnel. Support managers and technicians should be selected through recognized selection techniques, including group appraisal by boards of experts in the fields of work involved.

The training, development, and assignment of support managers and technicians—military and civilian—should be governed by comparable policies within each department. Development programs should include training in business and industrial organizations and in educational institutions, as well as training within the Department of Defense.

The promotion and compensation of support managers and technicians should be subject to standards which provide adequate and equitable rewards to both civilian and military career managers. (In comparing military and civilian compensation, total military pay should include base pay, allowances and special benefits.) For military personnel, Congress should authorize separate promotion lists for those who specialize in support activities. Statutes governing retirement also should be amended so that *competent* officers serving in appropriate support management positions will not be automatically forced out of service because of being passed over for promotion.

Responsibility for Developing Career Managers

The accomplishment of such far-reaching changes in the personnel programs and procedures of the Department of Defense demands strong leadership by the Secretariats. Each member of the Secretariat who is responsible for a functional area (logistics, research and development, personnel, finance, legal, etc.) should have the following personnel responsibilities:

Determination of qualification standards. For example, in the area of financial management, the Assistant Secretary of Defense for Finan-

cial Management and each departmental Assistant Secretary for Financial Management would collaborate in determining the qualifications of incumbents of key positions.

Development of training, assignment, rotation and promotion practices. This again would be a collaborative effort among the members of the Secretariat concerned.

Participation in the selection and appointment of incumbents to the most important positions in his functional area.

Responsibility for coordinating the development of the career management program should be assigned to the Assistant Secretary of Defense for Personnel who, with the departmental Assistant Secretaries for Personnel, should promulgate uniform policies to be applied in all functional areas, and oversee the administration of selection, training, assignment, and promotion programs. The Assistant Secretary for Logistics within each department should also be supported by a personnel staff to assist him in his capacity as the top manager of supply and service activities.

Recommendation No. 16

The Secretary of Defense should require members of the Secretariats to participate in developing and applying the career management program in activities under their jurisdiction.

Summary of Recommendations To Improve Management Personnel

The committee supports the report of the subcommittee on special personnel problems and suggests the following measures for implementation of its proposals:

Congress should enact legislation to minimize present obstacles to Government service by outstanding citizens, and should provide posi-

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tive incentives which will attract and hold able administrators. Examples of improvements which should be made are:

(a) Increase the level of compensation for Assistant Secretaries, as already recommended by the task force on personnel and civil service, to an amount approximating \$25,000. It is further suggested that the pay for other members of the Secretariats be placed at appropriate rates above \$25,000.

(b) Modify the "conflict of interest" laws so that presidential appointees are not forced to liquidate lifetime business equities in order to accept Federal appointment. Instead, each new appointee should take an oath (as part of his regular oath of office) that he will disqualify himself from participation in any decision which involves his company or financial interests.

Congress should enact a title V to the National Security Act to provide the legislative basis for specializing management and technical personnel in the support activities. This legislation should establish these basic principles:

(a) Military personnel will be limited primarily to posts in tactical organizations, and civilian personnel will be utilized increasingly in management and technical positions in support activities.

(b) Criteria will be established for use in determining those management and technical positions in support organizations which will be filled by civilian personnel and those which must be filled by military officers.

(c) Legal and administrative obstacles which prevent the most productive utilization of both civilian and military personnel in support activities should be promptly removed. The Secretary of Defense should submit to Congress recommendations covering any changes which are needed in existing law.

Congress should incorporate criteria in title V to the National Security Act which will clearly distinguish the proper roles for civilian and military support managers and technical personnel and should direct immediate application of these criteria by the Secretary of Defense.

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The Secretary of Defense should establish a personnel system for support activities which provides comparable standards for selection, training, promotion and compensation of both civilian and military managers and technical personnel. Congress should enact necessary legislative changes in order to carry out this objective.

The Secretary of Defense should require members of the Secretariats to participate in developing and applying the career management program in activities under their jurisdiction.

Part IV

**PROGRAM FOR IMPROVING FINANCIAL
MANAGEMENT**

- Perfecting the Financial Tools of Management
- Fixing Responsibility for Managing Defense Dollars

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Program for Improving Financial Management

Adequate controls over defense expenditures are imperative. The Department of Defense spends more than 60 cents out of each tax dollar. Its annual purchases are almost twice as large as total United States expenditures for public education. Its assets now on hand represent 10 percent of our national wealth.

It is not unreasonable to expect our military leaders to desire sufficient manpower and materiel at any place and at any time to minimize potential military risks. But the public interest demands that the civilian leaders of the Defense Department counterbalance these natural tendencies which, if not checked, lead to great waste in overbuilding, overbuying and overstaffing. Thus, the Defense Secretariats have no more important task than that of being the guardian of this large segment of our Nation's resources.

The Congress has been fully alert to the great importance of financial management in national defense. This is revealed by the attention given to defense budgets and the investigations of defense expenditures. In addition, Congress has seen fit to accord this aspect of the defense business organization special attention. The National Security Act was amended in 1949 by addition of title IV which established and defined the functions of the Assistant Secretary of De-

fense (Comptroller), and of the comptrollers of the three military departments. Title IV also prescribed the performance-type budget; provided for working capital funds to control and account for programs and work performed in the Department of Defense (more specifically, for financing inventories and commercial- and industrial-type activities); provided for the common use of disbursing facilities; and directed the maintenance of property records on both a quantitative and monetary basis.

More recently, Congress has enacted legislation¹ which expanded the Secretariats of the three military departments and specified that one Assistant Secretary in each should be responsible for financial management.

Title IV is the financial charter of the Defense Department; it envisions a great transformation in the Department's business management. The tremendous magnitude of the task has been generally recognized. If the task has, perhaps, been inadequately performed, efforts should be redoubled for its completion.

Task force studies have found a number of efforts now in process in various parts of the Department of Defense to effect improvements in budgeting, accounting, funding, reporting and auditing. While these efforts are individually worthwhile, they have been found to be but partial approaches to the correction of fundamental problems.

The Commission's task force on budget and accounting found that there is a need for improving financial controls as an aid to better management. The task force commented: "In common with the

¹ Public Law 562; August 1954.

usual Government pattern there are plans for accounting and budgeting improvement in varying stages of evolution and completion but more effective action is required."

The task force on procurement found that planning for procurement which requires about one-half of all defense dollars, is greatly weakened by lack of knowledge of inventories on hand and on order, and that inventory "data are not uniformly useful in terms of completeness, timeliness and comparability."

Other studies, also, stress that Congress is attempting to assess annual budget requests without full knowledge of defense assets, and that the justification data accompanying budget requests is often of doubtful reliability since final plans cannot be prepared as far in advance as the present budget cycle requires.

Furthermore, managers of support activities are dependent upon allotments of funds from dozens of sources—a procedure which prevents the orderly process of planning operating budgets. Instead, they must work with a large number of allotments, each restricted and without flexibility of transfer.

The committee is impressed with the need for correcting two fundamental causes of the foregoing problems:

First, the financial tools of management have not been perfected.

Second, responsibility for screening and managing defense programs and recommending the financial requirements are not fully and properly shared among members of defense management.

The committee has drawn conclusions regarding these matters which are discussed in this chapter.

Perfecting the Financial Tools of Management

The report of the task force on budget and accounting provides a program for the development of more modern financial tools. The committee endorses steps which will strengthen congressional control over defense expenditures and produce more current and complete accounting facts for the use of defense managers.

1. Budgeting

The defense budget, in common with all other Government department budgets, and as required by law, is a request for authority to incur obligations for goods and services, many of which will not be delivered during the year concerned. This system of budgeting is defective as presently practiced in that it does not adequately reveal either available resources or cost of performance. Furthermore, this system has resulted in granting authority well in excess of total annual needs. At the beginning of the fiscal year 1955, the Department of Defense had obligation authority of \$50,000,000,¹ whereas estimated obligations for the year are \$36,000,000,000. Such an excess accumulation of obligation authority reduces the effectiveness of congressional control over Defense appropriations.

The Commission's task force on budget and accounting recommends that obligation-type budgeting be discontinued and that, in its place, Congress be asked to authorize an "accrued expenditure budget," which would be based upon the value of goods and services estimated to be received during each year. In the case of long lead-time programs, such as weapons procurement and major construction, Congress would also provide contracting authority beyond the budget year, but would retain full control by the process of approving only the funds to be spent each year. This means that Congress would review the program annually from the standpoint of costs and accomplishment, both completed and projected.

Among other important steps necessary to improve budgeting, the committee is impressed with the importance of reducing the time required in budget preparation (the task force on budget and accounting suggests a maximum period of 1 year for the complete budget

¹ OSD-Comptroller, *Monthly Report on Status of Funds*; Feb. 28, 1955, p. 23; *The Budget of the U. S. Government for Fiscal Year 1956*, p. 504.

planning cycle); and of simplifying the overly detailed justification data, the sheer volume of which prevents clear understanding and analysis of budget requests.

2. Accounting

Expenditure control in the Federal Government is largely based upon subdividing congressional appropriations into a series of allotments to individual organizations which, in turn, make suballotments to their subordinate units and to service activities. This method of control results in an accounting system a primary purpose of which is to assure that allotments and suballotments are not overexpended. The task force on budget and accounting characterizes this as "the primitive cash system of control which was relied upon in the early days of industry." Allotments become so dispersed (several hundred thousand in the Department of Defense) that no rational picture of expenditures in relation to performance can be obtained by top management. Furthermore, managers of large installations such as some general depots and other multiple-purpose stations are unable to measure their cost of performance, and one of the most potent incentives to economical operations is lacking.

To overcome these defects, the task force on budget and accounting proposes the adoption of business-tested systems of accrual accounting throughout the Government. The committee endorses the application of this proposal to the Department of Defense in order to provide management at all levels with comprehensive data on:

What is owned—that is, the value of resources including capital assets, real property, inventories, and other assets.

What is owed—that is, liabilities for goods and services received, but not yet paid for.

Cost of operations on an accrued basis—that is, the value of goods and services consumed in operating an activity or carrying out a work project (depreciation on capital assets would be provided in cost accounts only in some areas, as in industrial- and commercial-type activities).

The development of sound and useful accounting facts will lay the groundwork for other long-overdue improvements. The allotment system can be simplified. A further important benefit would be the development of cost-based operating budgets by installation managers which would become the basis for review by higher management. Improvements in the form, content and utility of financial reports also would be greatly facilitated.

3. *Working Capital Funds (Revolving Funds)*

Title IV of the National Security Act provided for the use of revolving-type funds throughout the Department of Defense to facilitate managing and controlling industrial activities and stock inventories, and getting the cost of materiel consumed charged against programs. This device has been found particularly valuable in financing activities when a buyer-seller relationship exists or can be created. Revolving funds, buttressed by accounting systems which disclose full costs of operations, contribute to improved management control.

When the capital in a stock fund exceeds the amount required to support the required inventory, the excess is readily highlighted, and Congress and the Secretary of Defense can take prompt action to reduce the size of the fund. The Department of the Army's budget

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for the fiscal year of 1956, for example, provides for a \$700,000,000 reduction in its stock fund.

The committee, therefore, endorses the installation of proper accounting, costing, and reporting systems throughout the department and the continued and extended use of working capital and stock funds where they are suitable.

In summary, the committee believes that the adoption of the "accrued expenditure budget" and "accrual and cost accounting" are essential steps to providing tools through which Congress and Defense executives can keep costs at the lowest practicable level. It is therefore recommended:

Recommendation No. 17

To improve the financial tools of management: (1) Congress should enact legislation to enable the Department of Defense to prepare and administer budgets on an accrued expenditure basis; (2) the Department of Defense should continue and extend the use of systems of accrual and cost accounting and, wherever it will add to efficient management, the use of working capital funds; (3) the Department of Defense should intensify its efforts to establish complete inventory records, and to develop continuing and effective inventory controls.

Fixing Responsibility for Managing Defense Dollars

Better financial tools are essential to effective control of defense expenditures. There is an equally important need to recognize the part which every member of top management should play in managing defense assets and fiscal resources.

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In the absence of budgeting and accounting tools of the type described, primary reliance has been placed upon securing control through the budget justification and allotment processes. This, in turn, has concentrated an undue burden on the comptroller organization, particularly in the Office of the Secretary of Defense. In this Office, the Assistant Secretary (Comptroller) has been placed in the position of exercising the principal review of operating and procurement plans revealed in budget justification data. Some of the problems that have arisen from this unbalanced distribution of control in one part of the management organization are:

Other members of the Defense Secretariat have not generally shared in the evaluation of requirements which generate defense budgets and expenditure plans. The task force on budget and accounting observes that "at the OSD level . . . the vacuum created by the lack of a civilian screen on military requirements has resulted in reliance upon financial controls exercised by the Comptroller as a substitute." The task force states that if other Assistant Secretaries made a more searching review of the requirements under their jurisdiction "the Comptroller can be relieved of a heavy responsibility in a field which is not logically his."

To correct the inadequately shared responsibility for the management of defense dollars, the committee recommends:

Recommendation No. 18

To fix responsibility for managing defense dollars:

- (1) each Assistant Secretary of Defense should be responsible for screening the requirements programs of each department for his area of functional jurisdiction and for advising the Assistant Secretary of Defense for Financial Management as to the financial needs for such activities; (2) each departmental Assistant Secretary

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should be held responsible for screening requirements and for participating in the formulation and continuing review of the budget for those activities and programs under his jurisdiction.

Under this recommendation, all Assistant Secretaries would take an active part in the review and control of programs and budgets in their functional jurisdictions. This would be supplementary to the work of the Assistant Secretaries for Financial Management who will continue, as in the past, to be responsible for the supervision and direction of budgeting.

An interesting precedent for the suggested assignment of responsibilities already exists in the Office of the Secretary of Defense. The subcommittee on research activities found that the Assistant Secretary (Research and Development), in cooperation with the Assistant Secretary (Comptroller) takes an active part in the budget process.

Hoover Commission studies have found that in the departments of the Army and Air Force, budget and accounting responsibility is not clearcut, because the departmental Comptroller is responsible concurrently to a Chief of Staff and an Assistant Secretary for Financial Management. Such an arrangement tends to dissipate essential civilian control, and to give a military executive partial responsibility for a highly technical business function which is not essentially military in character.

The committee therefore recommends that the organization for financial management be further strengthened by the following:

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Recommendation No. 19

Congress should amend existing legislation to assign each Assistant Secretary for Financial Management exclusive supervision of the departmental comptroller organization; pending such legislative action, the Secretary of Defense should accomplish this objective by directive.

In the exercise of their responsibilities, the Assistant Secretaries for Financial Management should:

Select executives for key comptroller positions on the basis of broad business and accounting experience, and make competence the criterion for comptrollership.

Take immediate steps to further strengthen accounting staffs in all subordinate comptroller organizations.

Summary of Recommendations To Improve Financial Management

The committee has found that the inadequacies of financial management in the Department of Defense are due to two conditions: (1) the financial tools of management have not been perfected, and (2) responsibility for managing defense dollars is not adequately shared by members of the Secretariats. The committee believes that adoption of the proposals of the task force on budgeting and accounting will overcome these problems, and wishes to stress three recommendations:

To improve the financial tools of management: (1) Congress should enact legislation to enable the Department of Defense to prepare and administer budgets on an accrued expenditure basis; (2) the Department of Defense should continue and extend the use of systems of accrual and cost accounting and, wherever it will add to efficient management, the use of working capital funds; (3) the Department of Defense should intensify its efforts to establish complete inventory records, and to develop continuing and effective inventory controls.

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To fix responsibility for managing defense dollars: (1) each Assistant Secretary of Defense should be responsible for screening the requirements programs of each department for his area of functional jurisdiction and for advising the Assistant Secretary of Defense for Financial Management as to the financial needs for such activities; (2) each departmental Assistant Secretary should be held responsible for screening requirements and for participating in the formulation and continuing review of the budget for those activities and programs under his jurisdiction.

Congress should amend existing legislation to assign each Assistant Secretary for Financial Management exclusive supervision of the departmental comptroller organization; pending such legislative action, the Secretary of Defense should accomplish this objective by directive.

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**SUMMARY OF
RECOMMENDATIONS**

Summary of Recommendations

The foregoing chapters have outlined four programs for improving the management of the Department of Defense, with particular reference to the Secretariats and the support activities. Nineteen major recommendations are offered.

A consolidated check list of these recommendations is presented below, with reference to the page on which each is discussed. Exhibit 14 is a summary chart of organizational recommendations.

Program for Improving Business Management Organization

1. The Secretary of Defense should create in his Office a civilian position invested with sufficient stature and authority to insure the establishment and maintenance of effective planning and review of military requirements. The official occupying this position would, on behalf of the Secretary:

(a) Maintain active liaison with National Security Council, Joint Chiefs of Staff and their staffs;

(b) Coordinate all guidance provided at the Office of the Secretary of Defense level to the military departments covering the preparation of requirements programs; and

(c) Provide for a system of effective review and analysis of defense plans and requirements computations.

2. The Secretary of Defense should emphasize the management areas of logistics, research and development, personnel and finance, and should regroup certain functions under Assistant Secretaries to strengthen coordination of these four principal management areas.

3. The Secretary of Defense should appoint a principal career assistant to each Assistant Secretary of Defense of such stature and competence that continuity of administration will be improved.

4. The Secretary of Defense should revise the assignments of departmental Assistant Secretaries to secure a uniform grouping of management responsibilities similar to that proposed for the four management Assistant Secretaries of Defense.

5. The Secretary of Defense should define the relationship of the military Chief of Staff to the support activities as that of: (1) planning and requesting the materiel, services, facilities and specialized personnel required to support the operating forces subject to the review and approval of the Secretariat; and (2) exercising direct authority over tactical and combat-related support activities performed by the logistics organization.

6. The Secretary of Defense should assign to the Assistant Secretary for Logistics in each department direct management control over supply and service activities.

7. The Secretary of Defense should assign clear responsibility for the coordination of research and development programs to an Assistant Secretary for Research and Development in each department.

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Program for Improving the Management of Common Supply and Service Activities

8. Congress should enact legislation establishing a separate civilian-managed agency, reporting to the Secretary of Defense, to administer common supply and service activities.

9. The legislation establishing the separate supply and service agency should specify criteria which will assure a strict supporting role for the agency.

10. The separate agency should be named the "Defense Supply and Service Administration," and its Administrator should be a Presidential appointee. Initially, the agency should manage selected items of common supply, and operate general and specialized hospitals.

11. Congress should instruct the Secretary of Defense to report semiannually on progress being made in improving all phases of the supply and logistics system.

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Program for Improving Management Personnel

12. Congress should enact legislation to minimize present obstacles to Government service by outstanding citizens, and should provide positive incentives which will attract and hold able administrators. Examples of improvements which should be made are:

(a) Increase the level of compensation for Assistant Secretaries, as already recommended by the task force on personnel and civil service, to an amount approximating \$25,000. It is further suggested that the pay for other

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members of the Secretariats be placed at appropriate rates above \$25,000.

(b) Modify the "conflict of interest" laws so that Presidential appointees are not forced to liquidate lifetime business equities in order to accept Federal appointment. Instead, each new appointee should take an oath (as part of his regular oath of office) that he will disqualify himself from participation in any decision which involves his company or financial interests.

13. Congress should enact a title V to the National Security Act to provide the legislative basis for specializing management and technical personnel in the support activities. This legislation should establish these basic principles:

(a) Military personnel will be limited primarily to posts in tactical organizations, and civilian personnel will be utilized increasingly in management and technical positions in support activities.

(b) Criteria will be established for use in determining those management and technical positions in support organizations which will be filled by civilian personnel and those which must be filled by military officers.

(c) Legal and administrative obstacles which prevent the most productive utilization of both civilian and military personnel in support activities should be promptly removed. The Secretary of Defense should submit to Congress recommendations covering any changes which are needed in existing law.

14. Congress should incorporate criteria in title V to the National Security Act which will clearly distinguish the proper roles for civilian and military support managers and

technical personnel and should direct immediate application of these criteria by the Secretary of Defense.

15. The Secretary of Defense should establish a personnel system for support activities which provides comparable standards for selection, training, promotion and compensation of both civilian and military managers and technical personnel. Congress should enact necessary legislative changes in order to carry out this objective.

16. The Secretary of Defense should require members of the Secretariats to participate in developing and applying the career management program in activities under their jurisdiction.

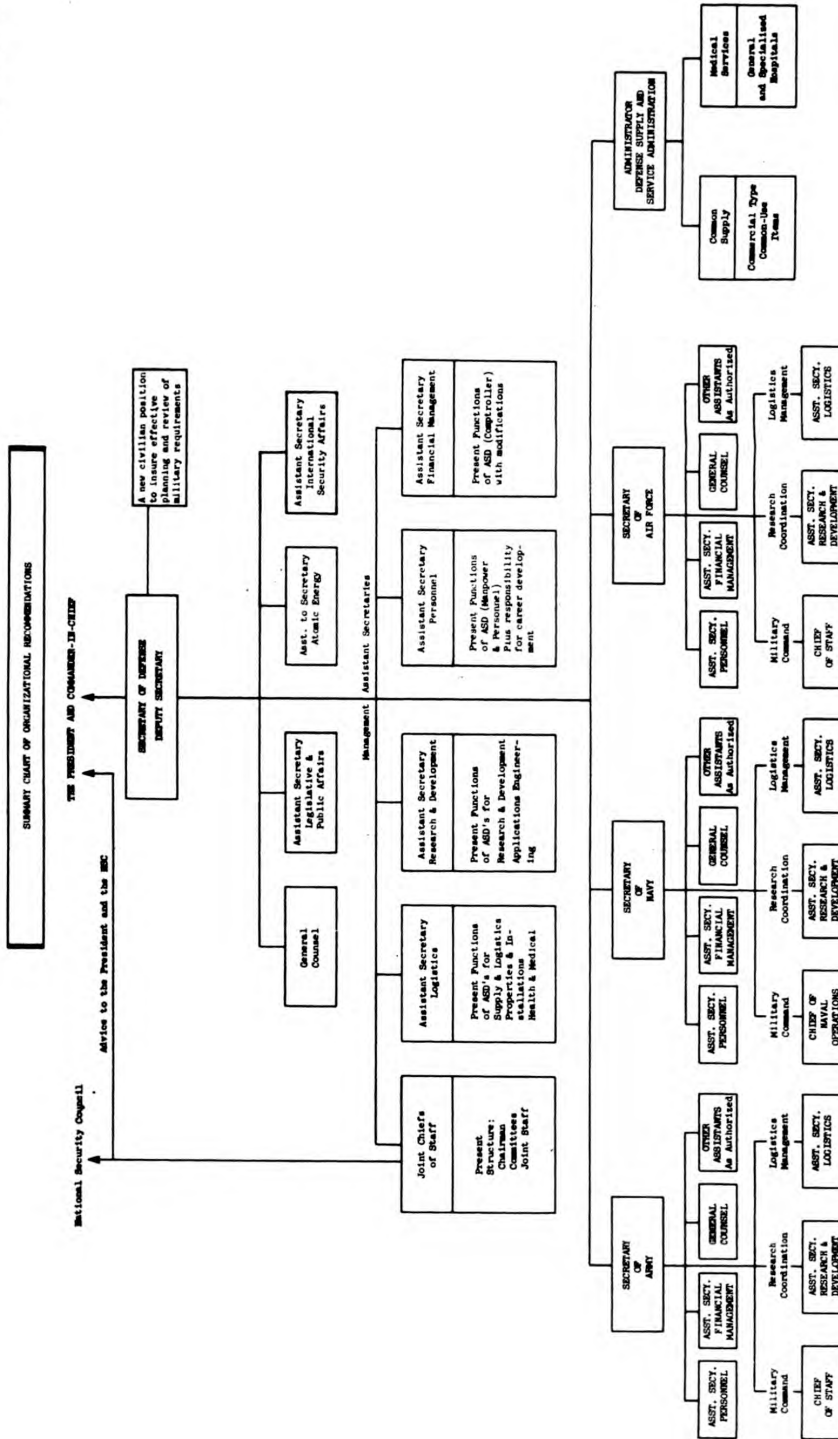
Program for Improving Financial Management

17. To improve the financial tools of management: (1) Congress should enact legislation to enable the Department of Defense to prepare and administer budgets on an accrued expenditure basis; (2) the Department of Defense should continue and extend the use of systems of accrual and cost accounting and, wherever it will add to efficient management, the use of working capital funds; (3) the Department of Defense should intensify its efforts to establish complete inventory records, and to develop continuing and effective inventory controls.

18. To fix responsibility for managing defense dollars: (1) each Assistant Secretary of Defense should be responsible for screening the requirements programs of each department for his area of functional jurisdiction and for advising the

Assistant Secretary of Defense for Financial Management as to the financial needs for such activities; (2) each departmental Assistant Secretary should be held responsible for screening requirements and for participating in the formulation and continuing review of the budget for those activities and programs under his jurisdiction.

19. Congress should amend existing legislation to assign each Assistant Secretary for Financial Management exclusive supervision of the departmental comptroller organization; pending such legislative action, the Secretary of Defense should accomplish this objective by directive.



**RESERVATIONS OR
DISSENTS**

Reservations or Dissents

There are one Commission recommendation and 19 task force recommendations in this volume.

Commissioner Bridges has reservations on recommendations 8 through 11.

Commissioner Brown dissents on recommendations 8 through 11.

Commissioner Farley approves the report with qualifications.

Commissioner Holifield approves the report with qualifications.

Commissioner McClellan has reservations on recommendations 8 through 11.

Separate Statements of Commissioners

Separate Statement of Commissioner Bridges

I think the work of the Commission's Committee on Business Organization of the Department of Defense and its recommendations are constructive and have definite merit. However, I have some reservations as to recommendations 8 through 11. Inasmuch as I will be required to pass on these recommendations again as a member of the United States Senate, I shall want to reexamine them in the light of further information.

STYLES BRIDGES,
Commissioner.

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Separate Statement of Commissioner Brown

I cannot accept the recommendations of the Committee on Business Organization of the Department of Defense to create a Supply and Service Administration in the Department of Defense for (1) the supply of common use items and (2) the operation of general and specialized military hospitals. To me, this means adding a military General Services Administration and a "United Medical Administration" to the already excessive number of agencies and administrations in the executive branch of the Government.

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Last January, I became concerned with the recommendations of some of our task force reports and issued the following memorandum to the other members of the Commission, the Executive Director and members of the Commission's staff:

In recent weeks I have read several task force and Pro Forma Commission Reports and, as we approach final decisions on them, I would like to suggest one or two basic considerations for the Commission.

As author and cosponsor of Public Law 108 I am struck with the number of recommendations suggesting greater appropriations, increased staff and new organizations to be added to the already sprawling bureaucracy. As you well know the underlying philosophy of this legislation calls for efficiency and economy by streamlining and consolidating services, eliminating overlapping and duplicating functions and "reducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions."

I recognize the occasional temporary expedient to raise expenditures to accomplish greater ultimate economies. In these instances, however, the realization of long-term savings hinges upon one or more assumptions and the quality of administration to be applied to the task. I therefore emphasize that it is incumbent upon the Commission to carefully point out the manner in which future economies can be obtained so that the Congress and the people may be certain of our objectives.

I further suggest that we examine the recommendations of the task force and develop our own reports with due regard to the above stated objectives. It is my wish that this comment shall apply to each of the reports in turn.

Neither one of the Committee's recommendations conform to the intent and purpose of Public Law 108 in "eliminating duplication and overlapping of services, activities and functions and consolidating services, activities and functions of a similar nature." Instead, they would create two addi-

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tional, unrelated administrative devices under the guise of unification but in violation of repeated expressions of Congressional intent. It must be remembered that when the Congress created the Department of Defense it was given the mission of "authoritative coordination and unified direction" of the military departments and agencies. It was not intended to perform operational and administrative duties.

Supply

The first Hoover Commission recommended the creation of the General Services Administration and the Congress subsequently enacted the Federal Property and Administrative Services Act of 1949 (Public Law 152, 81st Cong.) to meet this need. Its purpose is to provide for the Government an economical and efficient system for (a) the procurement and supply of personal property and non-personal services, and performance of related functions, (b) the utilization of available property, (c) the disposal of surplus property, and (d) records management. However, the act also contains a provision permitting the Secretary of Defense to exempt the Department of Defense from actions taken by the Administrator of General Services whenever the Secretary of Defense, with the President's concurrence, determines that such exemption is in the interest of national security.

In June of 1954 the President issued a memorandum exempting the military departments from actions of the Administrator of General Services. Despite this policy directive, the Department of the Air Force, and to a lesser extent, the

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Army and Navy Departments acquire an increasing volume of their requirements for common use, civilian-type items voluntarily by means of Federal supply schedules or other services provided by the General Services Administration. The acceptance of the supply recommendation of the Committee on Business Organization of the Department of Defense would set up another organization to provide this service and terminate the extension of what, to me at least, is a very sensible and desirable trend.

The Committee Report states,

That the proposed Defense Supply and Service Administration ultimately may encompass activities now employing about 150,000 employees with expenditures in the range of \$6,000,000,000 to \$8,000,000,000 annually (approximately 20 percent of the Defense budget).
• • • Between 50 and 75 percent of procurement expenditures probably will always remain in the three military departments • • • The separate agency would be expected to assume supply responsibilities only for commercial type items and services • • • The initial organization should be formed by transferring necessary personnel and facilities from the military departments.

Our Task Force on Food and Clothing pointed out that there are now 16 logistics systems operating within the Department of Defense. Is it necessary to add still another one for the exclusive handling of common-use items? Can we assume that the staff, facilities, and expenditures of these separate systems will be reduced in accordance with the estimated 20 to 25 percent of the total job that might be assumed by the new Defense Supply and Service Administration?

The Committee suggests the new agency handle "food, clothing, medical and dental supplies, fuels and lubricants,

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hardware, household and office type supplies and equipment, commercial automobiles and vehicular spare parts." Our task force pointed out most of these commodities are already handled under coordinated procurement arrangements. They were generous in their praise of existing unified military systems which buy food, medical supplies and equipment. Fuels and lubricants for the Armed Forces have been bought on a centralized basis for many years. Household- and office-type supplies and equipment and vehicular spare parts are bought for the military services by the General Services Administration. Except for food and clothing, the General Services Administration is already engaged in handling all of the common use, commercial type commodities mentioned above plus a wide variety of other items commonly used by both military and civilian agencies.

It is apparent the Committee did not undertake a study of common use items in the Department of Defense. The Task Force on Military Procurement sponsored, but did not use, a study of "Department of Defense—General Services Administration Supply Relationships" conducted by personnel representing the task force and the agencies concerned. Significantly, this group recommended

that section 201 (a), Public Law 152, as amended, and such other portions as may be pertinent, be reviewed to determine basically the validity of the original concepts of that section. After such has been determined, it is recommended that section 201 (a) Public Law 152, as amended, be amended further to unequivocally:

1. Define common use, commercial-type items and designate specifically the categories and classes of supplies and services commonly used by both civilian and military activities or by two or more civilian

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activities not requiring substantial alteration for adaption to military use.

2. Assign responsibility for procurement and supply of common use, commercial-type items to a single agency, service or department to be exercised for Federal civilian agencies and the Department of Defense.

3. Direct the elimination of duplication in procurement and supply of those common use, commercial type items assigned to a single agency, service or department.

In commenting on efforts at coordination between the military and civilian agencies the first Hoover Commission stated,

It is believed that, in the area of common-use items, and in those fields where uniform policies are practicable and in the public interest, the supply problems of the military and civilian agencies of the Government can be successfully integrated and that simplification and economy will thereby replace the present complex and wasteful situation in the field of supply.

I believe this observation is just as sound today as it was in 1949, particularly after the Congress has recognized its validity and established the General Services Administration to meet this specific need.

In my opinion the military departments should acquire selected groups of common use, commercial-type items through the facilities of the General Services Administration thereby precluding the establishment of another supply system in the Department of Defense for this same purpose. I simply do not believe that it adds to the efficiency and economy of Government to have two agencies, one civilian and one military, dealing in and competing with each other for the same kind of common-use, commercial-type supply items.

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Medical Services

The Department of Defense was established to provide policy direction, authority and control of the military departments and agencies. In Public Law 253, the Eightieth Congress provided,

Three military departments for the operation and administration of the Army, the Navy (including naval aviation and the U. S. Marine Corps), and the Air Force, with their assigned combat and service components; to provide for their authoritative coordination and unified direction under civilian control *but not to merge them* * * * * (emphasis supplied).

In connection with Plan No. 6 of 1953, providing for re-organization within the Department of Defense, the President stated:

In an organization the size of the Department of Defense, true effectiveness with economy can be attained only by decentralization of operations, under flexible and effective direction and control from the center. I am impressed with the determination of the Secretary of Defense to administer the Department on this basis and to look to the Secretaries of the three military departments as his principal agents for the management and direction of the entire defense enterprise.

In the light of these policies I must also reject the Committee's recommendation to place the operation of general and specialized hospitals of the military forces in a proposed "Defense Supply and Service Administration." In my judgment, the only common denominator in the "supply and service" aspects of this suggestion lies in the area of common use medical supplies and equipment.

Having served on the Committee of Commissioners that

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developed the Commission's Report on Federal Medical Services I am sure the Medical Services Task Force never intended to combine the administration of military hospitals with a supply agency handling common use items. On the contrary, the Medical group specifically recommended that:

(a) The military medical and hospital services within continental United States be coordinated by assigning to a single military department the responsibility for hospital service in a defined geographic area and that this concept be furthered, wherever practicable, in extracontinental areas;

(b) Patients of all military departments requiring highly specialized medical care be concentrated into special hospitals, each of which will serve the three departments;

(c) Each of the three military departments maintain a medical center, the components of which should be a hospital, a center for postgraduate education in military medicine, and a research institute occupied with medical problems identified with the primary mission of the department; and

(d) The Assistant Secretary of Defense (Health and Medical) be given authority to modify and reallocate medical care responsibilities of the three departments in line with above.

In summary, the suggestions for establishing a "fourth Service of Supply" and a "United Medical Administration" are not new. They have been proposed and rejected on several previous occasions. In my opinion they should be rejected again.

CLARENCE J. BROWN,
Commissioner.

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Separate Statement of Commissioner Farley

I voted for the adoption of the Report of the Committee on Business Organization of the Department of Defense because the basic structural changes recommended in that report seem to be pointed in the proper direction. I still believe these principles are sound; however, I share Commissioner Holifield's concern about the operating mechanics of the proposed changes. I trust that appropriate study will be given to the operational details necessary to put into effect the concepts upon which the report is based.

JAMES A. FARLEY,
Commissioner.

Separate Statement of Commissioner Holifield

The Commission has endorsed, without modification, the report of its Committee on Business Organization of the Department of Defense. I voted for the report because I am in general accord with its objectives. However, I am concerned about the lack of clarity in some of the proposed organizational and functional relationships, particularly those regarding the Defense Supply and Service Administration.

Common Supply Agency Proposed Earlier

In recommending the creation of this new agency, the Commission revives a longstanding and controversial proposal for a single or common supply service, sometimes called

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a "fourth service." This concept figured actively in the deliberations of War Department planners during World War II, when the war experience brought home forcibly the need for unification in the defense organization.¹

Thus in 1944, when the War Department advocated a single department of armed forces, Gen. Joseph T. McNarney, Deputy Chief of Staff, outlined before a congressional committee a single department organization with a "Director of Common Supplies Service" alongside the three service chiefs and reporting directly to the (proposed) Secretary of the Armed Forces. In General McNarney's words: I would add to the three armed services which are united in this single department, a fourth element, directly under the Secretary for the Armed Forces, which would consist of the common supply services that can be combined, and which render supply services which are not peculiar to any one service.²

Gen. Bronson B. Somervell, drawing upon his experiences as Commanding General of the Army Service Forces, organized in March 1942 as a major supply component of the War Department, emphasized the importance and necessity of unification in a broad range of administrative, service and supply activities. He stated to the Committee:

The real integration would come about through the establishment of a common service force within a single department of war which would supply and service the three combatant forces on equal terms. This would result in one purchasing agent for shoes and one system of distributing and issuing those shoes.³

¹ See testimony of Robert A. Lovett, Assistant Secretary of War for Air, Hearings before the Select Committee on Postwar Military Policy (Woodrum Committee), House of Representatives, 78th Cong., 2d sess., pt. 1, p. 34.

² *Ibid.*, pp. 34, 38.

³ *Ibid.*, p. 98.

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Questioned in Joint Chiefs Report

A special committee on Reorganization of National Defense, established by the Joint Chiefs of Staff and reporting in April 1945, made this statement about a single supply agency:

Various proposals were advanced, both by witnesses before the Woodrum Committee and by officers appearing before the special committee, for the establishment of a single agency to provide supply, administrative, and other services for the Armed Forces as a whole. These proposals ranged from recommendations that this agency should perform all of the supply and administrative services now performed by the Army, Navy and Air Forces for themselves to recommendations that the agency should be strictly limited to the procurement of items used in the same form by two or more components (common items). After careful consideration the special committee concluded that a single agency to provide supply, administrative, and other services for the Armed Forces as a whole should not be established as part of the first step of reorganization.⁴

The special committee of the Joint Chiefs reported further that without immediate and far-reaching changes in existing military organizations, the new agency would simply be an addition to supply and administrative agencies already existing and would "necessarily create a fourth major component in a single system."

It was suggested, however, that following the establishment of a single defense department, and with further study and experience, the development of mutual understanding, and gradual changes in organization, the creation of a single supply and service agency might be advisable. In the event such an agency were established, the special committee be-

⁴ Senate Committee on Military Affairs, Hearings on S. 84 and S. 1482, 79th Cong., 1st sess., p. 450.

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lieved safeguards should be applied to insure that the agency would be a "servant" of the Armed Forces; that the separate forces would control the appropriated funds and have a deciding voice in the kinds and amounts of supplies and equipment required; and that the chain of command would run through "operational echelons" and not through "service or supply commands."⁵

A few months after the report of the special committee of the Joint Chiefs of Staff was completed, Lt. Gen. J. Lawton Collins, as Chief of Staff of the Army Ground Forces, proposed before the Senate Committee on Military Affairs that a Directorate of Common Supply and Hospitalization be created in a single defense department, charged with procurement of all items of common supply under the policy direction of an Assistant Secretary for Procurement.

General Collins anticipated a gradual process of placing items of procurement under the control of the common supply agency while maintaining single service assignments in procurement. His plan contemplated the maintenance of separate service forces in each military department to handle the distribution of supplies, on the ground that distribution was "an integral part of the military fabric." However, he suggested that in the future some of these distribution activities might be transferred to the Director of Common Supply and Hospitalization as well as procurements assigned to single services.⁶

⁵ *Ibid.*, p. 431.

⁶ *Ibid.*, pp. 156, *et passim*.

Gen. Dwight D. Eisenhower, appearing before the Senate Committee, not as a representative of the War Department but as a "soldier in the field," expressed his agreement with the organization outlined by General Collins.⁷

Overshadowed in Unification Debate

When the Congress considered the so-called unification legislation which led to the National Security Act of 1947, problems of military supply management were overshadowed by those concerning the basic organizations and combat missions of the Armed Forces. Little attention was given in the congressional hearings to the possibilities of a common supply service. General Eisenhower, as Army Chief of Staff, did indicate that he regarded a central procurement agency for the military establishment as unworkable and untimely.⁸

The National Security Act Amendments of 1949 strengthened and clarified in some respects the authority of the Secretary of Defense but prescribed no new measures for unified supply organization. In fact, the injunction in section 202 (a) of the 1947 act that the Secretary "take appropriate steps to eliminate unnecessary duplication and overlapping in the fields of procurement, supply, transportation, storage, health, and research" was stricken by the amendments on the as-

⁷ *Ibid.*, p. 365. General Eisenhower took exception only to an item concerning the role of the proposed Chief of Staff.

⁸ House Committee on Expenditures in the Executive Departments, Hearings on H. R. 2319, 80th Cong., 1st sess., p. 306. General Eisenhower's comment was made in reply to a question by Representative Carter Manasco who was also a member of the first Hoover Commission.

seration that it was unnecessary in the light of the broadened authority conferred generally upon the Secretary.⁹

Discussed by First Hoover Commission

The Task Force on National Security Organization of the first Hoover Commission, under the chairmanship of Ferdinand B. Eberstadt, whose findings were embodied to a substantial extent in the 1949 amendments, opposed a single supply agency in these words:

The overwhelming weight of evidence presented to the Committee was against the formation at this time of a single, centralized procurement agency for all three services.¹⁰

By contrast, the report of the Task Force on the Federal Supply System of the first Hoover Commission, prepared under the direction of Russell Forbes, recommended that the Munitions Board be authorized, not only to integrate military supply organizations and procedures, but to suggest at the proper time a Department of Supply for the military services comparable in function to the Central Supply Organization proposed for the civilian agencies.¹¹

Chairman Hoover, in his appearance before the Senate Committee considering the 1949 amendments to the National Security Act, indicated that further experimentation was

⁹ House Committee on Armed Services, Hearings on S. 1843 (No. 95), 81st Cong., 1st sess., pp. 2812 ff.

¹⁰ Task Force Report on National Security Organization (appendix G), January 1949, p. 50.

¹¹ Task Force Report on the Federal Supply System (appendix B), January 1949, p. 28.

needed along this line. The objective set by Mr. Hoover was this:

That articles of common use of all departments and all phases of the Government ought to be bought in one place and distributed from one organization; that articles involving specialized knowledge and special purposes of the different departments should be procured by those departments.¹²

Opposed by General Eisenhower

In November 1951, General Eisenhower, as Commander in Chief, Supreme Headquarters, Allied Powers in Europe, stated explicitly to the Bonner Subcommittee his opposition to a common supply service.

With reference to my views on a common supply service or similar organization, I will say that at the end of World War I, I was greatly impressed by the philosophy of a man under whom I served who felt that a common supply service was the most satisfactory way of approaching this problem. However, after getting more experience and seeing some of the possible weaknesses in that type of organization, I have come to the conclusion that it would be better to develop what we now have along proper lines, and with proper authorities vested in the Secretary of Defense, than to adopt the idea of a fourth service.¹³

General Eisenhower suggested that the Secretary of Defense "might well have a civilian Assistant Secretary to look after the development and improvement of our military supply system, but I am not in favor of having such an assistant placed by law in direct control of the supply organi-

¹² National Security Act Amendments of 1949, Hearing before the Senate Committee on Armed Services, 81st Cong., 1st sess., p. 138.

¹³ Federal Supply Management (Overseas Survey), Conferences held by a Subcommittee of the House Committee on Expenditures in the Executive Departments, 82d Cong., 1st sess., p. 1264.

zations in each of the military services, nor should his powers and detailed duties be prescribed by legislation."

He cautioned the subcommittee to go slow on legislation and proposed that the Secretary of Defense and the Assistant Secretary for Supply be allowed to live with their jobs for 3 or 4 years before further legislation in the supply field was considered.¹⁴

Some months after General Eisenhower's testimony, Secretary of Defense Robert A. Lovett testified before the same subcommittee regarding its report:¹⁵

You have pointed out that the supply system in the Department of Defense consists of three separate systems which have not been successfully integrated under the Munitions Board. You do not recommend establishment of a "fourth service or department of supply." In that I wholly concur. Not only does it coincide with General Eisenhower's judgment but it is supported by civilian experts, including the Eberstadt committee. That committee advocated strong central control by the Secretary of Defense in the policy field, but opposed as unworkable further extension of his operational and administrative responsibilities.¹⁶

Reorganization Plan No. 6 of 1953, submitted to the Congress by President Eisenhower, was presented as a means of strengthening further the authority of the Secretary of Defense for the purpose of achieving unification. The plan abolished the Munitions Board and several other statutory

¹⁴ *Ibid.*, p. 1265.

¹⁵ Federal Supply Management (Overseas Survey), 16th Intermediate Report of the House Committee on Expenditures in the Executive Departments, 82d Cong., 2d sess., H. Rept. No. 1994.

¹⁶ Federal Supply Management (Air Force Supply—Munitions Board), Hearings before a Subcommittee of the House Committee on Expenditures in the Executive Departments, 82d Cong., 2d sess., p. 4.

agencies in the Department of Defense, and vested their functions directly in the Secretary. At the same time a corps of assistant secretaries was established to act in a staff capacity to the Secretary "without imposing themselves in direct line of responsibility and authority between the Secretary of Defense and the Secretaries of the departments."¹⁷

Supply Improvements Retarded by Reorganization Plan No. 6

In theory, Reorganization Plan No. 6 was designed to, among other things, overcome the difficulties encountered by the Munitions Board in directing the military departments to improve their supply operations and procedures. In fact, under the pretext of giving the Secretary of Defense greater authority, it has surrounded him with a cumbersome and impotent organizational structure which prevents him from effectively exercising his authority over the military services.

There are now 9 Assistant Secretaries of Defense and a General Counsel of the same rank, all of them staff officers with no line authority, all of them subordinate to the three service Secretaries. The Secretary of Defense can only depend on his assistants to get action through unanimous agreement with the services rather than through executive direction.

It has been manifestly impossible for the Assistant Secretaries to achieve any noteworthy accomplishments, for they have no authority to act when they cannot get consent from

¹⁷ H. Doc. 136, 83d Cong., 1st sess.

the military services. The inability to direct and the natural reluctance of assorted Assistant Secretaries to keep running to the Secretary of Defense with their troubles makes the much-advertised "teamwork" arrangement a farce. The assistants grind out meaningless documents while the military departments go their own separate ways.¹⁸ Even the chairman of the Munitions Board had acquired greater authority by law and agency charter to direct the military services in supply matters¹⁹ than is now evident in his successor, the Assistant Secretary for Supply and Logistics.

The Commission report scores the confused assignment of responsibilities among the Assistant Secretaries and other deficiencies in administration which add up, in my opinion, to a severe indictment of the lack of progress in Department of Defense management since Reorganization Plan No. 6 of 1953 went into effect.

Unfortunately, the Commission report gives general approval to the advisory role of the Assistant Secretaries. The Task Force on Food and Clothing regarded this lack of authority as a serious defect and proposed that it be remedied by a modification of Reorganization Plan No. 6.²⁰

¹⁸ See the Hearings on the Hoover Commission Food and Clothing Report before a Subcommittee of the House Committee on Government Operations (Dawson Subcommittee), 84th Cong., 1st sess.

¹⁹ Federal Supply Management (Air Force—Munitions Board) Hearings before a Subcommittee of the House Committee on Expenditures in the Executive Departments, 82d Cong., 2d sess. Exhibits 1 and 2 (pp. 175 ff.) contain the explanation and text of the latest Munitions Board charter affirming the "power of decision" in the chairman.

²⁰ Hoover Commission Task Force Report on Food and Clothing, April 1955, p. 135.

Other Backward Steps Since 1953

The Commission report might well have noted other retrogressions since 1953 from the concept of unified supply operations. These include the discontinuance of studies initiated by the Munitions Board in 1951 for determining the feasibility of procurement, distribution, storage and issue of common supplies by a single department;²¹ the renewed emphasis on separate department supply systems in place of efforts to achieve defense-wide integration;²² the repudiation of the successful results of the Alameda Supply Support Test;²³ the abandonment of the Joint Textile and Apparel Procurement Agency;²⁴ and the withdrawal of the Department of Defense

²¹ The studies were initiated by DOD Directive 4100.1, 17 July 1951 and canceled by DOD Directive 4100.3, December 3, 1953.

²² Memorandum of November 13, 1953 by C. S. Thomas, Assistant Secretary of Defense for Supply and Logistics, reprinted as appendix E of section I, Hoover Commission Task Force Report on Food and Clothing, April 1955, p. 114. The task force report (p. 87) refers to the Thomas memorandum as being "in complete disregard" of a Department of Defense Directive issued in accordance with appropriation law requirements. At the hearings of the Dawson Subcommittee, Thomas P. Pike, Assistant Secretary of Defense for Supply and Logistics, took a contrary position. At the same hearings Mr. Thomas could not recall any previous directive hearing on the subject of his memorandum.

²³ The Alameda Test was initiated by DOD Directive 4100.5, December 29, 1951 and disestablished by DOD Directive Transmittal 54-128, November 19, 1954. The Navy regarded the test as "one step nearer a single-supply service" and strongly opposed it as a "backdoor route" to such a service. Military Supply Management Program, Hearings before a Subcommittee of the House Committee on Government Operations (Richman Subcommittee) 83d Cong., 1st sess., p. 33. The Hoover Commission Task Force Report on Federal Medical Services (p. 65) stated that: "Our study of the entire Alameda test leads us to the conclusion that this unified operation has been abundantly successful, efficient and economical."

²⁴ The Joint Textile and Apparel Procurement Agency was established by DOD Directive 5154-4, June 18, 1952. The Congress in section 648 of the Defense Appropriation Act of 1954 (Public Law 179, 83d Cong.) cut off the funds of the joint agency after the Navy maintained that participation in the agency would

from overall General Services Administration jurisdiction in certain supply areas.²⁸

The Commission's recommendation for a new Defense Supply and Service Administration is based on the premise that all past or present efforts to "coordinate" common supply and service activities (single service or joint agency procurement, cross-servicing, etc.) have been inadequate; that "the highest degree of integration would result from the creation of a separate agency, within the framework of the Department of Defense, to serve all departments equally in purchasing, inventory control and distribution to the end of the wholesale pipeline."

This proposal not only cuts squarely across interservice rivalries and well-entrenched concepts of departmental autonomy and self-sufficiency, but it challenges the stated Department of Defense policy. Thus, Charles S. Thomas, as Assistant Secretary of Defense for Supply and Logistics, issued a memorandum of 13 November 1953 which recites, among

double its administrative cost for that particular procurement activity. Opposition to a fourth service of supply was again registered by the Navy. House Committee on Appropriations, Hearings on the National Defense Appropriation Bill (Navy) for fiscal 1954, 83d Cong., 1st sess., pp. 552, 561.

²⁸ Under section 201 (a) of the Federal Property and Administrative Services Act of 1949 (Public Law 152, 81st Cong.), as amended, the Administrator of General Services is authorized to prescribe policies and methods of procurement and supply, to operate warehouses and other facilities and to procure and supply property for other executive agencies. The proviso is entered that the Secretary of Defense may from time to time exempt the military establishment from GSA authority in this field, unless the President otherwise directs. In a memorandum of July 1, 1949, President Truman ordered the Secretary of Defense not to exempt the military establishment from the aforesaid provision of Public Law 152. That memorandum was revoked by President Eisenhower in a memorandum dated June 8, 1954.

other things: "There is no present, or intended, or desired, plan for the establishment by direction or indirectness of a fourth Department of Supply or to divide commodity segments among departments."

Whether the new agency, if established, would be able to meet in significant measure long-sought objectives for unified supply administration depends largely upon the definition of its authority and the backing of the Secretary of Defense in the exercise of that authority. The Commission report leaves much to be desired in describing the duties and responsibilities of the proposed new agency.

Definitions of Common-Use Items Should Be Broadened

It is stated, for example, that "the commodities and services placed in a separate agency should be of a commercial type commonly used in the civilian economy." This designation, in my opinion, is altogether too restrictive. Supplies and equipment, including spare parts, in many categories have common use within the three military departments but are not necessarily used in the civilian economy. To exclude these from the control of the common supply service would limit the effectiveness of the new agency and indeed, as Commissioner Brown indicates, make it little more than a service unit to perform functions which could be easily performed by the General Services Administration.

By showing a reasonable degree of cooperation, the military departments could have arranged with the General Services Administration to meet their requirements for numerous

services and for supplies and equipment readily procured from commercial sources.²⁶ Such cooperation has been noticeable by its absence, except for the willingness of the Air Force, as the newest of the military departments, to call upon the General Services Administration to an increasing extent in this field.

Under a narrow and limiting concept of the role of the proposed new Defense Supply and Service Administration, it could easily become a device by which the Department of Defense cuts loose completely from the General Services Administration.

Under a broad and expanding concept of the proposed new agency's role, I can envisage that the procurement and distribution of ordinary commercial supplies could be progressively turned over to the General Services Administration,²⁷ while the Defense Supply and Service Administration could become the focal agency within the Department of Defense for centralizing the supply of goods and services having common military application and now dispersed among three departments and a multitude of technical bureaus and agencies.

The organization charts in the Committee report place the new agency on a level with the three military departments as

²⁶ See Field Conferences on Federal Supply Management, part III, Hearings before a Subcommittee of the House Committee on Expenditures in the Executive Department (Bonner Subcommittee), 82d Cong., 2d sess., pp. 548, ff.

²⁷ The first Hoover Commission reported that many items of common use, if purchased and stored by military or civilian agencies (but not both) would result in major savings. Report on Office of General Services: Supply Activities, February 1949, p. 43.

a "fourth service." It is described in the text as having "the status of an additional operating arm of the Department of Defense subject to policy direction and coordination by the Office of the Secretary of Defense in the same manner as the three military departments." The agency would be headed by an Administrator appointed by the President.

According to the report, "the Administrator would establish a series of commodity divisions, each responsible for a related group of items which lend themselves to integrated management." Also the agency would store and issue supplies in designated classes "throughout the wholesale depot system both in the United States and overseas." This brief description in the committee report leaves unanswered a host of important questions.

Status of New Agency Should Be Clarified

As an agency ostensibly coordinate with the three military departments, would the new supply service simply buy and store at their request or would it be empowered to prevent these departments from setting stock levels that are too high and from ordering excessive quantities of goods? Further, would the agency be empowered to direct the redistribution of excessive stocks?

These questions are pertinent because the Commission report, in justifying the new agency, cites as deficiencies of existing joint or single service procurement arrangements the inability of the purchasing service "to evaluate procurement requests or to take steps to redistribute excess stocks."

If the new agency is to share in supply management responsibilities, how would they be allocated as between the Administrator of the Defense Supply and Service Administration, the Assistant Secretary for Logistics in the Department of Defense, and the Assistant Secretary for Logistics in each of the three military departments?

To what extent would the new agency control the depot system of the three military departments in exercising its storage and inventory control functions? Is it contemplated that parallel depot systems would be maintained with common supplies under the control of the new agency and technical supplies under the control of the respective military departments?

Furthermore, would the new agency be empowered to take control of common supplies and services now handled by the various technical services and bureaus of the three military departments? What supply functions would the technical services and bureaus continue to perform? Would they maintain the same supply installations even if some common items were removed from their jurisdiction?

Since the supply responsibilities of the new agency are to stop at the "wholesale pipeline," what mechanisms would be required to control inventories and redistribute excess supplies accumulated at the "retail level," namely posts, camps and stations?

To what extent would supply accounting and reporting procedures have to be standardized throughout the military establishment to enable the new agency to do its work? The

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lack of standardization in basic procedures is cited in the Commission report as a reason for the inadequacy of single service assignments.

In the event of conflicts between the new Administrator and the Secretaries of departments, what mechanisms would be required for expeditious resolution of disputes?

Finally, in the event the Congress does not accept the Commission's recommendation to enact legislation establishing the new agency, does the Secretary of Defense have sufficient authority to establish the agency by virtue of his authority "to transfer, reassign, abolish, or consolidate functions" within the Department of Defense?

Had the Committee on Business Organization analyzed in detail the role of the proposed new agency and more carefully defined its place in the military establishment, I believe that it would have a better chance of acceptance. It is well to understand that the proposal will encounter active opposition in some quarters and, if adopted, could be reduced to ineffectiveness by hard core military resistance and failure of the Secretary of Defense to give the agency strong support.

CHEF HOLIFIELD,
Commissioner.

Separate Statement by Commissioner McClellan

I recognize fully the need for better coordination of the supply systems of the military services—particularly for the purchasing of common-use items. However, I am not convinced that the creation of a Supply Service in the Depart-

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ment of Defense of the magnitude the Commission proposes—on a level with the Departments of the Army, Air Force and Navy—is either necessary or warranted, particularly since the General Services Administration was established by the Congress to accomplish the same purpose. Nor do I see the justification for giving this proposed Supply Service the responsibility for the operation of general and specialized hospitals of the military services. I believe, therefore, that these recommendations (Nos. 8 through 11 of the Commission Report) should be reexamined most carefully before any action is taken upon them.

JOHN L. McCLELLAN,
Commissioner.

APPENDICES

Appendix A

**Summary of Recommendations on
Business Organization of the
Department of Defense Contained
in Task Force and Subcommittee
Reports**

This appendix consists of brief summaries of 13 Hoover Commission task force and subcommittee recommendations as they relate to the business organization of the Defense Department. These summaries are intended to provide an outline of principal conclusions, and do not indicate that this committee necessarily endorses all of their recommendations. Many recommendations, particularly those affecting procedures and methods, have not been included.

The commission divided its studies among 18 working groups—the 13 reports reviewed here are those which were of major significance to this committee. Not included in this appendix are reports on Overseas Economic Operations, Water Resources and Power, Lending Agencies, Paperwork Management, and Intelligence Activities.

Task Force on Budget and Accounting

The comptrollers should be responsible only to the Secretary, or a designated Assistant Secretary. Concurrent re-

sponsibility to the Chief of Staff should be discontinued. Comptrollership is essentially a business function, and control of finances is an essential part of the concept of civilian control of the military establishment.

In selection of individuals—whether military or civilian—for comptrollership positions, broad accounting experience and competence should be the requirements. The most important ingredient in solving Department of Defense problems is competent people. There should be greater career incentives for civilian personnel. There has been a failure to recognize the need for military career specialists. The present policies governing rotation of duty and promotion systems must be revised if properly qualified officers are to be available.

Other recommendations relate to cost-based budgeting, appropriations based on estimated annual accrued expenditures, simplified allotment accounting, improved accounting and financial reporting systems, and other measures for more effective financial management. These proposals affect all agencies, but their greatest usefulness is in the Department of Defense where the lack of financial information has the most far reaching consequences.

Task Force on Legal Services and Procedure

Supervisory authority over all legal staffs and services within the Department of Defense should be vested in a General Counsel with rank as Assistant Secretary. Legal services to the Office of the Secretary of Defense should be furnished by a legal staff directed by the General Counsel.

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The General Counsel of each military department should rank as Assistant Secretary and, under professional supervision of the General Counsel of the Department of Defense, should have responsibility for, and direction of, all legal services within such department. The assignment of attorneys to corps, commands, posts or offices (other than within the several Judge Advocate General's Corps), should be subject to his approval.

Each Judge Advocate General should be responsible to the General Counsel of his department for (1) the administration of military justice, (2) legal work performed by uniformed lawyers, in connection with military matters, and (3) other legal work assigned by the General Counsel.

The General Counsel of the Department of Defense, as Chairman, and the General Counsels and Judge Advocates General of the military departments should constitute a Legal Coordinating Committee to coordinate legal services, including the assignment, transfer, and grouping of lawyers, throughout the Department of Defense.

The legal career service for civilian attorneys in the Department of Defense should be developed and supervised by a Civilian Legal Personnel Committee having tenure and continuity. Each military department should have a Judge Advocate General's Corps and develop a program for career military legal service.

Task Force on Federal Medical Services

The Office of the Assistant Secretary of Defense (Health and Medical) should be strengthened by adding a civilian

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Deputy Assistant Secretary, and augmenting the small technical and analytical staff.

Hospital service responsibility for a regional area should be assigned to a single military department in the continental United States, and overseas where practicable. Specialized hospitals should serve all three departments. Each military department should maintain a medical center, to include a hospital, a center for postgraduate education in military medicine, and a research institute. The Assistant Secretary of Defense (Health and Medical) should be given authority to reallocate medical care responsibilities of the military departments in these respects.

Each of the departmental Surgeons General should be given comparable authority to include (1) technical and management control of all medical activities, (2) assignment control of all medical service personnel, and (3) funds control.

The training programs for interns and residents, for other physicians and dentists on active duty, and for reserve officers not on active duty should be strengthened, and be planned and directed from the medical center of each service, using selected military and civilian hospitals for special training.

Joint procurement of medical supplies for the entire Federal Government should be assigned to a single agency. Two systems should be established within the Federal Government for integrated storage and distribution of medical supplies: (1) a military system for the Army, Navy, Air Force, Coast Guard, and Federal Civil Defense Administration; and (2) a civilian system for all other agencies, to be administered by the Veterans Administration.

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Task Force on Personnel and Civil Service

Political executives represent the policy of the President. Career administrators have knowledge based upon understanding of Government and competence to give Government operations continuity. As a general rule, the line of distinction between these two roles can be drawn between the departmental management and bureau management, with political executives above the line. Heads of departments, deputy heads and Assistant Secretaries are clearly political executives. The number of political executives should be increased. There is a definite shortage of individuals with the right sort of ability for these positions. Employers should make it easier for their executives to serve. Larger salaries should be paid to offset discrepancies between Government compensation and industry. The salary level for Assistant Secretaries should be increased from \$15,000 to \$25,000 a year and the compensation of other political executives raised correspondingly.

There should be established a senior civil service with a strength of about 1,500 initially and 3,000 eventually. Rank would follow the man rather than the job. Members would be under obligation to serve where needed, and could be shifted without loss of pay or status. Compensation would run from the GS-15 level to the rate for Under Secretaries. The system would be administered by a Senior Civil Service Board which would make selections, review individual progress and make promotions.

A program for training and executive development goes

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hand in hand with the senior civil service. Each agency should have a definite program. Each bureau should have a panel to review progress of trainees. Outside assignments in industry and other governmental systems should be used. Executive development must be governmentwide to supply managerial talent for the Government as a whole. Agency programs should have common features.

Other improvements in large scale personnel practice were proposed such as in performance rating, position classification, and veterans' preference.

Task Force on Procurement

The Secretary of Defense should create in his Office a civilian position with sufficient stature and authority to insure the establishment and maintenance of effective planning and review of military requirements. This official would, on behalf of the Secretary: maintain active liaison with the National Security Council, the Joint Chiefs of Staff, and their staffs; coordinate all guidance provided at the Office of the Secretary of Defense level to the military departments covering the preparation of requirements programs; and, provide for a system of effective review and analysis of defense plans and requirements computations.

The Assistant Secretary of Defense (Supply and Logistics) should direct a thorough evaluation of all existing coordinated purchase assignments and effect improvements in operations under such assignments.

The Secretary of Defense should designate the Assistant Secretary of Defense (Supply and Logistics) as the official of

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primary interest in establishing Department of Defense policies for the reporting and managing of inventories. The Assistant Secretary should initiate departmentwide projects and should establish policies to assure that the distribution and systems within each military department are followed uniformly on a worldwide basis within mission limitations.

The Secretary of Defense should formally establish a top procurement policy council with the Assistant Secretary of Defense (Supply and Logistics) as its authoritative and responsible chairman and with the other members being the Procurement Secretaries of the military departments.

The Secretary of Defense should establish a policy requiring each military department to develop and assign career-trained personnel to technical and executive posts throughout the field of procurement management.

Task Force on Real Property

There should be established a uniform system of Federal real property management in the executive branch of the Government. Within the Executive Office of the President there should be created the necessary organization to formulate policies, procedures and standards for the control of Federal real property management, including systems of reporting, accounting, and inventory records, fiscal procedures and agency coordination. There should also be created in the Executive Office of the President an Office of Public Works Coordinator which would be responsible for establishing policies, procedures, and standards for the engineer-

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ing design and construction phases of Federal real property management, and for coordinating and evaluating plans for public and civil works programs prior to their submission to the Congress for authorization.

The responsibility and authority for real property management in the Department of Defense should be vested by law in the Secretary of Defense, and the Secretary should be authorized to redelegate to the military department Secretaries responsibility for management of operations of real property. The National Industrial Reserve Act of 1948 should be amended to provide that the management responsibility for all Government-owned or -leased industrial properties now classified in the National Industrial Reserve, and for all the machine tools and equipment classified in the National Industrial Equipment Reserve, be returned to the Department of Defense by the General Services Administration; and that the responsibility for supervising the management of industrial properties be vested in the Secretary of Defense, with responsibility for the management of the operation of industrial properties delegated by the Secretary of Defense to the Secretaries of the military departments.

There should be established by the Secretary of Defense a Joint Board for Real Property Management. This Board would be composed of the Assistant Secretary of Defense (Properties and Installations) as Chairman, and three members appointed by the Secretaries of the military departments with delegated authority for action in their behalf. The Chairman should have the power of final decision, subject to appeal by the members to the Secretary of Defense in case

of dissent. The Board would be vested with responsibility and authority for developing policies and regulations to govern real property management. The Board should study the organization, personnel, legal, and financial problems of real property management in the military departments and formulate recommendations for action.

The Assistant Secretary (Properties and Installations) should have a staff to act as a Secretariat for the Joint Board for Real Property Management; and, in behalf of the Board, to make inspections of operations in the military departments to determine compliance with real property management regulations of the Department of Defense.

Task Force on Food and Clothing (Food)

The Army Quartermaster General, or a food subsistence agency patterned after that organization, should be assigned responsibility for performing all major functions necessary for the acquisition and distribution of food for the Armed Services. Food subsistence inventories should be financed through a single stock fund managed by the food subsistence agency. Storage depots should be given an area distribution mission and be operated and maintained by the custodian military service, but under management control of the subsistence agency. Procedures for storage, accounting, inventory control, and other mechanics of operation, should be standardized. The Secretary of Defense, through the Assistant Secretary of Defense (Supply and Logistics), should develop a definitive charter within the framework of these principles, to delineate authority and responsibility, and to establish a

committee consisting of representatives of all the services, to advise the Assistant Secretary on food matters but without delegating the power of decision by the Assistant Secretary.

A uniform ration law should be enacted to authorize the Secretary of Defense to prescribe uniform rations and special rations for the military services. The preparation and service of food should be integrated with other food supply functions under one responsible authority in each military service.

A military career service in food supply and preparation should be established in each of the Armed Services. The authority and responsibilities of civilian personnel should be broadened and unnecessary military counterparts eliminated.

Task Force on Food and Clothing (Clothing)

Reorganization Plan No. 6 should be modified to have the Assistant Secretaries of Defense operate direct with the military departments, making them responsible for directing implementation, and enforcing uniform administration, of Department of Defense directives.

The Department of Defense should effect within its central organization supervision and control of the clothing "pipelines" as far as the depot level. A director of clothing should be established, reporting to the Assistant Secretary of Defense (Supply and Logistics), with responsibility for all aspects of clothing supply. The director of clothing should have on his staff an inventory controller.

A counterpart of the director of clothing should be established in each military department. There should also be counterpart inventory controllers in each service and at distri-

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bution points. The department clothing directors should act as an advisory board to the director of clothing, who will have authority of decision. The director of clothing should monitor research activities.

The Quartermaster Corps of the Army, or an agency closely patterned after that organization, should procure all clothing, textiles, footwear and related items, for all services. A single working fund should be established, and the administrative costs of the purchasing office met out of the working fund through surcharges. Cross-servicing should be established at depot level for common clothing items, retaining the present separate depot systems.

Career development plans for both military and civilian personnel should provide for assignments in either general supply management or a particular specialty. Training should be developed for all levels in the clothing supply system. The duration of assignments should be lengthened. Military personnel specializing in logistics should have career promotional opportunities equal to those for the combat arms.

Task Force on Use and Disposal of Surplus Property

The Department of Defense should provide an adequate staff for the inspection, condition coding, and condemnation of personal property and establish clearly defined policies and uniform procedures to coordinate these functions. A group of merchandising experts should be established in the Office of the Assistant Secretary of Defense (Supply and Logistics) to assist the various disposal staffs throughout the Depart-

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ment in the analysis of disposal inventories, in market analyses, in the selection of methods of sale, and in the coordination of disposal policies and procedures.

Responsibility should be placed in the Office of the Assistant Secretary of Defense (Supply and Logistics) for the inventory of machine tools and production equipment in the Industrial Equipment Reserves of the military departments, and for the coordination of such reserves with those held in Government-owned or -leased industrial plants which, as a production entity, are considered real property.

Subcommittee on Business Enterprises

All air transportation of a logistical nature should be centralized under one command. This would require merger of the Military Air Transportation Service (MATS—Air Force), the Fleet Logistics Air Wings (FLOGWINGS—Navy), the Air Materiel Command's Airlines Service (LOGAIR), the Navy's Transcontinental Charter Air Service (QUICKTRANS) and all other military airline operations not having direct tactical responsibility. This centralized command should furnish air transport service only over routes that cannot be serviced by United States private airlines.

The Military Sea Transportation Service should operate in its nucleus fleet only those vessels needed to carry the minimum supplies needed by the armed forces abroad which cannot be carried by United States commercial vessels.

The Panama Railroad and the Panama Steamship Lines should be discontinued.

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Subcommittee on Depot Utilization

The Secretary of Defense should exercise positive control over the location, construction, assignment, and utilization of all Armed Service storage facilities. The Secretary of Defense and the Secretary of each military department should maintain a current inventory of all space under his jurisdiction, used or usable for storage.

An inspection force, skilled in supply operations, should be established in the Office of the Secretary of Defense to inspect storage installations periodically and report on compliance with Department of Defense directives. Procedures must also be provided for prompt corrective action.

Interdepartmental cross-servicing of facilities should be encouraged. Establishment of uniform methods, operating procedures and reporting systems should be accelerated.

A uniform system of accounting for storage operations should be established for comparison of costs and efficiency of individual operations. The system should provide for realistic comparison with commercial charges for like services.

The law governing transfers of storage facilities between the military departments should be amended to clear the way for ready transfer.

Subcommittee on Research Activities

The present organization plan in the Office of the Secretary of Defense for 2 Assistant Secretaries, 1 for Research and Development and 1 for Applications Engineering, should be studied for possible merger into one office.

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The authority of the Secretary to withhold funds should be fully used to promote integration and effectiveness in departmental programs. Unwarranted duplication should be prevented at time of standardization for production. The Weapons Systems Evaluation Group should be shifted to contract operation and expanded by the Assistant Secretary to adequate size. The level of identified basic research is too low and should be significantly increased.

A separate Assistant Secretary is needed in each department, restricted to research functions, trained in science and technology, and experienced in the operations and administration of research and development. Each Assistant Secretary should have a small staff, similarly trained and experienced.

The military departments should make a realistic examination of their growing needs for technical officers, and expand their programs as necessary to provide officers trained in research and development. Rotation of officers should be limited to technical assignments and the length of assignment increased. Higher levels of compensation for civil service professional employees should be established, with a material increase in the number of higher level positions.

Subcommittee on Special Personnel Problems in the Department of Defense

There are circumstances that discourage able executives from serving as secretaries, deputy secretaries, and assistant secretaries. As recommended by the task force on personnel and civil service, compensation for Assistant Secretaries

should be about \$25,000 a year, with salaries for other secretarial positions fixed accordingly. Conflict of interest laws should be reviewed for the purpose of simplification and clarification; having an appointee take an oath not to participate in decisions involving his company or financial interest should make the divestment of ownership in companies unnecessary. Efforts should be made to develop executives for the secretarial level, through planned use of schedule C positions, and promotion from one secretarial level to another. Competent career staffs must be provided for support and continuity.

Criteria should be developed for staffing support activities so as to delineate clearly the management and technical jobs to be filled in general with military officers and those to be filled with civilians. Military personnel would be assigned to positions in (1) combat-related support activities and in organizations essential to the functioning of operational forces exposed to potential enemy action, (2) supplier-related activities necessary for training for combat-related support, and (3) to provide user experience for supplier-related support activities. Civilians could function (1) where skills usual to the civilian economy are required, (2) where civilians can better provide continuity of management and experience, and (3) at fixed support activities.

A planned military career service should be established in specific support areas, and assignment and rotation made within those areas. The 2-year average tenure of officer personnel in support activities is too short for either efficient management or effective training. More equitable promo-

tional opportunities should be available in support activities, and compensation in the upper grades should be more comparable with private life.

Career civilian management personnel should have greater promotional and training opportunities in support activities. Compensation in the upper grades should be more nearly comparable with private life. The present civilian personnel system has not developed the management personnel needed. The proposed senior civil service would provide a top career group for the management of support activities.

Determination of numbers and types of manpower at every organization level should be associated with the responsibility for personnel administration. More adequate plans should be developed for rapid staffing in time of war.

Subcommittee on Transportation

The management of traffic and transportation in the Department of Defense should be administered by an official at the Assistant Secretary level. This official should have necessary authority to direct all traffic management activities—passenger and freight—in the military services, including the development of organizational combinations, issuance of policy directives, supervision of placement and training of key civilian personnel, rate negotiations and routing policy, and controlling policy for use of military commercial-type transportation. This official should have enlarged budgetary power, and closer liaison with the Assistant Secretary (Comptroller) in development and approval of the transportation section of the defense budget.

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The officer rotation policies of the individual services should be carefully examined by the Department of Defense from the standpoint of their effect upon traffic management.

A central auditing organization for transportation billing for all the military services should be established. The present program of the Military Air Transportation Service to install a new system of accounting should be completed, and more accurate cost data developed before applying an industrial fund plan.

The Military Air Transportation Service should be made the real logistics air arm of the Department of Defense by consolidating under it all the separate transport-type activities of the other services. Peacetime operations should be limited to the level necessary to maintain minimum war readiness.

The effect of the nucleus fleet concept of operations for the Military Sea Transportation Service should be reevaluated under the established national maritime policy. There cannot be 2 American merchant marines, 1 military and 1 civilian, operating independently and, at times, toward divergent ends.

Operation of the Panama Railroad should be discontinued, on the basis primarily of Department of Defense conclusions that it is not justified by defense considerations, and since its remaining traffic can be absorbed by canal and highway. The Panama Steamship Line also should be discontinued.

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Appendix B

Steps in the Development of Department of Defense Organization¹

There have been five important milestones in the evolution of the Department of Defense as it is known today. These milestones are:

1. Establishment of civilian supervision by the Constitution and in President Washington's first Cabinet.
2. The steps leading up to unification.
3. Passage of the National Security Act of 1947, unifying the three military services into a Federal National Military Establishment.
4. The changes made in the National Security Act in 1949, strengthening the position of the Secretary of Defense.
5. Reorganization Plan No. 6 of 1953, which further strengthened the position of the Secretary of Defense and started a trend toward functional "vice presidents" in the Office of the Secretary of Defense and the three departments.

Constitutional Provisions

The Constitution provided that "The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several states, when called into the actual service of the United States; * * *" It has

¹ Exhibit B-1 charts this development.

been clear from the beginning that the President is the military head, as well as policy head, of our national defense forces. The principle of civilian leadership was extended to the Cabinet level when President Washington formed his first Cabinet and appointed a civilian Secretary of War. In forming the Department of Defense, a civilian executive structure was placed at its head and at the head of the three component military departments, continuing the history of civilian leadership.

Beginnings of Unification

During World War II, President Roosevelt appointed Admiral William D. Leahy as his personal Chief of Staff. Admiral Leahy assisted the President in coordinating the military efforts of the two separate departments, War and Navy. While he had no command functions, the creation of his position was the first step toward unification. Toward the end of the war, there was much talk of the need for unification, encouraged by the success of unified commands of ground, air, and naval forces.

After the war, attention continued to be focused on unification and there was much public debate on the subject. Secretary of the Navy James Forrestal appointed Mr. Ferdinand Eberstadt in June 1945 to make a study addressed principally to the question, "Would unification of the War and Navy Departments under a single head improve our national security; and, what should be the form of postwar organization for Defense?" The recommendations of the

Eberstadt Report actually became the foundation on which the National Security Act of 1947 was built.

Secretary Forrestal proposed a federation of the two existing military departments and a third, a Department of the Air Force. He felt that the military organization was so huge and diverse that it could operate effectively only on a decentralized basis, held loosely together in a federation of military departments, with the Secretary of Defense serving principally as a coordinator. His reasoning followed these lines:

Even a single one of the armed services, like the Navy, is so big and sprawling, especially during war, that it becomes unresponsive and unwieldy under highly centralized direction. This defect would treble, at least, if the Army, Navy, and Air Force were rolled together. No single head of such an agglomeration could assemble, assimilate, and assess the data he would need to make a multitude of administrative decisions. Nor could he build a staff numerous enough to police his decisions once they were made.

A Secretary of Defense who tried to administer the three services together would become so swamped that he could not make his proper, well-thought-out contribution to the policy-forming deliberations described earlier.

The civilian head of a military service already has more responsibility and authority than he usually knows what to do with. Civilians step into a secretaryship only vaguely acquainted with the matters of strategy, tactics, weapons, and logistics that come before them. They must acquire what Churchill referred to as "much practice as a Minister in handling things I did not understand." Until they have that practice, they may fall easily into 1 of 2 pitfalls: (a) become the unwitting captives of their military advisers or (b) become isolated, ill informed, and imprudent.²

² Eugene S. Duffield, "Organizing for Defense"; *Harvard Business Review*; September-October 1953.

The Army, under the leadership of Secretary Patterson, was pressing for a merger of the services into a much stronger and more authoritarian department. According to the plan, the Secretary of Defense would be clearly in command of the entire military effort. Under him would be 1 military chief of staff who would issue orders direct to the 3 departments. There would be no Secretaries of the subordinate departments.

The National Security Act of 1947

The National Security Act of 1947 largely followed the Forrestal plan. It set up the National Military Establishment, a new concept in Government. The three Departments of Army, Navy, and Air were Cabinet departments; their Secretaries were members of the Cabinet with direct access to the President. The Secretary of Defense was primarily a coordinator and, in effect, was dependent mainly on persuasion.

The act embraced the concept of decentralization of authority to the three military departments, and provided for professional military advice to the Secretary of Defense and the President by a tripartite Joint Chief of Staff representing the three service departments. It provided that the departments * * * "shall be administered as individual executive departments by their respective Secretaries and all powers and duties relating to such department not specifically conferred upon the Secretary of Defense by this act shall be retained by each of the respective Secretaries."

The staff of the Secretary of Defense was very small. He

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was given only 3 special assistants and 3 coordinating boards: the War Council for nonstrategic planning, the Munitions Board for materiel planning, and the Research and Development Board for coordinating research programs.

Changes Growing Out of the First Hoover Commission

The amendments to the National Security Act of 1949 resulted from the first Hoover Commission report on national security. These amendments had the effect of strengthening the position of the Secretary of Defense and moved toward the original Patterson plan of organization. The amendments brought about these important changes:

The Secretary of Defense was made the principal assistant of the President in matters of national defense.

A full-time, nonvoting chairman was provided for the Joint Chiefs of Staff.

The National Military Establishment was replaced by an executive department, the Department of Defense. The Secretaries of the three service departments were removed from the Cabinet and from direct access to the President.

Whereas the 1947 reorganization had reserved to the three military departments all authority not specifically granted to the Secretary of Defense, the 1949 legislation placed the military departments under the "authority, direction, and control" of the Secretary of Defense.

More executive staff was given to the Secretary of Defense in the form of a Deputy Secretary and three Assistant Secretaries.

Following a proposal of the Hoover Commission that the Secretary of Defense be given responsibility for the development of the defense budget and for the control of funds, title IV was added to the National Security Act, establishing a statutory position of Comptroller for the Defense Department and for each service department.

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Changes Resulting From the Rockefeller Report

Reorganization Plan No. 6 grew out of the Rockefeller committee report³ and moved the Department of Defense further from the Forrestal idea of a decentralized federation. It attempted to strengthen further the position of the Secretary of Defense by tripling the number of Assistant Secretaries and by increasing the power of the Chairman of the Joint Chiefs of Staff. These were the main changes under this reorganization plan:

The President asked each of the military services to study and to report on its organization problems. This resulted in the Gates report in the Navy, the White report in the Air Force, and the Davies report in the Army, followed later by the Secretary of the Army's plan.⁴ The general effect of these departmental organizational studies was to recognize and give increased organizational status to the defense support activities. Also, they moved toward more civilian control by proposing the addition in each department of two more Assistant Secretaries to be responsible for particular functional areas.

Six new Assistant Secretaries of Defense and a General Counsel were added, making a total of 10 functional "vice presidents." The Munitions Board, the Research and Development Board and the Defense Supply Management Agency were abolished and their functions were assigned to the Assistant Secretary for Supply and Logistics and an Assistant Secretary for Research and Development.

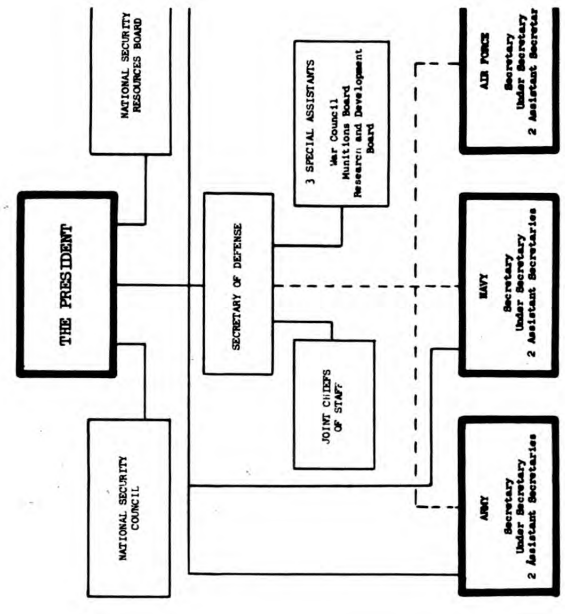
The Assistant Secretaries were clearly established as staff officers to the Secretary of Defense, with no command relationship to the military departments.

³ Rockefeller report: *Committee on Department of Defense Organization*, April 11, 1953.

⁴ Gates report: *Report of the Committee on Organization of the Department of the Navy*, April 16, 1954; White report: *A report to the Secretary of the Air Force from Assistant Secretary H. Lee White*; Davies report: *Organization of the Army*, Report of the Advisory Committee on Army Organization, December 18, 1953; *Secretary of the Army's Plan for Army Organization*, June 14, 1954.

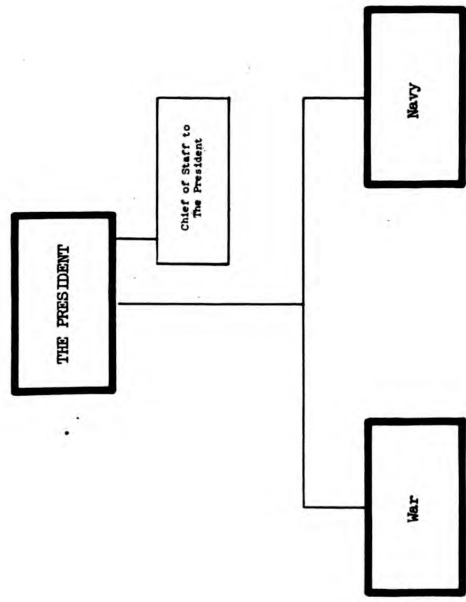
STEPS IN DEVELOPM

AFTER NATIONAL SECURITY ACT of 1947



- Created National Military Establishment
 Actually a federation instead of a department
 under the Secretary of Defense
- Secretary of Defense a coordinator with Cabinet status
- Created separate Department of the Air Force
- Army, Navy and Air Force each an executive department
 with Cabinet status

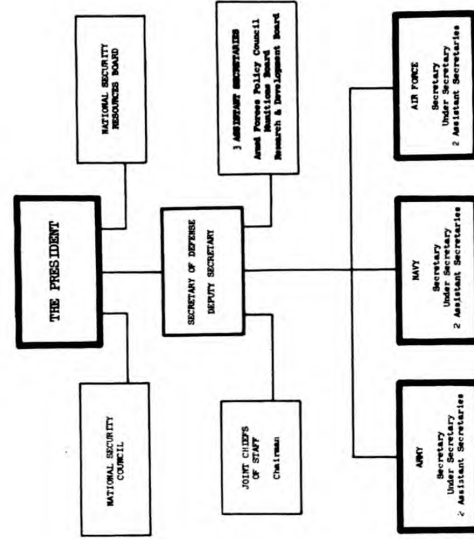
BEFORE NATIONAL SECURITY ACT



- Each Department independent
- With cabinet status

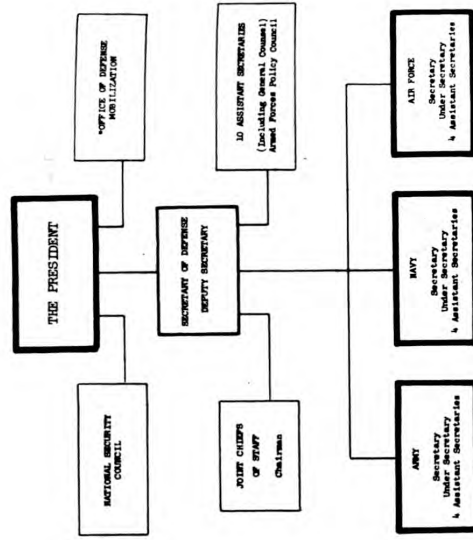
DEPARTMENT OF DEFENSE

AFTER NATIONAL SECURITY ACT AMENDMENT OF 1949



- Secretary of Defense became principal assistant to the President on national defense
 - Given a Deputy Secretary and 3 Assistant Secretaries
 - Given direction, authority and control over the Department of Defense
- Given control of the budget and of funds
- Service Department Secretaries no longer have Cabinet status
- A non-voting Chairman of Joint Chiefs of Staff established

AFTER REORGANIZATION PLAN NO. 6, 1953



- Tripled the number of Assistant Secretaries of Defense
 - Clearly established as staff executives
 - Replaced Munitions Board and Research and Development Board
- Strengthened primary planning role of Joint Chiefs of Staff
- Chairman of Joint Chiefs of Staff given administrative authority over the Joint Staff (serving the Joint Chiefs of Staff)
- Led to doubling the number of Assistant Secretaries in the Departments
- Replaced National Security Resources Board -- Reorganization Plan 3, 1953

The primary planning role of the Joint Chiefs of Staff as expressed in the National Security Act was reaffirmed and emphasized by removing the Joint Chiefs of Staff from unified command authority (a revision of the Key West agreement). The planning and advisory mission of the Joint Chiefs of Staff was declared to be their primary duty.

The Chairman of the Joint Chiefs of Staff was given the power to select the members of the Joint Staff, to determine the tenure, and to manage their work.

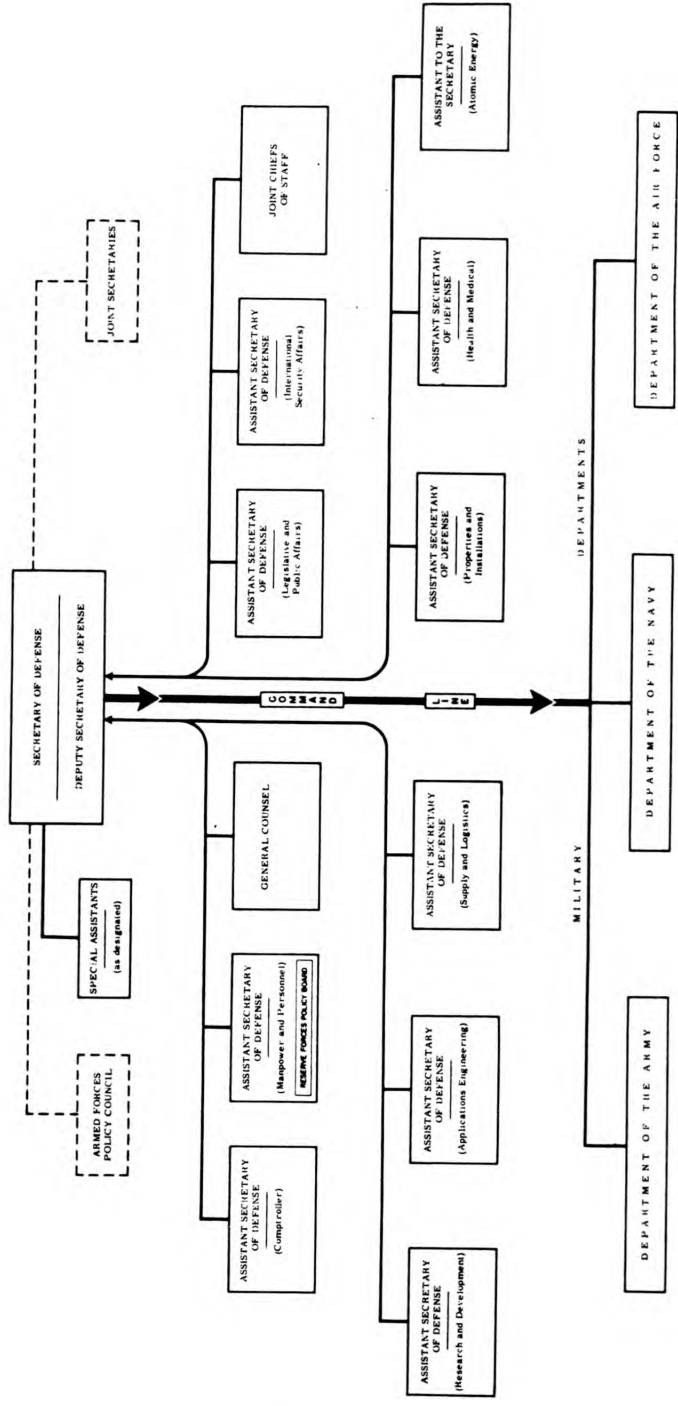
Appendix C

**Present Organization of the
Department of Defense**

- **Office of the Secretary of Defense**
- **Department of the Army**
- **Department of the Navy**
- **Department of the Air Force**

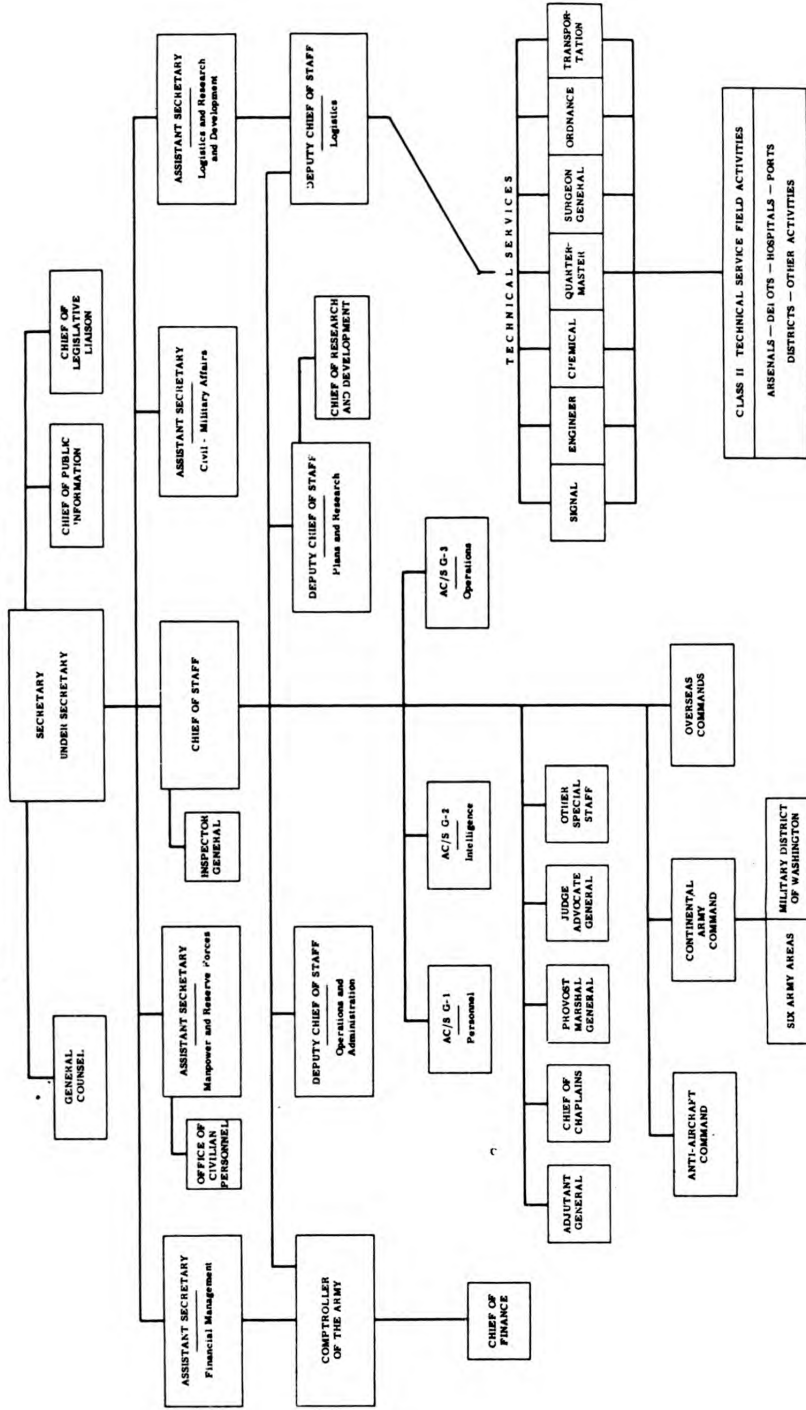
PRESENT ORGANIZATION

OFFICE OF THE SECRETARY OF DEFENSE



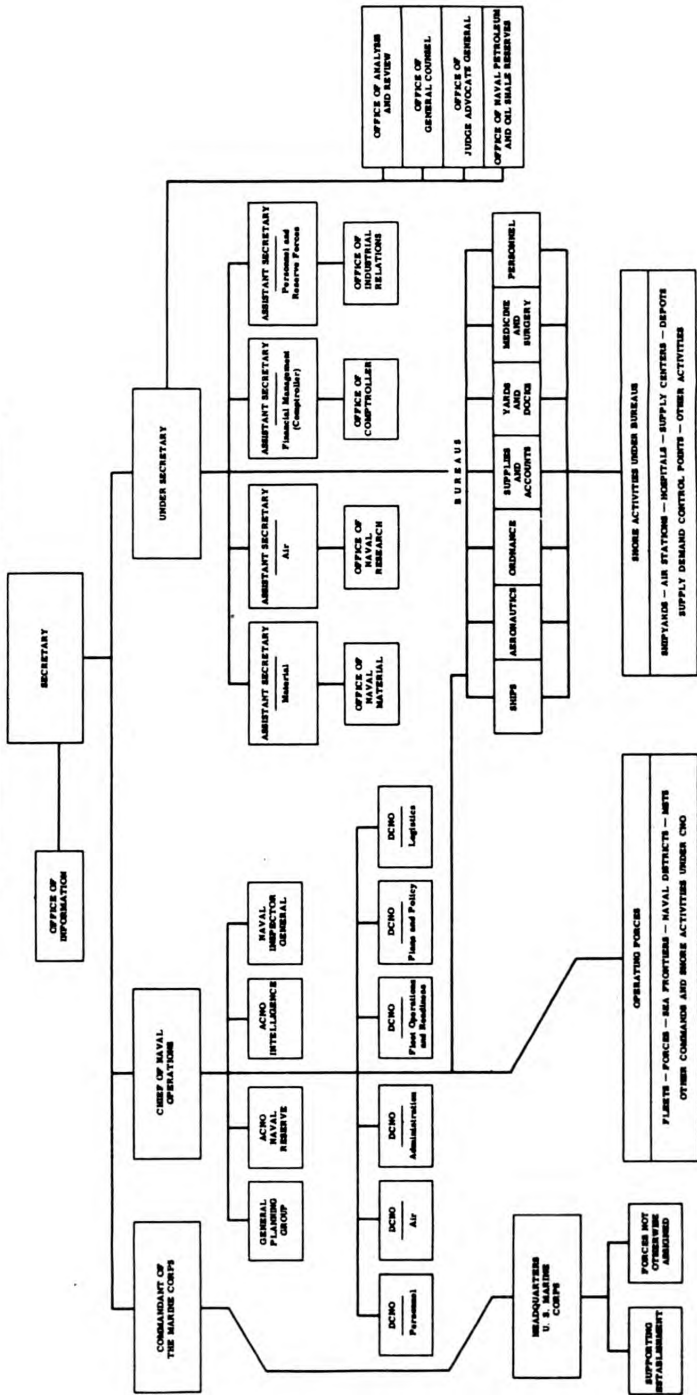
PRESENT ORGANIZATION

DEPARTMENT OF THE ARMY



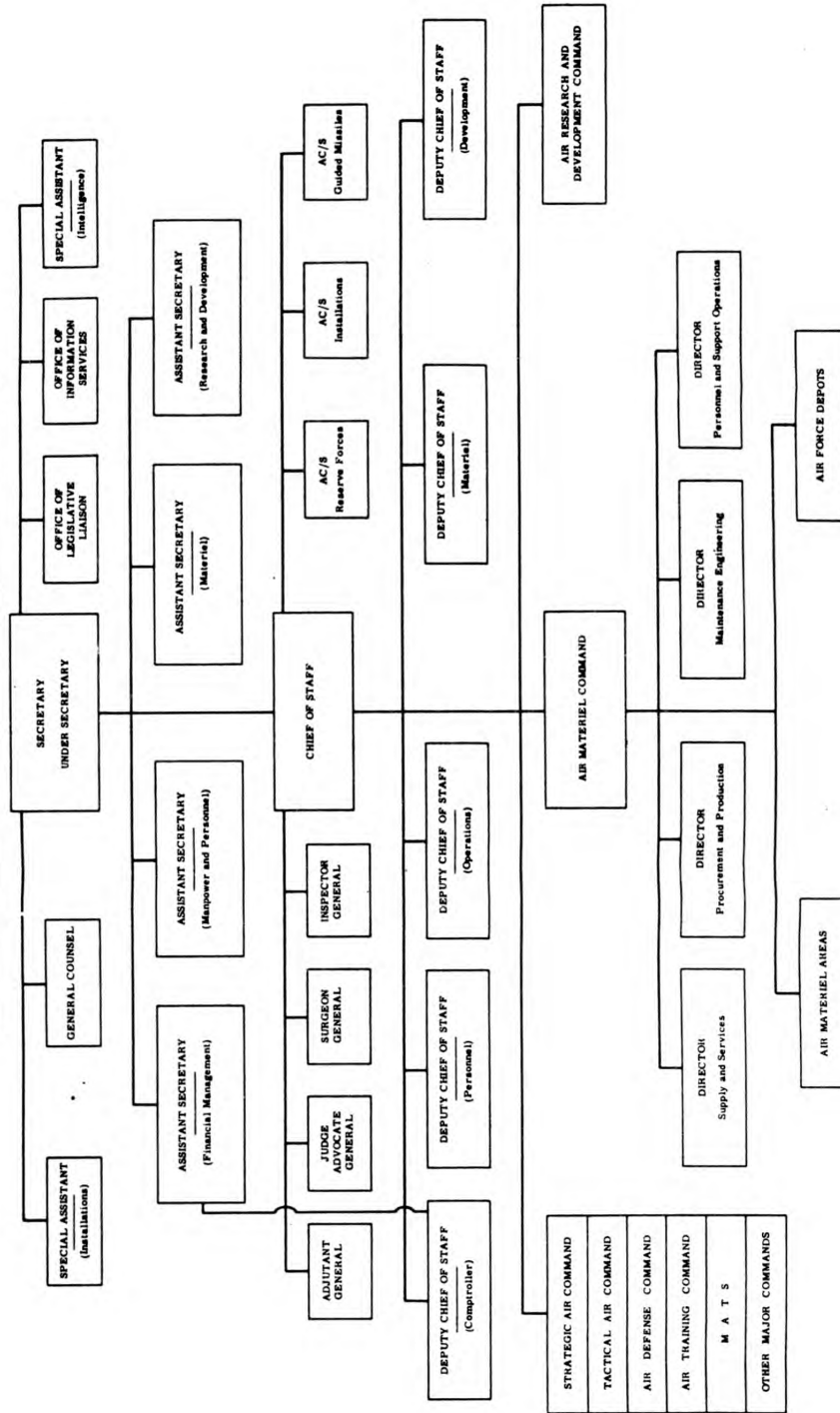
PRESENT ORGANIZATION

DEPARTMENT OF THE NAVY



PRESENT ORGANIZATION

DEPARTMENT OF THE AIR FORCE



**Report to
The President
and the Secretary of Defense
on the
Department of Defense**

**BY THE
BLUE RIBBON DEFENSE PANEL
1 July 1970**



Defense for Peace

BLUE RIBBON DEFENSE PANEL
WASHINGTON, D. C. 20301

July 1, 1970

My dear Mr. President:

It is my honor to submit to you herewith the Report of the Blue Ribbon Defense Panel appointed by you and Secretary of Defense Melvin R. Laird last year.

As you know, you gave the Panel a very broad Charter to study the entire organization, structure, and operation of the Department of Defense -- but not questions of broad national policy within which the Department operates. In order to get a fresh look, you also selected members for the Panel who were generally unfamiliar with the operations of the Department.

We found the assignment to be both broad in scope and massive in detail, and to hold the potential for an important contribution by the Panel. This made your one year deadline for submission of our Final Report a very tight one indeed. We found it impossible to cover in depth many matters that we thought merited study, so we necessarily had to confine our principal recommendations to basic matters. We are confident that the recommendations we do make are both significant and well-substantiated. We have pointed out other areas where we believe further study would be fruitful -- much of which can probably be undertaken within the Department of Defense.

Despite this time pressure, we realized the urgency of our assignment, and pressed to have our Report submitted on the date you set a year ago -- namely, July 1, 1970. As this deadline approached, we realized what could not have been anticipated when we were appointed, that this is a particularly sensitive period with regard to the environment in which the Department of Defense in general, and the military in particular, operate. However, as our Report does not enter the field of national policy, but only makes recommendations we believe will cause important improvements in the effectiveness of the Department of Defense, we hope it will be accepted by all as a timely and constructive contribution, and will not be used by anyone to exacerbate present tensions and differences of opinion.

I would like to add a personal note. From my intensive, year-long exposure to our military and civilian leaders in the Department of Defense in Washington, and to our fighting men in Europe, the Mediterranean, and Southeast Asia, I have been deeply impressed -- and this applies both to the Officers and the Enlisted Men -- with their competence and their dedication to duty, as they see it. The Panel found many things it believes should be corrected, but it believes, and I agree, that many of the difficulties result from the structure of the Department of Defense itself, which almost inevitably leads people into "adversary" relationships rather than toward cooperation in the interests of the Department -- and the nation -- as a whole. It also leads to reliance on the workings of "The Bureaucracy", rather than individual initiative. I feel sure that many fine military officers feel the same way, and do not look with enthusiasm to assignments in the Washington area.

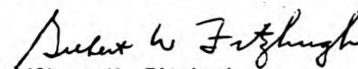
I hope the Panel's recommendations will not be considered criticisms of individuals, but will help to restructure the Department and "The Bureaucracy" so that the talent and dedication of these fine people both military and civilians -- can be unleashed and redirected to accomplish more effectively the basic objectives of the Department of Defense and the Nation, in the manner most helpful to you and the Congress.

Finally, I would like to express to you my appreciation for the dedicated work of the Panel members. They approached their assignments with dedication to accomplishing a worthwhile objective. The attendance at Panel meetings was unusually high and each member made valuable contributions and carefully considered the entire Report, through many long sessions and drafts. We all regret that Dr. Marvin Goldberger and Dr. Martha Peterson found it necessary to resign from the Panel for personal reasons, but each made valuable contributions while they served as members.

Without the hard work of a fine staff, we naturally could not have accomplished our assignment. My thanks go to each one of them.

I know all my colleagues on the Panel join me in expressing to you our appreciation for giving us the privilege of undertaking this important assignment at this critical period in our Nation's history.

Respectfully yours,


 Gilbert W. Fitzhugh
 Chairman, Blue Ribbon
 Defense Panel

The President
 The White House

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THE PANEL



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**Found it necessary to terminate his services on the Panel due to illness.

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PREFACE

The Blue Ribbon Defense Panel was appointed by the President and the Secretary of Defense in July 1969, and given the following broad Charter, with instructions to submit its Final Report by July 1, 1970:

The general scope of the Panel is to study, report and make recommendations on:

(1) The organization and management of the Department of Defense, including the Joint Chiefs of Staff, the Defense Agencies and the Military Services, as it affects the Department's mission performance, decision-making process, the command and control function and facilities, and the coordination with other governmental departments and agencies, with emphasis on the responsiveness to the requirements of the President and the Secretary of Defense.

(2) The Defense research and development efforts from the standpoints of mission fulfillments, costs, organization, time and interrelation with the scientific and industrial community.

(3) The Defense procurement policies and practices, particularly as they relate to costs, time and quality.

(4) Such other matters as the Secretary may submit to it from time to time.

It is important to note that, while the Charter is very broad as to the Panel's function in the fields of structure, organization, and operating procedures of the entire Department of Defense, it excludes considerations of broad national policy. The Panel has endeavored to hew closely to this line.

We were told that this is the first broad-scale study of the Department of Defense in many years – in fact since the two Commissions on Organization of the Executive Department of the Government chaired by former President Herbert Hoover.

We decided to approach our assignment with the same broad objectives as stated in the Hoover Commission Report, namely:

“(1) That the primary objectives of the National Security Organization are to preserve the peace, but that it must at all times be ready and able, promptly and effectively, to marshal all of our resources, human and material, for the protection of our national security.

“(2) That civilian influence must be dominant in the formulation of national policy and that civilian control of the military establishment must be clearly established and firmly maintained.

“(3) That the Nation is entitled to the maximum possible return for every dollar of military expenditure.

“(4) That military efficiency – in other words, readiness for war – must be the fundamental objective of the National Military Establishment.

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“(5) That elimination of wasteful duplication is essential to good government, but that the preservation, within sound limits, of a healthy competitive spirit and of service pride and tradition are basic to progress and morale.”

Because of the vast scope of the operations of the Department of Defense, the Panel divided itself into four sub-committees, as follows:

- (1) Organization and Personnel Management.
- (2) Management of Materiel Resources (including research, development, procurement and management of weapons and supplies) planning, programming, budgeting, and similar procedures.
- (3) Military operations, intelligence, communications, automatic data processing.
- (4) Conflicts of interests, contract compliance, domestic action, equal employment opportunity, etc.

The Panel interviewed many witnesses in depth, and the sub-committees many more. It made a functional survey of the Defense headquarters organizations in the Washington area covering some 1,600 organizational elements to elicit information on the actual operation of and interface between units of the Department of Defense. It also sent a questionnaire to a large number of people outside the Department of Defense who we thought might wish to give us the benefit of their thinking. We enjoyed a remarkable response, with answers ranging from a page to dozens of pages of detailed suggestions.

The Panel members and the staff carefully reviewed many earlier reports of studies of the Department of Defense, and many visits were made to important elements of the Department outside the Washington area. Members representing sub-committees (3) and (4) visited a number of military Commands in Europe, the Mediterranean, and Southeast Asia, to see how policies determined at Washington Headquarters were carried out in the operational units.

While the members of the Panel have considered carefully the entire report, this does not necessarily mean that there is complete agreement with every detail of each recommendation or statement. Except where otherwise noted, however, there is agreement with the substance of every important conclusion and recommendation. The nature of the general agreement and the extent of incidental disagreement are those to be expected when members of a Panel individually have given serious thought to a major and complex problem, and have sought to achieve a joint resolution in furtherance of the Panel's task as a deliberative body.

A concurring statement by Dr. George Stigler, and dissenting statements by Mr. Robert C. Jackson and Mr. Wilfred J. McNeil, appear immediately following Chapter VI. Mr. Lewis Powell has indicated he may wish to submit a supplemental statement on areas not addressed by the Panel's Report.

The Panel had the benefit of the voluntary assistance of many individuals in private industry, whose services were requested by the Panel because of their particular knowledge in various specialized areas. It especially wishes to express its thanks to them and to the companies who loaned their services.

The Panel also wishes to extend its deep appreciation to the many people in the Department of Defense – both military and civilian – who contributed generously of their time in answering its innumerable questions and volunteering so many constructive suggestions. We found them uniformly anxious to help and enthusiastic about the possibilities for improving operations. As it was not deemed feasible to refer its recommendations to all interested parties and agencies for review prior to submitting its report, its recommendations are its own, and have not had the benefit of such advance review.

To all these people who contributed so much to its endeavors, the Panel extends its deep thanks. Especially, we realize that the fine response would not have happened without the strong support of Secretary of Defense Melvin R. Laird, and Deputy Secretary of Defense David Packard.

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BLUE RIBBON DEFENSE PANEL REPORT

EXECUTIVE SUMMARY

The purpose of this summary is to provide a quick review of the six-chapter report resulting from the year-long study by the Blue Ribbon Defense Panel. The Panel's report offers recommendations in a number of areas including organization, management of materiel resources, management procedures, personnel management and conflicts of interest. This summary covers the major recommendations of the Panel in the area of the organization of the Defense Department and several of the more significant recommendations in the other areas.

As a result of its examination of the Defense Department, the Panel found that:

- Effective civilian control is impaired by a generally excessive centralization of decision-making authority at the level of the Secretary of Defense. The Secretary's ability to selectively delegate authority and decentralize management, while still retaining personal authority on major policy issues of the Department, is seriously inhibited by the present organizational structure.

- The President and the Secretary of Defense do not presently have the opportunity to consider all viable options as background for making major decisions, because differences of opinion are submerged or compromised at lower levels of the Department of Defense.

- There are too many layers of both military and civilian staffs, and staffs are too large in the Office of the Secretary of Defense, (OSD) the Military Departments extending down through the field commands, the Joint Chiefs of Staff and the Unified and Component Commands. The results are excessive paper work and coordination, delay, duplication and unnecessary expense.

- The present arrangement for staffing the military operations activities for the President and the Secretary of Defense through the Joint Chiefs of Staff and the Military Departments is awkward and unresponsive; it provides a forum for inter-Service conflicts to be injected into the decision-making process for military operations; and it inhibits the flow of information between the combatant commands and the President and the Secretary of Defense, often even in crisis situations.

- The Joint Chiefs of Staff could more effectively perform their important statutory role as principal military advisors to the President and the Secretary of Defense if they were relieved of the necessity of performing delegated duties in the field of military operations and Defense Agency supervision.

- The present combatant command structure does not facilitate the solution of many serious problems which materially affect the security of the nation. For example, recent advances in technology require much closer coordination in planning for and employing the forces of the Continental Air Defense Command and the Strategic Air Command than can reasonably be expected with two separate commands. Also, the present Unified Commands do not bring about unification of the Armed Forces, but rather are layered with Service component headquarters and large headquarters' staffs.

- There is substantial room for improvement and greater integration of management

throughout the supply, maintenance and transportation systems of the Department. The most critical need for improved effectiveness is in the support of the Unified Commands.

- There is no organizational element within OSD with the capability or the assigned responsibility for objectively making net assessments of U.S. and foreign military capabilities.

- There is no adequate organizational element within OSD that is charged with the responsibility for long-range planning for the structuring and equipping of forces or for other similar purposes.

- No formal mechanism exists within OSD to assure adequate coordination among the various elements of the Department.

- The present functional assignments of Assistant Secretaries of the Military Departments contribute to duplication between the efforts of the Military Department Secretariats and the Service military staffs, and also between the Military Department Secretariats and OSD.

- The policies of the Department on development and acquisition of weapons and other hardware have contributed to serious cost overruns, schedule slippages and performance deficiencies. The difficulties do not appear amenable to a few simple cure-alls, but require many interrelated changes in organization and procedures.

- Operational test and evaluation has been too infrequent, poorly designed and executed, and generally inadequate.

- Procurement procedures do not sufficiently reflect the national need to maintain an adequate, but not excessive, industrial base.

- The promotion and rotation systems of the Military Services do not facilitate career development in the technical and professional activities, such as research and development, procurement, intelligence, communications and automatic data processing.

- The acquisition and retention of officers and enlisted men in the Armed Services are becoming increasingly difficult for a number of reasons, including (1) personnel policies with respect to compensation, promotion and retirement, and (2) the negative attitude of segments of the public.

- While policies on equal employment opportunity for military and civilian personnel and for contractors appear adequate, implementation responsibilities and functional assignments are fragmented and diffused and have impaired the achievement of effective results.

- The statutes and regulations regarding conflicts of interest are ambiguous, conflicting, and inequitable, and are not uniformly enforced.

To effect substantial improvement in these conditions, the Panel makes the following recommendations:

1. The functions of the Department of Defense should be divided into three major groupings:

(a) Military Operations, including operational command, intelligence, and communications (herein called Operations);

(b) Management of personnel and materiel resources (herein called Management of Resources); and

(c) Evaluation type functions, including financial controls, testing of weapons, analysis of costs and effectiveness of force structures, etc., (herein called Evaluation).

2. Each of these major groups should report to the Secretary of Defense through a separate Deputy Secretary. Appointees to these three positions should be drawn from civilian life, and should rank above all other officers of the Department of Defense except the Secretary. One of the three should be designated principal deputy. The General Counsel, the Assistant to the Secretary of Defense (Atomic Energy), the Assistant Secretary of Defense (Public Affairs), and the Assistant to the Secretary of Defense (Legislative Affairs) would continue to report directly to the Secretary of Defense. The staff of the Office of the Secretary of Defense should not exceed 2,000 people.

3. The Deputy Secretary of Defense for Management of Resources should be delegated responsibility for the following functions:

(a) The Military Departments, which should continue under the immediate supervision of their Secretaries;

(b) Research and Advanced Technology;

(c) Engineering Development;

(d) Installations and Procurement (a modification of the present Installations and Logistics);

(e) Manpower and Reserve Affairs;

(f) Health and Environmental Affairs;

(g) Defense Supply Agency; and

(h) Advanced Research Projects Agency.

There should be an Assistant Secretary of Defense for each of the functions (b) through (f) inclusive, who reports and provides staff assistance to the Secretary of Defense through the Deputy Secretary of Defense (Management of Resources). The position of Director, Defense Research and Engineering should be abolished, and his functions reallocated between the Assistant Secretary of Defense for Research and Advanced Technology and the Assistant Secretary of Defense for Engineering Development.

Functions (g) and (h) should continue to be constituted as Defense Agencies, each under the immediate supervision of a Director.

The Advanced Research Projects Agency should be delegated the responsibility for all research and exploratory development budget categories. Funds for such research should be

budgeted directly to this Agency, and the Agency should be authorized to assign or contract for work projects to laboratories of the Defense Department or in the private sector, as appropriate.

4. The Deputy Secretary of Defense for Operations should be delegated responsibility for the following functions:

- (a) Military Operations;
- (b) The Unified Commands;
- (c) Operational Requirements;
- (d) Intelligence;
- (e) Telecommunications (and Automatic Data Processing);
- (f) International Security Affairs;
- (g) Defense Communications Agency; and
- (h) Civil Defense Agency (if Civil Defense is to be retained in the Department of Defense).

Three new major Unified Commands should be created: (1) A Strategic Command, composed of the existing Strategic Air Command, the Joint Strategic Target Planning Staff, the Continental Air Defense Command, and Fleet Ballistic Missile Operations; (2) A Tactical (or General Purpose) Command, composed of all combatant general purpose forces of the United States assigned to organized combatant units; and (3) A Logistics Command, to exercise for all combatant forces supervision of support activities, including supply distribution, maintenance, traffic management and transportation. No Commander of a Unified Command should be permitted to serve concurrently as Chief of his Military Service.

The responsibilities now delegated to the Joint Chiefs of Staff by the Secretary of Defense to serve as military staff in the chain of operational command with respect to the Unified Commands, and all other responsibilities so delegated which are related to military operations and the Unified Commands, should be assigned to a single senior military officer, who should also supervise the separate staff which provides staff support on military operations and the channel of communications from the President and Secretary of Defense to Unified Commands. This officer should report to the Secretary of Defense through the Deputy Secretary of Defense (Operations). This senior military officer could be either the Chairman of the Joint Chiefs of Staff, as an individual, not ex-officio, the Commander of the Tactical Command, or some other senior military officer, as determined by the President and the Secretary of Defense.

There should be an Assistant Secretary of Defense for each of the functions (c) through (f), inclusive, who reports and provides staff assistance to the Secretary of Defense through the Deputy Secretary of Defense (Operations). The Defense Communications Agency and The Civil Defense Agency would each be under the immediate supervision of a Director.

All intelligence functions of the Department of Defense and all communications functions should report to the Secretary of Defense through the Deputy Secretary of Defense for Operations.

5. The following steps should also be taken:

(a) To provide the staff support on military operations, and the channel of communications from the President and the Secretary of Defense to the Unified Commands, an operations staff, separate from all other military staffs, should be created.

(b) The responsibilities now delegated to the Joint Chiefs of Staff by the Secretary of Defense to serve as military staff in the chain of operational command with respect to the Unified Commands, and all other responsibilities so delegated which are related to military operations and the Unified Commands, should be rescinded; and consideration should be given to changing the title of the Chief of Naval Operations to Chief of Staff of the Navy.

(c) All staff personnel positions in the Organization of the Joint Chiefs of Staff and in the headquarters military staffs of the Military Services which are in support of activities, such as military operations, which are recommended for transfer to other organizational elements, should be eliminated.

(d) The Organization of the Joint Chiefs of Staff should be limited to include only the Joint Chiefs of Staff and a reconstituted Joint Staff limited in size to not more than 250 officers augmented by professional civilian analysts as required.

(e) The Unified Commanders should be given unfragmented command authority for their Commands, and the Commanders of component commands should be redesignated Deputies to the commander of the appropriate Unified Command, in order to make it unmistakably clear that the combatant forces are in the chain of command which runs exclusively through the Unified Commander;

(f) In consolidating the existing area Unified Commands into the Tactical Command, major organizational and functional advantages will be obtained by:

(1) Merging the Atlantic Command and the Strike Command;

(2) Abolishing the Southern Command and reassigning its functions to the merged Atlantic and Strike Commands;

(3) Abolishing the Alaskan Command and reassigning its general purpose function to the Pacific Command and its strategic defense functions to the Strategic Command; and

(4) Restructuring the command channels of the sub-unified commands.

(g) The responsibilities related to civil disturbances currently delegated to the Army should be redelegated to the Tactical Command; and

(h) The Unified Commanders should be given express responsibility and capability for making recommendations to the Deputy Secretary of Defense for Operations, for operational capabilities objectives and for allocations of force structures needed for the

effective accomplishment of the missions assigned to their Commands.

6. The Deputy Secretary of Defense for Evaluation should be delegated the responsibility for evaluation and control-type activities, including:

- (a) Comptroller (including internal audit and inspection services);
- (b) Program and Force Analysis (a modification of the present Systems Analysis Unit);
- (c) Test and Evaluation;
- (d) Defense Contract Audit Agency; and
- (e) Defense Test Agency.

There should be an Assistant Secretary of Defense for each of the functions (a) through (c) inclusive, who reports and provides staff assistance to the Secretary of the Defense through the Deputy Secretary of Defense for Evaluation.

The Defense Contract Audit Agency should be continued as a Defense Agency, under the immediate supervision of a Director.

A Defense Test Agency should be created to perform the functions of overview of all Defense test and evaluation, designing or reviewing of designs for test, monitoring and evaluation of the entire Defense test program, and conducting tests and evaluations as required, with particular emphasis on operational testing, and on systems and equipments which span Service lines. The Defense Test Agency should be under the supervision of a civilian Director, reporting to the Secretary of Defense through the Deputy Secretary of Defense for Evaluation.

7. The number of Assistant Secretaries in each of the Military Departments should be set at three, and except for the Assistant Secretaries (Financial Management), they should serve as senior members of a personal staff to the Secretaries of the Military Departments without the existing limitations of purview imposed by formal functional assignments. The Assistant Secretary (Financial Management) should become the Comptroller of the Military Department, with a military deputy, as in the current organization in the Department of the Navy.

The Secretariats and Service Military Staffs should be integrated to the extent necessary to eliminate duplication; the functions related to military operations and intelligence should be eliminated; line type functions, e.g., personnel operations, should be transferred to command organizations; and the remaining elements should be reduced by at least thirty percent. (A study of the present staffs indicates that the Secretariats and Service staffs combined should total no more than 2,000 people for each Department).

8. Class II activities (Army), Field Extensions (Air Force), and Commands and Bureaus (Navy), all of which are line, rather than staff in character, which are now organizationally located under the direct supervision of staff elements in the headquarters military staffs of the Services, should be transferred to existing command-type organizations within the Services.

9. The Defense Atomic Support Agency should be disestablished. Its functions for nuclear weapons management should be transferred to the operations staff under the Deputy Secretary of Defense for Operations, and its weapons effects test design function should be transferred to the Defense Test Agency.

10. The administration functions presently assigned to the Assistant Secretary of Defense (Administration) should be assigned to a Director of Pentagon Services, reporting to the immediate office of the Secretary of Defense. He should be responsible for operating the facilities and providing administrative support for the Washington Headquarters.

11. A Net Assessment Group should be created for the purpose of conducting and reporting net assessments of United States and foreign military capabilities and potentials. This group should consist of individuals from appropriate units in the Department of Defense, consultants and contract personnel appointed from time to time by the Secretary of Defense, and should report directly to him.

12. A Long-Range Planning Group should be created for the purpose of providing staff support to the Secretary of Defense with responsibility for long-range planning which integrates net assessments, technological projections, fiscal planning, etc. This group should consist of individuals from appropriate units in the Department of Defense, consultants and contract personnel appointed from time to time by the Secretary of Defense, and should report directly to him.

13. A Coordinating Group should be established in the immediate office of the Secretary of Defense. The responsibilities of this Group should be to assist the Secretary of Defense and the Deputy Secretaries of Defense in coordinating the activities of the entire Department in the scheduling and follow-up of the various inter-Departmental liaison activities; to staff for the Secretary the control function for improvement and reduction of management information/control systems needed within the Department and required from Defense contractors; and to assure that each organizational charter of the Office of the Secretary of Defense is of proper scope and coordinated and in accordance with the assigned responsibility of the organization. The responsibility for the Department's Directive/Guidance System, currently assigned to the Assistant Secretary of Defense (Administration), should be assigned to this group. The coordinating group should be headed by a civilian Director, who should also serve as executive assistant to the Secretary of Defense.

14. The Army Topographic Command, the Naval Oceanographic Office and the Aeronautical Chart and Information Center should be combined into a unified Defense Map Service reporting to the Secretary of Defense through the Deputy Secretary of Defense for Management of Resources.

15. A new development policy for weapons systems and other hardware should be formulated and promulgated to cause a reduction of technical risks through demonstrated hardware before full-scale development, and to provide the needed flexibility in acquisition strategies. The new policy should provide for:

(a) Exploratory and advanced development of selected sub-systems and components independent of the development of weapon systems;

(b) The use of government laboratories and contractors to develop selected sub-systems and components on a long-term level of effort basis;

(c) More use of competitive prototypes and less reliance on paper studies;

(d) Selected lengthening of production schedules, keeping the system in production over a greater period of time;

(e) A general rule against concurrent development and production efforts, with the production decision deferred until successful demonstration of developmental prototypes;

(f) Continued trade-off between new weapon systems and modifications to existing weapon systems currently in production;

(g) Stricter limitations of elements of systems to essentials to eliminate "gold-plating";

(h) Flexibility in selecting type of contract most appropriate for development and the assessment of the technical risks involved;

(i) Flexibility in the application of a requirement for formal contract definition, in recognition of its inapplicability to many developments;

(j) Assurance of such matters as maintainability, reliability, etc., by means other than detailed documentation by contractors as a part of design proposals;

(k) Appropriate planning early in the development cycle for subsequent test and evaluation, and effective transition to the test and evaluation phase; and

(1) A prohibition of total package procurement.

16. The effectiveness of Program or Project Management should be improved by:

(a) Establishing a career specialty code for Program Managers in each Military Service and developing selection and training criteria that will insure the availability of an adequate number of qualified officers. The criteria should emphasize achieving a reasonable balance between the needs for knowledge of operational requirements and experience in management;

(b) Increasing the use of trained civilian personnel as program managers;

(c) Providing authority commensurate with the assigned responsibility and more direct reporting lines for program managers, particularly those operating in matrix organizational arrangements; and

(d) Giving the program manager directive authority, subject to applicable laws and regulations, over the contracting officer, and clarifying the fact that the contract auditor acts in an advisory role.

17. Increased use should be made of parametric costing techniques for developments and procurements to improve the quality of original and subsequent estimates, and to help

offset the difficulties of estimating the costs of unknowns.

18. A separate program category* should be established for test and evaluation, especially operational testing, and the responsibility for overview of all Defense test and evaluation efforts should be assigned to the Defense Test Agency.

19. Specialist careers should be established for officers in such staff, technical and professional fields as research, development, intelligence, communications, automatic data processing, and procurement.

20. In order to improve the process of acquisition and retention of military personnel, the Executive Branch should develop, and submit to the Congress for its consideration as necessary, a total military personnel program which coordinates and reconciles all the separate considerations, particularly including: (1) military compensation and retirement, (2) personnel policies on promotion and rotation, and (3) acquisition programs, such as Reserve Officers Training Corps.

21. The duration of assignments for officers should be increased, and should be as responsive to the requirements of the job as to the career plan of the officer. Officers continued on an assignment for this reason should not be disadvantaged in opportunity for promotion.

22. Executive Orders and Department of Defense Directives with respect to matters of equal employment opportunity for Department of Defense military personnel, civilian employees and contractors, as set forth in the existing comprehensive programs for insuring equal opportunity, should be administered from a sufficiently high organizational level in the Department to assure effective implementation, and the procedures for assessing penalties for non-compliance should be reviewed and clarified.

23. The Secretary of Defense should recommend clarifying changes in conflict of interest statutes, should amend the regulations to clarify them, and should make certain administrative changes to insure uniform enforcement.

*Program categories are those categories of activities used for internal planning and management in the Department, e.g., strategic offensive forces, strategic defensive forces, research and development, intelligence, etc.

BACKGROUND AND INTRODUCTION

Background

Any effective changes in military organization and management in the United States must be predicated on a thorough understanding of the evolutionary process which has resulted in the existing military structure and procedures. The Department of Defense was established only 23 years ago; however, it has been shaped by historical factors, some of which predate the American Revolution.

Among the most significant factors influencing the organization of the Defense establishment are:

- (1) The traditional attitudes of the Nation toward the military and toward the Nation's role in international affairs;
- (2) The Constitutional separation of powers of civilian control of the military between the Legislative and Executive Branches of Government;
- (3) The traditional roles and relationships of the several Military Services; and in recent years;
- (4) The qualitative and quantitative changes in warfare;
- (5) The revolution in technology; and
- (6) Rising costs.

The concern of Americans to insure civilian control of the military dates back to the colonial era and was reinforced by the examples of other nations in contemporary history. A fear of military rule found expression in the Declaration of Independence with charges against George III that "he has kept among us in times of peace Standing Armies, without the consent of our legislators" and that "he has effected to render the Military independent of and superior to the civil power." Neither the basic concern to insure, nor the requirement to provide effective civilian control has diminished during the intervening years. There has never been any real challenge to this concept. Military men in this country readily acknowledge its validity. Such difficulties as have arisen result not from the principle, but from how best to make it effective.

Many Americans have traditionally tended toward isolationism in international affairs. The reasoning which led President Washington to caution in his farewell address against "foreign entanglements" has never entirely lost its attraction to Americans. Unlike other nations in history that achieved dominant roles in world affairs through design, the United States was thrust into such a role because of its economic, industrial, technical and military potential – largely against its will. Before World War II, the United States never maintained a large, standing military force in peacetime, but the continuous maintenance since then of a large and costly force is a constant reminder of the burden of international responsibilities which must be reconciled with a still persistent desire for the world to "leave us alone." Each exercise of these responsibilities which involves the active employment of military forces stimulates a resurgence of latent reluctance to accept international involvement – a

reluctance which tends to increase in direct proportion to the length, intensity and cost of the military involvement in men and money, unless the security of the United States is obviously and immediately at stake.

The deep-seated objections on the part of many Americans to our current involvement in the war in Southeast Asia are partly a result of this long history. Our Country's natural abhorrence of war has been accentuated by a number of new factors – the relatively heavy involvement of American manpower, the long drawn-out nature of guerrilla warfare, the absence of the stimulating prospect of a "victory," and the "instant reporting" of news, with war's always dismal face being brought into our living rooms in vivid color.

The Panel has not been asked to and does not take a position on these trends, nor has it been asked to consider what basic national policy should be, or what the Defense Department's mission should be in the context of such policy. Its assigned task was to examine the organization and operation of the Department of Defense, and make recommendations to help the Department perform its assigned national security mission more efficiently.

However, the Panel cannot be insensitive to the environment in which the Department of Defense operates. It was impossible to be thorough in our assigned area and be blind to the more fundamental questions. In reading and hearing testimony from people with widely diverse interests and backgrounds, we sensed intimately the wide divergence of opinions in these areas.

We could not fail to be interested in discussions as to the nature of the various threats to our Nation's security that the Department of Defense must be prepared to counter. We could not fail to note the effect of developments of the last several years on the public's attitude toward the Department of Defense in general and the military in particular. We could not fail to be aware of the emotional as well as the intellectual strains these issues cause among Americans. And, we could not fail to recognize the importance to different groups of winning the minds and hearts of the uncommitted, and the various means used for this purpose.

While these matters are outside the scope of our study, we believe they have a profound influence on the Department of Defense. It is in this context that the Panel formed its recommendations.

The Constitutional allocation of the powers of civilian control of the military has had a recognizable impact on each change in military organization. Although the President is assigned the role of Commander-in-Chief of the Armed Forces, the Constitution vests in the Congress significant instruments of control, including (1) the Senate's power of advice and consent to Presidential appointments, (2) declaration of war, (3) the appropriation of funds, (4) raising armies and maintaining a Navy, (5) making rules for the government and regulation of the Armed Forces, and (6) calling the militia into Federal Service.

The Military Services have from time to time found the Constitutional separation of the powers of civilian control of use to them in their understandable and unending effort to maintain and occasionally extend their traditional roles and missions. In short, it has often provided an environment conducive to inter-Service rivalry and competition.

Inter-Service rivalry and competition are not necessarily bad, and can be good when

they result in improved effectiveness or economy in our military forces. So long as we have separate Military Services, separate loyalties are inevitable. A man's pride in his own Service is well worth preserving.

A difference of opinion as to which Service should be responsible for a specific mission or for the development of a particular weapon certainly does not reflect upon the honor, integrity and dedication of the officers involved. It is more likely the logical result of each officer's honest belief that his Service or his idea of a new weapon is in fact best for the country. The inter-Service difficulties are complicated by the increasing budget pressures, thus making the competition for the available dollars keener.

The Panel believes that its recommendations can improve the organization so that proper Service loyalties and competition are more likely to be directed to the best end results.

During and following World War II, it became increasingly evident that the nature of warfare was undergoing radical change. World War II proved that modern transportation capabilities had vastly increased the size of forces which could be engaged in a war. It also was demonstrated that modern warfare required combined operations by land, sea and air forces, and this in turn required not only a unity of operational command of these forces, but also a unified and coordinated process for structuring forces to achieve the most effective force mixture. As President Eisenhower was to express it, "separate ground, sea and air warfare is gone forever."* Of even greater significance, however, was the markedly increased interdependence of military power and its use with industrial, economic, diplomatic and political factors. The totality of Governmental actions and the utilization of resources have become so interdependent that it is no longer possible to speak meaningfully of a "purely military decision."

The explosion of technology has had a profound impact on military operations and organization. This has not been limited to weapons technology; however, the development of nuclear weapons unquestionably has been a very significant influence. The rate of technological change influences all segments of our society, and the military have been subject to new opportunities and pressures which conflict with traditional methods. The art of warfare in the post-World War II world has been characterized by uncertainty, as the past has provided fewer and fewer guidelines for the future.

It is not surprising that both in and out of the military establishment there have been sharply differing opinions on how the new technology can be applied to the spectrum of conflict situations for which the U. S. must be prepared, what organizational changes are required to exploit new and radically different capabilities, and the costs of converting technology to the uses of war. The development of new weapon systems to meet the evolving threats to the security of the United States is a vital part of our National Defense, and is one of the driving forces behind the entire Defense structure. As such, it must be carefully controlled.

The principal objective of United States military power is to deter war by having sufficient and credible power to maintain peace. To help reduce the human and material costs of the military power necessary for this purpose of keeping the peace, Americans

*President Eisenhower's Message to Congress, April 3, 1958

earnestly hope for the success of the Strategic Arms Limitation Talks (SALT). The importance of the concept of keeping the peace by deterring war led to the choice of the title of this Report: "Defense for Peace."

While there have been revolutionary changes in warfare and technology, this country's reaction to them has been moderated by the traditional influences and historical political mechanisms. The changes in military organization have thus been evolutionary rather than revolutionary, and each change has represented a compromise between conflicting pressures and influences. This essentially cautious approach to making necessary changes has much to commend it; however, it carries with it the requirements for constant review and consequent adjustment to cope with current and changing U.S. responsibilities and to counter the current and projected threats to the security of the United States.

Changes in Military Organization since World War II

During World War II, the single direction of military components of the U. S. became a prerequisite to the success of the war effort. It was also a necessity for harmonious interface of the U. S. military command structure with those of our allies. This experience virtually ruled out a return to the prewar separateness of Services, but by no means suppressed the divergent pressures which derived from traditional attitudes within the Services, and from institutional balances between the executive and legislative branches of Government. The Army, whose position was strongly supported by President Truman, became an advocate of close unification. The Army's objective received an assist from the proponents of air power, motivated by a strong desire for co-equal status for air forces with land and sea forces. The Navy – fearing for the future of its naval air power and the Marine Corps – wanted at the time no part of unification, particularly of unified command in Washington.

The history of the U. S. military establishment since World War II is more clearly told in a series of evolutionary organizational changes, commencing with the 1947 legislation, which initiated the first move toward "unification."

The National Security Act of 1947

The National Security Act of 1947 reflected a compromise of these diverse currents and pressures. The Congress acknowledged the need for military "unification" and closer coordination of foreign and military policy, and it was particularly motivated by the substantial economies which it appeared would result from elimination of wasteful inter-Service rivalry. Even these conclusions were tempered, however, by the reluctance of Congress to bestow on the President any additional powers that might weaken the congressional role in the civilian control of the Armed Forces.

The Act, in addition to creating a National Security Council for better coordination of foreign and military policy, and a Central Intelligence Agency for coordination of intelligence in hopes of precluding the diffusion of intelligence responsibility which made possible a "Pearl Harbor," created the Office of the Secretary of Defense to provide the President a principal staff assistant "in all matters relating to the national security."

The characteristics of compromise were most significantly reflected in the powers granted to the Secretary of Defense. Rather than presiding over one single Department of the Executive Branch, as recommended by President Truman, he was to preside over the National Military Establishment, which consisted of three Executive Departments – Army,

Navy and Air Force – each headed by a cabinet-level Secretary.

The Secretaries of each of the Military Departments retained all their powers and duties, subject only to the authority of the Secretary of Defense to establish “general” policies and programs, to exercise “general” direction, authority and control, to eliminate unnecessary duplication in the logistics field, and to supervise and coordinate the budget. The Secretary of Defense was given only three Special Assistants. The Joint Chiefs of Staff were given statutory recognition but remained, in effect, a committee depending on voluntary cooperation. The Act, in an effort to prevent a repetition of the haphazard economic mobilization of World War II, created a Munitions Board and a Research and Development Board, but made the representatives of the Military Departments on each board co-equal with the Chairman of the Board.

The resulting military organization was aptly characterized some years later by President Eisenhower as “little more than a weak confederation of sovereign military units.”

This was the first step in the post-World War II evolution of the U.S. military organization. Each subsequent step was to be characterized by debate centered upon the powers required by the Secretary of Defense to assure properly unified Armed Forces and their efficient management.

The 1949 Amendments to the National Security Act

In 1949, armed with the findings of the Hoover Commission’s Task Force on National Security Organization, the public plea of Secretary of Defense Forrestal (who in 1947 had opposed a strong unification effort), and the Eberstadt Task Force report, all of which documented the weaknesses of the 1947 Act and recommended greater powers for the Secretary of Defense, the President reinstated his insistence for more effective unification of the military establishment.

The resulting changes in military organization once again reflected a compromise of the existing pressures and influences, but on balance, represented a major step in the direction of unification. The Department of Defense became an Executive Department, with the Secretary of Defense responsible for general direction. The Office of the Deputy Secretary of Defense was created and the three Special Assistants to the Secretary of Defense were converted to Assistant Secretaries. The Executive Departments of the Army, Navy and Air Force were reduced to Military Departments – with the proviso, however, that they should be separately administered. The position of Chairman of the Joint Chiefs of Staff was created but given little more authority than to preside as a nonvoting member over meetings of the Joint Chiefs of Staff. The President’s request for a transfer to the Secretary of Defense of the statutory functions of the Joint Chiefs of Staff, the Munitions Board and the Research and Development Board was denied. The Secretary of Defense was specifically prohibited from transferring assigned combatant functions among the Military Departments and was limited in the transfer of noncombatant functions by a requirement for prenotification of Congress.

Subsequent to his submission of the request for the statutory changes in the National Security Act of 1947, but before the Congress enacted the 1949 amendments to the National Security Act, the President submitted to the Congress Reorganization Plan No. 4, by which the National Security Council and the National Security Resources Board were transferred to the Executive Offices of the President. By selecting only these two boards for

transfer to the Executive Office of the President, the Reorganization Plan and the language of the President's message of transmittal, by omission, supported the implication that the Munitions Board, the Research and Development Board and the Joint Chiefs of Staff were parts of the Department of Defense, and as such, subject to the "general direction" of the Secretary of Defense. The statutes were uniformly silent as to the organizational location of all five entities.

The 1953 Reorganization Plan

Further changes in Defense organization came in 1953, in the form of Reorganization Plan No. 6 submitted to Congress by President Eisenhower. Under the provisions of that plan, which became effective on June 30, 1953, the Munitions Board, the Research and Development Board, the Defense Supply Management Agency and the Director of Installations were all abolished and their functions transferred to the Secretary of Defense. In addition, the selection and tenure of the Director of the Joint Staff by the Joint Chiefs of Staff was made subject to the approval of the Secretary of Defense. The function of managing the Joint Staff was transferred from the Joint Chiefs of Staff to the Chairman of the Joint Chiefs of Staff. Six additional Assistant Secretary positions, supplementing the three in existence, and a General Counsel of equivalent rank, were established to provide more adequate assistance to the Secretary of Defense.

The 1958 Amendments to the National Security Act

Faced by continuing inter-Service rivalry and competition over the development and control of strategic weapons, and under the impetus of the successful launching of the Sputnik satellite by the Soviet Union in October 1957, President Eisenhower in 1958 requested, and the Congress enacted, substantial changes in the military organization.

The basic authority of the Secretary of Defense was redefined as "direction, authority and control," which is as strong as the lawmakers knew how to write it. In addition, the Secretary of Defense was given substantial power to reorganize the Department of Defense, specifically in logistic areas.

The 1949 requirement that the Military Departments be "separately administered" was relaxed to "separately organized."

The authority of the Secretary of Defense over research and development programs of the Department was strengthened, and the Secretary was provided with a Director of Defense Research and Engineering.

The legislation covering the Joint Chiefs of Staff was amended in several ways. The authority of the Chairman over the Joint Staff was increased, and the authorized maximum strength of the Joint Staff was enlarged from 210 to 400 officers.

The concept of "unified" and "specified" commands was established by law. The statutory authority of the Chief of Naval Operations and of the Chief of Staff of the Air Force to "command" forces was repealed. (The Chief of Staff of the Army had never had statutory command authority). The Military Departments were removed by statute from the chain of command over the operating forces in an effort to clarify and shorten the chain of command. However, the Secretary of Defense delegated to the Joint Chiefs of Staff the duty to serve as advisors and as military staff in the chain of operational command. As the

members of the Joint Chiefs of Staff are the same officers as the Chiefs of the Military Services, wearing their "other hats," this delegation from the Secretary of Defense effectively put the Military Service Chiefs back into operations.

Developments Since 1958

The changes in military organization since 1958 have flowed primarily from the reorganizational powers granted to the Secretary of Defense in the 1958 Amendments to the National Security Act. The more significant changes were the creation of the Defense Agencies: The Defense Atomic Support Agency in 1959; The Defense Communications Agency in 1960; The Defense Intelligence Agency in 1961; The Defense Supply Agency in 1962, and The Defense Contract Audit Agency in 1965. Significantly, each new Agency represented a consolidation of a functional activity by the Secretary of Defense in an effort to overcome the effects of functional diffusion among the Military Services.

Those changes in the nature of warfare which became apparent in the mid-1940s have become even more compelling with the passage of time. The interrelationship of components of the military establishment, and of military policy and actions with other elements of national policy and activity, are even closer and more complex.

The technological revolution, both in weapons and in general, continues unabated. Furthermore, it has proliferated to many other nations – both friendly and unfriendly – and has become highly competitive. The increasing sophistication of weapons and of the mechanisms for their control have been accompanied by a vast increase in costs.

The need for effective civilian control is certainly no less compelling now than in 1947. Evidence of excessive competition among the Military Services over roles and missions and over the development of new weapons erupts periodically into the open to indicate diffusion of national efforts and resources.

The strong interest and efforts of both the executive and legislative branches to strengthen their respective roles in civilian control have, if anything, increased. Indeed, the period since the middle of the 1960s has been marked by action and reaction of the President and Secretary of Defense, on the one hand, and the Congress, on the other, to increase the effectiveness of their own mechanisms for control relative to the other. These conflicts may well have failed to accomplish the ends that both have sought, and which might have been attainable through a more cooperative and harmonious effort.

While it is not within the Panel's Charter to recommend changes in the procedures of the Congress, it is relevant to point out the fact that the division of responsibility between the executive and legislative branches of the Government is further complicated by the diffusion of committee responsibility for Defense matters within the Congress itself.

In retrospect, the evolutionary approach to reorganization of the Department of Defense, while falling significantly short of the objectives of organizational and management purists, and at the same time overriding the inhibitions of the organizational traditionalists, has, on the whole, served the Nation's interests well. A more revolutionary approach to military reorganization might have destroyed values inherent in the traditional military organization which have been worth preserving. Even more significant, revolutionary changes would probably have seriously disrupted the operation and reduced the effectiveness of U. S. military forces during a period when the world situation necessitated maintenance of credible military power.

The Panel was conscious of the spectrum of diverse influences, pressures and considerations in undertaking its study of the Department of Defense. It was against this background that it weighed advices ranging from the extreme of total unification of the Military Services, through preservation of the status quo, to a reduction of the authority of the Secretary of Defense and increased independence for the separate Military Services.

Current External Influences on Defense Management

The operation and management of the Department of Defense cannot be evaluated using only conventional management criteria, for the Department does not exist under conventional conditions. On the contrary, it operates in a highly volatile environment, subject to many pressures and conditions which are largely beyond the control and often beyond the influence of those primarily responsible for Defense management.

Among the more relevant factors bearing on Defense management are the shifts in national policies and priorities, both in foreign policy and domestic needs, and the accompanying shifts in the range of U. S. commitments and the number and types of crises occurring. Also, the important impact that defense spending can have on inflationary pressures, and vice versa, is currently of great importance.

Among the most significant of the environmental factors impinging on Defense management, are the changing attitudes and opinions of the United States public. These heavily influence all aspects of management, but particularly such matters as weapons development and procurement; budgetary planning; personnel acquisition, retention and training; external research and development; contracting flexibility; and a large range of internal management problems.

The Panel recognizes that the Department of Defense currently lacks the confidence of a significant segment of the American public. While some of this is undoubtedly due to misunderstandings, basically the Department must work harder to do the jobs assigned to it as efficiently as possible and to keep the public properly informed. The Panel believes there is considerable room for improvement on both counts, and offers many recommendations to those ends.

At the same time, it is important to note that overemphasis of legitimate causes of public concern, as well as ill-founded or mis-directed charges, have the effect of seriously impairing the capability of the Department to carry out its national security mission.

Changes in public attitudes are aptly illustrated by the public views about the industry which provides goods and services for defense. In times of generally acknowledged extreme national peril, such as the period of World War II, such industry is lauded, placed on a pedestal and characterized by such lofty phrases as the "Arsenal of Democracy." In other times, the public may regard the same industry (in many cases the same Companies) as a scapegoat for a wide range of problems, and characterize it as a conspirator in a sinister "Military-Industrial Complex," whose objective is believed to subvert the best interests of the country to private gain.

Each attitude impinges on the responsibilities for, approaches to, and effectiveness of Defense management. In the context of an "Arsenal of Democracy," the Defense manager's primary concern is quantity, quality, and speed of production. In the context of a "Military-Industrial Complex," the Defense manager is more likely to focus on the size of

the expenditure involved, the level of profits, and the methodology of contracting. Actually, all of these objectives are important and need attention at all times.

Better ways are needed to deal with the complex relationship between a government purchaser of unique goods and services for which there are sometimes no competing markets, and a private seller who generally must operate in a severely competitive environment. The "product" (often a complex weapon system) around which this relationship revolves, frequently cannot be accurately described by either party, since it has never been made, and producing it might require applications of technology never before perfected or even attempted. In the face of such uncertainty, both the buyer and the seller are required to estimate costs which are often unpredictable by any known techniques. Superimposed on these problems which are of special importance to the Department of Defense, is the general problem that inflation poses in all areas involving estimates of future costs. Nevertheless, these estimates nearly always become the major yardstick by which the success or failure of the transaction is measured. In addition, the seller must be prepared to operate under detailed supervision of the buyer, and frequently in accordance with procedures devised or prescribed by the buyer.

These problems must be solved, as it is in the best interest of all to maintain a healthy and productive industry which is responsive to overriding national interests.

Public attitudes with regard to the conduct of the war in Southeast Asia also significantly affect the present operations of the Department of Defense. Clearly a substantial part of the public holds the military responsible for inefficiency in the conduct of the war, resulting in its length and indecisiveness. Such attitudes appear to ignore the fact that many of the rules and restraints regarding how this war has been fought have not originated with the military, but with the civil authorities of Government. Many operational tactics, believed by some to be more militarily efficient, have been precluded by the United States self-imposed "rules of engagement," which reflect many factors in addition to military efficiency. Whether or not one agrees with the weight given the various factors in coming to such judgmental decisions, or with the actual decisions, the fact is that these decisions relating to the war in Southeast Asia were made by civilian, not military, officials – sometimes upon the advice of the military, and sometimes against such advice.

Those directly charged with Defense management have little control over many environmental factors that affect public attitudes. But they do have the basic responsibilities of doing the tasks assigned to them as efficiently as possible and of keeping the Congress and the public informed, within proper – but not unreasonable – restraints required for security reasons. In any event, as has already been noted, public attitudes should obviously be considered in any assessment of, or attempt to enhance, the potential for effective management of the Defense Department. In particular, if the Nation is to be able to recruit and retain competent military manpower, while at the same time keeping the Defense Department's claims on national resources within bounds, any "downgrading" of the military in public esteem cannot safely be ignored.

Objectives of Study and Recommendations

Operating in this environment, with this background, and in accordance with the terms of its assignment, the Panel has been concerned with the mechanisms and efficiency of defense operations, not with the substance of the policies to be executed. In short, the Panel has concentrated on the "hows" of doing, not the "what" to do.

The objective of the study was not to devise ways and means to save money, per se; it was rather an attempt to discover the cause of shortcomings and to devise and recommend changes in organization and procedures which appear to have potential for increasing the efficiency of the Department of Defense. Should our recommendations be implemented, and should they prove as sound as we conceive them to be, substantial savings should result. For example, the Panel is convinced that various layers of staff have grown and proliferated unnecessarily, resulting in substantial increases in manpower and paper work and decreased efficiency. If our recommendations are made effective, we anticipate substantial ultimate reductions in dollars and personnel, in both military and civilian areas.

We emphasize that such savings as result from increased efficiency will be realized principally in the long term, rather than the short term. Current expenditures yield little to improvements in efficiency, particularly in the Department of Defense where most funds, whether for people or material, require advance obligation. The recommendations of the Panel are not and could not be designed to support immediate budget reductions. The potential savings are in the long term.

The Panel did not concern itself as a group with whether realized savings should be allocated to achieving more defense capabilities at the same cost, or an equivalent level of defense at less cost. Our efforts were in no way oriented to altering the level of defense capability established by national policy.

Organization of Report

The size, diversity and complexity of the Defense establishment make it impractical to consider elements of defense operations or functions separately or isolated from other elements or from the whole.

Accordingly, many of our recommendations are interdependent for effective improvement. For example, internal management procedures can and do affect the effectiveness of the weapons acquisition process, but organizational improvements cannot in and of themselves guarantee greater effectiveness. Improvements in organization, however, can provide a structure which makes it easier for capable people (who must be acquired, trained, motivated and retained by improved personnel policies) to do a more efficient job.

The format of this report is designed to group the subjects in part according to the types of recommendations, and in part according to the subject matter to which the recommendations are directed.

The scope of the Panel's assignment was extremely broad, and the time for the study limited. Accordingly, the Panel found it necessary to establish priorities. The Panel studied in depth as many of the major subjects as its time and manpower permitted. Other areas of relatively minor importance were also included because they were more easily addressed. We believe the Panel's efforts in some areas, both major and minor, were sufficiently comprehensive to support specific recommendations. In others, our investigations were only sufficient to conclude that correctable problems exist, but were insufficient to support specific recommendations; in such instances we have recommended that further studies and examinations be conducted. In still other areas, there were indications of significant problems, but limitations of time prevented exploration by the Panel; our Report invites attention to these areas.

Selected staff reports have been identified as Appendices to this Report. The Panel's recommendations are in no case based exclusively on these staff reports, as its studies were broader and more extensive than the staff reports alone. Some of the appended staff reports contain detailed facts and evaluations bearing on specific recommendations of the Panel, while others address subjects, draw conclusions and suggest changes in areas which the Panel as a whole did not choose to address. In some such instances, there was a question as to whether the studies covered all of the particular subject or subjects sufficiently to enable the Panel confidently to make a recommendation. In still other areas of staff reports, the Panel lacked sufficient confidence in its judgmental capability to deal with the detailed, technical or specialized matter. However, they are of sufficient importance to be submitted with this Report as information, without necessarily implying endorsement of each item by the Panel.

General Observations

Several other general comments relating to our study are in order.

Throughout our study and our Report, we have concentrated on problem areas, rather than on areas in which operations appeared to be conducted efficiently and responsibly. Many things are done well in the Department of Defense, and we are conscious that our Report, because it is problem oriented, reflects a lack of balance of the positive with the negative aspects.

During the period in which the Panel conducted its study, changes in organization and procedures of the Department were carried out or initiated which have the potential for improving the responsiveness and efficiency of the Department. The Panel has followed these changes closely. In some cases, the Panel has already made data and evaluations collected in the course of its study available to those who might find immediate use therefor – and some of it has already been put to good use. Our observation of the Department's operation indicates that efforts to improve its organization and management were not generally inhibited or postponed while the study was in progress. Although this provided the Panel with a moving target, we welcomed the changes and the concern and sense of responsibility within the Department of Defense which prompted them. In case of changed organization or procedures, the Panel was provided with the specifics of the change and the rationale upon which it was based.

The Panel received excellent cooperation and inputs from both within and outside the Department. The Secretary of Defense made sure that the Panel experienced no limitations on its access to records and people of the Department.

The attitudes of the Department personnel almost unanimously reflected interest and a desire to assist in improving the effectiveness of the Department. Similar attitudes were displayed by people in other Departments of the Government. In particular, the Panel appreciates the valuable help provided by the General Accounting Office, the Bureau of the Budget, and the White House staff.

The Panel members who visited U.S. military commands in Europe and Southeast Asia were much impressed by the high caliber and dedication of our Nation's fighting forces – from general and flag officers down through the ranks. Considering the fact that the average age of our military personnel – including officers – is only 22.7 years, the ability and accomplishments of this large cross-section of the youth of America is inspiring.

CHAPTER I
ORGANIZATION

I. GENERAL

In approaching its task, the Panel became increasingly aware that no single organization or set of procedures would be adequate for the Department of Defense for all times. The organization and procedures of the Department must be sufficiently flexible to respond to a changing environment and evolving objectives.

Certain principles which guide organizational and procedural objectives do remain constant. First among such principles is the requirement for effective civilian control of the Defense establishment. Under the Constitution, civilian control is exercised through the combined efforts of both the Executive and Legislative Branches. Its effectiveness, however, depends in large measure on the capability of the Secretary of Defense to insure consistency of Department operations with policy, to surface the viable alternatives on major issues, and to maintain a high degree of visibility to himself, the President and the Congress of the functioning of the national Defense establishment.

Effective control of the military establishment by the Secretary is required not just for the purpose of insuring the supremacy of civil authority. While the President and the Secretary of Defense must have the benefit of professional military advice based on careers of military training and experience, unified control is essential to provide the Nation with maximum security at minimum costs, and to insure that military strategy, force structure and operations are consistent with national policy.

Despite the broad authority vested in the Secretary of Defense by the National Security Act of 1947, as amended, experience demonstrates that in practice, the tools available to the Secretary to exercise effective control of the Department are seriously deficient.

The evolution of defense organization since 1947 has not substantially reduced the inherent difficulties arising from the fact that the division of roles and missions among the Military Departments is still based fundamentally on distinctions between land, sea and air forces which have become increasingly less relevant. This results in continued adversary relations between the Military Services, which, although usually confined to the internal paper wars that constitute the Department's decision-making process, severely inhibit the achievement of economy and effectiveness required for adequate defense within available resources. The continuing interservice competition seriously degrades the decision-making process through obfuscation of issues and alternatives, and leads to attempts to circumvent decisions, repeated efforts to reopen issues that have already been decided, and slow, unenthusiastic implementation of policies to which a Service objects.

The results of such "parochialism" are, for example, reflected in: the development of the AX aircraft by the Air Force and the Cheyenne aircraft by the Army for the close air support role; the lack of enthusiasm for airlift expenditures by the Air Force and the Fast Deployment Logistics program by the Navy, both intended to support the Army; the organization of the operational command structure to provide a balance among the Services for senior officer billets; and the continued failure to resolve the issue of the best balance between land and carrier-based tactical air.

It should be noted that inter-Service rivalry fades rapidly in proximity to a zone of combat operations. In Vietnam, despite the encumbrance of a confused, distorted and divided command structure, imposed through a series of Service compromises, the military operates harmoniously as unified armed forces of the United States, due in large degree to the splendid leadership of the senior commanders in the field.

During this study, the Panel was exposed to a broad spectrum of experience-based opinion that deficiencies within the Department of Defense could not be remedied without either integrating or drastically restructuring the Military Services. Significantly, this opinion was not confined to civilians. It is based in no small part on the recognition that the changes made in defense organization since 1947, whether by reorganization plan or by statutory amendment, were all designed primarily to remedy the same or related problems to which most plague the Department of Defense today. Unquestionably, the phrases in the reports of the Hoover Commission's Task Force on National Security Organization, the Eberstadt Task Force, the Rockefeller Committee of 1953, the President's message to the Congress in 1958, and many other studies made externally and internally to the Department have the familiar ring of applicability to contemporary conditions.

Nevertheless, the evidence, on balance, does not at this time support the necessity nor the desirability, in our opinion, for changes as drastic as elimination of the separate Services. The Panel does, however, recommend that the President and the Secretary of Defense reconsider this basic matter after the results of the Panel's recommendations for immediate action have been observed and evaluated.

The fundamental principles of the National Security Act of 1947, as amended, are still sound. Although experience indicates the desirability, and even the necessity, for some substantive changes, many of the deficiencies evident in the operation of the Department could be remedied by more faithful application of the concepts on which the Act is premised.

The Department of Defense is too large, and encompasses too many complex and diverse activities to respond to over-centralized management. Some logical division of activities must be made to facilitate management and control. However, achieving such division by radical reorganization would probably solve few, if any, of the basic conflicts which now exist; its effect would be more likely to relocate the organizational points at which divergent interests lock in controversy. There is also the danger that valuable morale factors rooted in tradition might be destroyed rather than controlled, or eliminated rather than redirected toward useful objectives.

A drastic restructuring would also inevitably risk serious disruptions of uncertain degree and duration in the operational capabilities and readiness of our military forces. In view of the current and foreseeable state of world affairs, only the most crucial need could justify acceptance of such risks.

II. CONTROL AND MANAGEMENT BY THE SECRETARY OF DEFENSE

The National Security Act bestows a broad expanse of authority on the Secretary of Defense to enable him effectively to direct and administer the Department of Defense. There is no serious legal impediment to prevent a Secretary of Defense from making any and every decision within the Department, subject only to Presidential and Congressional

policies. Practical, rather than legal, limitations make such an approach impossible. Even the doubling of his time and attention through the person of his alter-ego, the Deputy Secretary, does not significantly increase the decision-making time of the Secretary. A highly centralized decision-making process oriented to a single decision point, whether the decision point consists of one or two men, is inherently inadequate to manage the spectrum of activities required of the Department of Defense.

Indeed, attempts to overcentralize decision-making at the top seriously impair a Secretary's capability to exercise effective control. Under such circumstances, far too many decisions go unmade, critical issues are not addressed, problems are deferred and the principle of personal accountability is lost in the diffused maze of "staff coordination."

Effective civilian control and management, however, do not require that the Secretary of Defense make all, or even a major proportion, of the innumerable decisions necessary for the operation of the Department.

The alternative is for the Secretary to delegate substantial decision-making authority and all executory functions to subordinate levels of authority. Delegation is not synonymous with abrogation of responsibility, however. The application of such delegations of authority and executory functions must be carefully delineated, and paralleled with adequate, but simplified, reporting systems to insure that activities conducted under delegated authority are visible to and subject to audit by the Secretary. Delegations must be sufficiently specific to permit strict individual accountability.

Effective civilian control, appropriate delegation of authority, and decentralization of management cannot be effectively accomplished in the present organizational structure of the Department.

The organizational structure needs to be improved to attain the following compelling objectives:

- (1) The organization of the Department must be responsive to the direction, control and authority of the President and the Secretary of Defense in all areas of Departmental operations;
- (2) The lines of authority and responsibility within the Department must be made clear and unmistakable, so that delegation of authority and responsibility will not result in loss of individual accountability;
- (3) The chain of operational command must be unencumbered, and flexible enough to operate reliably and responsively in both peace and war;
- (4) The organization of the Department must permit and facilitate objective assessments and innovative, but non-duplicative, long-range planning for structuring and equipping of forces;
- (5) The organization of the Department must be streamlined to reduce substantially the manpower assigned to staff activities; and
- (6) The "span of control" of the Secretary must be reduced.

The attainment of these objectives can be facilitated by separating the functions of the Department into three major categories; (a) military operations; (b) management of resources and support; and (c) evaluation and control. An organization structured along these functional lines would permit effective delegation of authority and decentralization of management.

Conceptually, the National Security Act, as amended through 1958, organizationally divides the Department of Defense, below the level of the Office of the Secretary of Defense, between support activities and military operations. The Military Departments were given the responsibility for support matters, and military operations were centered in the Unified and Specified Command structure.

This separation, prescribed by the Congress, has much to commend it. In addition to providing a logical division of the total military power, it permits a Secretary of Defense to fashion his management decision points so as to concentrate on the interfaces between the "suppliers" and the "users" of resources, thereby enhancing his control capability.

The utility of this conceptual division has been impaired in practice. President Eisenhower's message transmitting the 1958 Reorganization Act to Congress said: "Clearly, Secretaries of Military Departments and Chiefs of individual Services should not direct unified operations and therefore should be removed from the command channel." Accordingly, the 1958 Reorganization Act separated the Chiefs of Staff as such from operations, and put the Unified and Specified Commands directly under the command of the President and the Secretary of Defense. However, the Secretary of Defense then delegated to the Joint Chiefs of Staff the responsibility to act as military staff in the chain of operational command to the Unified and Specified Commands. This reinvolved the Chiefs of the Services in combatant operations matters in their capacity as Joint Chiefs.

One additional functional division in Defense organization is essential to sound management. Evaluation functions should be organized separately from both support activities and military operations, to enhance the potential for independence and objectivity in the evaluations. This principle is acknowledged to a degree in the National Security Act by the provisions relating to functions of comptrollers for the Department of Defense and for Military Departments.

Dividing the responsibilities of the Department of Defense into these three major divisions would clarify lines of communications, control, and responsibility. It would replace divided responsibility for many matters with unified responsibility and accountability for a prescribed area. It would help both civilians and the military to concentrate on the areas in which they have special competence.

III. ORGANIZATION OF THE OFFICE OF THE SECRETARY OF DEFENSE

The Office of the Secretary of Defense (OSD) has more than doubled from approximately 1700 to 3500 personnel since 1956. This growth appears to reflect an attempt at highly-centralized management, undertaken in frequently futile attempts (1) to overcome difficulties arising from Service rivalries; and (2) to manage, in lieu of minimizing, the uncertainties inherent in planning, programming and budgeting, particularly as related to advanced weapons systems.

The OSD staff is organized by groupings in the offices of the Director of Defense Research and Engineering (DDR&E), the Assistant Secretaries of Defense (ASDs), the Assistants to the Secretary of Defense (ATSDs) and the General Counsel. These offices are structured in parallel and the lines of responsibility of each run directly to the Secretary/Deputy Secretary of Defense. (See Chart)

Each of these parallel elements of OSD staff has been delegated responsibilities, including policy formulation, within the assigned area of activity, which is established by a "charter" in the form of a Directive. These "charters" include direct statutory impositions of responsibilities where applicable. Currently, the scope of responsibility for each of these OSD staff elements is couched in language too general either to limit precisely or to define and fix precisely the responsibility for the intended area of cognizance or function.

Policy and guidance directives issued by OSD to subordinate elements of the Department evidence a tendency by several of the parallel elements of the OSD staff to formulate policy and guidance as if its particular function were the principal control element by which the Department is managed. For example, the Draft Presidential Memoranda, prepared by the Office of the Assistant Secretary of Defense (Systems Analysis), before they were discontinued, tended to control through detailed force levels – numbers and sizes of units – manpower levels, numbers of equipments and, indirectly, the dollars consumed. At the same time, the directives from the Assistant Secretary of Defense (Manpower and Reserve Affairs) tend to fix manpower levels and skills to a degree which would impose manpower as the controlling element of force levels, dollars consumed and numbers of equipment. The Assistant Secretary of Defense (Comptroller) manages with dollars, the Assistant Secretary of Defense (Installations and Logistics) with numbers and types of equipment, while the Director of Defense Research and Engineering prescribes the policies for acquiring and applying technology. The result is a multiplicity of largely independent, parallel managements of the Department from the top, which impose a degree of rigidity on operations of subordinate elements of the Department that severely inhibits efficient performance. In addition, the expansion of OSD has been accompanied by an increasing involvement of OSD personnel in executory-type activities of the Department.

The expanding parallel organization of OSD has contributed to the excessive span of control of the Secretary/Deputy Secretary of Defense. Twenty-seven major offices of the Department report directly to the Secretary/Deputy Secretary, and of these, twelve are in OSD. No formal mechanism exists to assure proper coordination among the parallel elements of OSD. This unsatisfactory organizational structure results in frequent contradictions in policy guidance, frictions between the various elements of OSD, and the necessity for extensive and time-consuming coordination with little assurance that it has achieved its purpose.

The lack of convergence of responsibilities for functional areas at an organizational point in OSD below the Secretary/Deputy Secretary level inhibits the flexibility to delegate responsibilities within OSD, for no one below the Secretary/Deputy Secretary level has the requisite breadth of purview or responsibility.

The expansion of OSD into many functionally fragmented compartments and their increasing involvement in detailed executory-type activities has resulted in the establishment of a profusion of management information systems and reporting requirements. The excessive detail and duplication of reporting requirements have generated such a sheer mass of informational detail that relevant and important facts are often obscured. Efforts at

reports control and limitation have proved largely futile and have added to the already significant load and costs of paper work.*

While the process of OSD expansion was occurring, subordinate elements of the Department gradually adjusted. In fact, the diffusion of responsibility and accountability, the freedom to "pass the buck" to the top on hard decisions, and the opportunity to use the extensive coordination process to advance parochial objectives, are circumstances to which many in the Department have adapted comfortably. Understandably, this usually resulted in substantial increases in the workload of staffs at subordinate levels to provide information required by and to counter the arguments made by the expanded OSD staff. On the other hand, despite recent improvements made in the Military Departments in such techniques as systems analysis, there is little to indicate that the Department could accomplish its mission if there were a reversion to the level and type of decentralization of authority which existed earlier.

The lack of responsiveness to the needs and direction of the Secretary of Defense is particularly evident in three closely interrelated functional areas - military operations, intelligence, and communications.

For all its size, the OSD has no staff element with significant purview of the area of military operations, despite the fact that the Secretary of Defense, since the 1958 amendments to the National Security Act, is the crucial link in the chain of command between the Commander-in-Chief and the Unified Commanders.

If the Secretary of Defense is to discharge effectively his responsibilities as a key element of the National Command Authority, - and the alternative of removing him from the chain of command would, in practice, reduce "civilian control" to a fiction - it is clear that he must have an adequate staff for the purpose.

The present arrangement for providing staff support to the Secretary of Defense for military operations is awkward and unresponsive; it provides a forum for inter-Service conflicts to be injected into the decision-making process for military operations; and it inhibits the flow of information to and from the combatant commands and the President and Secretary of Defense, often even in crisis situations.

While the Secretary of Defense is constituted by the National Security Act as the link in the chain of command of combatant forces between the President and the Unified and Specified Commanders, the only military staffs presently available for operations staff work are in the Joint Staff - reporting to the Joint Chiefs of Staff - and in the Military Departments. This anomalous situation has been dealt with by the delegation of responsibility to the Joint Chiefs of Staff by the Secretary of Defense to act as his staff for military operations. To perform this responsibility, the Organization of the Joint Chiefs of Staff was enlarged. In addition, each member of the Joint Chiefs of Staff has retained on his military staff within his individual Service a staff element assigned to military operations which is larger than the authorized size of the entire Joint Staff. These are the staff officers who support their Chief of Service in his role as a member of the Joint Chiefs of Staff. There is abundant evidence that it is in these individual Service staff elements, as much or

*See Defense Directives/Guidance System and Management Information Reports in Chapter III.

more than in the Joint Staff, that issues dealing with military operations and the recommendations of Unified Commanders to the Secretary are screened, analyzed and shaped.

The National Military Command Center (NMCC) is a facility essential to the functioning of the National Command Authority and is manned by elements of the Organization of the Joint Chiefs of Staff; the NMCC, however, is responsive to the Joint Chiefs of Staff, not to the Secretary of Defense and the President.

This lack within OSD of expertise in military operations critically impairs the civilian control of the military establishment. Virtually all of the combat forces of the United States are assigned to the operational control of the Unified and Specified Commands. There is a statutory prohibition against the transfer of forces in or out of one of the Unified or Specified Commands without the specific approval of the Secretary. It is the Secretary of Defense who, subject to the authority of the Commander-in-Chief, provides the direction and control of the Unified Commanders.

The National Security Act, as amended, clearly contemplated a direct relationship between the Secretary and the Unified and Specified Commanders. It is the Operational Commander of the Unified Command who is in the best position – staffed by officers from all Services – to provide military recommendations, alternative courses of actions and assessments of short-term military capabilities to the National Command Authority. A staff, preferably military, is necessary in the chain of command between the Secretary and the Unified Commanders; it is imperative that such a staff be responsive to the Secretary of Defense, rather than to the Joint Chiefs of Staff, and through the Joint Chiefs of Staff to the Military Services.

The absence of a staff element for military operations directly responsive to the Secretary of Defense constitutes a deficiency which can be tolerated only at high risk.

The OSD cognizance of the intelligence area below the level of the Secretary and Deputy Secretary is too narrow, because it is limited in large measure to resource allocation review. The designation of the Assistant Secretary of Defense (Administration) for intelligence responsibility needs expanding to assure sufficient cognizance. In addition, there should be created a point of convergence below Secretary level at which military operations and intelligence policies and activities are considered together as an interdependent entity.

Responsibility for communications matters in OSD has, until recently, been hopelessly fragmented. The establishment of the position of an Assistant to the Secretary (Telecommunications) to exercise comprehensive policy responsibilities for communications is a major improvement. This function is closely intertwined with both military operations and intelligence. Communications, noted here only in connection with its impact on the organization of OSD, is addressed separately in this report.

Executory functions are intermingled in many of the staff organizations in the Department, and the Office of the Secretary of Defense is no exception. To provide clear and distinguishable lines of authority and responsibility, staff functions, which involve policy formulation and monitoring, should not be commingled with executory or operating functions.

The Advanced Research Projects Agency (ARPA) is now an integral part of the OSD

staff, being a part of the Office of the Director, Defense Research and Engineering. ARPA has the characteristics of a Defense Agency, including separate budgeting (at a current level in excess of \$200 million).

Another significant weakness of the OSD organization is the lack of policy guidance, monitoring and evaluation of the test and evaluation function.* This deficiency has contributed to a number of instances of needless dissipation of resources. In connection with test and evaluation, it should be emphasized that responsibilities for any evaluation function must be exercised independently. When they are subordinated to or combined with responsibilities for the development of the item or subject being evaluated, the requisite objectivity is seriously jeopardized.

Still another problem is the commingling of functional assignments in the same office or individual, when the functions are either greatly dissimilar (Administration and Intelligence), or generate conflicting pressures or issues which should be raised to a higher organizational level for resolution, instead of being submerged. As an example of the latter, the co-assignment of functional responsibility for both (a) research and exploratory development, and (b) weapons systems development, makes it possible for the relative balance of effort between the two to be shifted without the issue being addressed at higher organizational levels, as it would have to be if the functions were separately assigned.

The Department of Defense must closely coordinate its activities and policies with numerous other agencies of government, particularly the National Security Council, the State Department, and the Arms Control and Disarmament Agency. In order to do so effectively, it is essential that the Department representatives be vested with the requisite authority to speak for the Department and have sufficient access to information in the Department to deal knowledgeably. All too often in the Department of Defense, this coordination function is, in practice, fragmented. This can result in several Defense Department voices, which may well diverge in direction, and cause confusion with serious consequence. The Office of Assistant Secretary of Defense (International Security Affairs) has the functional assignment for most of the Department's external coordination responsibilities on matters which have political-military significance. Frequently, however, personnel from other elements of OSD are designated on an ad hoc basis to represent the Department on various interagency activities. In addition, the executive levels and functional alignment of the offices of the Defense Department do not mesh with those of the State Department, which, in a bureaucratic interface, can and does cause substantive problems.

The Secretary of Defense does not presently have the opportunity to consider all viable options as background for making major policy decisions because important options are often submerged or compromised at lower levels of the Department.

A need exists for an independent source of informed and critical review and analysis of military forces and other problems - particularly those involving more than one Service, or two or more competitive or complementary activities, missions, or weapons. At present, the Assistant Secretary of Defense (Systems Analysis) is responsible for this important function.

*See Test and Evaluation in Chapter II.

Test and evaluation functions are presently widely scattered, tend not to extend above Service level, and are dominated by Service developer agencies. Because so much of the Department of Defense is involved in or affected by weapon systems acquisition, an improved test and evaluation capability is essential to provide objective test data on the progress and worth of developmental weapon systems. Significantly increased emphasis is needed on operational test and evaluation, particularly on systems and equipment which span Service lines.

The internal auditing effort at OSD level is fragmented and lacks sufficient organizational prestige to provide the coordination, audit coverage, and leadership to achieve its full potential.

The internal auditing effort at the OSD level is carried on by two different groups, both within the Office of the Assistant Secretary of Defense (Comptroller). One group, the Office of Director for Audit Policy, reporting to the Deputy Assistant Secretary (Systems Policy and Information) has responsibility for developing and providing audit policy guidance for all audit organizations in the Department. A second group, called the Office of the Deputy Comptroller for Internal Audit, reports one level higher and provides a quick audit response to matters of special interest to the Secretary of Defense and his staff. This second group is also responsible for audits of programs and procedures which involve more than one military Service or Agency, for audits of the Military Assistance Program, and for audits of certain other Department components.

The Directorate of Inspection Services (DINS), organizationally located in the office of the Assistant Secretary of Defense (Administration), has the responsibility for inspections or surveys of the operational and administrative effectiveness of the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Unified and Specified Commands and the Defense Agencies. DINS also has responsibility for criminal investigation and counter-intelligence activities within the same organizations. The assigned responsibilities of DINS do not include financial and accounting audits.

These functions should be grouped with other evaluation and control functions.

Some of the Department's "credibility gap" with the Congress and the public must be attributed to the fragmented, and often confused, functional assignments of responsibilities within the Department for legislative and public affairs.

At present, there are public affairs and legislative liaison offices within the Office of the Secretary of Defense, each of the Military Departments and some of the Defense Agencies, with no effective mechanism for coordination among them. A great many of the matters with which these offices deal affect and are affected by activities of other organizational elements of the Department. Only the public affairs and legislative liaison activities in the Office of the Secretary of Defense have general cognizance of all activities. Representations by other such offices have the potential to be based on partial or incomplete information.

At the present time, the activities of the Assistant Secretary of Defense (Public Affairs) account for less than one-fifth of the public affairs expenditures of the Department. The lack of coordination of all public affairs activities of the Department causes confusion among the public and in the Congress, and at the same time, inhibits the most effective use of available resources.

The Office of the Assistant to the Secretary of Defense (Legislative Affairs) is less than one-half the size of the smallest legislative liaison office of a Military Department, and only about one-fourth the size of the largest. The necessary flow of information attending the budgetary process would be facilitated by direct contacts between the appropriations committees of Congress and the Comptroller of the appropriate department or agency. The use of legislative liaison services in these budgetary matters, where the Departmental sources of data are few and identified, has greater potential for obstruction than assistance.

Three other areas of significant organizational deficiency in OSD are apparent.

There is no organizational element within OSD with the assigned responsibility for objectively making net assessments of U.S. and foreign military capabilities. Major program and policy decisions in the Department of Defense tend to be based on an assessment of individual factors, such as the apparent threat, the technological capability of the United States and possible opponents, and cost effectiveness criteria. The Defense intelligence community is concerned with foreign developments, but does not make assessments of U.S. capabilities. Threat assessments are made for comparison with the projected capability of some proposed new U.S. development. There is, however, no mechanism within the Department to provide an integrated analysis which systematically places existing or proposed programs in the context of the capabilities and limitations of the United States and its allies versus possible antagonists. The Secretary of Defense should have available, on a continuing basis, the results of comparative studies and evaluations of U. S. and foreign military capabilities, to identify existing or potential deficiencies or imbalances in U. S. military capabilities.

There is no organizational element within OSD that is charged with the responsibility for broadly supporting the Secretary of Defense in long-range planning which integrates net assessments, technological projections, fiscal planning, etc. Force planning is currently initiated by the Joint Chiefs of Staff and the Military Departments within the constraints of fiscal guidance to each Service and for each major mission and support effort. In order to provide an overall balance of forces, to prevent wasteful duplications, and to develop effective but more economical alternatives to those conditioned by traditional approaches of the Military Services, OSD requires an internal long-range planning capability. The development of alternative solutions should include consideration of all relevant political, economic, technological and military factors. To the extent to which such a capability exists in the current OSD organization, it is too fragmented and too limited by the pressure of more immediately urgent assignments to be effective.

No formal mechanism exists within OSD to assure adequate coordination among the various elements of the Department. There is a need for a Coordinating Group in the immediate office of the Secretary of Defense, to assist in coordinating the activities of the entire Department and in the scheduling and follow-up of the various activities.*

In addition to the deficiencies previously mentioned, many of the individual elements of the Office of the Secretary of Defense have become so overstaffed as to reduce their capability. Even with the new functions suggested for OSD, the staff should not total more than 2,000 people.

*See Defense Directives/Guidance System and Management Information Reports in Chapter III.

IV. ORGANIZATION OF THE JOINT CHIEFS OF STAFF AND THE JOINT STAFF

The Joint Chiefs of Staff

With the exceptions of the relatively minor changes in the authority of the Chairman, the reorganization of the Joint Staff in 1958, and the increases in the limitation on the size of the Joint Staff from 100 to 210 officers in 1949, and from 210 to 400 officers in 1958, there have been no significant changes in the Organization of the Joint Chiefs of Staff and the Joint Staff since 1949.

The Joint Chiefs of Staff are still composed of the Chairman, appointed by the President, with the advice and consent of the Senate, from the officers of the regular components of the Armed Forces; the Chief of Staff of the Army; the Chief of Naval Operations; the Chief of Staff of the Air Force; and as a practical matter, the Commandant of the Marine Corps, unless the Secretary of Defense determines that a particular matter under consideration by the Joint Chiefs of Staff does not concern the Marine Corps.

Both the organizational characteristics and the performance capability of the Joint Chiefs of Staff have been sources of concern almost since the inception of the organization.

From an organizational standpoint, concern has been created by the reliance on a "committee" for the performance of the important functions assigned to the Joint Chiefs of Staff. Despite the theories which would depict the Joint Chiefs of Staff as a "corporate" body, the near unanimity of the Joint Chiefs of Staffs' formal decisions in recent years, and the statutory instruction to the Chairman to report disagreement of the Chiefs to the Secretary of Defense, the Joint Chiefs of Staff must be characterized as a committee.

The "committee" character of the Joint Chiefs of Staff is accentuated by the dual roles of the members, other than the Chairman of the Joint Chiefs of Staff. Each of the Chiefs must bear the load of responsibility for supervision of his own Military Service and for his duties as a member of the Joint Chiefs of Staff.

The excessive workload occasioned thereby was recognized by the report of the Rockefeller Committee in 1953. In the 1958 amendments to the National Security Act, the Chiefs of Staff of the Army and Air Force, the Chief of Naval Operations and the Commandant of the Marine Corps were authorized to delegate broad responsibilities for supervision of their Services to their Vice Chiefs of Staff. Despite this delegation, the workload of the Joint Chiefs of Staff is still very heavy, and is compounded by the many matters of detail referred to them.

Also, in the 1958 amendments, the Chiefs' authority to "command and supervise" their Services was reduced to the authority "to supervise," and the operational command of combatant forces of all Services was vested in Unified and Specified Commands, responsible directly to the Secretary of Defense and the President. By virtue of the provisions of Department of Defense Directive 5100.1, issued on 31 December 1958, however, the Joint Chiefs of Staff were assigned the duty to serve as advisors and as military staff in the chain of operational command running from the Secretary to the Commanders of the Unified and Specified Commands.

From a practical viewpoint, the roles of the members of the Joint Chiefs of Staff, other than the Chairman, are probably more nearly triple in character than dual. The three roles

are: (1) the Chief's supervision of his Military Service; (2) participation in the advisory and planning functions assigned by statute to the Joint Chiefs of Staff; and (3) participation, by delegation, as a member of the Secretary's staff for matters of operational command.

Many consider the dual or triple roles of the Joint Chiefs of Staff to be a fatal deficiency to the effectiveness of the Joint Chiefs. No matter how hard the Chiefs strive to "rise above the particular views of their respective Services" * and not to "be restricted by Service positions or instructions,"** it is very difficult for them to free themselves from their understandable Service loyalties.

The difficulties of the Joint Chiefs of Staff structure are compounded by other factors: (1) the Joint Staff consists of officers assigned from each Service, and they look to their Service for promotions; and (2) the procedures by which major issues addressed by the Joint Chiefs of Staff, require that the issues first be coordinated by the Joint Staff with each of the Military Services.**

President Eisenhower referred to these difficulties in his message to the Congress on the Defense Reorganization Act of 1958. The President stated: "These laborious processes exist because each military department feels obliged to judge independently each work product of the Joint Staff. Had I allowed my interservice and interallied staff to be similarly organized in the theaters I commanded during World War II, the delays and resulting indecisiveness would have been unacceptable to my superiors."

The increase in frequency of unanimity in the recommendations and advice of the Joint Chiefs of Staff is by no means conclusive proof of subjugation of particular Service views. Such frequency of unanimity can just as cogently support a conclusion that the basis of such recommendations and advice is mutual accommodation of all Service views, known in some forums as "log rolling," and a submergence and avoidance of significant issues or facets of issues on which accommodations of conflicting Service views are not possible.

Arguments for continuation of the military chiefs as members of the Joint Chiefs of Staff do have merit, however. There could be some risk involved in any approach to restructuring the membership of the Joint Chiefs of Staff which might so remove the members from the daily operations of their Departments as to relegate the Joint Chiefs of Staff to an ivory tower.

The fundamental problem with the multiple role of the members of the Joint Chiefs of Staff, we believe, was perceived in the comments of the Rockefeller Committee in 1953. The committee stated:

It is essential to keep in mind that the Joint Chiefs of Staff were established as a planning and advisory group, not to exercise command. The National Security Act emphasized their planning and advisory role. The Committee considers it unfortunate that this concept of the National Security Act has always been obscured in actual practice, even before the meetings in 1948 at Key West and Newport, at which the Secretary of Defense delegated certain command functions to the Joint

*Report of the Rockefeller Committee, 1953.

**The JCS Decision-Making Process is discussed in Chapter III.

Chiefs of Staff.

To clarify the role of the Joint Chiefs of Staff in accord with the basic purposes of the National Security Act, this Committee recommends below that the Key West agreement be revised to remove the command function from the Joint Chiefs of Staff, in order to enable them to work more effectively as a unified planning agency.

The Committee believes that the Secretary of Defense has much to gain from receiving the various views of the military chiefs of the Services, and that it is desirable for the top planning body to continue to include the responsible military chiefs, who will thus have a voice in the JCS planning as well as implementing such planning in their respective military departments.

Despite the many changes, the members of the Joint Chiefs of Staff have retained their involvement, in one or the other of their roles, in operational command matters. Prior to 1953, the Joint Chiefs of Staff designated one of their members as their executive agent to exercise operational command in a specified geographical area. From 1953 to 1958, the Secretary of Defense designated a Military Department as executive agent for a particular unified command and the Service Chief acted for the Secretary of his Military Department, so that for any particular unified command, the chain of operational command ran from the President to the Secretary of Defense to the Secretary of the designated Military Department to the Service Chief to the unified command. The 1958 change was intended to shorten and clarify the chain of operational command, by making the channel run from the President to the Secretary of Defense directly to the unified command. Because of the delegation from the Secretary of Defense to the Joint Chiefs of Staff to act as military staff in the chain of command to the unified commands, this change proved to be largely one of form, rather than substance, for it merely "changed the hat" the Chief of Service wears during his involvement in military operational matters.

The numerous functions now assigned to members of the Joint Chiefs of Staff impose an excessive workload and a difficult mix of functions and loyalties. Some of these functions must consequently suffer, and the evidence indicates both the strain on individuals who have served in such capacity and a less than desirable level of performance of the numerous functions assigned. This result has occurred despite the outstanding individual ability and dedication of those who have served on the Joint Chiefs of Staff and despite the attempts to shift a portion of the load from the Chiefs of Service to their Vice Chiefs. The difficulty is caused by the system, not the people.

The excessive workload of the Joint Chiefs of Staff has also resulted in a perceptible shift of responsibilities for the performance as staff of the Secretary of Defense in operational control of combatant forces from the Joint Chiefs of Staff to the Chairman of the Joint Chiefs, acting individually and "keeping the members of the Joint Chiefs of Staff informed." This trend, while usually increasing efficiency, imposes a severe workload on the Chairman, and does not appear entirely consistent with either the statutory prohibition against the Chairman exercising command functions or the repeated rejection by the Congress of the single Chief of Staff concept.

Of the varied functions assigned to the Joint Chiefs of Staff, those involving operational command are least compatible with the organizational character of the Joint Chiefs of Staff. A committee is inhibited in its performance of any function by its very nature, but it is most deficient as a decision-mechanism in matters which are time-critical, such as

operational control of combatant forces.

The recommendation of the Rockefeller Committee to eliminate the Joint Chiefs of Staff from duties involving operational command of combatant forces is as well taken today as in 1953, if not more so, but this time the change should be made in such a clear and unequivocal way that it cannot be circumvented.

To other duties of the Joint Chiefs of Staff have been added the responsibility for certain Defense Agencies created since 1958, namely, the Defense Atomic Support Agency (DASA), the Defense Communications Agency (DCA), and the Defense Intelligence Agency (DIA). The exercise of administrative control and guidance of these Defense Agencies not only adds to the already excessive workload of the Joint Chiefs of Staff, detracting even further from their capability to perform their statutorily assigned missions, but also detracts from the effective and efficient performance of some of these Agencies.*

The Joint Chiefs of Staff could more effectively perform their important statutory role as principal military advisors to the President and the Secretary of Defense if they were relieved of the necessity of performing delegated duties in the field of military operations and Defense Agency supervision.

This would also have the advantage of terminating much of the involvement of the Military Departments in the command chain of combatant forces, which results from the dual role of the Military Chiefs of Services as members of the Joint Chiefs of Staff. It would also negate much of the argument that has been advanced for having the Joint Chiefs of Staff consist of different officers from the Chiefs of the Services (the "two-hatted" role).

The Joint Staff

The Joint Staff is placed by statute under the Joint Chiefs of Staff and is limited in size, currently to 400 officers.

These statutory limitations have proved to be of no practical consequence, deterring neither the growth past the magic number of 400 officers serving on the central military staff, nor the creation of additional military staff. With the apparent, but statutorily silent, acquiescence of all concerned, including the Congress, the limitations of the statute have been circumvented by the creation of an entity called the "Organization of the Joint Chiefs of Staff."

The title, "the Organization of the Joint Chiefs of Staff" was used to include the Joint Chiefs of Staff, the Joint Staff and various committees formed by the Joint Chiefs of Staff prior to 1953. These "committees" were, for the most part, disestablished effective June 7, 1958, in response to President Eisenhower's message to the Congress on defense reorganization transmitted on April 3, 1958. Four committees not so disestablished were redesignated in name from "Committee" to "Council" or "Group" for compliance in form, if not in substance.

Despite the "elimination" of the committees included in the Organization of the Joint

*The organization of these Defense Agencies is addressed later in this Chapter.

Chiefs of Staff, the number of personnel serving as staff and staff support for the Joint Chiefs of Staff increased from approximately 486 in 1958 to 2,145 in 1969, of which some 900 are military officers. The size of this organization is projected to diminish to some 1,996 in 1970. The "staff" character and its interrelationship to the officially designated Joint Staff is in no way disguised nor camouflaged, and nothing surreptitious can or should be implied from its constitution. The official Joint Staff, maintained with the 400 officer-size limitation is organized under five directorates and one office of Special Assistant as follows: J-1 (Personnel), J-3 (Operations), J-4 (Logistics), J-5 (Plans and Policy), J-6 (Communications-Electronics), and the Special Assistant for Counterinsurgency and Special Activities. In the overall Organization of the Joint Chiefs of Staff, but outside the officially designated Joint Staff, are a large number of staff elements, variously entitled Directorates, Agencies, Special Assistants, etc., all of whom report either through the J-3 (Operations), the J-5 (Plans and Policy), or directly to the Director of the Joint Staff, the same as do elements of the official Joint Staff.

Less obvious "extensions" and "additions" to the Joint Staff also exist. For instance, the Defense Atomic Support Agency (DASA) performs the staff function for maintaining inventory control of nuclear weapons, and in fact, an element of the DASA staff is located contiguous to the National Military Command Center, operated by the Organization of the Joint Chiefs of Staff. Also, the some 400 or more personnel, a number of whom are military officers, working in the National Military Command System Support Center, are assigned to the Defense Communications Agency.

Size alone, nor even a substantial and continuing growth of staff, does not provide evidence of a deficiency in organizational composition or performance. Nevertheless, such artificial structuring of organization, in an effort to circumvent arbitrary limitations, however benign because of the passage of time, can hardly fail to perform less adequately than an organization functionally structured for efficiency of performance.

The Organization of the Joint Chiefs of Staff provides no significant mechanism for corporate memory, and possesses inadequate technical and professional analytical capability. Constituted as it is of military officers who serve one, or at most two tours of duty in the Organization of the Joint Chiefs of Staff, it lacks an experience recall capability which would prevent or minimize recurrence of past mistakes. This deficiency cannot be remedied by the acquisition of data storage and retrieval capabilities made possible by computers. Some individual must recognize the familiar circumstances of earlier experience to indicate that the recorded data connected with earlier history can provide guidance on current problems. The absence of corporate memory can be minimized by changes in the rotation and promotion policies of the Military Services to permit the retention of people in the organizational structure for substantially more than two, three or four years. There is, of course, no prerequisite for corporate memory capability that the persons so retained be military officers; they could just as well be civilians.

V. ORGANIZATION OF THE MILITARY DEPARTMENTS

The organization of the Secretariats of the Military Departments can be evaluated only against the background of the evolving role and function of the Military Department Secretary.

Unquestionably, the role and function of the Secretaries of the Military Departments have changed. Three principal circumstances have provided the impetus for the evolution of

their role and function: (1) the vesting and increase of authority in the Secretary of Defense to provide coordinated control and direction of planning and structuring of the military establishment; (2) the removal of the Military Departments, including the Secretaries, from involvement in operational control of combatant forces; and (3) the marked increases in complexity and costs – and budgets – for weapon systems the military forces now require for execution of their assigned missions. The Secretary must play a difficult dual role of being at once (a) principal advisor and assistant to The Secretary of Defense in the operation of his particular Military Department, and (b) the representative of his Military Department in the councils of the Secretary of Defense.

The office of Secretary of a Military Department has become increasingly demanding of administrative and managerial ability to: (1) cope with the multiplication of complexity and costs of developing and acquiring weapons systems; (2) acquire personnel in the quantity and quality required to maintain and operate the weapons; (3) train military personnel to the high level of skills necessary to function in areas of advanced technology and sensitive operations; and (4) retain enough of those so trained to justify the training investment; but not so many as to impair the vigor essential to successful military operations, which only youth can provide.

No private corporate executive in the world has the managerial responsibility in terms of manpower, budget, variety or complexity of operations equal or approaching that resting on the shoulders of a Secretary of a Military Department.

Within each of the Military Department Secretariats there is one Under Secretary, a General Counsel, and four Assistant Secretaries, each of the latter being functionally assigned for Research and Development, Manpower and Reserve Affairs, Installations and Logistics, and Financial Management. The functional designation of the Assistant Secretaries, other than for the Assistant Secretary for Financial Management, is not made by statute, but by internal organizational decision.

Below the predominantly civilian Secretariats which report to the Secretary/Under Secretary of the Military Departments, are the military staffs which report to the Chief of Staff, Chief of Naval Operations, or the Commandant of the Marine Corps, as the case may be.

Each of the Military Departments has established organizations which are direct extensions of the Departmental staffs. Each of these organizations reports to an element of one of the Departmental staffs, and performs functions in direct support of that staff element. Many of these support organizations are physically located with the staff elements which they support. When such support personnel are included, the total staff sizes of the Military Departments are roughly comparable.

The trend in sizes of the Washington Headquarters' staffs (including support) of the Military Departments has, perhaps surprisingly, remained relatively level or has slightly declined during the 1960s. There has, however, been a marked shift of personnel from the "staff" category to the "support" category where it is less visible. Particularly is this noticeable in the Department of the Air Force. Although this trend may be a reflection of changing management and organization philosophies, the lowered visibility factor poses an organization problem in itself.

All evidence indicates that the sizes of Headquarters' staffs in the Military Departments

are excessive to what is required for efficient performance of assigned functions. Functional analysis of these staffs reveals an astonishing lack of organizational focus and a highly excessive degree of "coordination," a substantial portion of which entails the writing of memoranda back and forth between lower echelons of parallel organizational elements and which serves no apparent useful or productive purpose.

The Military Staffs of the Services have accumulated a number of line type activities, called "Class II Activities" by the Army, "Field Extensions" by the Air Force, and "Commands" and "Bureaus" by the Navy, and distinguishable by the fact that they are commanded by a member of the staff of the Chief of the Service.

The organizational placement of these activities, which presently number about 700 and contain about 173,000 people, is inconsistent with good management practice and they should be assigned to commands which are in the line of "supervision" of Service channels and divorced from direct supervision by the Service Headquarters' staffs.

Several factors of organization and manning in the Washington Headquarters' staff of the Military Departments are particularly significant.

As noted above, there are five senior executive level positions in the Secretariats of the Military Departments below the Secretary/Under Secretary level. The ratio of personnel supervised by these officials to total staff personnel in the Secretariat is surprisingly low. In the Army Secretariat, these five senior officials supervise the work of only 171 out of approximately 1,000; in the Navy, 124 out of some 1,900; and in the Air Force, only 169 out of some 524. More effective utilization could be made of the Assistant Secretaries who are not functionally designated by statute, should their roles not be restricted by their present functional assignments, and their number could be reduced from three to two.

There also appears to be substantial duplication in all Military Departments between the Secretariat staffs and the military staffs.

The duplication can be illustrated by an examination of the functions of the Financial Manager/Comptroller in the several Military Departments.

Two statutory provisions relating to these functions are relevant. The provisions are separately stated, but identical for each Military Department in 10 U.S.C. sec 3014 (Army), sec 5061 (Navy), and sec 8014 (Air Force). These statutes provide, in part:

"There are a Comptroller of the (Army-Navy-Air Force) and a Deputy Comptroller of the (Army-Navy-Air Force) in the Department of the (Army-Navy-Air Force). The Secretary may appoint either civilian or military personnel to these offices. If either the Comptroller or the Deputy Comptroller is not a civilian, the other must be a civilian.

. . . "The Comptroller is under the direction and supervision of, and is directly responsible to the Secretary of the (Army-Navy-Air Force), the Under Secretary or an Assistant Secretary. However, this subsection does not prevent the Comptroller from having concurrent responsibility to the (Chief of Staff-Chief of Naval Operations), (Vice Chief of Staff-Vice Chief of Naval Operations), or a (Deputy Chief of Staff-Deputy Chief of Naval Operations) if the Secretary so prescribes."

The Departments of Army and Air Force, acting under these provisions, each has an office of the Assistant Secretary (Financial Management) in the Secretariat reporting to the Secretary/Under Secretary, and a Comptroller located on the military staff reporting to the Chief of Staff. The Navy has combined the functions of Comptroller in one office, however. The feasibility, and avoidance of duplicative assignment of functions, of this combination is demonstrated in Figure 1, which is a comparison of Comptroller-type functional assignments in the three Military Departments and the Office of the Secretary of Defense.

As Figure 1 illustrates, duplication of assignments of comptroller-type functions between the Assistant Secretary (Financial Management) and the military comptroller in the Department of Army and the Department of Air Force are numerous. An analysis of functions indicates that performance of these functions by the Assistant Secretaries (Financial Management) and the Comptrollers in the Army and Air Force approach being equally duplicative.

The comptroller function was chosen for illustration because it is the one function most nearly combined in the Secretariat and military staff, and did, therefore, present the opportunity for contrast. In the functional areas of the other three Assistant Secretaries, there has been little consolidation of functions between the Secretariats and military staffs.

In functional areas other than those assigned the four Assistant Secretaries, there have been functional consolidations between the Secretariats and the military staffs which demonstrate the feasibility of such management economies. In all the military Departments, the public information function has been largely consolidated: in the Secretariat in the Navy and Air Force; and in the military staff in the Army. The legislative liaison function is consolidated in all Military Department Secretariats. In the Department of Navy, where the Secretariat has purview of both the Navy and Marine Corps, the Secretariat performs the staff function for civilian personnel Department-wide, while staff cognizance of military personnel is allocated to the Navy and Marine Corps military staffs.

The internal audit groups of the three Military Departments are largely autonomous. There is relatively little interchange or contact among these internal audit groups. The hiring, training, and assignment of audit personnel to specific tasks are handled by each Military Department or Agency with a minimum of guidance or direction from external sources.

The internal audit organizations of the Army and the Navy are organized along similar lines, with relatively large regional, area, or resident offices located throughout the United States and overseas. The internal auditors of the Air Force, unlike those of the Army and the Navy, are stationed at numerous air bases and installations as resident auditors. This results in a wide dispersion of audit personnel in small, relatively permanent groups typically consisting of five or six persons.

While a single internal audit agency in the Department of Defense would permit a more efficient supervisory and management structure, provide more attractive career opportunities for professional personnel, and provide better coordination and control for the Secretary of Defense, it is, on balance, more desirable to continue to provide each Military Department with an internal audit capability of its own to monitor the attainment of its own objectives.

In 1961 certain responsibilities for Civil Defense contained in the Federal Civil Defense

FIGURE 1 - COMPARISON OF SUBJECTS ADDRESSED BY COMPTROLLERS

| | SUBJECTS ASSIGNED IN INTRA-DOD DIRECTIVES | | | | | |
|--|---|-------|---------|-----------------|-----------|----------|
| | OSD | ARMY | | NAVY | AIR FORCE | |
| | ASD(C) | COMPT | ASA(FM) | COMPT & ASN(FM) | COMPT | ASAF(FM) |
| | a/ | | b/ | c/ | | d/ |
| PRESCRIBED IN US CODE | | | | | | |
| Budgeting | x | x | x | x | x | x |
| Accounting | x | x | x | x | x | x |
| Progress and statistical reporting | x | x | x | x | x | x |
| Administrative organization structure | xg/ | x | x | x | x | |
| Managerial procedures, relating to budgeting, accounting, progress and statistical reporting and internal auditing | x | x | x | x | x | |
| Internal audit | x | | | x | x | |
| ADDITIONAL SUBJECTS PRESCRIBED IN MILITARY DEPARTMENT AND OSD DIRECTIVES | | | | | | |
| Prices for interservice sales | x | | | | | |
| Auditing | | x | x | x | x | x |
| Finance, including disbursement and collection of funds | | x | | x | x | x |
| Contract audit | x | | | | | |
| Reports control | | x | | | | |
| Cost analysis | | x | x | x | x | |
| Fiscal | x | x | | x | | |
| Management systems and improvement | x | x | | | x | |
| Financing of contracts | | x | x | x | x | x |
| Data automation (ADP) | avo | | x | partial | x | x |
| Management information & control systems | | | x | x | x | x |
| Claims | | | x | x | | |
| Reports of survey | | | x | x | x | |
| Contracts for management studies/ services | | | x | | | x |
| International balance of payments | x | | x | x | x | |
| GAO criticism | x | | | x | x | x |
| Collecting debts from defense contractors (operational function) | | | | x | x | |
| Command of specified field activities or a lower staff | | x | | x | x | x |

a/ Department of Defense Directive 5118.3, January 1966.

b/ Army Regulation 10-5, July 1968, para 2-5 and 2-27.

c/ SECNAVINST 8430.7H, April 1968, para 5a, and Comptroller Orgn Manual 8480.1A (draft).

d/ Air Force Hq Pamphlet 20-1, October 1967, pp. 9, 77-94, and 308.

g/ Restricted to organizations involving programming, budgetary and fiscal matters.

Act of 1950, as amended, were assigned to the Secretary of Defense by Executive Order 10952. These responsibilities are currently assigned to the Department of the Army.

The Office of Civil Defense (OCD), located in the Department of the Army Secretariat, is essentially an independent operating activity.

The Federal Civil Defense Act, as amended in 1958, includes in the Declaration of Policy the following:

“It is the policy and intent of Congress to provide a system of Civil Defense for the protection of life and property in the United States from attack. It is further declared to be the policy and intent of the Congress that the responsibility for Civil Defense shall be vested jointly in the Federal Government and the several States and their political subdivisions. The Federal Government shall provide necessary direction, coordination and guidance; . . . and shall provide necessary assistance as herein authorized.”

Except for a period in 1962-1963 when the fallout shelter program was given a high priority, the Civil Defense function has apparently been given little emphasis. There has been, since 1961, considerable discussion about the effects of dividing the Civil Defense responsibilities between the Executive Office of the President and the Department of Defense. This question is presently being addressed by the Executive Office of the President. The mission of OCD is also being reviewed.

The present mission of OCD in the Department of the Army is essentially limited to the development and execution of a fallout shelter program and a communications and warning capability. The staff of OCD is divided roughly equal between the Department of Army Headquarters and the OCD Regional Offices which work directly with the Civil Defense organizations of the States and their political subdivisions. If, as a result of the present review of Civil Defense by the Executive Office of the President, the Secretary of Defense continues to be delegated responsibilities for Civil Defense, the OCD should not continue as a part of the Department of the Army Secretariat. The OCD is a line, not a staff, activity. Further, its mission is sufficiently different from, and independent of, the missions of the Military Departments that it should be established as an independent defense agency.

The Army has been delegated the responsibility for contingency planning related to civil disturbances in the United States and acts as Executive Agent in the operational command chain in the employment of forces in such disturbances. This delegation is inconsistent with normal command arrangements and the spirit, if not also the letter, of the Defense Reorganization Act of 1958. This responsibility should be assigned to a combatant command.

There is another area of duplication which arises from activities throughout the Washington Headquarters' elements of the Department of Defense, and particularly in connection with those activities physically located in the Pentagon. To a major extent, each Headquarters so collocated has its own support organization to handle furnishings, supplies, mail distribution, correspondence control, etc. In some of these activities – such as mail distribution and correspondence control* – this duplication causes hopeless inefficiencies.

*Detailed staff studies of mail handling and correspondence control problems are appended to this report.

The staffs of the Military Departments are not properly organized to effectively and efficiently perform their assigned functions. In addition to the deficiencies previously addressed, many of the individual staff elements have become so large as to reduce their capability. The Secretariats and Service staffs should be integrated to the extent necessary to eliminate duplication; the functions related to military operations and intelligence should be eliminated; operational-type functions, e.g., personnel operations, should be transferred to command organizations; and the remaining elements should be reduced by at least 30 percent. A study of the present staffs indicates that the Secretariats and Service staffs combined should total no more than 2,000 people for each Department.

VI. ORGANIZATION OF THE DEFENSE AGENCIES

The National Security Act of 1947, as amended, gives the Secretary of Defense the responsibility and the authority to provide for the performance of any non-combatant supply or service activity common to more than one military department by one agency (or such other organizations as he considers appropriate), whenever he determines it will be more effective, economical, or efficient.

There are presently five Defense Agencies: Defense Atomic Support Agency (DASA); Defense Communications Agency (DCA); Defense Intelligence Agency (DIA); Defense Supply Agency (DSA); and Defense Contract Audit Agency (DCAA). The first three report to the Secretary of Defense through the Joint Chiefs of Staff, the other two report directly to the Secretary.

An examination of the documents and studies which led to the creation of the Defense Agencies reveals the existence of no general criteria for the establishment of such an entity, except the existence of a function common to more than one Military Department. There exist, and existed prior to the creation of the first Defense Agency, innumerable non-combatant functions common to more than one Service. Among such functions for which Defense Agencies have not been created, but where significant economies might result from consolidation, are: (1) Automatic Data Processing Services; (2) Medical, dental and hospital services; (3) Transportation of materials, movement of household goods; (4) Personnel security investigations; (5) Aircraft and aircraft engine depot services; (6) Recruiting; (7) Test and evaluation; and (8) Mapping, Charting and Geodesy.

An alternative to the Defense Agency for consolidation of common non-combatant functions is the designation of one Military Department as "Executive Agent" to perform such functions for all military services. The Military Airlift Command operated by the Department of the Air Force as Executive Agent, and industrially funded* to serve all military users, is one example of the use of this mechanism. For a comparatively small function, this mechanism has the advantages of minimizing the incurrence of the larger administrative overhead associated with Defense Agencies, and of utilizing established organizational structures for external supervision and monitoring of the function.

The organizational placement of Defense Agencies within the Department has caused problems. For those Agency heads reporting directly to the Secretary/Deputy Secretary of

*An industrially funded activity is one which operates with a working capital fund, from which operating expenses are paid, and which is reimbursed through charges to benefiting organizations.

Defense such as the Director, Defense Supply Agency, there is a less than desirable degree of supervision due to the excessive span of control imposed on the Secretary/Deputy Secretary of Defense by the existing organizational structure. The Joint Chiefs of Staff, through which three Defense Agencies report, has not proved to be the type of organization which can best provide guidance free of the competition of the military services among themselves and between the military services and the Defense Agencies.

From an organizational standpoint, three of the Defense Agencies present problems - DASA, DCA and DIA.

Defense Atomic Support Agency

DASA is the successor to the Armed Forces Special Weapons Project (AFSWP), which in 1947 became the organizational home of those military personnel and some civilians previously involved in the Manhattan Project, which developed the atomic bomb. AFSWP was created to discharge for all military services all support functions relating to nuclear weapons, and as such, was responsible to all three military services. In 1959, DASA was established as a Defense Agency, with similar functions, reporting on general matters through the Joint Chiefs of Staff to the Secretary of Defense, but receiving supervision on matters relating to research, development, test and evaluation from the Director, Defense Research and Engineering, and for matters relating to liaison with the Atomic Energy Commission and other special activities, from the Assistant to the Secretary of Defense (Atomic Energy).

The conditions which led to the assignment of most of the functions initially assigned to DASA no longer exist. Each of the Military Services has acquired and is satisfactorily performing many functions relating to nuclear weapons, such as storage, transportation, inspection, maintenance and training of personnel. In some instances, such as storage, Military Services are doing it more efficiently than does DASA. DASA's storage function is currently being transferred to the Services.

It appears that DASA retains two remaining unique capabilities - one related to the design of nuclear weapons effects tests, and the other in nuclear weapons stockpile management.

Weapon design tests are designed and conducted by the Atomic Energy Commission pursuant to requirements submitted by the Military Services for warhead developments. DASA, however, receives and consolidates requirements for weapon effects tests from the Military Services and designs the appropriate tests. The designs for weapon effects tests, after review in OSD, are submitted to the Atomic Energy Commission which provides nuclear devices specified in the test designs and actually conducts the tests, using equipment supplied by the Military Services.

In its responsibility for nuclear stockpile management, the role of DASA is logically one of coordination and management. In its support of the JCS, however, DASA provides operating elements that are integral to the National Military Command System. In addition to maintaining information on the status and location of nuclear weapons, these elements have responsibility for collecting and displaying information about the Single Integrated Operations Plan both as to the plan and the results of its execution. They also have the responsibility for other functions that fall entirely within the responsibilities of the JCS in their delegated role as military operations staff for the Secretary of Defense.

DASA also now performs a number of functions which could be more appropriately assigned elsewhere, such as the administration of the base hospital at Sandia Base, (and many similarly inappropriate activities at the same location), and the Armed Forces Radiobiology Research Institute at Bethesda, Maryland, which is a joint medical research facility.

The scope of the two unique functional capabilities of DASA no longer justifies the continuation of the administrative overhead load inherent in a Defense Agency.

Defense Communications Agency

DCA was established in 1960 to exercise operational control and supervision of the Defense Communications System (DCS) which is comprised of all long-haul, point-to-point communications facilities of the Department of Defense. After World War II, each of the Military Departments developed its own worldwide communications system to carry out the global activities of its mission. As the requirements and expenditures for separate long-haul systems rose through the fifties, economic and other pressures mounted for the creation of one entity to engineer and manage these increasingly expensive systems for the common use of all Defense elements. DCA was the response to these pressures.

DCA is charged with responsibility to: (1) exercise management control and operational direction over the DCS; and (2) exercise management control over R&D, planning, engineering, and programming of the activities of the Military Departments, Unified and Specified Commands, and Defense Agencies which support the DCS.

The organizational problems connected with the telecommunications functions* are not located internally to DCA, but derive from the obscured lines of demarcation between the functions assigned to DCA and those retained in the Military Services, and the ineffectively coordinated direction and policy control emanating from the various elements of OSD and filtered through the Joint Chiefs of Staff to DCA. The recent establishment of the Office of the Assistant to the Secretary of Defense (Telecommunications) and the assignment to this office of broad policy and directive authority in the telecommunications field should alleviate a large portion of the problems now existing.

Defense Intelligence Agency

The Defense Intelligence Agency (DIA) was established in 1961 in an effort to create a mechanism to solve the problems presented by the disparate intelligence estimates being produced, and the duplicative efforts being engaged in by the Military Departments.

DIA is assigned the responsibility for:

1. The organization, direction, management, and control of all Defense intelligence resources assigned to or included within the DIA.
2. Review and coordination of those intelligence functions retained by or assigned to the Military Departments.

*Telecommunications problems are discussed in Chapter V.

3. Supervision of the execution of all approved plans, programs, policies, and procedures for intelligence functions not assigned to DIA.

4. Obtaining the maximum economy and efficiency in the allocation and management of Defense intelligence resources.

5. Responding directly to priority requests levied upon the DIA by the United States Intelligence Board (USIB).

6. Satisfying the intelligence requirements of the major components of the Department.

Its charter reveals that DIA was originally intended to (1) provide for the assembly, integration and validation of all Defense intelligence requirements, the policies and procedures for collection, and the assignment of relative priorities to the requirements, and (2) develop and produce all the Department's intelligence estimates and information and contribution to the National Estimates for the USIB. It was intended that the Military Departments would retain the resources to collect and process intelligence information, under the supervision of DIA.

Concurrent with the establishment of DIA, the Directorate of Intelligence (J-2) of the Joint Staff was disestablished, and its functions assigned to the Director of DIA. The established reporting line for DIA was and is through the Joint Chiefs of Staff to the Secretary of Defense.

The principal problems of the Defense Intelligence Agency can be summarized as too many jobs and too many masters.

Two areas of conflict are apparent. In addition to his administrative responsibilities as the Director of a Defense Agency, the Director of DIA must provide the staff assistance on intelligence matters to the Secretary of Defense and must also provide staff assistance on intelligence matters to the Joint Chiefs of Staff. On many intelligence issues, particularly procedural issues with jurisdictional implications, the positions of the Secretary of Defense and the Joint Chiefs of Staff can be and often are diverse. As staff officer and advisor to both, the Director of DIA finds himself in an impossible position. The result can be delays in staff work that, in turn, result in unresolved issues of significant moment.

The second area of conflict is between DIA and the Military Services. DIA is charged with responsibilities to supervise the collection and processing of intelligence by the Military Services, specifically by prescribing procedures, allocating requirements, and reviewing the total intelligence programs of the Services. Yet the Director of DIA reports directly to the Joint Chiefs of Staff, comprised in four-fifths majority by the Senior Officers of the four Military Services for whose intelligence programs the Director of DIA is charged with the responsibility to provide coordinated supervision. In addition, the Services determine which officers of what qualification are assigned to DIA, and the services also retain the power of promotion and future assignment over those so assigned. In consequence, the "supervision" by DIA of intelligence collection and processing by the Services, and DIA's fiscal control is largely impotent and its visibility of the Service intelligence programs obscured.

While the DIA was established primarily to consolidate the intelligence activities at the Washington level, each Military Department currently has a larger intelligence staff than it

had before the creation of DIA. Each departmental staff is still engaged in activities clearly assigned to DIA. The Military Departments justify these activities on the basis that DIA does not have the capability to provide the intelligence they need. It is paradoxical that DIA cannot develop a capability to perform its assigned functions while the Military Departments, which provide a large proportion of DIA personnel, maintain the required capability to produce intelligence estimates - or more properly, threat assessments - which are crucial to decisions on weapon systems research and development. DIA is charged with the responsibility, but has never been organized to discharge it. The Military Departments produce such estimates and the Air Force, at least, intends to enlarge its capability.

Each Military Department has a large organization devoted primarily to Mapping, Charting, and Geodesy (MC&G) activities: The Army Topographic Command of the Corps of Engineers; The Naval Oceanographic Office under the Oceanographer of the Navy; and The Aeronautical Chart and Information Center reporting to the Chief of Staff of the Air Force.

DIA attempts to coordinate these activities to eliminate duplication and set priorities for production. However, DIA coordinates through the intelligence elements of the Departmental staffs and only the Air Force MC&G agency is within the staff purview of its intelligence staff. The Army and Navy MC&G elements are in agencies which are not a part of the intelligence community.

While MC&G activities make use of intelligence information, they are not intelligence activities. Savings can be accomplished in personnel and equipment by consolidating the three Service MC&G agencies in a single agency reporting to the Secretary of Defense.

VII. ORGANIZATION OF THE COMBATANT COMMANDS

The Combatant Forces of the United States and their direct support are assigned to eight Unified and Specified Commands: Alaskan Command, Atlantic Command, Continental Air Defense Command, European Command, Pacific Command, Southern Command, Strategic Air Command, and Strike Command.

This Unified and Specified Command structure has evolved during the period since World War II. As now designated and assigned the Alaskan Command is the oldest of the existing Unified Commands, dating from January 1, 1947, and Southern Command the newest (June 1963).

The Statutory authority for the establishment, composition, mission assignment, assignment of forces, administration and logistics dates from 1958, and provides:

"With the advice and assistance of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish unified or specified combatant commands for the performance of military missions, and shall determine the force structure of such combatant commands to be composed of forces of the Department of the Army, the Department of the Navy, the Department of the Air Force, which shall then be assigned to such combatant commands by the departments concerned for the performance of such military missions. Such combatant commands are responsible to the President and the Secretary of Defense for such military missions as may be assigned to them by the Secretary of Defense, with the approval of the President. Forces assigned to such unified combatant commands or specified

combatant commands shall be under the full operational command of the commander of the unified combatant command or the commander of the specified combatant command. All forces not so assigned remain for all purposes in their respective departments. Under the direction, authority, and control of the Secretary of Defense each military department shall be responsible for the administration of forces assigned from its department to such combatant commands. The responsibility for the support of the forces assigned to combatant commands shall be vested in one or more of the military departments as may be directed by the Secretary of Defense. Forces assigned to such unified or specified combatant commands shall be transferred therefrom only by authority of and under procedures established by the Secretary of Defense, with the approval of the President."

The existing structure consists of functional* and area** commands, and a mixture of both***. Command is distributed among the Military Departments as follows: Army - European Command (EUCOM), Southern Command (SOUTHCOM), and Strike Command (STRICOM); Navy - Pacific Command (PACOM), and Atlantic Command (LANTCOM); and Air Force - Strategic Air Command (SAC), Continental Air Defense Command (CONAD), and Alaskan Command (ALCOM). Interestingly, very few Navy forces are assigned to Unified Commands in which the Unified Commander is not a Naval Officer, except for the 6th Fleet assigned to EUCOM. Equally significant, all of the Army forces in PACOM, which are commanded by a Naval Officer, fall under sub-unified commands commanded by other than Naval officers and the overwhelming proportion of Army forces in PACOM fall under sub-unified commands which are commanded by Army officers.

The makeup of the Unified Command structure is significantly influenced by various mutual security agreements and arrangements to which the United States is a party. The most influential is the North Atlantic Treaty Organization (NATO), and of another type is the United Nations Command, Korea. The United States Unified Command structure is intended to mesh with the "combined" command structure which would exercise "operational command" of the multilateral forces should combined operations be undertaken.

The missions assigned to the Unified and Specified Commands, while encompassing a host of varied tasks, may be generally summarized in five categories:

- (1) Combat operations as required, either strategic or non-strategic, across the whole spectrum of intensities;
- (2) Security of a specified geographical area, ranging from protecting and evacuating U.S. citizens to countering an armed attack;
- (3) Preparation of plans for a wide variety of possible combat operations (contingency planning);
- (4) Direction of military assistance matters; and

*Continental Air Command and Strategic Air Command.

**Southern Command.

***Alaskan Command, Atlantic Command, Pacific Command, European Command, and Strike Command.

(5) Providing U.S. military representation and participation in multilateral treaty organizations.

Serious questions persist about the suitability of the Unified Command structure for the conduct of war, either general or localized, for the conduct of peacetime activities, or for the handling of recurring crises. An examination of the primary missions of the present commands and some of the specific problems indicates that the present structure is not effective, and probably would have to be radically changed to support a major war effort.

CONAD is charged with responsibility for the defense of the North American Continent. Although CONAD prepares plans for such defense, strategic offensive forces operate in the same geographic area under SAC. The Commander-in-Chief, CONAD also serves as Commander of the North American Air Defense Command, which is a joint United States - Canadian Command.

SAC, the only Specified Command, is charged with the primary responsibility for the strategic offensive mission. However, since the deployment of Polaris submarines, a strategic offensive mission has been assigned to the Atlantic, European and Pacific Commands. The Joint Chiefs of Staff have established a joint planning group to effect better coordination in target planning and assignment. The Commander-in-Chief, SAC also serves as Director of this joint planning activity.

Each of the other six Unified Commands has a mission oriented to a designated geographic area, and each Unified Commander is charged with preparing contingency plans for his area. The Unified Commander, however, is not given adequate guidance as to what forces will be available to him over and above those assigned. As a result, the plans of two or more Unified Commands for contingencies which can materialize simultaneously, may well be based on the assumption that each will employ the same forces. The Joint Chiefs of Staff review the contingency plans of the Unified Commands, but do not effectively resolve the basic problems of conflict in force requirements.

An example of the confusion that can be created in the present Command structure occurred in the Arab-Israeli War of 1967, when the U. S. Military was directed to evacuate U. S. Nationals. The crisis was in the area of responsibility of STRICOM; however, a decision was made to perform the evacuation with airlift assets assigned to EUCOM. In anticipation of commanding the evacuation, STRICOM sent a command aircraft with a command and control element aboard to Europe. Because of indecisions as to whether STRICOM should command the evacuation, the aircraft was first stopped at the Azores then was allowed to proceed to Greece, at which point it was decided that EUCOM should command. The STRICOM Command aircraft was assigned to EUCOM, and EUCOM was directed to execute the STRICOM evacuation plans.

The Alaskan Command is assigned a geographic area of responsibility, but the principal mission of the Commander-in-Chief, ALCOM is not as a Unified Commander, but rather as a subordinate commander under NORAD in the defense of the North American Continent.

The Atlantic Command has no Army or significant Air Force forces assigned (one small Air Force unit, designated Iceland Defense Force) and tends to be oriented towards a general war maritime role as distinguished from a perhaps more probable contingency involving land operations in its geographic area of responsibility. The Commander-in-Chief, LANTCOM (CINCLANT) is also the Supreme Allied Commander, Atlantic, under NATO,

and is responsible for operations in support of EUCOM on a unilateral U.S. basis, if required. CINCLANT also has a strategic offensive mission resulting from the assignment of Fleet Ballistic Missile submarines to his Command.

EUCOM and PACOM are primarily oriented to contingencies in their respective geographic areas, although each has Fleet Ballistic Missile submarines and a resulting strategic retaliatory role. The Commander-in-Chief, EUCOM, is also Supreme Allied Commander, Europe, under NATO and is responsible for planning for the defense of Europe with U.S. forces integrated with other NATO forces or for unilateral U.S. operations, as required. CINCPAC is engaged heavily in military assistance and advisory activities.

SOUTHCOM is primarily responsible for the defense of the Panama Canal, military assistance activities in Latin America and planning for contingency operations which might be required in Latin America.

STRICOM was established to provide a capability for the rapid deployment of combat forces to overseas areas as required. In addition, STRICOM is assigned responsibility for the Middle East/Southern Asia and Africa South of the Sahara.

Within the major Unified Commands, there are sometimes created "Sub-Unified Commands." A number of such "Sub-Unified Commands" now exist, such as the Military Assistance Command, Vietnam (MACV), the Military Assistance Command, Thailand (MACTHAI) and the U.S. Forces (Korea) Command, all of which fall under the Commander-in-Chief, Pacific (CINCPAC), the major Unified Command.

The responsibilities for forces assigned to the Unified and Specified Commands are divided between the Commanders and the Military Departments. The Commanders exercise "full operational command" which includes the responsibility to specify the composition of subordinate forces, assign tasks to these forces, designate objectives and exercise full authoritative direction necessary for accomplishment of their assigned missions. The Military Departments provide the operational forces to the Unified and Specified Commands and have the responsibility to select, train, equip, supply, administer (e.g., handle assignments, rotation and promotions), and discipline such forces.

Each Unified Commander has a joint staff, comprised of officers from all Military Services which have forces assigned to the Command. The staff of the Unified Commander is the only element within the command over which the Unified Commander has total command authority - including disciplinary authority and administrative and logistics responsibility. The Unified Commander has no direct responsibility for such functions as supplying, administering and disciplining the combatant and direct support forces assigned to his command, but only exercises "operational command," or as it is more descriptively used, "operational control" over these forces. The Unified Commander reports through the Joint Chiefs of Staff to the Secretary of Defense, and receives his directions through the same channel.

For each Military Service which has forces assigned to the Unified Command, there is a component command, to which the forces provided by a Military Department to the Unified Command are actually assigned. The Unified Commander exercises "operational command" through the component commanders. On matters other than "operational command," such as supply, equipping, maintenance, administration and discipline, the component commander receives supervisory direction from and reports to the Military

Department to which he and his assigned forces belong. With respect to these latter functions, the component commander's chain of authority runs up to the Chief of his Service and to the Secretary of his Military Department and does not run through the Unified Commander.

This deficiency was pointed out clearly by President Eisenhower in his message to the Congress on the Defense Reorganization Act of 1958. He stated: "Because I have often seen the evils of diluted command, I emphasize that each Unified Commander must have unquestioned authority over all units of his command. . . . Today a unified command is made up of component commands from each military department, each under a commander of that department. The commander's authority over these component commands is short of the full command required for maximum efficiency."

What President Eisenhower referred to as "Diluted Command" was at that time defined officially as "Operational Control." In response to President Eisenhower's message, the Defense Reorganization Act of 1958 vested in the Unified Commander "full operational command," clearly indicating a Congressional intent to overcome the deficiencies of authority for the Unified Commander cited by President Eisenhower. In Unified Action Armed Forces (JCS Pub. 2) which sets forth principles, doctrines and functions governing the activities and performance of Forces assigned to Unified Commands, the JCS now define "Operational Command" as being synonymous with "Operational Control".

Despite the establishment of the unified command concept in the Defense Reorganization Act of 1958, as requested by President Eisenhower, the relationship and relative authority between the Unified Commander and the component commander, and between the component commander and his Military Department, remain substantially unchanged.

The net result is an organizational structure in which "unification" of either command or of the forces is more cosmetic than substantive. The resultant organizational structure is also layered with large headquarters and headquarters' staffs.

In the case of a Sub-Unified Command, such as MACV, the "operational command" runs from CINCPAC directly to MACV, not through CINCPAC's component commanders, (U.S. Army Forces, Pacific (USARPAC), U.S. Air Forces, Pacific (PACAF) and the Pacific Fleet (PACFLT)), as it does to most other forces in the Pacific. The "supervisory" direction for such matters as supply, maintenance, administration and discipline, however, passes down a line from the Military Departments to the appropriate major component command (USARPAC, PACAF or PACFLT) and to the corresponding component command of the Sub-Unified Command, (e.g. U.S. Army, Vietnam; Navy Forces, Vietnam; or the 7th U.S. Air Force).

One of the most significant factors relating to the internal organization of the Unified Command is the fact that only at the single-Service component command level of either the major or Sub-Unified Command is the total command authority which can be vested in a military commander brought together by merging the "supervision" originating in the Military Department and the "operational command" flowing from the Secretary of Defense through the Joint Chiefs of Staff and the Unified Command.

It is of more than passing interest to note that General Creighton Abrams, and before him General William Westmoreland, as the Sub-Unified Commander in Vietnam,

(COMUSMACV) chose to be his own Army component commander.

In a further attempt to overcome the deficiencies in this organizational structure, COMUSMACV has designated one component command as Executive Agent for logistics responsibilities relating to common use items for forces from all military services within each corps area in Vietnam. (The Army component is Executive Agent for II, III and IV Corps areas, and the Navy for I Corps area).

The capability and effectiveness of the combatant forces would be improved by organizing them into a structure with commands that are mission oriented and with operational command lines that are direct, clear and unambiguous. The structure should: (1) assure that all combatant forces are truly unified as necessary to perform the command mission; (2) make realistic operational planning possible; (3) consider present international mutual security arrangements; and (4) reduce the number of staffs and staff sizes to the minimum consistent with actual needs.

The combatant commands which have a functional mission, CONAD and SAC, are dedicated to deterring, and if deterrence fails, to fighting a general war. The six commands which are oriented to geographic areas are equipped primarily for limited war. Three of them (LANTCOM, PACOM and EUCOM) are assigned Fleet Ballistic Missile submarines which have a deterrent and general war role.

The forces which provide the prime deterrent against general war must be reserved solely for that mission, because their use and attrition in limited war would reduce an aggressor's incentive for keeping the war limited.

The nature of the weapons, the planning requirements and the concept of operations for forces dedicated to deterrence and general war are radically different from those for limited war. The weapons systems for general war are designed to defend the United States and to have the capacity to inflict the maximum destruction on the enemy in a short time span. All general war forces must function together in a highly coordinated manner and in accordance with a carefully prepared plan. Recent advances in technology have increased the capability of the forces assigned to CONAD in a way which requires closer coordination than can reasonably be expected between two separate commands in planning for, and employing CONAD and SAC forces in the same physical space. Joint planning alone cannot insure the adherence to operational concept and the degree of coordination required in implementation when the forces concerned are assigned to five different commands, as our strategic forces are now.

All forces which are dedicated to deterrence and equipped for general war should be under a single commander who can establish doctrine for his forces and assure that they are properly trained and kept in a high state of readiness.

The forces for limited war must be highly mobile; their weapons must be capable of being rapidly moved to trouble spots and employed in a selective manner. It is not possible to plan precisely for limited war. Therefore, contingency plans must be rapidly adjusted to the developing situation. With the forces designed for limited war assigned to six separate commands, it is not possible to achieve the coordinated planning, flexibility in resource allocation and mission assignment, and the training required to assure the capability to react rapidly and effectively to a crisis situation.

The general purpose forces, like the strategic forces, should be placed under a single commander who would be responsible for the contingency planning for the employment of all general purpose forces. He would establish doctrine for his forces and assure that they were properly trained, appropriately deployed, and kept in a high state of readiness. Current mutual security agreements make it necessary to maintain subordinate unified commands in the Pacific and European areas. All other general purpose forces should be placed in a single command in the United States, where they could be rapidly deployed in a crisis situation.

At times, it may be necessary to maintain or establish a special subordinate unified command for the execution of specific missions in a geographically localized area, as for example, in Southeast Asia at the present time. The Commander of such a subordinate Unified Command should normally report directly to the overall Commander of general purpose forces.

There is substantial room for improvement and greater integration of management throughout the supply, maintenance and transportation systems of the Department. The most critical need for improved effectiveness is in the support of the Unified Commands.

The logistics system of the Department of Defense, in activities other than procurement and the initial warehousing phase, is decentralized and fragmented in functional assignment. Efforts of the Congress and the Office of the Secretary of Defense to improve efficiency and effectiveness of these activities through standardization of procedures and approaches have achieved very limited results. As a consequence, the current inventory management, distribution, maintenance and transportation systems are needlessly inefficient and wasteful, and even more important, fall far short of the potential for effectiveness of support of combatant commanders.

Integration of supply, maintenance and transportation functions for the support of Unified Commands can substantially improve the effectiveness of logistics support, while at the same time achieving greater efficiency and economy. In addition, this integration will greatly enhance the capabilities for logistics planning for contingencies, which currently is very weak due to fragmentations of logistics functions and responsibilities. A unified, vertically oriented supply and transportation system, including maintenance, should be organized for support of all combat forces, both those overseas and those held in the United States ready for overseas deployment.*

The organizational structure of the major Unified Commands contributes significantly to deficiencies in two procedural areas.

The channel for submission of requirements which can lead to materiel developments (variously called Operations Capability Objectives by the Army, General Operational Requirements by the Navy, and Required Operational Capabilities by the Air Force), to the extent they originate at all with operating commands, bypasses the Unified Commander and the "Operational Command" chain. To the extent there is one, the requirements flow is from the major component commander to the Military Service. As a consequence, the senior elements of the "operational command" chain - now the Secretary of Defense, the Joint Chiefs of Staff and the Unified Commander - who have the total mission awareness, have no

*Logistics problems are covered more fully in Chapter II.

opportunity for review and coordination of the requirements submissions, until after the requirements submissions have been processed and validated by the Military Services, if at all.

Secondly, there is no effective means for the Unified Commanders to participate in the programming and budgeting process. Presumably, the Unified Commander would be the most knowledgeable source of advice on the force structures, strengths, and equipments necessary to perform the mission assigned to his command for execution. The component commanders participate to an extent in some review processes of the Service budget submissions prepared by the Military Departments. Also, the Joint Chiefs of Staff solicit the views of the Unified Commanders on their requirements prior to the beginning of the Joint Chiefs' annual planning process which culminates in the Joint Strategic Objectives Plan. Neither of these processes, however, provides the senior joint commanders of combatant forces - the Unified Commanders - with any effective mechanism for influencing the programming and budgeting process, nor for materially affecting the planning process except in the area of contingency plans.

The existing command structure provides little flexibility and a considerable potential for confusion in crisis situations. For example, misunderstandings concerning forces to be used and to whom they are assigned; command relationships which are ambiguous, and which require extensive coordination between parallel commanders; confusion over the lines dividing areas of responsibility and jurisdictions; and the increased potential for mishaps created by the assignment of one command to execute the plans prepared by another. The inevitable delays occasioned by the layering of commands literally invite National Command Authorities to bypass some elements of the command chain.

The present combatant command structure does not facilitate the solution of many serious problems which materially affect the security of the nation: there is inadequate coordination between the strategic defensive and strategic offensive forces which must operate in the same physical space; the strategic offensive mission is split between four commands, SAC, EUCOM, LANTCOM and PACOM; the six area commands do not individually have a proper purview to permit realistic contingency planning.

The present structure of eight Unified and Specified Commands and a large number of subordinate Unified Commands has proved cumbersome, imposes too broad a span of control for a single decision point in time of peace, is excessively layered, unwieldy and unworkable in crises, and too fragmented to provide the best potential for coordinated response to a general war situation. Without exception, every crisis within the last decade that has involved the movement of forces has required both an ad hoc organizational rearrangement and ad hoc planning.*

VIII. RECOMMENDATIONS

Based on the preceding discussion of organizational considerations and problems, and on

*Vietnam, Cuba Missile Crisis (1962), Panama Riots (1964), Tonkin Gulf Crisis (1964), Congo Rescue Mission (1964), Dominican Republic Crisis (1965), Arab-Israeli War (1967).

the findings presented in the remaining Chapters of this Report, the Panel offers the following recommendations with respect to the Defense Department's organizational structure.

 I-1 The functions of the Department of Defense should be divided into three major groupings:

(a) Military Operations, including operational command, intelligence, and communications (herein called Operations);

(b) Management of personnel and materiel resources (herein called Management of Resources); and

(c) Evaluation type functions, including financial controls, testing of weapons, analysis of costs and effectiveness of force structures, etc. (herein called Evaluation).

 I-2 Each of these major groups should report to the Secretary of Defense through a separate Deputy Secretary. Appointees to these three positions should be drawn from civilian life, and should rank above all other officers of the Department of Defense except the Secretary.* One of the three should be designated principal deputy. The General Counsel, the Assistant to the Secretary of Defense (Atomic Energy), the Assistant Secretary of Defense (Public Affairs), and the Assistant to the Secretary of Defense (Legislative Affairs) would continue to report directly to the Secretary of Defense. The staff of the Office of the Secretary of Defense should not exceed 2,000 people.

 I-3 The Deputy Secretary of Defense for Management of Resources should be delegated responsibility for the following functions:

(a) The Military Departments, which should continue under the immediate supervision of their Secretaries;

(b) Research and Advanced Technology;

(c) Engineering Development;

(d) Installations and Procurement (a modification of the present Installations and

*This would not lower the reporting level of any officer in the Department, since all officers now report to the Deputy Secretary or to a lower level. The only change would be to divide the functions of the present Deputy Secretary to permit a sharper functional focus. No new organizational layer would result.

Logistics);

- (e) Manpower and Reserve Affairs;*
- (f) Health and Environmental Affairs;*
- (g) Defense Supply Agency; and*
- (h) Advanced Research Projects Agency.*

There should be an Assistant Secretary of Defense for each of the functions (b) through (f) inclusive, who reports and provides staff assistance to the Secretary of Defense through the Deputy Secretary of Defense (Management of Resources). The position of Director, Defense Research and Engineering should be abolished, and his functions reallocated between the Assistant Secretary of Defense for Research and Advanced Technology and the Assistant Secretary of Defense for Engineering Development.

Functions (g) and (h) should continue to be constituted as Defense Agencies, each under the immediate supervision of a Director.

The Advanced Research Projects Agency should be delegated the responsibility for all research and exploratory development budget categories. Funds for such research should be budgeted directly to this Agency, and the Agency should be authorized to assign or contract for work projects to laboratories of the Defense Department or in the private sector, as appropriate.

I-4 The Deputy Secretary of Defense for Operations should be delegated responsibility for the following functions:

- (a) Military Operations;*
- (b) The Unified Commands;*
- (c) Operational Requirements;*
- (d) Intelligence;*
- (e) Telecommunications (and Automatic Data Processing);*
- (f) International Security Affairs;*
- (g) Defense Communications Agency; and*
- (h) Civil Defense Agency (if Civil Defense is to be retained in the Department of Defense).*

Three new major Unified Commands should be created: (1) A Strategic Command, composed of the existing Strategic Air Command, the Joint Strategic Target Planning Staff,

the Continental Air Defense Command, and Fleet Ballistic Missile Operations; (2) A Tactical (or General Purpose) Command, composed of all combatant general purpose forces of the United States assigned to organized combatant units; and (3) A Logistics Command, to exercise for all combatant forces supervision of support activities, including supply distribution, maintenance, traffic management and transportation. No Commander of a Unified Command should be permitted to serve concurrently as Chief of his Military Service.

The responsibilities now delegated to the Joint Chiefs of Staff by the Secretary of Defense to serve as military staff in the chain of operational command with respect to the Unified Commands, and all other responsibilities so delegated which are related to military operations and the Unified Commands, should be assigned to a single senior military officer, who should also supervise the separate staff which provides staff support on military operations and the channel of communications from the President and Secretary of Defense to the Unified Commands. This officer should report to the Secretary of Defense through the Deputy Secretary of Defense (Operations). This senior military officer could be either the Chairman of the Joint Chiefs of Staff, as an individual, not ex-officio, the Commander of the Tactical Command, or some other senior military officer, as determined by the President and the Secretary of Defense.

There should be an Assistant Secretary of Defense for each of the functions (c) through (f), inclusive, who reports and provides staff assistance to the Secretary of Defense through the Deputy Secretary of Defense (Operations). The Defense Communications Agency and the Civil Defense Agency would each be under the immediate supervision of a Director.

All intelligence functions of the Department of Defense and all communications functions should report to the Secretary of Defense through the Deputy Secretary of Defense for Operations.

I-5 The following steps should also be taken:

(a) To provide the staff support on military operations, and the channel of communications from the President and the Secretary of Defense to the Unified Commands, an operations staff, separate from all other military staffs, should be created.

(b) The responsibilities now delegated to the Joint Chiefs of Staff by the Secretary of Defense to serve as military staff in the chain of operational command with respect to the Unified Commands, and all other responsibilities so delegated which are related to military operations and the Unified Commands, should be rescinded; and consideration should be given to changing the title of the Chief of Naval Operations to Chief of Staff of the Navy.

(c) All staff personnel positions in the Organization of the Joint Chiefs of Staff and in the headquarters military staffs of the Military Services which are in support of activities, such as military operations, which are recommended for transfer to other organizational elements, should be eliminated.

(d) The Organization of the Joint Chiefs of Staff should be limited to include only the Joint Chiefs of Staff and a reconstituted Joint Staff limited in size to not more than 250

officers augmented by professional civilian analysts as required.

(e) *The Unified Commanders should be given unfragmented command authority for their Commands, and the Commanders of component commands should be redesignated Deputies to the commander of the appropriate Unified Command, in order to make it unmistakably clear that the combatant forces are in the chain of command which runs exclusively through the Unified Commander;*

(f) *In consolidating the existing area Unified Commands into the Tactical Command, major organizational and functional advantages will be obtained by:*

(1) *Merging the Atlantic Command and the Strike Command;*

(2) *Abolishing the Southern Command and reassigning its functions to the merged Atlantic and Strike Commands;*

(3) *Abolishing the Alaskan Command and reassigning its general purpose function to the Pacific Command and its strategic defense functions to the Strategic Command; and*

(4) *Restructuring the command channels of the sub-unified commands.**

(g) *The responsibilities related to civil disturbances currently delegated to the Army should be redelegated to the Tactical Command; and*

(h) *The Unified Commanders should be given express responsibility and capability for making recommendations to the Deputy Secretary of Defense for Operations, for operational capabilities objectives and for allocations of force structures needed for the effective accomplishment of the missions assigned to their Commands.*

I-6 The Deputy Secretary of Defense for Evaluation should be delegated the responsibility for the evaluation and control-type activities, including:

(a) *Comptroller (including internal audit and inspection services);*

(b) *Program and Force Analysis (a modification of the present Systems Analysis Unit);*

(c) *Test and Evaluation;*

(d) *Defense Contract Audit Agency; and*

*The total recommendations for changes in the Unified Command structure would result in a net reduction in the number of Combatant Command Headquarters and should result in a substantial reduction in the total number of personnel required to staff the structure.

(e) Defense Test Agency.

There should be an Assistant Secretary of Defense for each of the functions (a) through (c) inclusive, who reports and provides staff assistance to the Secretary of the Defense through the Deputy Secretary of Defense for Evaluation.

The Defense Contract Audit Agency should be continued as a Defense Agency, under the immediate supervision of a Director.

A Defense Test Agency should be created to perform the functions of overview of all Defense test and evaluation, designing or reviewing of designs for test, monitoring and evaluation of the entire Defense test program, and conducting tests and evaluations as required, with particular emphasis on operational testing, and on systems and equipments which span Service lines. The Defense Test Agency should be under the supervision of a civilian Director, reporting to the Secretary of Defense through the Deputy Secretary of Defense for Evaluation.

I-7 The number of Assistant Secretaries in each of the Military Departments should be set at three, and except for the Assistant Secretaries (Financial Management), they should serve as senior members of a personal staff to the Secretaries of the Military Departments without the existing limitations of purview imposed by formal functional assignments. The Assistant Secretary (Financial Management) should become the Comptroller of the Military Department, with a military deputy, as in the current organization in the Department of the Navy.

The Secretariats and Service Military Staffs should be integrated to the extent necessary to eliminate duplication; the functions related to military operations and intelligence should be eliminated; line type functions, e.g., personnel operations, should be transferred to command organizations; and the remaining elements should be reduced by at least thirty percent. (A study of the present staffs indicates that the Secretariats and Service staffs combined should total no more than 2,000 people for each Department).

I-8 Class II activities (Army), Field Extensions (Air Force), and Commands and Bureaus (Navy), all of which are line, rather than staff in character, which are now organizationally located under the direct supervision of staff elements in the headquarters military staffs of the Services, should be transferred to existing command-type organizations within the Services.

I-9 The Defense Atomic Support Agency should be disestablished. Its functions for nuclear weapons management should be transferred to the operations staff under the Deputy Secretary of Defense for Operations, and its weapons effects test design function should be transferred to the Defense Test Agency.

 I-10 The administration functions presently assigned to the Assistant Secretary of Defense (Administration) should be assigned to a Director of Pentagon Services, reporting to the immediate office of the Secretary of Defense. He should be responsible for operating the facilities and providing administrative support for the Washington Headquarters.

 I-11 A separate program category* should be established for public affairs activities in the Department of Defense.

 I-12 A Net Assessment Group should be created for the purpose of conducting and reporting net assessments of United States and foreign military capabilities and potentials. This group should consist of individuals from appropriate units in the Department of Defense, consultants and contract personnel appointed from time to time by the Secretary of Defense, and should report directly to him.

 I-13 A Long-Range Planning Group should be created for the purpose of providing staff support to the Secretary of Defense with responsibility for long-range planning which integrates net assessments, technological projections, fiscal planning, etc. This group should consist of individuals from appropriate units in the Department of Defense, consultants and contract personnel appointed from time to time by the Secretary of Defense, and should report directly to him.

 I-14 A coordinating Group should be established in the immediate office of the Secretary of Defense. The responsibilities of this Group should be to assist the Secretary of Defense and the Deputy Secretaries of Defense in coordinating the activities of the entire Department in the scheduling and follow-up of the various inter-Departmental liaison activities; to staff for the Secretary the control function for improvement and reduction of management information/control systems needed within the Department and required from Defense contractors; and to assure that each organizational charter of the Office of the Secretary of Defense is properly scoped and coordinated and in accordance with the assigned responsibility of the organization. The responsibility for the Department's Directive/Guidance System, currently assigned to the Assistant Secretary of Defense (Administration), should be assigned to this group. The coordinating group should be

*Program categories are those categories of activities used for internal planning and management in the Department, e.g., strategic offensive forces, strategic defensive forces, research and development, intelligence, etc.

headed by a civilian Director, who should also serve as executive assistant to the Secretary of Defense.

I-15 The Army Topographic Command, the Naval Oceanographic Office and the Aeronautical Chart and Information Center should be combined into a unified Defense Map Service reporting to the Secretary of Defense through the Deputy Secretary of Defense for Management of Resources.

CHAPTER II
MANAGEMENT OF MATERIEL RESOURCES

I. GENERAL

The modern history of military organizations and operations demonstrates that the materiel support of the forces is of ever-increasing relative importance, and presents complex defense management problems.

Advances in science and technology comprise the initiating source of this trend. Weapons, communications, transportation - all have been affected significantly by revolutionary advances in the state-of-the-art; and each advance has been accompanied by great increases in complexity of development, acquisition, maintenance, operation and in cost.

In short, modern military organizations have become "hardware" oriented and dependent. Military hardware requires an increasing amount and proportion of total defense resources, aggravating a host of inseparable, associated management problems.

Materiel management in the Department of Defense can be divided into two distinct overall areas of activity. The first is acquisition related, and includes functions associated with research, development, test and evaluation, and procurement. The second phase is post-procurement, and includes supply, maintenance, and transportation.

Although those activities connected with acquisition are more often in the focus of public and Congressional attention, both areas are critical to combat effectiveness and both have a significant cost impact.

The growing size of hardware-related expenditures, particularly for acquisition, has been matched by broadening Congressional attention. For instance, the coverage of authorizing legislation, which basically deals with investment items, has been expanded so that it now extends to all research, development, test and evaluation and to all procurements except ammunition, electronics, and general materiel.

Congressional concern with the post-acquisition phase of materiel management is demonstrated by the breadth of consolidation authority for logistics functions vested by Congress in the Secretary of Defense by the 1958 Amendment to the National Security Act.

The most severe problems in the acquisition of materiel occur when production is dependent on new development, not with off-the-shelf procurements.

Military hardware development programs continue to be plagued by the now familiar symptoms of trouble:

- (1) Major cost growths or overruns;
- (2) Schedule slippages; and
- (3) Failures in performance.

Uncertainty is inherent in the nature of programs which involve advances in technology, and this uncertainty makes it inevitable that some degree of cost growth, delays and short-falls in desired performance will occur in some programs. The frequency and magnitude of such problems which have been experienced, however, surpass significantly those which can be attributable to unavoidable causes. It is clear that a substantial portion of the acquisition problems must be attributed to management deficiencies.

The problems - and resulting deficiencies - in hardware development programs are clearly too myriad and complex to yield to any single solution, but a combination of changes in policy and procedures can achieve significant improvements in costs, time, and performance. Deficiencies in any part of the process - establishment of the technological base, formulation of requirements, acquisition philosophy, cost estimating, testing, contracting, program management, etc. - can adversely affect an entire program. If repetitions of the weapon systems debacles of the past are to be avoided in the future, each element of the policies and procedures followed in the past must be carefully examined and constructively revised. Equally crucial is the necessity for strong, continuing management to assure that the execution of the revised policies and procedures is responsive.

Even an effective change in policies and procedures cannot be expected to produce immediate benefits, however, for the most meaningful potential improvements in the acquisition process fall in the initial stages of development programs. The duration of development programs is measured in years, and an improvement in the process will produce the most meaningful results in programs initiated after the changes are instituted.

II. RESEARCH AND DEVELOPMENT

Research and Development (R&D) by the Department of Defense may be broken down according to activity (budget category subdivisions) and by performer or by mission (Five Year Defense Program, program elements).

The types of activity, or budget category subdivisions, are as follows:

Within Budget Category VI, Research and Development:

- 6.1 Research: includes all basic research and that applied research directed toward expanding knowledge in the several scientific areas;
- 6.2 Exploratory Development: includes studies, investigations and minor development efforts, varying from applied research to sophisticated breadboard hardware and is oriented to specific military problem areas;
- 6.3 Advanced Development: includes all projects for development of hardware for experimental test;
- 6.4 Engineering Development: includes development programs in which items are engineered for military use, but which have not been approved for procurement or operation;
- 6.5 Management and Support: includes the overhead expense for the other subdivisions of research and development;

6.6 Emergency Fund: available for use in any category at the discretion of Secretary of Defense; and

From other than Budget Category VI:

Operational Systems Development: includes development, engineering and test of systems, support systems, vehicles and weapons (Engineering Development) that have been approved for production and deployment.

The breakdown of research and development by performer includes (1) Private Industry, (2) Government In-House, (3) Federal Contract Research Centers (FCRCs), (4) Universities and (5) Foreign Performers. Since the second type of performer, (Government In-House), does not usually include Civil Service salaries in the allocation of funds reported, percentages of effort by category are at best, rough estimates. However, taking such salaries into consideration, it is estimated that R&D funds are distributed among performers as follows: Industry, about 62%; Government In-House, about 30%; FCRCs, about 3.5%; Universities, about 3%; and the Foreign Performers, about one-tenth of one percent. The emergency fund, for which performers vary from year to year according to allocation, accounts for one percent or less of the total R&D funds.

Mission breakdowns are by program categories. These include Strategic Programs, General Purpose Programs, Other Programs (Communications, Intelligence, etc.), Technological Base and Support. These subdivisions are quite imprecise, and only moderately useful for analysis purposes.

A. Technological Base

One of the most critical distinctions to be made is that between research and development to advance the general technological base related to military needs and the remainder of research and development which is oriented to specific military applications. There is an elusive boundary between the two. Generally, R&D to advance the technological base is acknowledged to fall in the budget categories of Research (6.1) and Exploratory Development (6.2), and to a small extent, in Advanced Development (6.3). It should be noted that the Exploratory Development category is not altogether limited to advancing the technological base. (The budget categories of Research (6.1) and Exploratory Development (6.2) are controlled by level funding, e.g., funds are appropriated to support a level of activity rather than being justified on an individual project basis as are the other R&D categories).

There are several significant characteristics of R&D designed to advance the technological base. First, formal requirements from the military operators are not necessary for, nor do they directly affect, the allocation of funds in these two categories.

Second, a much more careful analysis of level-funded categories, in which R&D to advance the technological base primarily falls, is required to assure relevancy to military needs than is required in categories which are controlled on a project basis.

Third, where control is organizationally dispersed, it is much more difficult to detect duplication than where specific requirements must be justified, and identifiable projects planned and approved as a basis for funding.

Fourth, R&D designed to advance the technological base requires more intensive review in order to insure that the proper allocation of funds is made so that all parts of the militarily-relevant spectrum of technology are adequately covered.

Fifth, the dispersion of control of such R&D makes it difficult to perform audits adequately to insure that such funds are actually used to advance the technological base, and not used to supplement efforts to develop specific hardware.

Under existing procedures, research and development for advancing the technological base is dispersed among the Military Services and the Defense Agencies, including the Advanced Research Projects Agency (ARPA).

ARPA now administers research and development which accounts for approximately 12% of the Research (6.1) category and approximately 20% of Exploratory Development (6.2). Not all of ARPA's effort is clearly applied to advancing the technological base. Its advanced sensors project, for example, is more nearly in the Operational Systems Development category. This project still consumes more than one-seventh of ARPA's Exploratory Development dollars.

The actual Research and Exploratory Development administered by ARPA, as is that administered by the Military Services, is mostly performed under contract by industry or under work order by in-house Service laboratories. ARPA's objective is to carry projects to a certain level in Research and Exploratory Development, and then to transfer them to the appropriate Military Service.

Each of the Military Services has a research office: the Army Research Office (ARO), the Office of Naval Research (ONR), and the Office of Aerospace Research (OAR). Each Service also has a number of basic research laboratories.

The Defense research performed by universities is small and diminishing. Renewed efforts are being made to insure that such research is clearly defense-related. Unquestionably, university participation in Defense research is critical to the maintenance of an adequate pace of advance in the military-related technological base. At the present time, only about 14% of Government funds supporting university research is from Defense. Participation by institutions and individuals in university research for Defense is on a purely voluntary basis, and should remain so. The university defense-oriented research contribution is being damaged by anti-military and "protecting academic freedom" attitudes and activities of some students and faculties. The consequences of permitting academic freedom to be so interpreted as to inhibit or prohibit voluntary participation in military-oriented research by universities and faculty members will not only be a distortion of academic freedom, but will be a critical blow to the nation's defense research requirements.

A substantial portion of exploratory development by the Army is performed in-house in arsenal-type laboratories, a somewhat lesser portion by the Navy in-house, and an even smaller portion by the Air Force in-house.*

The technological base is also advanced by independent research and development

*See Section on Defense Laboratories in this Chapter.

(IR&D) performed on its own initiative by industry, which generally seeks to recover such costs as overhead on contracts with the Government. The potential benefits from IR&D are inhibited by two factors. First, recent attempts in Congress to limit recognition of IR&D costs as recoverable overhead in Government contracts have inhibited industry investment in IR&D. Second, some of the Department's in-house laboratories display a not-invented-here attitude that inhibits objective consideration of IR&D products as alternatives to laboratory-originated technological approaches.

The R&D intended to advance the technological base is estimated to be about seven and one-half to eight percent of the total Defense R&D effort. The increasingly high technological risks, associated with major weapons systems developments is symptomatic, in part, of an inadequate pace of advance in the military-related technological base.

There is no adequate or coherent planning for investments in advancing the technological base. Responsibility and management for conducting such research are widely fragmented among and within the Military Services and the Defense Agencies. Research funds so allocated have not always been spent on militarily-relevant technology, nor are all militarily-relevant areas of technology appropriately considered in the allocation of research funds.

Existing organization and procedures inhibit the degree of control on research and exploratory development work and of the expenditures necessary to insure proper application. The funds allocated to advancing the technological base are not sufficiently identifiable and auditable to support value judgments as to their sufficiency. There is no adequate mechanism to assure that funds appropriated for research and exploratory development are not diverted to advanced, or engineering development categories, or to operational systems developments. The overemphasis on mission justification for research and development allocations and funding creates additional incentives for such diversions.

There is no adequate mechanism to evaluate the performance of the numerous research groups. The dissipation of research, exploratory development and management and support categories of R&D funds on unproductive work in contractor and in-house laboratories, sometimes to support a preconception or position of the organizational element contracting for the research, occurs all too often.

Based on the foregoing observations, it is concluded that R&D to advance the technological base should be constituted as a separate program and subject to a continuing intensive review to insure that all funds are allocated to militarily-relevant research and that all militarily-relevant areas of technology are given due consideration in fund allocations. Further, Defense research policy should be separated by assignment of responsibility from other development policy. The primary objective should be to insure that technology will be available when needed to meet Defense requirements.

II-1 Research and Development to advance the technological base should be constituted as a separate program, under the staff supervision of the Assistant Secretary of Defense (Research and Advanced Technology). It should be subject to continuing intensive review to insure that available funds are allocated to militarily-relevant research and that all militarily-relevant areas of technology are considered in fund allocations.

 II-2 The responsibility for control of Defense research designated to advance the technological base and the appropriated funds therefor should be assigned to the Advanced Research Projects Agency (ARPA). Further, ARPA should be directed to:

- (a) Allocate its R&D among qualified performers;
 - (b) Assure by review the relevance of all projects and appropriateness of fund allocations;
 - (c) Evaluate the effectiveness of all its R&D participants; and
 - (d) Develop and submit for approval to the Deputy Secretary of Defense (Management of Resources) an annual Research Objective (RO) statement which would be a companion document to the Operational Capability Objectives developed by the Unified Commands and which would provide the Secretary of Defense an information base to determine the overall defense capability objectives.
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B. Advanced, Engineering, and Operational Systems Development

That portion of military research and development which goes beyond advancing the general technological base involves the development of hardware either for experimental test or for production and deployment. The allocation of resources to this portion of R&D is, at least theoretically, based on military operational requirements.

1. Requirements

A requirement, in this context, refers to a need for a materiel capability which does not presently exist or to replace one which is inadequate in performance for the conduct of a military mission currently assigned or anticipated in the future. The several Military Services designate this requirement by different nomenclature, which varies within a Service according to the stage of refinement of the requirement. Traditionally, requirements flow from the operational and materiel commands into the Service staffs.

In the Army, the Combat Development Objectives Guide (CDOG), prepared by the Army Staff, provides that all Operational Capability Objectives (OCOs), Qualitative Materiel Development Objectives (QMDOs) and Qualitative Materiel Requirements (QMRs) are to originate in the Combat Developments Command (CDC), which is designated to represent the Army in the field.

The Navy's General Operational Requirements (GORs) flow primarily from their Mid-Range Objectives (MROs), a 10-year planning projection prepared by the staff for the Chief of Naval Operations.

The early Air Force requirement takes the form of a Required Operational Capability (ROC) which can be prepared in any major command. Upon approval by Air Force Headquarters, the requirement is converted to a Required Action Document (RAD).

A major problem with the requirements process occurs at its very beginning. The originating command often lacks the capability for operational validation which should be prerequisite to transmittal to higher Headquarters. The application of military judgment to requirements is essential, but not sufficient in itself. Operational validation should be based on a thorough analysis of the assigned mission and the present or programmed means for accomplishing it in the predicted threat environment. The Air Force has for many years maintained operations analysis offices in such originating organizations. The extent to which they participate in the validation of operational requirements varies considerably. The Navy has some analysis capability, though much less, at such levels. The Army analysis capability at this point in the requirements process can scarcely be said to exist at all. There is no doubt that the overall requirements process could be improved greatly by specifying that operations analysts study requirements at the point of origin. In this way, those requirements reaching higher headquarters should have greater validity.

The requirements process is highly service unilateral. To the extent requirements originate with combatant units, they are processed not through operational channels, but through unilateral service channels. Unified and Specified Commanders are not in such channels. There is no opportunity for the Office of the Secretary of Defense (OSD) to review total requirements for priority, urgency or duplication before they are screened and filtered by the Services. Many changes can and do occur between the presumed initiator and any validation review by OSD.

Each Service has a large section in its Headquarters staff which has the sole function of translating the broadly-stated requirements received from field commands into more specific statements of their desires for new or improved weapons and other materiel. These staff elements also determine informally the relative priority of the requirements for new and improved weapons. In recent years, there has been a noticeable tendency for the formal requirements documents to become quite specific, and to be stated increasingly more in terms of engineering specifications rather than in terms of the performance or operational results being sought.

Even when the engineering specifications are properly matched to the performance requirements, the detailed engineering specifications limit the engineering alternatives available to the developer because of the reluctance of the acquisition authority to consider change, thereby imposing on the development a rigidity which can cause delays, additional costs, and often the application of older technology than the current state-of-the-art would permit. In other instances, the specifications have the result of demanding products which are clearly beyond the state-of-the-art or which require developmental efforts beyond those necessary to perform the prescribed mission. Inept or obsolete specifications also occur too frequently, and in some instances, products developed which satisfy the imposed engineering specifications will not perform the mission intended.

There is an apparent inability of Service staff elements to divorce themselves from their own Service interests in establishing priorities for requirements. It is evident that the needs of the user in the field often take second place to weapons developments considered most important to the particular Service for the protection or expansion of its assigned roles and missions.

The mission of the combatant forces should determine their required operational capabilities, which should be the principal factor in initiating development. This can be accomplished only if the combatant commands possess the capability to analyze their

missions, determine their operational capabilities, deficiencies and potential deficiencies, and state their requirements in a meaningful way.

II-3 The Strategic, Tactical and Logistics Commands should be assigned the responsibility to develop, and submit to the Deputy Secretary for Operations, Operational Capability Objectives relating to their assigned missions. For this purpose, each Command and major sub-command Headquarters should be organized to include an operations analysis element.

II-4 For each Operational Capability Objective which is validated by the Deputy Secretary for Operations, the Deputy Secretary for Management of Resources should require one or more of the Military Departments to prepare and submit a development plan aimed at satisfying the Operational Capability Objective.

2. Advanced Development

Advanced Development, which includes all projects for development of hardware for experimental test, is the essential link between advances in the technological base achieved in Research and Exploratory Development, and the incorporation of improved capabilities in new weapons developments. In recent years, paper studies and analyses have often been substituted for essential hardware development and testing. As a result, uncertainties which could be eliminated or reduced are carried over into engineering development or operational systems development, where unresolved technical problems are significantly more expensive and troublesome to remedy. In addition, new technology which would improve weapons capabilities is often lost in the process.

Increased emphasis on and funding of Advanced Development to yield various forms of prototype equipment, which can be tested prior to commitment in a weapon system, is essential. Prior to approval of initiation of Engineering or Operational System Development, test results of all major advances in the technological base considered for incorporation should be available. *

3. Engineering Development and Operational Systems Development

For purposes of special management control, Engineering Development and Operational Systems Development of major systems (defined as requiring total R&D financing in excess of \$25 million or requiring a total production investment in excess of \$100 million) are subjected to special procedures. At any given time, there are between 70 and 80 such major systems under development. The procedures prescribed for major systems development are optional for minor systems which do not fall within the

*See Test and Evaluation, this Chapter.

established criteria.

a. The Major Weapons System Acquisition Process

The prescribed process for acquisition of major systems is hinged on the requirement for approval by the Secretary of Defense of the initiation of Engineering Developments or Operational Systems Developments which fall within the prescribed criteria.

Concept Formulation is comprised of the activities which precede the decision to go forward with the engineering development. Following the decision, a phase called Contract Definition is prescribed, and that is followed by the actual development. Concept Formulation includes such activities as comprehensive systems studies, and experimental hardware efforts under Exploratory and Advanced Development. Prescribed prerequisites for obtaining a decision to proceed into Engineering Development, which prove to be largely idealistic for application to the totality of a large weapon system and which have not been strictly adhered to in practice, are:

- (1) Primarily engineering rather than experimental effort is required, and the technology needed is sufficiently in hand.
- (2) The mission and performance envelopes are defined.
- (3) The best technical approaches have been selected.
- (4) A thorough trade-off analysis has been made.
- (5) The cost effectiveness of the proposed item has been determined to be favorable in relationship to the cost effectiveness of competing items on a Department-wide basis.
- (6) Cost and schedule estimates are credible and acceptable.

Once a decision to proceed with Engineering Development is obtained, it is mandatory to conduct a Contract Definition, among the objectives of which are:

- (1) Providing a basis for a firm fixed-price or fully structured incentive contract for development.
- (2) Identification of high-risk elements.
- (3) Detailed specifications for all end items.
- (4) Verification of technical approaches.
- (5) Establishment of firm schedules and costs estimates including production engineering, facilities, construction and production hardware to be funded during the development.
- (6) Establishment of schedules and costs estimates for the total project including production, operation and maintenance.

Contract Definition is itself divided into three phases. The first of these is the preparation and issuance of a Request for Proposal (RFP) and the selection of contractors for Contract Definition. The RFP is the document that solicits the first formal response from industry connected with the acquisition of a new weapon system. It calls for sufficient information needed for selection of the contractors who are to undertake the detailed competition. The time and effort spent in this phase vary widely, but a period of four-to-six months is average.

Following the selection of contractors to participate in Contract Definition, the second phase begins with the award of fixed-price type contracts, under which each contractor prepares proposals for the engineering development effort. These proposals are detailed and voluminous, and one copy of a proposal may weigh as much as one ton.

The third and final step in the Contract Definition phase is that of source selection. In current practice, the contractors' proposals for development of complex systems are broken down into a large number of technical and management considerations. Each of these items is then assigned for evaluation to a small number of technical or management experts who in the aggregate comprise an evaluation team which may number several hundred. Prior to the evaluation of each element, weight factors have been assigned but not disclosed to the small groups evaluating the many compartmented factors. These weight factors are predetermined by a small team of experts primarily on the basis of value judgments. After the evaluation is made of each individual element, the scores assigned to each element of the proposal are summed up and the raw data is forwarded to a selection board, usually comprised of general or flag officers. The selection board then applies the predetermined weights and recommends the selection of a contractor based on these weighted scores plus other factors such as price and past performance, which are not given preassigned weights.

Concurrent with the evaluation and selection process, each of the contractors who participates in contract definition and who submits a proposal, is engaged in contract negotiations. The negotiations are conducted by personnel not involved in the evaluation and selection. Prior to the completion of the evaluation process, the negotiators have each of the participating contractors sign a contract. When the selection of the contractor is finally made, the contract previously signed by the selected contractor is executed.

During the contract definition phase, the technical and design approaches to the systems development contained in the proposal of a prospective contractor are often exposed to other prospective contractors, so that potentially better and/or less costly features of each proposal can be considered by other prospective contractors for incorporation in or adaptation to their own proposals. Industry generally considers this practice to constitute unethical conduct on the part of the Government, particularly since it has no counterpart in non-government business transactions. The potential inherent in this practice for its use by government personnel to influence the ultimate selection of a contractor is obvious.

The scope of an RFP and the responses thereto in a major systems development, as prescribed, and as practiced until recently, are illogically broad. The central purpose of the contract is concerned with engineering development, a matter of considerable technical uncertainty. To expect and to require through Contract Definition that a contractor have the capability even to identify all end items of the system, let alone develop detailed specifications for each, in an advanced technological product, and concurrently to prepare

reliable predictions in detail on the maintainability, reliability, and the requirement for operations training to use the product, is unreasonable. Experience proves this procedure impractical, and the many peripheral matters included during Contract Definition tend to obscure the critical issues of technical design and competence, as well as multiplying the cost of preparing and reviewing the proposals.

The mandatory requirement for a formal Contract Definition has a serious impact on the entire development process. While there are cases where the contract definition process is useful, there are others in which there is no logical need for the exercise. Contract Definition is both time consuming and costly. Twelve-to-eighteen months can be devoted to paper preparation and review with little, if any, actual development work going on, and the cost to the Department for a Contract Definition exercise can exceed one hundred million dollars. Such a procedure should be required only on a case-by-case basis, rather than on a mandatory basis presently prescribed in Department of Defense Directive 3200.9.

There are also problems involved in the source selection process. Past experience indicates that both weighted and raw scores on responses to RFPs tend to be very close in major source selections. In some instances, contractors reverse positions in going from raw scores to weighted scores, but even then the competitors tend to be almost equal. In this situation, it appears that, generally, the unweighted factors, such as cost and past performance, have a large and perhaps controlling impact on the final selection. Apparently, the large number of peripheral technical elements included in the ratings is the major factor which normalizes the scores of the competitors. Reduction of the number of elements rated would focus attention on the more fundamental considerations, and would give a broader perspective of the relative technical merits of each contractor's proposal.

It should be noted that although the prescribed major weapon system acquisition process has not been rescinded, it has been modified in practice in recent months, in recognition of some of these problems. The process was oriented to a single controlling decision point. This decision was the approval or disapproval for initiating Engineering or Operational System Development and was documented in the form of a Development Concept Paper (DCP). This emphasis on a single decision point tended to de-emphasize the necessity for continuing review and decision after the system development was approved. The purpose of the Defense System Acquisition Review Council (DSARC), formed in September 1969, was periodically to review major development programs and to make recommendations for decisions not only with respect to initiating development, but also prior to contracting for development and again prior to a production decision. This change has the potential for alleviating the overemphasis on the single decision point.

The systems development approach continues to accumulate in one program a dangerously high magnitude of risks, from both cost and technology standpoints. Development problems connected with one or two of the many critical components of the system can cause schedule slippages which occasion enormous cost consequences. Even in the absence of major technical difficulties, an accumulation of changes in a variety of components, each relatively small in cost, can have a total cost impact of great magnitude.

This emphasis on developing all elements for the system as part of a single development project, as contrasted to selected subsystem and component development, also has the effect of reducing the number of development actions and raising the level of commitment for each development contracted. Among the more far-reaching consequences

is that competition is limited to a few large contractors on most major development projects. In addition, because subcontractors for sub-elements of the system are often tied to a specific prime contractor, there is the potential of inadequate flexibility to obtain the best qualified developer for each sub-element of the system.

The prescribed procedure for major systems development places heavy emphasis on fixed-price type contracts, apparently on the assumption that technical risks have been minimized by previous efforts. Fixed-price type contracts have been equated, in effect, with competition. This competitive pricing during Contract Definition has led to significant underpricing in numerous development contracts. As a result, cost overruns have been frequent and substantial. The concentration of risks in a single contractor is often out of proportion to the contractor's financial structure and capability, and can result in the Department of Defense being faced with either permitting a default on a critical program, or of salvaging the particular company with payments not clearly required under the terms of the contract.

Fixed-price contracting requirements also create additional pressures for rigid and frozen design and performance specifications which, in turn, restrict the flexibility of the developer to make engineering trade-offs. This factor inhibits the developer's capability to achieve the best product.

In addition, the prescribed process by its very terms contemplates a high level of concurrency of development and production which, in practice, has proved to be fraught with propensities for cost growths, schedule delays and performance failures.

In practice, the prescribed process for major systems development produces an unwarranted reliance on paper analysis during Concept Formulation and Contract Definition. A review of major systems developments clearly indicates that although there had been a proliferation of studies in Concept Formulation, the necessary technology to proceed with Engineering Development frequently had not been accomplished through Exploratory and Advanced Development programs. Assumptions that all technical problems can be foreseen prior to the commencement of Engineering Development have proved to be wrong. Repeated experiences demonstrate that technical uncertainty is inherent in the Engineering Development process and that paper studies alone cannot enable government or industry to forecast all of the problems that will arise. Since it has been assumed that the technical risk is low in the development, it is not surprising that cost estimates, based on paper analyses, rather than tested hardware, have proved to be unreliable. This marked tendency to substitute paper analysis for hardware development has serious adverse consequences.

From an internal Defense standpoint, the systems development process creates management problems. Understandably, with such large risks involved in a major systems development, senior Defense officials are reluctant to delegate the scope of authority essential to successful program management.

From the review of major weapon system acquisitions, a major revision of policy is required to: (1) introduce flexibility in selecting the strategy or technique to be used for any given system development; (2) place more emphasis on hardware development during Concept Formulation to reduce technical risks; (3) undertake incremental development of subsystems and components independent, in the initial stages, from major system developments; and (4) introduce multiple decision points during the development and

acquisition of new systems.

If more emphasis and direction is given to the advancement of the technological base as previously recommended, then the flow of technology would come from a broad base of research through exploratory and advanced developments into component and subsystem developments and subsequently into new system developments or modification programs to existing systems. This approach would both minimize technical risk and increase the number of options available to satisfy Operational Capability Objectives of the Commands.

II-5 A new development policy for weapon systems and other hardware should be formulated and promulgated to cause the reduction of technical risks through demonstrated hardware before full-scale development, and to provide the needed flexibility in acquisition strategies. The new policy should provide for:

(a) *Exploratory and advanced development of selected subsystems and components independent of the development of weapon systems;*

(b) *The use of government laboratories and contractors to develop selected sub-systems and components on a long-term level of effort basis;*

(c) *More use of competitive prototypes and less reliance on paper studies;*

(d) *Selected lengthening of production schedules, keeping the system in production over a greater period of time;*

(e) *A general rule against concurrent development and production, with the production decision deferred until successful demonstration of developmental prototypes;*

(f) *Continued trade-off between new weapon systems and modifications to existing weapon systems currently in production;*

(g) *Stricter limitations of elements of systems to essentials to eliminate "gold-plating";*

(h) *Flexibility in selecting type of contract most appropriate for development and the assessment of the technical risks involved;*

(i) *Flexibility in the application of a requirement for formal contract definition, in recognition of its inapplicability to many developments;*

(j) *Assurance of such matters as maintainability, reliability, etc., by other means than detailed documentation by contractors as a part of design proposals;*

(k) *Appropriate planning early in the development cycle for subsequent test and evaluation, and effective transition to the test and evaluation phase; and*

(l) *A prohibition of total package procurement.*

 II-6 Department of Defense Directive 3200.9, Initiation of Engineering Development, should be rescinded.

 II-7 Research and Development undertaken to satisfy specific military materiel requirements should be under the staff supervision of the Assistant Secretary of Defense (Engineering Development).

 II-8 The Advanced Research Projects Agency (ARPA) should be required to provide a formal technical risk assessment on all proposed new systems prior to the approval of the Development Concept Paper (DCP).

Special Problems in Acquisition of Navy Ships

The problems found to exist in the major weapon systems acquisition process, generally, are as applicable to the acquisition of Navy ships as to other weapon systems. In addition, however, Navy ship procurement and construction suffer from several unique problems.

The most significant differences in Navy ship procurement derive from the fact that the Navy Department is the only customer which buys from its suppliers the types of ships involved. An aircraft manufacturer has potential customers in the Air Force, the Navy, the Army and numerous private air carriers, but the constructors of aircraft carriers and submarines must sell to the Navy, or no one.

Ship constructors do sell other than Navy type ships to non-government buyers. However, the Navy, while procuring fewer ships in recent years, is the source of an increasingly higher percentage of the total funds spent for ship construction in this country.

As a consequence, the procurement process for Navy ships, even more than in other procurements, must reflect a concern for the existence of a sufficiently broad industrial base to provide competition for such procurements.

Since only one Service - the Navy - procures ships, there is no basis for comparison within the Department, as there is with aircraft and missiles procured by more than one Service, to gauge the efficiency of the Navy ship procurement process. This necessitates a much more diligent review of proposed procurements, based on analyses of prior ship constructions.

The procurement of ships involves a construction process more than a production process. Accordingly, economies of scale are not as readily available as in other major weapon systems acquisitions. While proto-typing may not be as feasible for entire ships as for other weapon systems, there is a potential for improvement in the Navy ship acquisition process through prototyping of sub-elements.

In recent years, the emphasis has been heavily weighted toward designing into each ship approved for construction the greatest total capability possible. This reflects inadequate consideration in the requirement process for the trade-off advantages of a larger number of ships of less individual capability as compared to fewer ships of maximum individual capability.

↳ Minor Weapons Development

Although Defense management emphasis is heavily focused on major system development, the far more numerous "minor" engineering developments account for approximately three times the level of expenditure associated with major systems. Subsequent procurements do not change the proportion; for when RDT&E and procurement funds are combined, expenditures for "minor" systems are also approximately three times those for major systems.

Although the formal process prescribed for major system development is optional for other engineering developments, the pattern of concept formulation, contract definition and development, and indeed, the entire systems concept, has largely permeated the "minor" weapons and systems developments. There is one notable exception to the major systems process, and that is the absence of high-level management attention to "minor" developments until things really go badly.

In large measure, minor system developments experience the same problems and exhibit the same symptoms that are found in major systems. Some problems, however, are peculiar, either in character or degree, to minor developments. Among these problems is the inadequate level of technical and managerial competence of Defense personnel assigned to operate the minor developments process.

The pay is low by industrial standards for jobs of comparable responsibility, billets are limited and opportunities for professional growth and diversity are inhibited by the requirements of the job. The Government engineer on a small system may write technical sections of the RFP, evaluate the proposals, prepare the work statement for the winner, provide technical direction for the development effort, write the test specifications, perform the engineering tests and provide technical guidance to management, all single-handedly.

Management of the acquisition process is not a career speciality for military officers. In smaller programs, they are often, if not usually, untrained in business methods and technology. They are well versed in the operational aspects of the equipment, but their background and experience often make them ill at ease with cost/time/ performance trade-offs and with their industrial counterparts and their problems. There is evidence that the Services do not have adequate skills to evaluate the capability of potential suppliers, particularly in the manufacturing area.

II-9 In concert with the new development policy recommended for major weapons systems, the same increased flexibility of techniques should be provided for minor systems.

c. Procurement of Proprietary Items

The broad spectrum of items procured by and for the Department of Defense extends from the smallest and most commonplace items to the most sophisticated and complex systems. In this process, private innovators make a very significant contribution, for the individual items or components, procured separately or as part of subsystems are or were once the products of an innovator. It must be recognized that the traditional incentives which lead people to invest their time, talent, and resources in inventing improved products in competition with others (called proprietary items),* are responsible in no small part for the technological process of our Nation in both domestic and military areas.

Even though the Department recognizes and stresses the importance of private innovation in introductory policy statements in the Armed Services Procurement Regulations (ASPRs) sections on Patent Rights and Rights in Data, the spirit of the policy is often not apparent in the implementation of procurement practices.

Procurement practices presently in use throughout the Department of Defense and other agencies which buy for the Department (e.g., General Services Administration) often tend to establish "negative incentives" for the private innovator to enter the Defense market. Suppliers are often selected and contracts awarded primarily on the basis of price alone, with less than adequate regard for quality, reliability, delivery schedule, improvement of products, or maintenance of production (or innovative) capacity. Reverse engineering, that is preparing the necessary data to manufacture the product by examining the product itself, is used by the Government to establish new suppliers purely to maintain the assumed necessity of having more than one competitive source. Adverse disclosures by manufacturers and suppliers of catalog items frequently are needlessly required by data acquisition practices. In summary, the basic problem with respect to procurement practices for proprietary items is the deviation of procurement practices from the policy of encouraging innovation, and the belief by Government buyers that it is their duty to force a price competition.

A significant concern with respect to patents is the increasing number of instances in which the Department of Defense takes ownership of patents developed on contract, rather than acquiring license rights for government use, with the contractor retaining the rights for commercial use. To attract the fullest competition of the best qualified companies, the Department's patent policy should require only the granting to the Government of a non-exclusive, royalty-free license under patents for inventions made in the performance of the contract, and not a license under background patents of the contractor. A policy of seeking rights in background patents or the taking of title to inventions by the Government, tends to discourage the best-qualified companies from accepting or, in some cases, competing, for contracts. This results in the Department of Defense having to accept less qualified companies, and the strong possibility of reduced competition for its contracts. This does not result in achieving the Department's principal objective, which should be to obtain the best results at the desired time and at the most

*The following definition was taken from "Webster's Third New International Dictionary": PROPRIETARY ITEM - an item that is protected by secrecy, patent, or copyright against free competition as to name, composition, or process of manufacture. In common parlance, the term is often used to refer to an item developed by a manufacturer at his own expense and offered by him as a standard item for sale to a large number of customers.

reasonable price.

The Department's data policy provides very limited protection for previously-generated proprietary data. The Department's data policy must enable it to perform its missions in the most effective and economical manner consistent with its long-term needs, and in a manner which most effectively maintains the technological base upon which it depends, while taking full advantage of the incentives of the competitive free enterprise system.

It is important for the Government to undertake a rededication and re-establishment of adherence to its oft-stated policies for motivating and protecting the private innovator. The Department of Defense should recognize and reverse certain trends within its components which are having the effect of stifling the initiative to invent or innovate. The Department should also recognize that, while obtaining only that proprietary information essential to accomplishing Government purposes, the price should be commensurate with the value of the information received.

 II-10 The stated policy of the Department of Defense to provide incentives to encourage private innovators' participation in the development of defense products should be reaffirmed and promulgated. The reaffirmation of policy should be supplemented by directives -

(a) To improve procurement practices by requiring the submittal of bid samples in the procurement of catalog items;

(b) With respect to patent rights, to define "Subject Inventions": as

(1) Those inventions originally conceived pursuant to the research and development work specifically called for by a Government contract; and

(2) Those inventions conceived prior to the award of a Government research and development contract which have not been reduced to practice constructively or actually prior to said award, and are first actually reduced to practice pursuant to the research and development work specifically called for by the contract; and acquire for the Government a royalty free non-exclusive license in patents based on Subject Inventions, for Governmental purposes; and

(c) With respect to Rights in Data, to obtain only that proprietary data essential to accomplishing Governmental purposes other than manufacture or reprourement, and to establish new basic categories of data rights:

(1) Unlimited - including publication rights;

(2) Limited - prohibited for reprourement or manufacture, and

(3) Production - right to use (license) for procurement and manufacture.

4. Special Problems in Development

a. Program Management

There are two general approaches to organization for management of engineering or operational systems developments - vertical and matrix.

The vertical organization is one in which a special Program Management Office is constituted, with all staff elements assigned on a full-time basis and reporting to the Project/Program Manager. Typically, for major weapons systems, the head of this Project Office, or Program Manager, reports to the Deputy Commander for Systems Management of the procuring command, some five-or-six levels below that of the Secretary of the Military Services.

In the matrix organization, the Program Management structure is superimposed upon the functional organization of the procuring or development command of the particular Military Service. In other words, a Program Manager is appointed for the specific project, but instead of professional personnel being administratively assigned to the Program Manager as his staff, personnel within various existing staff organizations are designated to supply staff support in their technical or other specialities to the Program Manager as required. Those personnel who provide the technical staffing to the Program Manager do so as an additional duty to their normally assigned duties in the functional organization of their command. Their efficiency ratings, promotions and reporting lines are not to or through the Program Manager, but rather to their superior within the functional organization. One individual may, therefore, concurrently be performing the normal duties of his functional assignment and serving in a staff capacity to one or more Program Managers.

The prescribed Department of Defense Program Management policy quite clearly recommends the use of the matrix organization, and this is the organizational approach most often used. The exceptions have been on those programs which have received constant top-level Department management attention. In programs managed through Development Concept Papers, the Program Management structure is specified for each system, to include not only the Program Management organization, but also the lines of reporting for the Program Manager. For instance, the Program Manager for the F-15 aircraft development has been provided a reporting point only one level below the Chief of Staff of the Air Force.

Program Management assignments have not generally been recognized as having good potential for career advancement for military officers. Program management is not effectively a career service for military officers, although military officers act as Program Managers on a majority of developments, and are almost always designated as Program Managers for major systems. These officers have traditionally been rotated on normal tours of duty (2-4 years) among a variety of types of jobs. Although they usually bring to the Program Manager assignment knowledge of the operational use of the type of system involved in the development, they often have a minimum of training and experience in business management; yet they are faced with the task of negotiating with and monitoring the efforts of industrial organizations which bring to the problem talented, technical and management personnel with extensive continuity and experience in the particular type of activity encompassed in the development. In addition, Program Managers have been often rotated, based on the time in their careers, at critical points in the development of the programs and frequently with no overlap for training their successor.

Indeed, there is no indication of consistent efforts by the Services to select Program Managers from among those officers who have the most promising potential. Ideally, a Program Manager should possess both managerial and technical skills and experience in the operational employment of the type of system, weapon or other hardware under development. Recently, in connection with major systems, significant emphasis has been placed by the Secretary of Defense on encouraging the Military Services to provide better selection and tenure and more continuity in Program Management assignments.*

A number of factors detract from a Program Manager's capability to perform his responsibilities in an efficient and effective manner. In a matrix organization, authority is so dispersed, and the Program Manager is so far below the level of organization which has the authority to make affirmative decisions on matters of significant import that his management capability is seriously impaired. Imposed on Program Management is a proliferation of reporting requirements for a wide variety of cost, schedule and technical data to satisfy the management and reporting systems specified by all higher headquarters, which preoccupy the manager's time to the exclusion of substantive management. This distraction from the substance of the Program Manager's responsibility is aggravated by the necessity of providing innumerable briefings to commanders and staffs of the many commands layered between him and the Military Department Secretaries, and to visiting officials.

In vertical organizations, the management system maze and the extensive reporting requirements often result in an excessively large staff for the Program Manager. A Program Management Office on a major system can include more than 200 people, adding significantly to the overall management cost of the project.

Top Defense management attention is frequently given only to those developments with high public visibility. The concentration of top Defense management attention on these selected major systems has permitted program management for less visible major systems and for minor developments to continue to flounder. Significantly, recently undertaken corrective action has been directed at major high-cost and controversial programs. Unfortunately, there are far too many development programs for each to be addressed on an ad hoc basis. Basic directives must be modified and ground rules must be devised for program management in general if the fundamental weaknesses of program management are to be eliminated.

The weaknesses of program management have been increasingly aggravated by the growing breadth of responsibility and complexity of tasks of the Program Manager. With the increased application of the systems concept of development, Program Managers find themselves responsible for administering a fixed-price contract for development of a product to detailed design specifications in which they are permitted little flexibility for technical trade-offs. In systems developments, a Program Manager is also likely to be given responsibility which encompasses a span of sub-elements involving a wide variety of disciplines and technological skills, the aggregate of which he may well be inadequately trained to handle.

A shift in emphasis toward separate component developments, as previously

*See Chapter IV, Personnel Management.

discussed, could result in a more feasible scope of management for the Program Manager, and thereby contribute more to the elimination of program management weaknesses than would any particular change in the organization of reporting relationship of the project management.

The choice of either a vertical organization or a matrix organization for all program management is not a feasible solution to program management deficiencies, for each organizational type has its benefits and liabilities. The vertically organized, all-on-one-payroll organization has the best record of success in development programs with a high degree of urgency, concurrency, technical span and cost. It prospers at the expense of functional organization, however, and there are practical limitations on the total number of vertical organizations which can be manned with qualified personnel and managed through an ad hoc or special reporting relationship outside the normal chain of organization.

An advantage of the matrix organization is that it can be more quickly staffed and more easily dissolved when no longer required. Scarce technical personnel can be shared between programs. In addition, the numbers of development programs which can be managed through matrix organization are not severely limited. Since the use of matrix organization appears both desirable and necessary for the majority of programs to be managed, the deficiencies of the organization, consisting primarily of the many layers of intermediate command and staff between the program manager and the Secretary of the Service, and the constrained and impaired authority of the program manager must be alleviated. Selection, training and tenure of the program managers operating in matrix organizations cannot continue to be neglected by the top levels of defense management.

The division and confusion of authority among the Program Manager, the contracting officer and the contract auditor fragments and weakens program management. Although the Program Manager is assigned overall management responsibility for the project, the authority for administering the contract is vested in the contracting officer. The contract auditor is independent of both, and reports through independent channels to high levels in the Department.

 II-11 *The effectiveness of Program Management should be improved by:*

(a) *Establishing a career specialty code for program managers in each Military Service, and developing selection and training criteria that will insure the availability of an adequate number of qualified officers. The criteria should emphasize achieving a balance between needs of a knowledge of operational requirements and experience in management;*

(b) *Increasing the use of qualified civilian personnel as Program Managers;*

(c) *Providing authority commensurate with the assigned responsibility and more direct reporting lines for Program Managers, particularly those operating in matrix organizational arrangements; and*

(d) *Giving the Program Manager, subject to applicable laws, directive authority over the contracting officer, and clarifying the fact that the contract auditor acts only in an advisory role.*

b. Management Systems

During the past decade, the trend in government contracts for developments has shifted markedly from cost-plus-fixed-fee toward fixed-price contracts, many of which have embodied incentive features. On the surface, this trend would appear to diminish the required level of detailed management by the Defense Department of Contractors' activities. Paradoxically, however, the same period has been marked by a multiple increase in the number and detail of management control systems contractually imposed by the Defense Department.

A number of factors evidence the excessiveness of the existing level of management control systems. For example, the sheer volume of reporting requirements exceeds, by a substantial margin, the review capability of managers within the Department of Defense. More significantly, the increase in management control systems has not cured the cost overrun or schedule delay problems. A reduction in management control systems would both reduce the reporting load imposed on industry by that portion which is duplicative or serves no useful purpose, reduce the cost to the Department, and improve the effectiveness of management control.

This problem has been formally recognized and acknowledged since 1966, when the Department initiated a management systems control project, and established an office under the Assistant Secretary of Defense (Comptroller) as the central responsibility within the Department for this area. In 1968, sound policy guidance was issued and two Department of Defense Instructions to implement that guidance were published.

Despite the issuance of policy statements and the assignment of specific responsibility for the control of development of management control systems for use in the acquisition process by the Department of Defense, there has been little standardization or reduction in the number of management control systems contractually applied. So many management control systems now exist that the process of review and analysis, to determine what should be the revisions and consolidations and/or cancellations of the thousands of existing management control systems documents, consumes an inordinate amount of time. Unfortunately, the effort lost momentum and the emphasis of top management in the process. In September 1969, the Office of the Comptroller was reorganized and the responsibility for this activity was moved to a lower echelon, thereby de-emphasizing, or appearing to de-emphasize, this activity. The roll-back of approved management systems and the stabilization of the remainder is unlikely to occur without top-level attention in the Department of Defense on a continuing basis until the job is done.

Akin to the problem of contractually imposed management control system requirements are the problems of the internal Department of Defense management information/control requirements. The documents in which the requirements are defined stem from the Department's Directive/Guidance System and take many forms in OSD, the Services and the Defense Agencies. The Assistant Secretary of Defense (Comptroller) also has the central responsibility for these internal requirements. As is true with regard to contractually-imposed management control requirements, no real progress has been made in reducing the proliferation of systems and documents used within the Department of Defense.

 II-12 The Secretary of Defense should establish a small staff within the Coordinating Group reporting to him and assign it the responsibility of effecting both a major improvement and reduction in the control and information needed for management within the Defense Department and, in turn, of its defense contractors. This should be done by specifying what is required, not dictating how to manage. Immediate top-level support to follow the current management system control project through to its successful conclusion should be one of the first actions. Included in this action should be direction to implement Instructions 7000.6, "Development of Management Control Systems Used in the Acquisition Process," and 7000.7, "Selection and Application of Management Control Systems in the Acquisition Process," with the control responsibility specified therein for the Assistant Secretary of Defense (Comptroller) reassigned to the Coordinating Group.

c. Cost Estimating

Studies reveal that on the average, cost estimates on major systems developments have probably improved in relative accuracy over the past fifteen years. So many variables affect the evaluation of cost estimates, however, that confidence in such a conclusion must be qualified. In any event there is much room for improvement.

Cost estimating for development programs has apparently been too widely credited in the Defense Department, in industry, in the Congress and by the public with a potential for accurate prediction which is belied by the inherent technical uncertainties in developments. The precise problems which may be encountered in the process of attempting to convert a technological or scientific theory or experiment into practical, producible application cannot be foreseen with accuracy. It should be axiomatic that one cannot place a price on an unknown; yet, the increased resort to fixed-price contracts, the use of precontractual cost estimates as a firm baseline for measuring performance throughout the life of the system, and the shock reaction which is forthcoming when cost overruns or growths are experienced, all evidence an unwarranted degree of confidence in cost estimates.

The inherent limitations on cost estimation imposed by technological uncertainties cannot be completely overcome. Other factors, however, also contribute to the inaccuracies of cost estimates. The understandable incentives to sell a development program, either to senior decision-makers in the Executive Branch or to Congress, can influence cost estimates to be on the low side. Contracting policies and procedures also have a tendency to suppress the level of cost estimates. The cost estimates must be used as a basis for requesting and justifying authorizations and appropriations. In addition, the competitive pressures on prospective contractors during Contract Definition, as previously discussed, leads to overoptimistic proposals which support the original cost estimates rather than take into account the possible effects on costs of the inherent uncertainties.

"Parametric" cost estimation techniques offer the potential for improved planning of cost factors. These parametric techniques require the analysis of historical data to establish some broad gauge such as cost per pound for component units of the program being evaluated. The broad nature of the product of this type of analysis precludes detailed comparisons with the estimated program costs developed from its elements, but the difference in gross totals can indicate a probable range of magnitude of the costs of

contingencies. The Department has, to some extent, recognized a significant portion of their potential. The use of the parametric approach to cost estimation is, of course, a clear acknowledgement of the inherent limitations and imprecision of any cost prediction methods.

Whatever method or methods of cost estimating are used, the availability of a data base on previous programs is essential, and the extent of availability of such data in usable form is a limiting factor on the potential accuracy of cost predictions. Efforts are being made to collect systematically and preserve such data on contemporary developments. Only time will provide an improved data base for projection.

The potential accuracy of cost estimates also varies according to the time period in which it is made, relative to the phase of the development program. Cost estimates made early in the concept formulation phase cannot be expected to yield the accuracy which is possible for such an estimate made after the first stage of actual development.

Cost estimating capabilities also fluctuate with the relative complexity of developments. They are most difficult and least credible for complex operational system developments.

While every effort should be made to improve cost estimation capabilities through compilation of a more extensive data base, wider use and more reliance on parametric techniques and a continuous effort to achieve objectivity in estimation, the most fundamental problems associated with cost estimation cannot be resolved without a general recognition and acknowledgement of the inherent limitations of cost estimates for development programs.

For this reason, the original cost estimates should be considered only as the initial baseline and as more knowledge is gained these estimates should be revised and a new substantiated baseline established. This approach should be incorporated into the Selected Acquisition Reports (SARs) used within the Department and by Congress.

II-13 The management cost information needed within the Department and for visibility to Congress on major weapon systems acquisitions should be improved by recognizing the evolutionary nature of cost baseline estimates. Estimates should be reevaluated at each significant milestone of development.

II-14 Increased use should be made of parametric costing techniques to improve the quality of original and subsequent estimates, and to help offset the difficulties of estimating the cost of unknowns.

d. Industry Weaknesses

A review of the defense development process would be incomplete without a discussion of the role of industry and its share of the responsibility for the problems within the process.

One serious weakness of industry is the tendency toward overresponsiveness to every expressed or implied desire of Department of Defense personnel. Overresponsiveness should not be substituted for the exercise of responsibility. As a management team member, it is the responsibility of industry to point out to the Department the true nature of acquisitions and developments as seen by industry. For example, the following are areas in which industry has demonstrated an overresponsiveness on specific developments:

- (1) Unquestioned acceptance of inefficient and unnecessary management control system requirements and related data items.
- (2) Failure to point out the potential risks associated with the inherent technical uncertainties in the development of a specific weapon system.
- (3) Over optimistic cost estimates and, in some cases unwarranted buy-ins.
- (4) Unquestioned acceptance and, in some cases, promotion of overly sophisticated design solutions to satisfy the stated requirements.

Industry has also demonstrated reluctance to have a continuous meaningful dialogue on certain procurements by communicating to the government Program Manager potential major technical, cost or schedule problems as soon as they are first identified.

Another weakness originates in the possible belief by a contractor that he has obtained his contract wholly or in part through political favoritism or pressure; this can seriously undermine the authority of the Program Manager. The degree to which the Program Manager's authority is undermined does not depend on whether or not there was, in fact, a political motivation in the selection of the contractor, but on whether the contractor believes such was the case.

Some existing practices contribute to beliefs by contractors and by the public that political influence can and does affect the selection of contractors. It is and has been customary for the Executive Branch to provide members of the Congress with 24 hours notice of contract awards in their States or Districts, as the case may be, prior to the public announcement of the contract award. Frequently, therefore, contractors and the public learn of the contract award from a Senator or Congressman prior to the public announcement. This gives rise to an inference, however much belied by the facts, that the political officeholder making the announcement of the contract award had some influence on the selection of the contractor.

Potentially, the most serious weakness is the trend of the demonstrated reluctance by industry, whether justified or not, to commit resources to defense business. If this trend continues, the Nation's defense posture will be seriously weakened, as a dedicated industrial capability is essential to maintaining that posture.

Many of the recommendations in this report are specifically addressed to making a substantial improvement in the overall defense procurement environment. Even though the environment is largely controlled by the government, industry must also assume a more

responsible role if the full potential for improvement in the environment is to be realized, and the rising cost of weapon systems stemmed.

II-15 Individual contractors should accept a more responsible role as management members of a defense development team, and provide the Government with the benefit of greater objectivity in the contractor's independent evaluation of a proposed development.

II-16 The practice of providing the members of the Congress 24-hour advance notice of contract awards should be discontinued. Such members should be notified concurrently with public announcement of contract awards.

e. Defense Laboratories

Currently the Department of Defense has 78 laboratories and 48 test and evaluation centers. These owned activities consume some 18 percent of the Research, Development, Test and Evaluation appropriations. They also directly manage about 15 percent of Defense Research and Development work done on contract outside the government. Of those funds appropriated to Research, Development, Test and Evaluation in Program VI, the Defense laboratories, including test and evaluation facilities spend in-house: about 33 percent of Research (6.1); about 40 percent of Exploratory Development (6.2); about 12 percent of Advanced Development (6.3); and about 15 percent of Engineering Development (6.4).

This distribution of funds clearly indicates that Defense Laboratory in-house efforts are concentrated in the budget categories of Research and Exploratory Development, both of which are funded for level of effort, rather than by project.

The Defense Laboratories and test and evaluation centers are organized by (1) military arms (e.g., infantry), (2) hardware function (e.g., missiles), (3) technical discipline (e.g., electronics), and (5) climate (e.g., desert).

The purposes of Defense Laboratories are to: (1) maintain national competence in areas of technology peculiar to military needs; (2) provide a technological capability for quick response to unpredictable needs and opportunity; (3) provide a working interface between military commanders and planners on the one hand and the technological community on the other; and (4) act as advisors in the Defense RDT&E contract program.

Overall, the productivity of Defense in-house laboratories appears low compared to the very substantial investments in them. This is particularly true with respect to Army Laboratories, and those Army Laboratories connected with arsenals appear least productive.

Defense Laboratories and test and evaluation centers are not organized in any systematic fashion. They are fragmented along technology lines with limited scope and

responsibility. The Army has 55, the Navy 45, the Air Force 25 and the Defense Atomic Support Agency, 1. Consolidation of laboratories and centers to achieve a more nearly matched functional alignment with the scope of normal problem areas is very badly needed. Efforts at consolidation are being made, but the rate of progress is far too slow. One of the major impediments to consolidation is the difficulty with obtaining funds for military construction. There is no legal method, at present, whereby a Service may sell several old facilities and use even a part of the proceeds to build a new one or expand an existing one.

The Defense Laboratories and test centers suffer from a rigid personnel system which inhibits qualitative improvements to the technical staffs and fails to promote or move the more competent people into leadership positions. These laboratories and centers are controlled through fiscal means. The Army and Navy laboratories are industrially funded, and the Air Force is moving toward industrial funding for its laboratories. The laboratories are, nevertheless, subjected to arbitrary personnel ceilings and reductions. Since the laboratories' employment of scientists and engineers is within the Civil Service system, seniority criteria, rather than innovative production, is the primary factor determining promotions and reductions-in-force. It has been customary to appoint laboratory Directors, and often Assistant Directors, from outside the system. While this can provide a transfusion from the broader scientific and engineering community, it also removes an incentive for career personnel who cannot aspire to higher than the third level job in the laboratory. There is no workable mechanism for scientific and technical personnel to be moved freely within the Department, because the personnel systems of each of the three Services and the Office of the Secretary of Defense are separate and different. These personnel inflexibilities result in a high degree of personnel stagnation in the Defense Laboratories, which must account in part for their relatively poor productivity.

As noted above, the Defense Laboratories and test centers, in addition to their in-house work, actually manage about 15 percent of the Defense Research and Development work done on contract. This circumstance presents a conflict-of-interest problem. The laboratories as developers are in competition with private contractors, and are also managers of the contracts under which their competitors operate. There is an inclination on the part of some laboratories to show favor to products "invented here" and to view very skeptically any products "not invented here". The R&D laboratories are located far down in the organizational structure within organizations which have much broader responsibilities than just R&D. There is no R&D chain of command from bench to the policy level. Consequently, close monitorship to control the "not-invented-here" attitude is impossible.

II-17 The Advanced Research Projects Agency (ARPA) and the Defense Test Agency (DTA) should be directed to make a joint review to determine which in-house defense laboratories and test and evaluation centers are essential to research and development needs of the Department with the goal of eliminating the nonessential ones, and consolidating (across Services) the remainder.

II-18 A procedure should be authorized by Statute whereby all or a part of the proceeds from the disposal of existing defense laboratories or centers can be used for construction of

a new facility or expansion of an existing one which such construction or expansion has been authorized by Congress.

II-19 Close attention should be given to the possible advantages of having some of these laboratories and centers government-owned but contractor-operated.

C. Operational Testing and Evaluation

Everyone seems to agree that Operational Testing and Evaluation (OT&E) is very important; however, there are significant differences of opinion as to what it encompasses, what its proper objectives are, and what organization and methods are necessary to accomplish it most effectively.

It has been customary to think of OT&E in terms of physical testing (under various designations such as operational suitability testing, employment testing, service testing, or field experimentation). It is essential to recognize that the primary goal of OT&E is operational evaluation, and that while operational testing is very important it is only one method of evaluation. To be effective, OT&E must be a total process, using all appropriate methods of evaluation, which spans the entire cycle of a system from initial requirement until it is phased out of the operational forces. If OT&E were limited to physical testing, it would lose much of its opportunity to contribute to decisions on whether to produce a system, and would seldom be able even to influence the system's characteristics and capabilities in any major way.

Much OT&E does, however, involve physical testing and, therefore, it is important to distinguish between "functional" testing and "operational" testing.

Functional testing (often called engineering testing) is done to determine how well various systems and materiel meet design and performance contractual specifications - in other words, whether they meet technical requirements.

By and large, functional testing in and for the Department of Defense appears to be well understood and faithfully executed. Serious policy deficiencies are not apparent, and such failures in functional testing as occur can be primarily attributed to lack of technical competence, oversight, or procedural breakdowns. Functional testing is not considered to be a major problem area.

Operational testing, on the other hand, is done to determine to the extent possible whether such systems and materiel can meet operational requirements. It must provide advance knowledge as to what their capabilities and limitations will be when they are subjected to the stresses of the environment for which they were designed (usually combat). Operational testing must take into account the interface with other systems and equipment, tactics and techniques, organizational arrangements, and the human skills and frailties of the eventual users.

There has been an increasing desire, particularly at OSD level, to use data from OT&E to assist in the decision-making process. Unquestionably, it would be extremely useful to replace or support critical assumptions and educated guesses with quantitative data obtained from realistic and relevant operational testing.

Unfortunately, it has been almost impossible to obtain test results which are directly applicable to decisions or useful for analyses. Often test data do not exist. When they do, they frequently are derived from tests which were poorly designed or conducted under insufficiently controlled conditions to permit valid comparisons. It is especially difficult to obtain test data in time to assist in decision-making. Significant changes are essential if OT&E is to realize its potential for contributing to important decisions, particularly where the tests and the decisions must cross Service lines.

Participation in or supervision of OT&E by OSD and JCS has been limited and fragmented. There is no assignment of overall responsibility at such levels for deciding what OT&E should be done, prescribing and monitoring how OT&E is done, or insuring that results reach those who need them.

A Directorate of OT&E was established in 1966 within the Office of the Director of Defense Research and Engineering, under the Deputy Director (Administration and Management). Although establishment of this organization was an acknowledgement of the need for attention to the operational aspects of testing and evaluation, the authority and resources of this Directorate were very limited initially and have decreased since. It has had little, if any, influence on OT&E.

In 1968, the Deputy Secretary of Defense requested the JCS to consider the establishment of a small Joint Test and Evaluation Agency. The JCS replied such an agency was unnecessary, and expressed the belief that there already existed within the Organization of the JCS, the Services, and other agencies the capability to plan, conduct, and evaluate the results of operational tests, including tests involving joint forces. However, it is evident that this capability does not exist and that the *ad hoc* testing on which the JCS relies produces very little useful data in support of decision-making.

The most glaring deficiency of OT&E is the lack of any higher-than-Service organization responsible for overseeing Defense OT&E as a whole.

In the absence of regulation or guidance from higher authority, it is not surprising that the Services differ substantially both in OT&E philosophy and in organization to carry out and report on OT&E activities. There are three basic ways to organize for OT&E:

1. An independent organization reporting directly to the Chief of Service.
2. An organization subordinate to the developer.
3. An organization subordinate to the user.

At the present time, all of these organizational alternatives may be found in the Services.

The Army system of testing and evaluation is currently being reorganized to place more emphasis on OT&E – particularly on doing operational testing earlier in the development cycle. The objective is to introduce the results of valid operational tests into decisions

concerning the initiation and the extent of production. The Army's approach is centered upon a newly-conceived Operational Service Test, scheduled to be completed prior to decision to commence full production. The basic problem with Army OT&E is that the developer, in effect, tests and evaluates the operational suitability of what he develops.

The Navy system of OT&E has two main characteristics: (1) it is principally implemented by an independent OT&E organization reporting directly to the Chief of Naval Operations, and (2) there is a formal way of getting operational evaluation (including some operational testing) done early in the overall process. The main deficiency in Navy OT&E is that it generally produces few hard data. It relies too much on the judgment of well-qualified officers and does not adequately utilize testing techniques available for obtaining measurements of scientific validity.

The Marine Corps does not have an organization devoted solely to OT&E, but the Commandant tasks the Marine Corps Development and Education Command with having it done when deemed necessary.

The Air Force currently has the most structured system of testing found in the Services. Basically, it is divided into two types: Acquisition Testing and Operational Employment Testing.

Acquisition Testing is made up of three categories: Categories I and II are essentially R&D testing and are the responsibility of the Air Force Systems Command (AFSC). Category I is actually performed by contractors and has little or no operational flavor. Category II is done by AFSC, with the contractor still very much involved. Ideally, Category II tests a complete system in as near an operational configuration as practicable at that stage of development, but in actual practice such tests are seldom operational in nature.

Category III is the first Air Force testing that can be called OT&E. It comprises tests and evaluations of operationally-configured systems and is done by the appropriate operational command – the ultimate user.

Operational Employment Testing is pure OT&E. It is conducted by the using command and is closely related to integrating the new system into that command. Its objectives include the development of tactics and techniques of employment, identification of operational problems not revealed by earlier testing, and validation of requirements for system modification. This kind of testing places great emphasis on realism of environment and missions, limiting personnel skills and support to those that would be available in such an environment.

There are three principal problems with Air Force OT&E, as currently done. First, operational considerations receive much too little attention in Categories I and II. Second, the operational commands responsible for Category III and Operational Employment Testing lack both the personnel and facilities to be effective. Finally, all of the categories are too duplicative and time-consuming.

Currently, there is no effective method for conducting OT&E which cuts across Service lines, although in most actual combat environments, the United States must conduct combined operations. The interactions among Services become extremely important during combat, and critical military missions transcend Service boundaries and responsibilities (for example Close Air Support, Reconnaissance, and Air Supply). Because of the lack of joint

OT&E, it is not only very difficult to detect certain kinds of deficiencies and to predict combat capability in advance, but it is also difficult to make decisions relating to overall force composition.

Funding throughout the Department of Defense has been and continues to be inadequate to support much necessary OT&E. Also, the funding of OT&E is confused, both at the OSD level and within the individual Services, and neither in OSD nor in any Service is there a single agency responsible for insuring that OT&E is adequately funded. In fact, there is no agency that can even identify the funds that are being spent on OT&E.

Funding within the individual Services differs substantially. In general, however, OT&E funds are difficult to identify because they come from several budget categories such as RDT&E and Operations and Maintenance (O&M). Because funds earmarked for OT&E do not have separate status in the budget, or in program elements, they are often vulnerable to diversion to other purposes.

It seems evident that separate program elements for OT&E must be established within the Services if OT&E is to receive the financial support required, and prohibitions provided against diversion of OT&E funds. Even then, OSD must assume the responsibility of insuring that the Services budget adequately for OT&E.

II-20 The responsibility for Defense test and evaluation policy should be assigned to the Assistant Secretary of Defense (Test and Evaluation).

II-21 A separate program category should be established for Test and Evaluation.

II-22 The responsibility for overview of Defense test and evaluation effort should be assigned to the Defense Test Agency. In addition, the Agency should be responsible for design or review of test designs, performing or monitoring of tests, and continuous evaluation of the entire test and evaluation program.

III. PROCUREMENT

The Department of Defense procurement program involves approximately 12 million project actions a year. These are consummated by the Department of Defense procurement work forces of approximately 46,000 personnel, of which about 91 percent are civilian employees. For Fiscal Year 1968, contracts were awarded totaling about 43 billion dollars for supplies and services.

The complex and dynamic Defense procurement environment and the associated procurement process are characterized by a variety of significant and increasingly serious problems.

A. Statutory Framework

The basic statute controlling procurement by the Department of Defense, except of land, is the Armed Services Procurement Act of 1947, as amended, now codified and incorporated in Title 10, Chapter 137 of the United States Code.

The Armed Services Procurement Act is at variance with the realities of Defense procurement and adds considerably to the overhead costs of the Department of Defense. The Act stipulates that procurement contracts are to be made by the use of formally advertised contracting methods, but to this general rule the Act provides 17 conditions of exception under which negotiated contracts may be used.

The priorities established by this statute do not reflect the realities of Defense procurement. Actual Department of Defense procurement needs are such that only 10 to 12% of the Defense procurement dollars is spent through the method of formally advertised procurement which is established in the statute as the general rule.

When a contract for procurement of goods or services is negotiated, it must be under the authority of one of the 17 statutory exceptions to the general rule and such actions, as noted, involve 88 to 90% of the dollars involved in Defense procurement actions. When a contract is negotiated, the statute prescribes that the procuring agency must prepare a Determination and Finding (D&F) documenting the conditions and circumstances and justification for utilization of the particular exception to the general rule for procurement. The D&F must be attached to the copy of each negotiated contract, which must be filed with the General Accounting Office. The Determination and Finding is also required by statute to be kept on file in the office of the officer making the D&F for a period of six years.

The consequence of the statutory prescriptions and the D&F requirements place the officers of the Department of Defense in the position of being required to document and explain why they are using the most appropriate procurement method rather than an inappropriate one. The preparation, review, submission and filing of the required D&Fs demand and receive a significant amount of personnel effort including that of the various Secretaries and Assistant Secretaries of each Military Department.

Although the Armed Services Procurement Act is the principal statutory authority for Defense procurement, it is by no means the only statute governing such procurement. There are approximately 40 separate statutes which affect Defense procurement. These statutes cover such diverse matters as budgeting and accounting, small business, freedom of information, assignment of claims, adjudication of claims, limiting contracts to available appropriations, extraordinary contracting authority for national defense needs, degree of finality and judicial review of agency decisions on contracts, performance bonds, renegotiation, labor standards on public contracts, anti-kickback provisions, convict labor, Buy American, conflict-of-interest, and procurement of supplies made by prisoners and the blind.

Additional statutory authorizations or restraints on Government procurement and contracting are included in the annual authorization and appropriations acts, the organic legislation for specific departments and agencies, and other bits and pieces of legislation scattered throughout the statutes and codes.

The body of the statutory law covering Department of Defense procurement is supplemented by a number of other top-level documents which have a pronounced impact on Department procurement. These include such documents as Executive Orders and Bureau of Budget circulars. Judicial decisions, of course, also impact on Department of Defense procurement through their construction and interpretation of statutory provisions relating to procurement.

In certain respects, the procurement laws are dated; that is, they do not take into account legitimate and useful techniques developed and put into use subsequent to the passage of the procurement laws. For instance, the law accords no recognition to the variety of incentive-type contracts which have emerged in recent years.

B. Armed Services Procurement Regulation (ASPR)

The principal Department of Defense procurement regulation is the Armed Services Procurement Regulation, commonly referred to as "the ASPR", which is to implement the provisions of the Armed Services Procurement Act, other statutes relating to procurement, Executive Orders, Bureau of Budget circulars and, as appropriate, judicial decisions. The provisions of the ASPR are applicable to the procurement of all Department of Defense materiel and services which obligate appropriated funds, except transportation services procured by transportation requests, transportation warrants, bills of lading and similar transportation forms.

The provisions of the Armed Services Procurement Regulation (ASPR) are complex and unrealistic to an extent that obscures Defense procurement policy. The ASPR is prepared and maintained by a committee and is in a constant state of change. The ASPR Committee, which has been in existence for over 20 years, is chaired by an individual from the Office of the Assistant Secretary of Defense (Installations and Logistics). Each of the Military Departments and the Defense Supply Agency have two members on the Committee, one of whom is a specialist in procurement policy matters and the other is a specialist in the legal and contract aspects of procurement.

To accomplish its challenging task, the ASPR Committee meets at least two full days a week. The actual investigation of matters under consideration is farmed out to subcommittees, of which there are 50-60 working at any one time. The activities of these subcommittees involve 200 - 250 personnel.

The ASPR Committee system suffers an apparent inability to resolve, in a timely manner, the issues brought about by changes resulting from new policy, new regulations and new rules. The ASPR process is burdened with a load of coordination that prevents a prompt and continuous flow of changes to the ASPR which are required. There are a significant number of unresolved ASPR problems which have a great impact upon the effectiveness, economy and equity of the Defense procurement process. Many unresolved ASPR issues have been under active consideration by the ASPR Committee for more than a year, and one significant issue dates back approximately seven years.

The principal deficiencies with the ASPR are as follows:

1. The ASPR contains a mixture of procurement policies, practices and procedures which obscures procurement policy, making it difficult to identify, interpret and to comply with.

2. The complexity of the ASPR structure is unrealistic in that its provisions and prescribed practices are difficult, if not impossible, to use within the highly stratified organization administering Defense spending programs, particularly in view of the various procurement personnel grade levels responsible for compliance with the ASPR.

3. The ASPR is in a continuous process of change, a fact which impedes the timely processing of procurement actions, and consumes an inordinate and expensive amount of time of the procurement personnel responsible for compliance with the ASPR.

The ASPR is expanded and supplemented by each Military Department, the Defense Supply Agency and the Defense Contract Audit Agency by means of their separately developed and maintained procurement regulations. These departmental and agency regulations largely parallel ASPR in format and provide additional procurement policy and procedural matter related to ASPR provisions.

From a substantive standpoint, the ASPR gives minimum emphasis to the need for maintaining an adequate industrial base, although the Armed Services Procurement Act gives policy recognition to this consideration with a specific exception (No. 16) to the general rule requiring advertised bids.

In addition to the complex framework of procurement regulations, there is an abundance of Department of Defense and Military Service directives, instructions, memoranda and other guidance material, including circulars, handbooks and guides, which have a pronounced impact on Defense procurement. These documents deal with organization and management, and administrative policy concepts and procedures. Procurement personnel must be governed in practice by these constraints, as well as by the procurement family of regulations.

The Department of Defense directive and guidance system results in an avalanche of paper instructions which are duplicative, overlapping and sometimes contradictory. There is no evidence of a concentrated attempt to reduce the number and scope of the directives and guidance, or to make these documents consistent and harmonious. The need for assessment and review is conspicuous.*

C. Department of Defense Procurement Work Force

Regardless of how effective the overall system of Department procurement regulations may be judged to be, the key determinants of the ultimate effectiveness and efficiency of the Defense Procurement process are the procurement personnel who have the challenging responsibility for interpreting and applying the regulations and associated guidance material. The importance of this truism has not been appropriately reflected in the recruitment, career development, training, and management of the procurement work force. As a consequence, the Department is faced with a significant number of immediate and future problems with respect to the availability in adequate numbers of appropriately qualified and capable procurement personnel. For example, major problems exist with respect to their aging, turnover, capabilities, and utilization.

*See "Management Systems" in this Chapter.

There is a particular urgency in the matter of upgrading personnel involved in contract negotiation and in the system of promotions and reward for the negotiators. That the overwhelming proportion of Defense procurement actions take the form of negotiated contracts is a fact of life and should be recognized as such. Department of Defense personnel who negotiate this great number and dollar value of contracts are involved with negotiators from industry who are key personnel with lifetimes of experience, and paid by industry much higher than the pay received by the Defense contract negotiators. The Defense negotiator is at a disadvantage, to say the least. Skills of Government negotiators obtained through experience are often wasted by the existing system of rewards, which appears to promote the most capable negotiators to supervisory positions, thereby removing them from direct negotiating activities. Contract negotiation is a special skill, different from and often more difficult to develop or acquire than are administrative or supervisory skills. A system of rewards for negotiators, which is commensurate with their skills and does not necessarily require their removal from active negotiations, should be developed.

 II-23 *The Secretary of Defense should recommend to the Congress and to the existing commission on Government-wide procurement that the Armed Services Procurement Act and other applicable statutes be amended to reduce or eliminate the requirement for Determination and Findings on all negotiated contracts, to reflect the practicalities of Defense procurement needs and activities which result in most Defense procurements being accomplished by other than formally advertised methods, and also to reflect the various new types of contracts developed in recent years.*

 II-24 *The Armed Services Procurement Regulation (ASPR) and the ASPR Committee System should be reviewed with the objective of formulating a more efficient management organization for incorporating changes into the ASPR and with the view toward reduction in the volume and the complexity of the ASPR.*

 II-25 *In the implementation of procurement policy, due regard should be given to the need for an adequate, but not excessive, industrial base.*

 II-26 *Improvement should be affected in the acquisition, training and retention of procurement personnel, with emphasis on a promotion system for contract negotiators which will not necessarily remove them from negotiating activities.*

IV. THE INDUSTRIAL MOBILIZATION BASE

The urgent requirement for increased production to support U.S. Armed Forces in World War II and the reluctance or inability of U.S. industry to invest private capital in the amounts and for the purposes required, forced the Government to build a substantial industrial capability.

Following World War II, it was recognized that any future war would not allow time for the construction of production facilities after the start of hostilities. In 1948, the Congress passed the National Industrial Reserve Act "to promote the common defense by providing for the retention and maintenance of a national reserve of industrial productive capability. . ."

The Department has, therefore, maintained ownership of a large industrial mobilization base consisting of industrial plants and plant equipment. As of 30 June 1969, this Defense industrial base represented an original investment of about \$18 billion. The out-of-pocket support costs associated with maintaining the Defense industrial base in FY 1969 amounted to \$366 million.

Department records do not indicate the condition or capability of the plants or plant equipment. In fact, no records are kept on a majority of the plant equipment in the inventory.

The ownership of the plants and plant equipment encourages the unwarranted belief that the Department has a viable industrial mobilization base that can increase production of vital war materiel on short notice. Experience in the Korean War and the Vietnam War indicates that the continuing rapid advance of technology is changing both production techniques and the items which must be produced at a rate that renders much of the equipment currently owned by the Department so outmoded that it has no utility or is hopelessly inefficient.

It is imperative that a viable industrial mobilization base be established and maintained. However, it does not now exist under the concept of Department ownership of industrial plants and plant equipment. The Department should reexamine its present holdings and, as a matter of urgency, develop and implement a plan to assure that emergency production of high priority war materiel can be initiated quickly and effectively. This can be achieved in many cases only by maintaining an active production life.

The Department continues to buy plant equipment and provide it to contractors on the theory that it is cheaper to maintain ownership of the equipment than to allow the contractors to charge it off to the contracts. As of 30 June 1969, contractors held government-owned equipment with an original investment cost of about \$4 billion.

The Department has not been able to maintain control of its inventory of plant equipment. It attempts to control only the equipment with original unit cost of \$1,000 or more. Even for these items where records are maintained, the Department unnecessarily procures some new equipment through failure to consult the inventory records or through incomplete or incorrect records.

In FY 1969, the Department provided contractors with \$133 million of industrial plant equipment with original unit cost of \$1,000 or more.

Adequate information is not available to determine the full costs to the Department of maintaining ownership of industrial plant equipment; to procure, provide to a contractor for a specific contract, reclaim and store at the end of the contract, and maintain inventory records to permit its reuse when needed. However, it is apparent that the Department is not doing an effective or economical job under the present concept.

 II-27 *The Department of Defense should consider buying and providing industrial plant and equipment to contractors only when it can be clearly shown to be to the economic advantage of the Government or when it is essential to the Department's plan to provide a viable industrial mobilization base. Contractors should be encouraged to provide necessary industrial plants and plant equipment, and should be permitted to charge off peculiar plant equipment against specific contracts.*

 II-28 *A program should be initiated for the Department of Defense to divest all plant equipment where ownership cannot clearly be shown to be to the economic advantage of the Government.*

 II-29 *A plan should be developed and implemented to assure that emergency production of high priority war materiel can be initiated quickly and effectively.*

 II-30 *The responsibility for maintaining an inventory and control of Department-owned equipment should be assigned to the Assistant Secretary of Defense (Installations and Procurement).*

V. LOGISTICS

The term "logistics" has a variety of meanings. Here it is interpreted as encompassing the management of all classes of U.S. military consumable supplies and secondary items worldwide, depot maintenance and overhaul of military equipment, plus transportation and traffic management. These logistics functions inevitably account for a significant fraction of the Defense dollar. The sum of their costs in Fiscal Year 1969 was over \$20 billion.

The broad scope of the subject makes pointed summary difficult, but one salient generalization seems to encompass most of the findings.

It is clear that significant military logistics improvement can be achieved through efficient, coordinated exploitation of new technologies in the areas of transportation, communications, automatic data processing (ADP), and Integrated Procurement Management. To date, however, the full potential of these new technologies has not been realized, nor will they be realized in long-range logistics programs that are presently proposed by most of the Military Services.

A. Supply, Maintenance and Transportation

The potential for increased efficiency and improved effectiveness by standardizing or integrating logistics management and activities has long been recognized. Efficient, coordinated exploitation of new technologies in the areas of transportation, communications and automatic data processing offer increasing rewards in effectiveness of logistics support and cost savings.

Congressional pressures for standardization and integration of Defense logistics have been strong and continuous. These Congressional pressures have taken various forms, as several examples illustrate. Congress provided by amendment to the 1953 Defense Appropriations Act that no funds would be obligated for procurement, production, warehousing, distribution or related supply management functions except in accordance with regulations issued by the Secretary of Defense. The 1958 Defense Reorganization Act provides that whenever the Secretary of Defense determines it advantageous in terms of effectiveness, economy or efficiency, he shall provide for carrying out common supply or service activities by a single agency or other organization as he deems appropriate. In 1967, the Defense budget was trimmed by the Congress to "encourage integration" of logistics support.

There has been considerable progress in integrating "common item" procurement and the initial phase of supply management. Despite vigorous efforts to achieve standardization or integration in the remainder of the logistics system, both from within the Department and from the Office of the Secretary of Defense, progress has been slow. To date, the full potential of new technology has not been realized in the post-procurement phases of Defense logistics, nor will it be realized in the long-range logistics programs under consideration by most of the Services. As found by a GAO investigation in March 1968, "OSD has permitted the Services and Defense Agencies to develop management systems unilaterally and independently without regard to inter-Service compatibility or relationships of systems."

Because the impact of logistics integration has fallen primarily on the procurement and initial inventory management phases, the resulting improvements in effectiveness of support of Unified Commands in the field have been minimal compared to the improvements which are possible. The benefits of standardized and integrated logistics have not been extended overseas to any appreciable extent. Defense Supply Agency responsibilities do not extend overseas. Overseas logistics management is currently the responsibility of four organizational units, - one in each Service - each of which has many elements. Because of inherent and continuing differences among these organizations, the Unified Commander must accommodate different terminologies, different measures of logistics performances and, most unfortunately, different degrees of readiness.

1. Impact of Decentralized Supply Systems

The differences among the Services in their approaches to theater supply management illustrate the varying degrees of effectiveness of support, efficiency and economy which prevail.

In the acquisition and initial supply phase of Defense logistics, six principal entities are involved: (1) General Services Administration (administrative equipment, including computer hardware); (2) Defense Supply Agency ("common items"); (3) The Air Force (principally the Air Force Logistics Command); (4) The Army (The Army Materiel Command); (5) The Navy (Naval Supply Systems Command); and (6) The Marine Corps. All

of these organizations operate in the Continental United States; few operate overseas.

The General Services Administration and Defense Supply Agency are procurers and wholesalers whose supply functions are limited to the Continental United States. In estimating new procurement and stockage requirements, the demand and inventory information to these organizations from overseas is limited to what can be inferred from bulk requisitions and occasional asset level reports. No current consumption data is available to them.

The Air Force Logistics Command operates a vertical supply system in which each base, worldwide, is a consumer-customer, supplied directly from wholesales activities located in the United States. The Air Force has no depots overseas. Requisitions received at the wholesale level provide a clear view of consumption data and demand patterns, because they are not filtered through a series of intervening control echelons that aggregate many requisitions over long periods, thereby obscuring demand trends.

The Army supply system, on the other hand, is not vertical, but horizontal. The Army Materiel Command operates only in the Continental United States, and each Theater has its own parallel supply system. There is no greater access for the Army Materiel Command to theater demand trends and consumption data than there is for the Defense Supply Agency. The Army Materiel Command and the theater logistics commands have separate stock funds. In effect, the Army components in the theaters have autonomous logistics systems that procure items from Continental United States wholesale supply agencies. (Vietnam logistics are not separately stock-funded.) The horizontal supply system of the Army provides no effective means for adjustment of inventory imbalances among theaters.

The Navy supply system in the Continental United States is in many ways more centralized than in the Air Force. At three Inventory Control Points (Ships Ports Control Center, Aviation Supply Office and Electronics Supply Office), inventory levels at Naval Supply Centers and other distribution points are monitored, and replenishments of centrally managed items are shipped as necessary. The Navy supports the Sixth Fleet (Mediterranean Sea) directly from the United States through dedicated Navy cargo ships. The Seventh Fleet (Pacific) is also supported directly in part, but the Navy has supply depots in the Philippines and in Japan which also support the Pacific Fleet. These two supply depots are largely autonomous of the supply system in the United States, with the Navy supply system in the United States having little visibility of the demand trends, consumption, or inventory levels in the depots, except on aeronautical items.

The Marine Corps obtains a part of its supply support from the Navy Supply System and some from the Marine Corps Supply System. Its distribution system includes depots and bases and air stations. Despite being dependent on numerous other agencies for its procurement of items from industry, the Marine Corps insists upon stocking and distributing materiel through its own system, which suffers from many of the same type of problems found in the Army system.

Combat Force Commanders in the field have found it necessary to improve the effectiveness of logistics support, and to overcome the lack of logistics integration by creating *ad hoc* cross-service arrangements. For example, in Vietnam the Navy is designated as Executive Agent for all common items in I Corps area and the Army as Executive Agent for II, III and IV Corps. In the European theater, the Army is designated Executive Agent

for subsistence items for all Services.

There is a close interrelationship between the degree of logistics integration and the use of automatic data processing.

2. Automatic Data Processing

A distinguishing mark of the decentralized and fragmented supply system in the Defense Department is the proliferation of Automatic Data Processing (ADP) systems and programs which are largely incompatible, both intra-Service and inter-Service. This results not only in weaknesses in inventory management and distribution imbalances, but in high and increasing costs of ADP software for a variety of ADP programs to accomplish the same types of functions. The aggregate costs - and confusion - resulting from the development and periodic upgrading, as advanced computers are required and acquired, of ADP programs for each class of supplies by the DSA, the four Military Services and the theater logistics commands, with minimal compatibility, critically impact on the Department's effectiveness, efficiency and economy. The long-range logistics programs under consideration by most of the Military Services will not remedy this problem.

3. Maintenance

Maintenance is the ultimate consumer of all technical supplies and materials acquired by the Department of Defense for support of military hardware - a consumption which amounts to approximately five billion dollars annually. Investment in industrial tooling, equipment and facility capability to support this maintenance function accounts for approximately another one billion dollars annually. About one-third of all Department of Defense personnel are involved in the maintenance function.

Maintenance management resides basically with the Services. (Neither GSA nor DSA has maintenance responsibilities.) Responsibilities for maintenance within the Services are vested for the most part in the same organizations having responsibilities for the supply function.

The maintenance function is divided into three levels: (1) organizational or service level; (2) intermediate, or repair level; and (3) depot, or overhaul level. Generally, the Army performs all levels of maintenance in-theater, but Navy and Air Force depot or overhaul maintenance is performed in the United States.

Integration of maintenance management is the exception, and where it exists, it occurs almost exclusively at the depot level on a selected item basis. For example, the Air Force is designated to overhaul A-7 aircraft engines for both Air Force and Navy, and the Navy performs A-7 aircraft airframe and avionics depot maintenance.

As is the case in supply management, traditional approaches cause variances in maintenance management to continue. For example, the Army and Air Force prescribe aircraft inspections to be performed at intervals measured in aircraft flight time, while Navy aircraft inspections (sometimes of the same aircraft) are prescribed to be performed on a calendar schedule.

The maintenance function is even less integrated than the supply systems. For example, the Army's Tank and Automotive Command (TACOM) is assigned responsibility

for integrated management or procurement and wholesale supply of combat and tactical vehicle items. Depot maintenance is performed by the Service using the item. (In Vietnam, the Executive Agent designation of Navy and Army for operations areas includes maintenance as well as supply.)

In some instances, lack of management flexibility causes uneconomical results. For example, current Department of Navy practices provide for secondary support of reparables through the Navy Stock Fund paid for out of operations and maintenance appropriations. Provisioning spares and replacement of reparable equipments themselves are financed by procurement appropriations. There is no authority to use procurement funds to finance maintenance costs and vice versa. When operations and maintenance funds are inadequate to repair the materiel, responsible officers are faced with the decision either to make uneconomical new procurements or bear responsibility for unacceptable "downtime" on critical equipments. Economy dictates that reparable carcasses be utilized to the maximum extent possible.

II-31 Repair in lieu of replacement should be an allowable charge against the parent procurement appropriation funding the basic equipment.

4. Transportation

All of the Services have extensive organic* transportation resources, and each of the Military Departments is the "single Manager" for some "common user" transportation service.

The Air Force has a considerable number of transport aircraft organically assigned to tactical air units, which are used both for rapid deployment of tactical air units overseas and for intra-theater roles after deployment.

The Navy's organic cargo ship fleet, numbering some 78 vessels, is used to deliver supplies to Navy forces at sea. The Navy also operates an amphibious fleet of some 94 ships in support of the Marine Corps and maintains an organic air transport force of 136 aircraft.

The Army's organic transportation is comprised of wheeled vehicles and helicopters used for tactical mobility and overland supply support, and does not include any global transportation capability.

The "common user" activities are the Military Airlift Command (MAC), for which the Air Force is Executive Agent; the Military Sea Transportation Service (MSTS), for which the Navy is Executive Agent; and the Military Traffic Management and Terminal Service (MTMTS), for which the Army is Executive Agent.

The Military Airlift Command is an industrially funded**airlift service, using both

*Assigned as integral equipment of the using command.

**An industrially funded activity is one which operates with a working capital fund, from which operating expenses are paid, and which is reimbursed through charges to benefitting organizations.

owned cargo aircraft (234 C-141s, with 70 C-5s scheduled for operation by 1973) and contracted commercial carriers (amounting to 617 million dollars in 1969). MAC operates aerial ports of embarkation (APOEs) in the United States and aerial ports of disembarkation (APODs) overseas. It also operates the Air Weather Service and the Aerospace Rescue and Recovery Service. In addition, MAC is the contracting agent for airmail services provided by commercial airlines and for contract airlift services used by the Air Force (LOGAIR) and the Navy (QUICKTRANS) within the United States.

MAC tariffs represent the weighted average costs of military and commercial augmentation airlift from and to overseas areas. The average costs of commercial airlift to MAC include total costs of commercial operators, plus profit. Industrially-funded costs of MAC-owned aircraft, on the other hand, are limited to operations and maintenance plus a portion of operating support costs. The pay and allowances of military personnel (about 37,000 out of 43,000 total associated with the industrially-funded airlift service), the cost of the aircraft procurement, and much of the base operating support costs are excluded.

The majority of airlift is carried out by MAC-owned aircraft, and when the C-5 enters the inventory, there will be little requirement for commercial augmentation for overseas airlift shipments. MAC carriers are primarily designed for the mobility (initial deployment of forces) rather than the steady-state cargo supply mission. (Personnel movements, other than initial unit deployments, are handled primarily by contract commercial carriers.)

The Military Sea Transport Service (MSTS) contrasts sharply with MAC. Although it operates a small (37 dry cargo ships) nucleus fleet owned by the Government, only five percent of the MSTS workload is currently accounted for by these ships. Seventy-eight percent of the cargo is carried by privately-owned merchant ships and the remaining seventeen percent by ships from the "mothball fleet" administered by the Maritime Administration. MSTS "unlike MAC" has no port facilities. Only two of the 37 ships in the "nucleus" fleet are adapted to the mission of military unit deployment. (Only five dry cargo ships have been constructed for the "nucleus" fleet since World War II, and MSTS fully controls one other ship which is privately owned, having been built under a "build and charter" arrangement.) The "nucleus" fleet is manned and operated by civilian (civil service) crews. Unlike MAC, MSTS tariffs for sealift costs are effectively total costs, since its available resources are primarily commercial, and because sealift costs, unlike airlift costs, are not discounted through allocation of costs of the alternate mission of "strategic mobility" (although sealift shares this mission). MSTS is, therefore, primarily a traffic management service, with a small additional role as a transportation operator.

The Military Traffic Management and Terminal Service (MTMTS) has no intercontinental transportation resources. Traffic management within the U.S. is not industrially-funded, but is billed to the shipper on an actual carrier-charge basis. MTMTS has the responsibility (which it executes through industrially funded operations) for movement and storage of the personal property of military personnel, the operation of seven overseas ports for the Air Force, and the operation of Military Ocean Terminals in the Continental United States. (The Navy operates two major port facilities for cargo ships in the United States in connection with large supply centers in support of the Atlantic and Pacific Fleets, and three separate ammunition ports in connection with Naval Ammunition Depots, the ammunition ports being "common user" ports through which ammunition is shipped to all Services.)

None of the above-mentioned organizations exercises traffic management functions within overseas theaters. Theater Traffic Management agencies overseas are operated jointly, but organic transportation resources are maintained, operated and scheduled separately by the respective Service components of the Unified Commands.

The absence of any significant degree of traffic management integration contributes to the loss of efficiency and economy, as well as to impairment of the effectiveness of supply support to combat forces. This can be illustrated by discussion of a few particular problems.

Cargo shipping the world over is now being changed in a revolutionary fashion as old-fashioned "break-bulk" ships are replaced by containerships. The intermodal container can eliminate cargo handling between consignor and consignee. It also greatly increases ship productivity and profitability, because, with swift loading and unloading, time spent in ports is reduced significantly, and it serves to reduce pilferage.

Commercial intermodal containers now account for a major portion of the military cargo shipped to Europe, and, in Fiscal Year 1969, 42 percent of the outbound general cargo that moved through Pacific coast military terminals was containerized. Projected estimates of Department of Defense general cargo containerization in the future range from 65 percent to over 80 percent. Recent tests indicate significant advantages from containerization of ammunition.

Containerization benefits are greatest in terms of cargo protection, rapid delivery, and economy when containers can be "throughput" directly from consignors to consignees and when small shipments can be efficiently consolidated. Container movement scheduling, container carrier booking, and container fleet control can be accomplished most efficiently when intermodal movement is treated administratively as an integral process. For the Department of Defense, the Through Government Bill of Lading (TGBL) serves as the common denominator for dealings with common carriers.

The TGBL is, effectively, a freight forwarding mechanism that encompasses origin-to-destination throughput in a single financial transaction with minimum documentation. It has been used extensively by MTMTS for shipment of the household goods of military personnel, and it is now used for about one percent of military container cargo, with the percentage expected to increase. TGBL tenders incorporate what are, in effect, multi-modal tariff bids, or offerings, which are withdrawn or changed from time to time in reflection of short-term transport market conditions.

MSTS tariffs for container shipment reflect rates offered to MSTS annually by containership operators in individual competitive bids. Low bidders are given priority in the allocation of shipments. The military shipper Service that uses MSTS-administered commercial container services does so under a so-called "through movement" system involving separate billing and documentation for: (1) land transportation to the POE (administered by MTMTS with direct-charge for carriage); (2) Sea transportation (MSTS tariff); and (3) Land transportation to the inland destination overseas (theater responsibility).

In direct competition with this system is the TGBL system administered by MTMTS (MSTS can also administer TGBLs, but chooses not to do so). The MSTS basic concern is that TGBL tenders generally encompass ocean carrier rates lower than those reflected in the

general MSTs tariff. In effect, the TGBL tender incorporates the carrier's current competitive rate.

MSTs has effectively prevented the ocean carriers from offering discounted rates in TGBL tenders by treating seasonally discounted rates as if they were permanent. Carriers who would otherwise offer temporary low rates in slack periods cannot do so if they are not permitted to revert to higher rates in busier periods, which MSTs practice effectively prohibits. Thus, carriers are inhibited from offering seasonal rates for TGBL shipments.

The TGBL issue is less significant in itself than as a manifestation of the more fundamental question as to whether it is any longer efficient to divide traffic management along Service lines. Even if container service and the TGBLs are disregarded, it is possible to demonstrate that least-cost land routing* of export break-bulk cargo to nearby ports can lead to greater overall cost than routing to more distant ports "dedicated" to given destinations. Savings in improved ship loading and reduced coastal movement between multiple ports more than offset increased line-haul costs.

The principle that the sum of minimum costs negotiated for each of several route legs may exceed a single cost negotiated for the entire route also brings into question the management of U.S. traffic overseas. As is noted above, this is the responsibility of joint Traffic Management Agencies subordinate to theater commanders.

Modern container service used in the Department until now has been primarily commercial, involving dedicated shipping under contract in shipments to Vietnam, and primarily, berth term arrangements** for shipments to Europe. Looking into the future, however, each of the Services is anticipating at least some requirement for container fleets owned or leased by the Government. This requirement reflects expectation that containers may be retained for extensive periods in forward combat areas. It also is related to concern over possible needs for containers built to particular military specifications.

Thus, while continuing to use commercial container service under MTMTS and MSTs auspices, each of the Services, OSD and the JCS have initiated a variety of investigations into various aspects of container utility and applications.

As with vehicles, defense container requirements will vary with respect to both time and geography. Overall container requirements and costs will be less if there is a single manager who can allocate and schedule all of the Department of Defense container resources from a central vantage point. This advantage will be denied, however, if the Services' containers do not conform to common standards (with due provision, of course, for Service-unique requirements).

The desirability of consignor-consignee "throughput" of consolidated cargo applies to air shipment as well as to surface shipment. At the present time there is practically no intermodal throughput of airlift cargo. Military air cargo is unitized on pallets, which do not provide the protection required of a true intermodal unitization system. When intermodal containers come to be used for military aircraft, the requirement for smoothness and

*The route that has the lowest cost for the land portion of the haul.

**Arrangements with commercial shippers on a space to be available when needed basis.

efficiency of action at the MAC-MTMTS interface will be more important than it is now.

The fragmentation of logistics functions has another critical impact on defense capabilities which is unconnected with economy and efficiency. There is also vigorous competition for resources between combat force requirements and logistical requirements. Particularly when budgets are declining, this competition is severe. Being fragmented, there is no unified logistics voice to argue effectively for the balance which best guarantees a high state of military readiness.

An even more critical deficiency attributable to fragmentation of logistics responsibilities is the impairment of planning capabilities thereby occasioned. The present decentralized system of logistics presents a confused panorama of participating activities, each of which has overview of only a small portion of total logistics capabilities. Under these circumstances, it is hardly surprising that military operations almost always suffer major logistics crises, particularly in their initial phases.

The decentralization of logistics functions has resulted in the circumstance that only at the Office of the Secretary of Defense is there any significant overview or merger of responsibility for the broad scope of closely interrelated defense logistics activities. Not surprisingly, the Office of Assistant Secretary of Defense (Installations and Logistics) has become involved, not only in broad policy matters, but often in the fine detail of logistics operations. Directives formulated by this office frequently state not only what should be done, but also how it should be done. This condition applies to supply, maintenance and transportation. (The efforts of the Office of Installations and Logistics have been directed primarily at achievement of a greater degree of standardization to promote efficiency, and have met with very limited success.) Integration of logistics functions would, therefore, reduce the necessity for such detailed supervision of, and imposition of reporting requirements on subordinate echelons by ASD(I&L), and, indeed, should permit a substantial reduction in the manning level of this office.

There is a significant potential for improved effectiveness, efficiency and economy which can be realized through increased integration of all logistics functions. There are, of course, logistics problems unique to each of the Services deriving from their differing missions and compositions. Consequently, some of the existing variances among the Services in logistics practices are meritorious, and will, of necessity, continue to exist. Such differences, however, can and should be accommodated within the framework of an integrated supply, maintenance and transportation system. Nor are the differences in missions and compositions so fundamental as to preclude the adaptation of advanced techniques developed by one Service to the logistics systems of the others to accomplish improved effectiveness, efficiency and economy.

There is substantial room for improvement and greater integration of management throughout the supply, maintenance and transportation systems of the Department. The most critical need for improved effectiveness, however, is in the support of the Unified and Specified Commands, and first priority should be placed on integrating the logistics support activities for the overseas combatant forces.

In summary, the logistics system of the Department of Defense is decentralized and fragmented in functional assignment. However, this is not critical in such activities as procurement and the initial warehousing phase (excluding a part of wholesale supply, retail supply, maintenance, traffic management and transportation). Efforts of the Congress and

the Office of the Secretary of Defense to improve efficiency and effectiveness of the other activities through standardization of procedures and approaches have achieved very limited improvements. As a consequence, the current inventory management, distribution, maintenance, and transportation systems are needlessly inefficient and wasteful, and even more important, fall far short of the potential for effectiveness of support of combatant commanders.

There are a number of critical short-falls that could best be remedied by a consolidation of functions in a unified Logistics Command to provide support to all Unified and Specified Commands. Among these short-falls to be remedied are the following:

a. There is a profusion of horizontal layering in supply activities, including items handled by DSA, GSA, the Army and to some extent, items handled by the Marines and Navy. This horizontal layering of supply systems obscures the visibility to procuring activities of the consumption data and the demand trends of the user to an extent which seriously impairs effective supply flow. The system also provides no effective mechanism for correction of inventory imbalances within or among theaters;

b. There is a proliferation of separate, largely incompatible Automatic Data Processing (ADP) systems, which are needlessly duplicative. Software programming for each of these is costly, and the cost of software is increasing at a much higher rate than computer hardware. With each modernization step on the many separate ADP programs, the inefficiencies and incompatibilities of the overall supply system appear to become more tightly locked in;

c. There are significant duplications in maintenance activities, and successful efforts to integrate maintenance activities have been few and isolated;

d. Responsibility for both traffic management and transportation of cargo for overseas distributions is divided largely by Service and transportation mode, and conflicts between activities are numerous, costly and impair effectiveness; and

e. The fragmentation of supply (other than procurement), maintenance and transportation responsibilities precludes required overview capability of logistics activities, particularly at the level of the Unified Commands. It stimulates excessively detailed management from the Office of the Secretary of Defense in attempts to overcome excessive spans of control, critically impairs military planning for joint operations, and contributes to the potential for imbalances in allocations of resources between combatant and logistical forces.

Integration of supply, maintenance and transportation functions for the support of Unified and Specified Commands can substantially improve the effectiveness of logistics support, while at the same time achieving greater efficiency and economy. A unified vertically-oriented supply and transportation system, including maintenance, should be organized for support of all combat forces, both those overseas and those held in the United States ready for overseas deployment. With a vertical system, integrated from Continental United States through theater management, items could be moved from the United States to overseas commands without financial transactions, and as easily withdrawn in necessary redistribution actions, since supplies in the United States and all theaters, within a given supply class, would all be accounted for within the same stock fund or working capital fund.

In addition to improvements in effectiveness, efficiency and economy, a unified Logistics Command would greatly enhance the planning capability of the Unified and Specified Commanders.*

Effective logistics integration will require an advanced computerized control and information system, without which the resultant system would be that of a confederation with subdivisions so loosely connected that few of the benefits of union could be achieved. There are significant disparities among the levels of sophistication of ADP systems the Services have achieved to date. The Air Force, with experience at a relatively high level of technical sophistication, has planned a highly advanced systems concept for the 1970s. The Navy, with a wholesale control system in some ways more advanced than the one the Air Force seeks to replace, is designing an advanced logistics system. With reasonable effort, these systems can be brought together. The Army, however, is in the process of implementing a system that is in some ways less advanced than the one the Air Force seeks to replace. In developing a logistics ADP system with common elements for all Services for those functions to be shared, the first step is to stop all current development and procurement activity not necessary for support of near-term operations. In view of the practical problems connected with an integration of these logistics functions, a phased approach is clearly necessary.

 II-32 The responsibility for providing supply distribution, maintenance and transportation services to the combatant forces in Unified and Specified Commands under the Strategic and Tactical Commands should be assigned to the unified Logistics Command.

 II-33 The Logistics Command should be assigned the traffic management and terminal management functions now allocated to the Military Traffic management and Terminal Service (MTMTS), the Military Sea Transportation Service (MSTS) and the Theater Traffic Management agencies.

 II-34 The Military Airlift Command and Military Sea Transportation Command both should be assigned to the Logistics Command.

 II-35 The Logistics Command should be directed to develop, under the policy guidance of the Assistant Secretary of Defense (Telecommunications), an ADP logistics system to encompass supply distribution elements that can be shared among the Services, and all development and procurement activity toward separate ADP logistics systems not essential to support of near-term operations should be suspended.

*On creating a unified Logistics Command, see Recommendation I-4.

B. Integrated Procurement Management

In the late 1940s and early 1950s, Congressional demands for economy and the elimination of duplication were expressed by including in yearly appropriation bills provisions giving authority, and in some cases, direction to the Secretary of Defense to standardize, consolidate and eliminate duplication in logistics activities.

In World War II, the Army purchased certain items of subsistence for all Services quite successfully. Based on this experience, the Secretary of Defense, in 1951, established Single Department Procurement of selected commodities. In 1952, coding of items under the Federal Cataloging System was accelerated, which required all Military Services to use the same stock number and name for the same item, and to group items into homogeneous Federal Supply Classes.

Increasing Congressional pressures to expand Single Department Procurement to include supply as well as procurement resulted in 1955 in the Single Manager Concept which included initial warehousing and distribution, as well as procurement, for selected commodities.

An amendment to the 1958 Appropriation Act gave the Secretary of Defense authority to transfer supply and service functions among the Military Services to achieve efficiency and economy, and this authority was later included in the National Security Act by the Defense Reorganization Act of 1958.

By 1961, the Single Manager Concept had been implemented for eight commodity areas, and implementation in a ninth commodity area was in progress. The Defense Supply Agency (DSA) absorbed the management of these commodity areas when it became operational on January 1, 1962.

Conceptually, DSA was to act as manager for "common items". "Common item" does not refer to an item used by two or more of the Services, but is defined as a "class or category of items of commercial type, largely non-technical in nature, generally used throughout the military and civilian economies."

In July 1965, Item Management Coding (IMC) criteria were published, the Services were directed to make a three-year review of all items, and the burden was placed on the Services to justify not coding items for single management. Of the some one million items reviewed, the Services noted withdrawal of interest on 23 percent, and coded 58.4 percent for integrated management and 18.6 percent for Service management.

Department of Defense policy also established "Permissive Coding," by which an item can voluntarily be coded by a Military Service for integrated management even though it meets one of the ten criteria permitting Service management.

As of January 1970, DSA manages about one-half the item count in the total inventory. About 70 percent of these items are of interest to only one Service. By value, the DSA inventory of about \$3 billion represents only 13 percent of the dollar value of the total inventory.

The experience with integrated management of procurement has justified the expectations of improved efficiency and economy. Although the principle has proved

sound, problems associated with the procedures of implementation have arisen which require evaluation and correction.

The Item Management and Permissive Coding have resulted in severe "item turbulence". "Item turbulence" refers to changes to basic information connected with an item, such as stock numbers, name, manager, designation, unit price, unit issue, etc., which is required to order, turn-in, reissue, report on or otherwise transact business with reference to the item. The impact of this turbulence is illustrated by the fact that one change in Federal Stock Number (FSN) could trigger up to 2,800 changes through the Department of Defense Supply System, depending on the number of organizational units or records dealing with that item.

Item turbulence is aggravated by a number of additional factors. A major problem is created when an item is coded to DSA for integrated management, but at the time of the Effective Transfer Date (ETD), there are few or no items in the inventory available for transfer to DSA. This "Dry Pipeline" results in DSA assuming management of an item without any items in inventory available to supply customers. This circumstance arises often when the Services do not have the funds to procure the item.

Lack of technical data on items coded for DSA management adds to the problem. Long storage of technical data can make it unsuitable for photographic reproduction by DSA, as is necessary for distribution for competitive bids. In some instances, the Services do not have the required technical data as they have been procuring the items from known manufacturers or sources of supply, whereas DSA needs the technical data to purchase under competitive procurement.

In other instances, coding conflicts occur when an item managed by two or more of the Military Services is coded for integrated management by one and for retention under Service management by another.

The IMC program provides that the Services can retain management of major end items (tanks, missiles, etc.) even though they fall in a general category of materiel assigned to DSA for management. In most such cases, however, the repair parts are managed by DSA. This results in a division of management authority between the major end item, itself, and the supporting components and repair parts. The Services retain responsibility for the technical aspects of both end items and their components and parts. This involves planning, engineering development, major item production and maintenance. (The Services are charged with the responsibility for providing engineering support to DSA, which has no engineering staff capability). This division of logistic responsibility between the Services and DSA, involving such closely related and interacting functions relating to a single major piece of equipment, requires so much time for coordination that it has become a critical factor in responding adequately to needs of the forces in the field.

Some of the troublesome item transfers by permissive coding may possibly be attributable to inadequate cash balances in Stock Funds. Currently, Department of Defense policy provides for adequate cash balances, but actual cash balances have, in fact, been far less than adequate. Sufficient cash balances in stock funds are essential for effective secondary item support and to avoid disruptions of orderly procurement programs.

DSA now manages some 400,000 items coded as "non-stocked". No meaningful evaluation has been made of the impact on requisitioners of the excessive order and shipping

time for such items which are not kept in inventory. No credit is given when excess quantities of such items are turned in, a practice which should also be re-examined.

The potential for improved efficiency and effectiveness of support thoroughly justifies the incentives created by Department of Defense policy for integrated procurement. The degree of turbulence and other inhibiting factors now existing indicate that a comprehensive policy and status review are now much in order. To avoid the turbulence, migration of items between managers needs to be at a more stable pace. IMC criteria for determining item managers should be reviewed against experience, with particular attention being paid to the effect of integrated coding of repair parts for major end items which continue under Service management. Consideration should be given to the establishment of criteria for requirements for pipeline fill and standards for availability of technical data as prerequisites for changes in managership. In the review, special consideration should be given to the impact of each factor on the requisitioner.

 II-36 A moratorium should be declared on Integrated Management Coding for transfers of the management of items, and a complete review be conducted to determine:

- (a) The adequacy of IMC criteria as indicated by experience with their use;
- (b) The magnitude of impact of divided management responsibility for major end items and for the components and parts for the item;
- (c) The number of items coded for transfers of managers with partial or dry pipelines, the relationship of "dry pipeline" item management transfers and stock fund depletion of transferers, the impact of "dry pipeline" item management transfers on requisitioners, and the feasibility of establishing pipeline fill requirements as prerequisites for item management transfers;
- (d) The feasibility of establishing technical data availability standards for item management transfers;
- (e) Methods of reducing conflicts of Integrated Management Coding by the several Military Services; and
- (f) The impact on requisitioners of existing criteria by which items are coded as "non-stocked".

CHAPTER III

MANAGEMENT AND PROCEDURES

I. GENERAL

The Department of Defense presents an unparalleled management challenge. Many factors contribute to the scope of this challenge, including: the size of the defense establishment; the variety and diversity of its activities, all of which are closely interrelated; its technological dependence; the annual authorization-appropriations cycle; the political sensitivity of its operations; the obscurity of any quantitative standards for measurement of success or failure; the diverse origin and broad sweep of its policy guidance; the internal divergencies of interests within the Department; and the variances of its objectives due to changing threats, shifting potentials for crises and fluctuating national commitments.

Management authority for the Department of Defense is not unitary. Externally, defense management authority is shared by the Congress and the President, and the internal management authority is significantly influenced by the decisions of the Congress and the methods of operation of the President.

Congress exercises its management authority through three principal types of control; statutory assignments of authority and responsibility and imposition of rules of procedure; annual authorizations of programs requiring capital outlays; and annual appropriations. Advisory participation in the Congressional decision-making process is provided through legislative hearings. Visibility of Departmental operations is obtained by Congress primarily through required reports, investigative hearings and the audit and investigation activities of the General Accounting Office (GAO). The principal instruments of Congressional control are money, manpower, equipments and facilities.

The President exercises his management authority through both informal and formal procedures. He participates directly in the decision-making process, particularly in the area of military operations. He imposes policy guidance, currently by means of National Security Decision Memoranda (NSDMs). In this process, the broad advisory participation necessary from officers of the Executive Branch is accomplished through the National Security Council machinery and the Defense Program Review Committee (DPRC). Budgetary control is exercised through the activities of the Bureau of Budget.

The effectiveness of internal management is influenced by the degree of consistency and harmony between the two external sources of authority, and the degree of consistency and harmony of internal management with external direction.

To provide a structure for internal management, decision points and thresholds of authority must be established, the participants in the decision-making process determined and designated, and provisions made to insure visibility to and of the appropriate decision makers. The effectiveness of the management depends in no small way on this structure and its synchronization with management procedures; the Department is so huge that formal management procedures are much more important than in smaller organizations.

Internal management is exercised to a large extent through control of resources, which fall into three general phases: allocation, justification, and utilization. The emphasis on the three phases of resource control has shifted significantly from time to time.

II. PLANNING, PROGRAMMING AND BUDGETING SYSTEM

Since 1961, the process for managing the allocation of resources has centered in the Planning, Programming and Budgeting System (PPBS).

The five budget categories by which funds are appropriated – military personnel, operations and maintenance, research and development, procurement and military construction – proved inadequate as management control categories to insure balance among mission-type forces. The new control process was constructed around program categories which are largely mission-oriented.

The baseline for the PPBS is the Five-Year Defense Program (FYDP), which is the aggregate of all approved programs projected in force levels for eight years, five of which reflect budget plans.

Prior to revision of the PPBS in 1969, the planning, the programming, and the program decisions which modified the FYDP were not constrained by budgetary factors (i.e., the planning was based on conceived defense needs without regard to whether sufficient resources were available for defense purposes). When the budgeting phase of the PPBS was reached, the one-year element of the FYDP was reduced to budgetary levels, and budget decisions were then fed into the FYDP with considerable distortive effect. The 1969 revision of the PPBS injected budgetary guidance into the planning phase to some extent, and fully into the programming phase.

A. Description of the Revised PPBS

The PPBS is a continuous cycle. It begins with the policy input and overall fiscal guidance from the President in the form of NSDMs. The principal planning documents are the tentative and final Strategic Concepts Memoranda (SCM) prepared by OSD, and the Joint Strategic Objectives Plan (JSOP) prepared by the Joint Chiefs of Staff. Volume I of the JSOP contains a statement of the national security objectives from the NSDMs, the military objectives derived therefrom, and military strategic concepts on a worldwide and regional basis. Volume II of JSOP contains a detailed analysis of specific forces needed to meet the threat over the succeeding five years. Cost implications are included in Volume II of JSOP, but it is not constrained by budgetary factors. (The JCS also prepares an additional planning document, the Joint Research and Development Objectives Document (JRDOD), which is not a part of the PPBS cycle.)

After the submission of Volume II of the JSOP, the Secretary of Defense issues fiscal guidance marking the transition from the planning to the programming phase of the system. The fiscal guidance provides for each of the five years a breakdown of money anticipated to be available by Military Service, and within each, a breakdown by major mission and support effort (and also "logistics guidance," or the money anticipated to be available for war reserves and production plant base).

There are two principal types of programming documents. The first is the Joint Forces Memorandum (JFM) prepared by the Joint Chiefs of Staff. This is, in essence, a rework of Volume II of the JSOP to reflect budgetary factors. It contains a force structure broken into FYDP categories, including support programs. Costs and manpower levels are furnished by the Military Services to the Joint Chiefs of Staff for the JFM. The second type programming document is the Program Objectives Memorandum (POM) prepared by each Military Service

subsequent to the submission of the JFM. For each Service the POM is a more detailed presentation of their portion of the JFM and all deviations from the JFM must be explained. The POM must contain both the rationale and risk assessment for each program.

Based on the JFM and the POMs, the Secretary of Defense makes program decisions which are published as Program Decision Memoranda (PDMs), which in the initial cycle of the revised PPBS structure, constitute and in subsequent cycles, modify the FYDP.

When all PDMs are issued, the PPBS moves from the programming to the budgeting phase. Each of the Military Services and Defense Agencies submits a budget estimate based on the PDMs. After a review, the Secretary of Defense issues a series of Program/Budget Decisions (PBDs) upon the basis of which the Services prepare their annual budgets in budgetary categories.

The PPBS is an orderly and systematic procedure and a useful tool, but it is not a substitute for managerial judgment.

B. Significant Features of PPBS

The 1969 revision of the PPBS offers two principal potential improvements. It constrains the planning cycle with strategic and general fiscal guidance, and it can reduce the distortive impact of budgeting on the FYDP by moving the impact of budgetary constraints from the interface of programming and budgeting back to the interface of planning and programming, where time pressures created by budget urgencies do not so restrict deliberative risk assessments. Second, the revision provides the Joint Chiefs of Staff, through the JFM, and the Military Services, through the POMs, the opportunity for more initiative in force planning.

There are several other particularly significant factors relevant to the revised PPBS.

It tends to put more responsibility on the Joint Chiefs of Staff through their preparation of the JFM. In the past, the Joint Chiefs of Staff have not been able to achieve the resolution of interservice differences on force issues which is essential to the structuring of an effective JFM. Nor has the Joint Staff demonstrated the analytical capabilities essential for reviewing the Service inputs to the JFM on costs and manpower levels.

The revision lengthens the PPBS cycle, which potentially can inhibit quick responsiveness to changing threats and other circumstances. The first cycle of the new PPBS began in the fall of 1969 and is scheduled to culminate in an annual budget submission to Congress in January 1971, concerning funding for the Fiscal Year beginning 1 July 1971. The planning cycle is thus begun some twenty-one months prior to the immediate period to which the planning is directed. Compressing the PPBS cycle would improve planning and programming effectiveness, and minimize the number of reprogramming actions required.

Neither the former nor the revised PPBS provides an effective mechanism for inputs to programming from the Unified and Specified Commands to the Secretary of Defense. This is a major deficiency. They are assigned specific missions to fulfill. They are delegated responsibility for initial contingency planning to fulfill those missions. The Unified Commands can provide useful recommendations on force structure and operations capability if given the procedural opportunity, particularly when the recommendations are coordinated through a Tactical Command. Such recommendations would provide, at the

very least, a check on the JFM, and could possibly present a spectrum of feasible alternatives to the JFM, as well as to the JRDOD.

The imposition of fiscal constraints on the PPBS has a potential for increasing the rigidity which the PPBS tends to impose. Rigidity, which results from the combination of fiscal restraints in programming and from declining budgets, reduces the flexibility to exploit technological advances or to respond to changes in the threat.

The PPBS, although more simplified in the revised form, still is a complicated process. The preparation and review of the extensively detailed documents require a major manpower commitment. Most of the data processed and fed into the submissions are handled by automatic data processing. Consequently, any change in format or categories of submission complicates the process and adds both to its cost and the potential for errors. Every effort should be made to stabilize the formats throughout the process. In this regard, there is a difference between the fiscal guidance categories and the FYDP categories in the initial cycle. Indeed, no satisfactory "crosswalk" or computer conversion program between the FYDP format and the OSD prescribed Land Force Classification System (LFCS) has yet been developed, and the fiscal guidance categories coincide with neither. Furthermore, the fiscal guidance categories are not prescribed by the PPBS procedure, which increases the likelihood of changes from year to year. Conversion programs between varying categories are both difficult and expensive to develop, and requirements for new ones should not be imposed lightly.

A major complication and expense is occasioned by the necessity of constructing a "crosswalk" between program categories essential for management, and the budget categories by which Congress authorizes and appropriates. Much confusion and expense could be avoided by an approach which did not require use of budget categories, and the elimination of the budget categories would not in any way adversely affect either the management or the visibility of Department of Defense operations.

Although the PPBS is the major planning, programming and budgeting procedure in the Department, it has more practical use as a budgeting device than as a planning and programming procedure. Many major programs result from the development of new weapons systems, which are approved largely independently of the PPBS, primarily through the Development Concept Paper (DCP) procedure.* The PPBS does not contribute significantly to the decision-making process for consideration of programs which center on major weapons systems. It does array a projection of estimated costs on such programs after their approval for development. The absence of a tie-in to the PPBS of the decision-making process on research and on individual weapon system developments is a major weakness.

C. Description of a Proposed PPBS

The Planning, Programming and Budgeting System (PPBS) should be modified to provide a logical and workable merger of the currently independent programs which involve Research Objectives (ROs), Operational Capability Objectives (OCOs) and their validation, development plans, and Development Concept Papers (DCPs). In the steps of the PPBS cycle outlined below, the development, review and approval of these documents have been added.

*See Section IV in this Chapter for a discussion of the DCP.

For clarity it should be noted that the cited submittals to the Deputy Secretaries of Defense actually envision evaluation by the Assistant Secretaries (Research and Advanced Technology), (Engineering Development), (Operational Requirements) and (Program and Force Analysis), joint review and evaluation by the Deputy Secretaries, and final review and approval by the Secretary. The Assistant Secretary of Defense (Operational Requirements) would be responsible for this coordination.

The proposed Planning, Programming and Budgeting System would include procedural guidance for: (1) processing changes to the approved resources of the Five-Year Defense Program; (2) submission, analysis, review and approval of new and revised programs and budgets; (3) maintenance and updating of the Five-Year Defense Program structure; and (4) incorporation of the development program decision process of Operational Capability Objectives and Development Concept Papers.

The calendar schedules fixing the time periods and deadlines for each step in the procedure would continue to be established by the Secretary of Defense annually by memorandum after experience is gained through the actual use of the system.

The major steps in the proposed PPBS cycle, with the additions underlined are as follows:

(1) The cycle would begin with the preparation by the Joint Chiefs of Staff of Volume I (Strategy) of the Joint Strategic Objectives Plan (JSOP) and the proposed Research Objectives (ROs) statement by the Advanced Research Projects Agency. These documents would be submitted to the Deputy Secretaries of Defense. Volume I of the JSOP should continue to contain the statement of the national security objectives and the military objectives derived therefrom, and to include military strategic concepts and objectives on a worldwide and a regional basis. The national security objectives are based on decisions of the President as expressed in National Security Council Decision Memoranda (NSDMs). The ROs would indicate the areas in which the technological base should be advanced for the continuing support of the Defense posture, and would propose an order of priorities.

(2) After the review of Volume I of the JSOP, the Secretary of Defense would issue to the Joint Chiefs of Staff, the Military Services, the Defense Agencies, and to the Unified Commands, a Strategic Concepts Memorandum (SCM) containing the general strategic concepts and guidelines to be used by all participants in the PPBS. The SCM would first be issued in draft form and, after comment by all recipients, finalized and reissued.

(3) Then the Secretary of Defense would issue a preliminary fiscal guidance to the Joint Chiefs of Staff, the Military Departments, and the Unified Commands for each of the succeeding five years for their comments.

(4) Following this, the Joint Chiefs of Staff would submit Volume II of the JSOP to the Deputy Secretaries of Defense, and the Strategic, Tactical and Logistics Commands would submit proposed/revised Operational Capability Objectives (OCOs). Volume II of the JSOP consists of a detailed analysis of the specific forces needed to meet the expected threat over the succeeding five years, in the opinion of the Joint Chiefs of Staff. Volume II of the JSOP is not fiscally constrained - that is, it is not limited by fiscal guidance, but cost implications of the recommended forces are included. This volume of the JSOP highlights those recommendations which require decisions in the current calendar year. The OCOs would represent an assessment by the Unified Commands of the materiel resources they need to

support or perform their assigned missions.

(5) Next, the Secretary would issue to the Joint Chiefs and the Military Departments a tentative fiscal guidance broken down by Military Departments and by major mission and support effort within the Military Departments.

(6) After receiving responses from the Joint Chiefs of Staff (JCS) and the Services on the tentative fiscal guidance, the fiscal guidance would be issued. From this point, all submissions under PPBS would be "fiscally constrained." At this time, the ROs would be finalized and approved, and the selected OCOs would be validated and assigned priorities.

(7) Then, the Joint Chiefs of Staff would prepare and submit to the Deputy Secretaries the Joint Force Memorandum (JFM), which contains the Joint Chiefs' recommended force levels and support programs, similar to that of Volume II of the JSOP, but within the parameters of the fiscal guidance. The JFM includes program costs and manpower requirements furnished to the JCS by the Military Departments.

(8) Next, the Military Departments would submit to the Deputy Secretaries their Program Objectives Memorandum (POM) and development plans for the validated OCOs. The POMs are a more detailed presentation by the Services of their portion of the JFM, presented, as in the JFM, in the format of the FYDP categories, and costed in detail. Supporting rationale must be included for each program, as must the risk assessment. Variances of the POMs from the JFM must be identified and costed, and must stay within the established guidelines. Concurrent with the submission of the POMs by the Military Departments, the Unified Commands would submit to the Deputy Secretaries their Command Program Memoranda (CPMs), which would contain recommended changes in that portion of the forces proposed in the JFM which are assigned to the submitting Unified Command. Each CPM would indicate priorities for a percentage or dollar amount of increase and a percentage or dollar amount of decrease in assigned forces. The development plans for the validated OCOs would represent the assigned Military Department's approach to satisfy the OCO and include a proposed development concept paper (DCP).

(9) After review and evaluation of the JFM, the POM, the CPMs and the development plans, the Secretary issues draft decision papers for comment, and after review of the comments, amended Program Decision Memoranda (PDM) and approved DCPs will be issued. These DPMs and DCPs will constitute for the first cycle, and modify thereafter, the FYDP.

(10) Finally, the Military Departments and Agencies will submit to the Deputy Secretaries their budget estimates based on the amended PDMs and the approved DCPs. After review of the budget estimates, the Secretary of Defense would publish a series of Program/Budget Decisions (PBDs) addressing specific budgetary decisions. A procedure and schedule is established for conferences or reclaims to the PBDs. Thereafter, the budget is shaped by review in the Office of the Secretary and in the Bureau of the Budget, with final Presidential decisions on still unresolved issues made prior to submission of the budget to Congress in late January.

 III-1 The PPBS should be modified to include the formulation of Research Objectives

(ROs) by the Advanced Research Projects Agency (ARPA), the preparation and submission of Operational Capability Objectives (OCO) and Command Program Memoranda (CPMs) by the major Unified Commands, and development plans and Development Concept Papers (DCP) submitted by the Military Departments.

 III-2 The time prescribed annually for the PPBS cycle should be constricted after the first cycle and the new FYDP is completed in order to bring the planning phase nearer in time to the period of operations.

 III-3 The various categories used in and in connection with the PPBS should be made to coincide as nearly as practical and be stabilized.

 III-4 The fiscal guidance should prescribe a declining limit for each out year in the Research and Development and in the Procurement program categories in order to preserve a flexibility in the FYDP to exploit developing technology and to program to meet unanticipated threats.

 III-5 Every effort should be made to obtain agreement by the Congress to accept defense budgets and to appropriate in program rather than existing budget categories.

 III-6 The Joint Staff should be augmented with a complement of civilian analysts, in order to enhance its analytical capability generally, and to improve its capability to evaluate Service submissions of cost and manpower levels for the JFM in particular.

D. PPBS and Systems Analysis Techniques

The role of the Office of the Assistant Secretary of Defense (Systems Analysis) is inextricably interwoven with the Planning, Programming and Budgeting System (PPBS). Although the Assistant Secretary of Defense (Comptroller) is charged with overall responsibility for the PPBS, and although, in practice, the PPBS is far more nearly a budgetary, rather than a planning or programming exercise, the Systems Analysis office has been and is more involved in the planning and programming phases of PPBS than the Comptroller.

The Systems Analysis Office has proved to be a controversial organization. Fundamentally, most of the controversy centers around allegations that it initiates, rather than reviews, force structures in the planning and programming phases of the PPBS, and in effect, has made, rather than advised on decisions.

Prior to the 1969 revision of the PPBS, the Systems Analysis Office prepared the Draft Presidential Memoranda (DPMs) which constituted the baseline documents for force programming in the Department. The DPMs were in theory predicated on the Joint Strategic Objectives Plan (JSOP) prepared by the Joint Chiefs of Staff (JCS), but the JSOP was prepared without any fiscal constraints and with no limiting mission guidance to the JCS, and, as a consequence, the JSOP forces priced out far beyond the level of resources available to the Department. In effect, therefore, the DPMs prepared by the Systems Analysis Office were the initial force structure plans for the Department.

Under the revised PPBS, both fiscal and strategic (mission) guidance is provided the JCS, so that presumably, the Joint Force Memorandum, which, in essence, replaces the DPMs, will provide the initial force structure planning and the baseline document for Department programming.

The Systems Analysis Office performs the staff analysis for the Secretary of Defense which provides the basis for the fiscal guidance, and to an extent, this requires some force planning, particularly in the initial cycle of the revised PPBS.

An effective analytical capability is an essential tool for successful management, particularly in an organization such as the Department of Defense in which management issues involve large numbers and types of factors. It should exist at all managerial levels of the Department.

The techniques of systems analysis should not be confused with particular functional assignments in which these techniques are the primary tool, such as force and program structuring and review, nor should the merits of the techniques be confused with controversial functional assignments or functional usurpations by those using systems analysis techniques.

Some of the confusion could be eliminated by giving the Office of Assistant Secretary of Defense (Systems Analysis) (ASD(SA)) a title which describes the functional responsibilities assigned to it, rather than one of the methods it uses in the performance of its functions.* Currently, the Office of ASD(SA) is assigned major responsibilities for review and analysis of force structures and programs. This is an essential task, and must be well performed if the management by the Secretary of Defense is to be effective. Every effort should be made to enhance the capabilities of those assigned this staff responsibility, which requires the application of a broad range of disciplinary skills, maturity born of experience and firm responsible direction.

*See Recommendation I-6.

 III-7 Analytical capability should be strengthened throughout the Department, and particularly in the Office of the Secretary of Defense.

III. LOGISTICS GUIDANCE

Although the overall fiscal guidance is unique to the revised PPBS, logistics guidance was provided under the old and revised PPBS. A Logistics Guidance Memorandum (LGM) is published with the tentative fiscal guidance and again with the fiscal guidance in final form on March 15. The LGM under the revised PPBS more clearly reflects the imposition of fiscal constraints.

The LGM (formerly called the Defense Guidance Memoranda (DGMs) on Logistics) provides the guidance for planning materiel support, which under the revised PPBS, is submitted as an integral part of the service POMs.

The logistics guidance deals both with materiel inventories for emergencies and current operation, and with production base planning.

In the past, there has often been a significant and apparently irreconcilable difference between the war reserve objectives and the production base planning objectives, on the one hand, and annual logistics guidance, on the other. These discrepancies do not appear to have been remedied. The preparation of stable objectives cannot be achieved without a significant effort to analyze the many factors relating to the problem.

OSD has not analyzed these problems, which range from ammunition consumption rates to the usefulness of existing production base plants. New problems, such as Army ammunition which has a shelf life, have not been sufficiently analyzed to determine their effect on existing planning factors.

Deficiencies in the types of resources covered by the LGM are the least visible element of force readiness. They involve significant expenditures, however, and being less visible are potentially the most likely area for "economizing" by the Services when faced with the pinch of fiscal constraints. These factors in combination justify a high priority for increased attention to establishment of meaningful and relevant objectives for materiel support and production base planning, as well as for effective program reviews of these areas.

 III-8 The factors bearing on war reserve stock levels and production base plants should be analyzed and evaluated in order to develop meaningful policy objectives which can be compatible with logistics guidance.

IV. DEVELOPMENT CONCEPT PAPER

A second major process by which allocation of resources is managed is the Development

Concept Paper (DCP), although the DCP is also used for management in the utilization phase.

The DCP was initiated in an attempt to provide a more complete and comprehensive, yet manageable, display of relevant information to the Secretary of Defense on important issues requiring decisions for major developments. Its preparation and approval is now a precondition to commencement of a major development, of which there are about 80 at any given time. (A major program is one which involves more than \$100 million for production or more than \$25 million for research, development, test and evaluation.)

The DCP is limited in length to 20 pages. It is required to present the objectives of the program, the issues, the driving force, or threat, alternatives, test and evaluation, the risks, the pros and cons of alternatives, the resource needs, schedules, management plans, security considerations, thresholds and recommendations. It also prescribes the time when an updated DCP will be submitted.

Many items contained in the DCP are required to be agreed upon, or based on consensus. Among these items are the objectives, the issues, and the alternatives. All offices having cognizance must also agree that the pros and cons for each alternative are fully and fairly stated. Prior to consideration by the Secretary of Defense for decision, the appropriate officers (Chief of Service, Secretary of Military Department, Director, Defense Research and Engineering, the Assistant Secretary of Defense (Installations and Logistics) and the Assistant Secretary of Defense (Comptroller), and, in cases of developments for more than one service, the Joint Chiefs of Staff, and the Assistant Secretary of Defense (Systems Analysis) (on the initial DCP) must sign the DCP and indicate the alternative preferred. The Secretary's decision is indicated by designation of the selected alternative and his signature.

The DCP is updated and reconsidered from time to time, but usually the initial approval is just prior to entering the engineering development phase, and formal approval prior to entering the production phase.

Recently, the DCP has included the designation of the Program Manager and the establishment of his reporting lines and chain of authority. This information is specified in the management plan.

The Services have the basic incentives to see a DCP prepared, but most of the DCPs now existing were produced by personnel in the Office of the Director of Defense Research and Engineering.

DCPs vary in quality. There is not sufficient experience with the process to evaluate the impact on development programs, and, indeed, DCPs still do not exist for all major development programs.

The DCP has two unique features. First, it is a "discipline" document, with prescribed format and limited length. It is an attempt to summarize all the significant considerations bearing on the decision to be made. Despite the stated requirement, all cognizant offices do not always concur in those portions of the DCP for which a degree of unanimity is specified. Consequently, the format of the DCP has a potential for submerging differences on the assumptions which underlie the alternatives presented. This presents a risk for the decision maker.

Second, the DCP appears to have circumvented, to a large degree, the many pressures for concurrence and unanimity among advisors on alternative approaches to developments, thereby preserving options for the Secretary's decision. This is a major accomplishment.

Although DCPs have not yet been prepared on all major systems, and some of those which have been prepared appear mediocre, an attempt is being made to use the DCP for areas of research and development which do not fall in the category of major systems. Approximately 50 DCP-type papers are under way for areas of research and development other than major systems. None has been completed.

When applied to major systems, the DCP has many advantages as a management tool. For general effective use in this area, however, it will require the acquisition and training of personnel in the preparation of DCPs, in order to attain an acceptable standard of quality, which does not now appear to exist. The DCP will continue to be only a tool for management and its limitations should be recognized. Potentially, it could foster an ad hoc management approach for each major development, which could obscure the necessity for structuring and maintaining an overall organization which is effective and efficient. It can also foster a tendency to establish a direct reporting relationship between Program Managers and senior decision makers in OSD in each individual case, that, in the aggregate, can overtax the feasible span of control of the senior decision makers.

The application of the DCP format and procedure to research and development areas beyond major system developments portends a degree and span of centralized control by Defense Research and Engineering which is infeasible for efficient management. Major developments have such significant cost consequences that decisions must be reserved to the Secretary of Defense; decisions on lesser programs can more safely be delegated if organization is structured so as to permit precise designation of accountability and maintenance of visibility. Program approval and review can be managed through effective use of the PPBS. Extension of the DCP process beyond major system developments could seriously overlap the management potential of the PPBS and result not only in needless duplication, but also in overmanagement at top levels.

 III-9 Increased emphasis should be placed on identifying, acquiring and training personnel who have the capability to prepare Development Concept Papers for major developments.

 III-10 The Development Concept Paper should not be employed as a management tool for areas of research and development other than major systems developments.

V. DEFENSE DIRECTIVES/GUIDANCE SYSTEM AND MANAGEMENT INFORMATION REPORTS

Being a large and structured organization, the Department of Defense necessarily has

developed an elaborate system of directives through which to promulgate standing policies and procedures. The Department is so big and dispersed, that only through the formalized procedural documents system can policy be effectively communicated throughout the structural organization.

The established system for communicating official guidance throughout the Department is adequate as established, but the implementation of the process leaves much to be desired.

New policies which are only pronounced orally or transmitted through unofficial memoranda may not reach the implementation levels of the organizational elements. There is a need for substantially increased awareness of the necessity of promulgating policy and procedures through the formally established system.

The Office of the Secretary of Defense employs a system of Directives and Instructions to promulgate policies and procedures. This Directives and Instructions system has not been reviewed and codified in many years, with the result that many Directives and Instructions overlap and are inconsistent, contradictory, and irrelevant to current circumstances. The quantity of these documents has increased significantly over the years, and there appears to be no mechanism by which the policy changes contained in new Directives and Instructions are incorporated in previous documents through modifications or rescissions. Nor is there a provision for systematically reviewing and consolidating Directives and Instructions. As a consequence, the Department's Directives and Instructions are not adequate to assure that implementation actions are consistent with policy.

The Department of Defense is also deluged with reports.* Requirements for reports are initiated by almost all elements of all echelons of the Department. So great is the proliferation of reporting requirements that it would be a major undertaking just to obtain a total inventory. These reporting requirements fall in all categories - recurring reports, courtesy reports, external reports, narrative reports, automated reports and manual reports.

Despite the general recognition within the Department that reporting requirements have increased to unmanageable proportions, efforts to reduce and control such requirements have been mostly ineffective.

In 1969, the Office of the Assistant Secretary of Defense (Comptroller) inventoried the various management information products received and prepared by OSD. This inventory included approximately 1,200 reports.

An inventory compiled by the Navy in 1969 of recurring reports required by Washington Navy Headquarters Organizations revealed a total of 1,417 requirements, which generated 1,461,607 submissions annually requiring 5,439 man-years to prepare. Duplications of substantive information abound, although frequently couched in differing formats. There is little evidence to indicate that estimates of costs of preparation, handling and review are prepared and considered prior to imposition of new reports requirements.

Department of Defense Directives and Instructions prescribe the responsibility for reports control, the criteria for establishing reports requirements, the standardization of

*See the Management System Section in Chapter II for additional comments.

reporting forms, the procedure for obtaining authority for a new reporting requirement and the registration and numbering of reports requirements.

The criteria for establishing reporting requirements are generally adequate. They provide, in part, that:

a. The data to be developed must meet a clearly defined need:

(1) For management needs of the Department, the cost of developing the data as well as the cost of compiling and utilizing them after receipt should be commensurate with the expected value of the results; the detail required should be directly related to the level of management responsibility at which the request is initiated; the necessary resources to process the data and take action should be available; and the frequency of reporting should be minimal.

(2) In determining the response to be made when the Department is requested to supply information to others, the cost of developing the data should be commensurate with the degree of public interest involved.

b. Requests must be designed to permit respondents to meet data needs as efficiently as possible. Whenever possible, they should provide for the use of available summary totals, the use of data already included on magnetic tapes or punch cards, and the employment of appropriate sampling techniques.

c. Unnecessary duplication must be avoided.

Although intensive one-time efforts occur from time to time intended to reduce and control reporting requirements, they are at best fragmented and temporary in effect.

Several principal factors appear to be responsible for the failure of efforts to control reporting requirements effectively.

Numerous exceptions are made to the generally adequate criteria and review process prescribed by the Department Instructions for reporting requirements. The exceptions include reports required by the Assistant Secretary of Defense (International Security Affairs) and the Directors of the Defense Supply Agency and the Defense Communications Agency, if the reports are "operational" in nature. In addition, one-time requests for statistics, data to support the PPBS process, and status or progress reports are exempted.

Most crucial to the failures of control efforts is the level at which responsibility and authority for reports control is vested. In OSD, the ASD (Comptroller) is charged with the central responsibility within the Department, and he in turn has delegated the responsibility to the Directorate for Information Control, which reports to the Deputy Assistant Secretary of Defense (Systems Policy and Information). The Director with the immediate responsibility is in an ineffectual position to prevent the various ASDs from establishing such reporting requirements as they, or their Deputies and Directors acting in their name, consider necessary, or even "nice information to know".

Similar situations exist in the Services. In the Navy, for example, the responsibility for developing and publishing methods and standards for reports management is vested in the Naval Records Management Branch (NRMB) of the Organizational and Administrative

Management Division under the Assistant Vice Chief of Naval Operations, Director of Naval Administration. This is hardly an organizational vantage point from which to exercise control of a Department-wide proliferation of reporting requirements. Even worse, the authority of NRMB does not extend to ADP generated reports, jurisdiction over which is claimed by numerous sources, nor to the some 2,000 automated reports in Bureau of Personnel.

Not only are controls for establishment of control systems and reporting requirements generally ineffective, but there is also no mechanism for terminating systems or reports no longer needed or used.

An additional problem in the Department's Directives and Instructions system concerns the charters for the offices of Assistant Secretaries, Deputy Assistant Secretaries and Directors which are published within this system. These charter documents are too often prepared in broad general terms, approved without serious review. This results in many of the present charters being of improper scope or lacking specificity in delineation of the assigned responsibility, and creates jurisdictional questions regarding the overlaps. One office should be assigned the responsibility for assuring that all charters are of proper scope and coordinated and are in accordance with the assigned responsibility of the office(s).

III-11 The Secretary of Defense should establish a small staff function within the Coordinating Group reporting to him and assign it the responsibility of effecting both a major improvement and reduction in the control and information needed for management within the Defense Department, and in turn, of its Defense contractors. This should be done by specifying what is required, not dictating how to manage. An objective should be established to further enable the Department components and industry to evolve a more stable management environment by restricting changes in control and report requirements to the minimum basic requirements. The Department's Directives and Instructions should be codified through consolidation, recision and restatement. In addition, criteria for imposition of control systems and reporting requirements should be expanded to require a statement of need, benefit, estimated cost (of preparation, handling and review) and why existing systems and reports do not satisfy the need. Periodic reviews should also be required for the purpose of confirming the continuing need for the controls and information required. In addition, all organization charters of the Office of the Secretary of Defense should be reviewed to assure that they were properly defined and coordinated and were in accordance with the responsibilities assigned to the office(s).

III-12 Similar small staff groups should be constituted in the immediate offices of the Military Department Secretaries and the Chairman of the Joint Chiefs of Staff.

III-13 Policy makers in the Department of Defense should be acutely aware of the necessity of using formal communications channels for promulgation of policies and procedures.

VI. SELECTED ACQUISITION REPORT

The Selected Acquisition Report (SAR) system is a management tool for reporting in detail the original and current estimates of program costs, schedule and performance to top management, and for measuring changes in these factors. The SAR is applied to major development systems. Its application has extended from about six programs in January 1969, to some fifty-six programs in January 1970. Originally intended as an internal management tool, it is now used on thirty-four systems for reporting to Congress. SARs are submitted quarterly.

Efforts are in progress to collect actual contractor costs through the Bureau of the Budget approved Cost Performance Report, to be used in connection with SARs. To date, efforts to collect accurate data for the SARs have reportedly not been very successful.

The basic approach to the SAR is the establishment of a baseline of estimated costs, schedules and technical performance, and the subsequent measurement of the present status against this baseline. Unfortunately, both in concept and in actual practice, baseline reporting in the SAR has led to distorted and unreal use of figures, and a misplacement of management emphasis.*

Successfully predicting the course of development of a new weapon system is uncertain at best. The long period of time involved introduces unpredictable changes, as outside events and circumstances shift during the five to nine years it usually takes to acquire a new weapon. The development process itself contains hidden unknowns. The original estimates of cost, schedule and technical performance of a weapon system can be made with considerable skill and with total honesty, but they remain only estimates, the worth of which can be determined only by the future unfolding of events. The SARs tend to treat the original estimates as accurate predictions and to measure subsequent events in the development against the standard of the original estimates. There are two serious consequences of this procedure.

Perhaps the most serious consequence of the present SAR system is the tendency to divert attention from the important objectives of the weapon system and focus it on the wrong issues. The overwhelming concentration now appears to be on maintenance of the costs and schedule within the original estimate. Concern with the quality of the weapon system and its ability to perform an essential mission are not presented in the SAR. Management based on the SAR is susceptible to permitting excellence in a weapon system to be equated to remaining within the originally estimated cost and schedule, and failure to be equated to cost growth or schedule slippage.

Inhibition against change is the second serious consequence of the present SAR system. Attention is sharply focused on minute changes in cost and schedule, both in the Department of Defense and in the Congress. The SAR report contains detailed explanation of any deviation from the original estimate. These explanations in turn generate further detailed examination of the deviations by the Department and especially by the Congress. All of this has led to an understandable but nonetheless undesirable rigidity on the part of the project manager to stay as close as possible to the cost and schedule as originally

*See Cost Estimating Section in Chapter II.

estimated. Careful management of cost, schedule, and technical performance is obviously a highly desirable feature in acquiring new weapon systems. The SARs, however, tend to distort this desired feature into inflexible management and a tendency to regard any change as inherently bad. Change, instead, should be regarded as a desirable feature permitting the flexibility needed to adapt to changing circumstances and to alter the program when the originally estimated baseline has been proven to be in error in the light of later experience.

In summary, the SAR approach ascribes an importance and prophetic accuracy to estimates that simply do not exist. Estimates must be recognized for what they often are – educated guesses as to what the future holds. The SAR has tended to shift the objective from that of producing the best possible weapon to that of maintaining a set cost and schedule regardless of what experience and later events show to have been the wisest course.*

 III-14 *The Selected Acquisition Reports in their present formats should no longer be used as management tools.*

VII. THE JOINT CHIEFS OF STAFF DECISION-MAKING PROCESS

The decision-making process of the Joint Chiefs of Staff (JCS) is highly formalized. It is a system based not only on coordination with, but also on concurrence by, the Military Services. The Flimsy-Buff-Green System (so called because the first draft was originally on onion skin, the second on buff-colored paper and the third on green paper) is a negotiation mechanism designed to exploit every opportunity for compromise and resolution of disagreement.

A JCS action may be initiated by the Secretary of Defense, the Deputy Secretary of Defense, an Assistant Secretary of Defense, a Unified or Specified Command, a Military Service, the Chairman of the Joint Chiefs of Staff, or the Director of the Joint Staff.

A normal JCS action – not involving a study – takes about three weeks to process.

An action officer from the Joint Staff is appointed for each action. His immediate task, after receipt of a directive, is the preparation of a Flimsy, the purpose of which is to develop an approach to the problem and to resolve as many divergencies of view as possible before the formal phases of the process are entered. The action officer may either write the Flimsy and send it to the other Joint Staff and Military Service action officers for comment, or he may call a meeting of such action officers to discuss the problem before writing the Flimsy himself, or may request submissions from the other action officers.

Once prepared, the Flimsy must be sent to the other action officers, after which a

*See Recommendation II-13.

period of 24 hours must be permitted to elapse before the scheduling of a meeting of the action officers. After all differences are resolved among the action officers, the paper becomes Buff.

The Buff must first be coordinated with the Joint Staff Agencies, and changes by these Agencies are published as an appendix to the Buff report. The Buff is then forwarded to the Military Services where it receives wide circulation and the attention of more senior officers, the "planners". The Joint Staff action officer is responsible for the Buff's coordination and if there are no dissents by the Military Service "planners", the paper moves to the next phase and turns Green. However, if any Service dissents (a dissenting Service comment is called a "Purple"), the dissent must be circulated to all the Military Services, and unless all concur and the differences are resolved, a "planners' meeting" must be scheduled. The "planners' meeting" is at the senior Colonel level and is chaired by the Joint Staff "planner," usually a Brigadier General. The Joint Staff action officer having the initial responsibility may attend this meeting, but may not participate unless specifically requested by the Chairman. If differences can be resolved at this level, the paper is rewritten and the Buff turns Green. Where differences cannot be resolved, the dissenting Military Services prepare formal statements of nonconcurrence which are attached to the paper. The Joint Staff action officer who originated the report must then prepare an originator's consideration of the nonconcurrence(s) which is also attached, and the resultant package becomes a formal, numbered JCS green paper.

At this point, the Chairman of the Joint Chiefs of Staff, or the Director of the Joint Staff, may request a briefing, and when changes are suggested by either, they too are appended to the Green. The Green then goes to the Operations Deputies (which consist of the Director of the Joint Staff, the Deputy Chief of Staff for Military Operations of the Army, the Deputy Chief of Staff for Plans and Operations of the Air Force, and the Deputy Chief of Naval Operations (Plans and Policies) of the Navy). If, when the Operations Deputies consider the paper, they can resolve the disagreement, they approve it and remove it from the Joint Chiefs of Staff agenda; and such agreement constitutes approval by the Joint Chiefs of Staff, unless the Operations Deputies consider the subject of the paper to be one of major importance, in which case they may send it to the Joint Chiefs of Staff. If agreement is not reached, the subject goes to the Joint Chiefs of Staff. The Joint Chiefs of Staff themselves may approve a report as written, approve modifications, return a report for rewrite by the Joint Staff and the Military Service staff planners, or disagree and forward it to the Secretary of Defense. In the latter case, the Chairman of the Joint Chiefs of Staff customarily prepares a covering memorandum explaining the nature of the disagreement and, perhaps, his own view.

Several procedures are authorized to expedite the process in certain cases.

Under the standard procedure described above, the Buff phase may be omitted and the Flimsy processed directly to a Green if (1) there are no substantive issues in the report, and (2) the report is urgently required.

Memorandum of Policy 97 (PM 97) permits actions taken on JCS matters by the Joint Staff to become decisions and to be implemented, provided that (1) actions are unanimously concurred in by the Services and the Directors of the pertinent Joint Staff Divisions, and (2) during the five days following submission of the report to the Joint Chiefs of Staff, no member of the Joint Chiefs nor the Director of the Joint Staff requests consideration of the matter by the Chiefs. If all involved agree, the report is not scheduled

for an agenda, but is instead turned Green, with the cover carrying a date on which the report will automatically become a decision. If, prior to this date, a request for consideration should be made, the report will be put on an agenda.

On a matter of urgency which is not sufficiently substantive to warrant consideration of the Joint Chiefs of Staff, a phone vote may be employed. At the time of the vote on the Buff, the Services may indicate their willingness to use a phone vote instead of a formal meeting, and if there are no nonconcurrences during the phone vote, the report becomes a decision.

Memorandum of Policy 133 (PM 133) authorizes the Chairman of the Joint Chiefs of Staff to take actions for the Joint Chiefs of Staff and to inform them on (1) matters involving operations of the forces where a decision is urgent and time does not permit formal consultation with the Chiefs; (2) matters on which Joint Chiefs of Staff policy, plans, procedures, or guidance has been previously established; (3) matters on which the "corporate" views of the Joint Chiefs of Staff on a similar problem are known to the Chairman of the Joint Chiefs of Staff; and (4) matters not important enough for Joint Chiefs of Staff consultation. PM 133 also authorizes the Directors of Divisions of the Joint Staff to issue instructions in the name of the Joint Chiefs of Staff which are in accord with Joint Chiefs of Staff approved plans, policies, and procedures.

While a majority of the decisions made by the Joint Chiefs of Staff employs one of the alternate decision methods, contentious issues follow the Flimsy-Buff-Green route. The use of the PM 133 alternative reached a peak in 1966, and has since steadily declined in both absolute number of issues and as a percentage of total issues.

The Flimsy-Buff-Green procedure is ponderous and slow, but its most serious deficiency is the incentive created for unanimity, compromise and mutual accommodation of the views of the Military Services. So strong are the pressures for unanimity that in 1969, the Joint Chiefs of Staff were unanimous on all but eight-tenths of one percent of the issues considered, and in 1966, 1967 and 1968, the Joint Chiefs of Staff split on only two-tenths of one percent of the issues considered.

The process militates against the likelihood of the Joint Chiefs of Staff clearly facing-up to difficult and potentially divisive issues. The repetitious, committee-type negotiations tend to reduce issues to a level of compromise which will either avoid the potential conflicts or substitute a solution that can be accepted on a quid-pro-quo basis.

Lost in the process is the advantage of a joint staff, which, ideally, should be able to provide a more national viewpoint than staffs which are Service-oriented. This is because the procedure injects the joint participant into the process as little more than a coordinator of the views of the several Services.

 III-15 *The Flimsy-Buff-Green decision-making process of the Joint Chiefs of Staff should be eliminated.*

 III-16 A decision-making process for the JCS should be established on the pattern of the Development Concept Paper (DCP). Inputs should be requested from the Military Departments, as required, only for the initial draft of the position paper, and the Military Services should participate in no other way in the internal decision-making process of the JCS. The draft position paper should contain all known feasible alternatives; and each level in the process should be required to review for quality and sufficiency, and indicate by signature and designation the recommended alternative, all to the end that fidelity to the original issue be maintained and the extraneous pressures for unanimity be reduced.

VIII. ACCOUNTING PROCEDURES

The accounting methods of the Department of Defense have traditionally reflected cash flow and commitments, which have sufficed for management needs. There have been increasing pressures for a change to accrual accounting methods in the Department.

Accrual accounting is more costly, and with the exception of a few special cases, provides very little benefit in a non-business organization.

Those activities such as the Military Airlift Command, which operate on a working capital fund and which allocate costs to establish a charge rate or tariff for services, should use forms of accrual accounting.

 III-17 Accrual accounting systems in the Department of Defense should be confined to those Service activities which operate under stock funds or industrial funds, and which are required to establish service charges which reflect total costs.

IX. CONTRACT AUDIT, INTERNAL AUDIT AND INSPECTIONS

On April 30, 1970, the Department of Defense had seven separate audit organizations with a total complement of 844 military and 5,688 civilian personnel and annual budgeted expenditures totaling over \$90 million. These organizations and their personnel were as follows:

| <u>INTERNAL</u> | <u>Civilian</u> | <u>Military</u> |
|--|-----------------|-----------------|
| 1. OSD - Director for Audit Policy | 15 | -- |
| 2. OSD - Deputy Comptroller for Internal Audit | 101 | 2 |
| 3. Defense Supply Agency (DSA) - Auditor General | 129 | -- |
| 4. Army Audit Agency | 839 | 81 |
| 5. Navy - Auditor General | 519 | 56 |
| 6. Air Force - Auditor General | 545 | 705 |
| | <u>2,148</u> | <u>844</u> |
| <u>CONTRACT</u> | | |
| 7. Defense Contract Audit Agency | 3,540 | -- |
| | <u>5,688</u> | <u>844</u> |

The internal auditing effort at the OSD level is carried on by two different groups, both within the Office of the Assistant Secretary of Defense (Comptroller). One group, the Office of Director for Audit Policy, reporting to the Deputy Assistant Secretary (Systems Policy and Information), has responsibility for developing and providing audit policy guidance for all audit organizations in the Department. As second group, called the Office of the Deputy Comptroller for Internal Audit reports one level higher in the organization and provides a quick audit response to matters of special interest to the Secretary of Defense and his staff. This second group is also responsible for audits of programs and procedures which involve more than one military service or agency, for audits of the Military Assistance Program, and for audits of certain other Department components.

The audit groups of the three Military Departments (Army, Navy, and Air Force) and of the DSA are largely autonomous. There is relatively little interchange or contact among these internal audit groups. The hiring, training, and assignment of audit personnel to specific tasks are handled by each Military Department or Agency with a minimum of guidance or direction from other groups.

The internal audit organizations of the Army and the Navy are organized along similar lines, with relatively large regional, area, or resident offices located throughout the United States and overseas. The internal auditors of the Air Force, unlike those of the Army and the Navy, are stationed at numerous air bases and installations as resident auditors. This results in a wide dispersion of audit personnel in small, relatively permanent groups called Auditor General Resident Offices (AGROs), typically consisting of five or six persons.

The Defense Supply Agency (DSA) manages the procurement and distribution supplies common to all the Military Departments and Defense Agencies and provides related contract administration services. The personnel of the internal audit organization of DSA are located at major supply centers, depots, and support or service centers throughout the United States.

The Defense Contract Audit Agency (DCAA), which employs over half the audit personnel in the Department, is responsible for performing contract auditing for the Department. In so doing, it provides accounting and financial advisory services regarding contracts and subcontracts to all Department components engaged in procurement and contract administration. The DCAA functions as a virtually autonomous organization, being responsible for the hiring, training, and direction of its personnel, subject only to policy and budgetary controls of the OSD. Under the present Department organization, only the DCAA has the responsibility to audit the records of defense contractors.

The DCAA also conducts audits of contractor records for eighteen other governmental agencies on a reimbursable basis. Approximately 14 percent of the total effort of the DCAA is expended for these agencies.

In addition to the internal audit groups, there are various other groups who perform audit work. The largest of these are the internal review groups at Army and Navy installations. These people are part of the staff of the installation commanders. They act as trouble-shooters for the commanders and perform a variety of other functions, including, in many cases, audits of payrolls and nonappropriated funds. It is difficult to determine exactly who is engaged in such internal review activities because classifications and nomenclature vary, but it is estimated that more than 1,600 persons are so engaged in the Army and the Navy. In the Air Force there is no separate group with responsibility for

internal review, as there is in the Army and the Navy. Internal auditors in the Air Force perform not only the functions normally associated with those of the internal auditor, but also those of the "internal reviewer".

While certain of the duties of internal reviewers in the Army and the Navy are to some extent similar to the lower-level duties of internal auditors, evidence does not indicate that in practice there is any substantial duplication of audit work.

The Inspector General organizations are concerned primarily with military readiness, morale of military personnel, condition of physical facilities, investigative work, and compliance with established policy or regulations. Although some aspects of management auditing are performed by the Inspector General organizations, such reviews represent only a minor part of their mission and lack the depth of those made by the internal auditors. It appears that the Inspector General reviews do not constitute a significant duplication of the work done by the present internal audit groups.

The procurement management review groups are composed largely of specialists in procurement and are concerned solely with the Department's procurement process. They report to the procurement policy officials in OSD, the Military Departments, and DSA. As in the case of the Inspector General organizations, the work of the procurement management groups does not appear to result in significant duplication of the work of the internal auditors.

A. Nature of Auditing Effort

In the DCAA, the auditing effort is confined almost entirely to the cost accounting and financial systems of contractors. This is in marked contrast to the kind of auditing performed by the internal audit groups of the Department. These groups are concerned largely with operational or management type audits in which the auditor reviews factual information concerning the manner in which a given mission or task is being carried out.

The terms operational auditing and management auditing have come into common use to describe the extension of internal auditing to all operations of an organization, rather than merely the financial and accounting areas. Internal auditing as a concept was originally limited to the review of financial matters. However, it has been expanded to include the independent appraisal of all operational activities in order to provide management with information on the effectiveness and efficiency with which such operations are being performed.

This expansion of activities has become too broad and should be restricted to the audit to determine efficiency of management. Reviews such as those of the operational readiness and performance of helicopters in Vietnam should not be performed by the internal audit function, but are properly assigned to the operational test and evaluation functions. Determining the effectiveness and efficiency of business procedures within the Department should be the responsibility of defense internal audit. However, operational effectiveness should not be within the scope of their activities. The function of program and force analysis, operational test and evaluation, the inspectors general and the defense internal audit should remain separated.

B. Problem Areas

It was found that the Department audit groups are performing their assigned missions at

clearly acceptable levels. In general, the groups are staffed by competent people who are sincerely interested in doing a creditable and constructive job. Their audit findings appear to be reliable, and their suggestions and recommendations are of good quality. They serve the Department and its various components well and contribute to improved performance, the value of which appears to exceed substantially the cost of operating and maintaining these audit groups.

The above general evaluation does not mean, of course, that there is not substantial room for improvement. In an environment of significantly changing technology and conditions, it is understandable that this should be so. There are a number of factors, particularly in the area of internal auditing, which are preventing the auditing function within the DoD from reaching the level of efficiency and competence that we believe can be obtained.

The internal auditing effort at OSD level (i.e., at the level above the Military Departments and Defense agencies) is fragmented and lacks sufficient prestige to provide the coordination, audit coverage, and leadership to achieve its full potential.

There is insufficient uniformity of audit policies and procedures, and in their implementation, throughout the Department of Defense.

There are insufficient career opportunities for civilians in professional capacities at all levels of internal auditing.

There is substantial opportunity for improved and more efficient education and training of professional audit personnel through the use of joint facilities and programs.

There are insufficient specialists with experience in EDP auditing and statistical sampling in the internal audit groups.

In general, internal audits, both operational and financial, take longer than necessary because of too extensive investigation and study of the underlying facts.

While a single internal audit agency in the Department of Defense would permit a more efficient supervisory and management structure, provide more attractive career opportunities for professional personnel, and provide better coordination and control for the Secretary of Defense, it is also very desirable to continue to provide the Military Departments with an audit capability of their own to monitor the attainment of their own objectives. On balance, it would be preferable for internal audit organizations of the Army, Navy and Air Force to continue to provide audit capability to their own Departments.

In addition to these fundamental organizational problems, there is substantial room for improvement in other phases of the internal audit activities.

A military officer is placed in a difficult position when he is asked to evaluate and report on an activity under the command of a higher-ranking officer. It is also desirable to provide more attractive career opportunities for professional civilian auditors to improve the likelihood of attracting and retaining highly competent people.

In a number of OSD and DSA internal audits, the actual time expended exceeded the original time estimate by as much as 50 percent to 100 percent. The audit staff should be

required to prepare more detailed and realistic time estimates and should be held accountable for variances therefrom.

One notable omission from audit coverage is the activities of major headquarters staffs in the Military Services, which have not to date been subject to audits.

The Directorate of Inspection Services (DINS), organizationally located in the Office of the Assistant Secretary of Defense (Administration), has the responsibility for inspections or surveys of the operational and administrative effectiveness of the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Unified and Specified Commands and the Defense Agencies. DINS also has responsibility for criminal investigation and counter-intelligence activities within the same organizations. Their activities do not include financial and accounting audits.

For many years, internal auditing in the Department of Defense was limited largely to financial and accounting areas, and therefore it was appropriate that the internal audit organizations report to the Comptrollers. Now that the emphasis of internal audit has been extended to management areas, it would be more appropriate in the Military Departments for these internal audit organizations to report to a level of management with broader scope than that of the Comptroller.

The internal auditors of the three Military Departments feel compelled to go to great lengths to be certain of the frequency of occurrence of a particular type of error or a specific deficiency in a system. There is a possibility for rather substantial reductions in audit time, if the managements of the Military Departments would be willing to accept the results of reduced checking and fewer examples of error situations.

While the Navy has many preprinted audit programs, which it uses for the most part as reference material, the Army and the Air Force in many cases prepare individual audit programs for each audit, even though the function to be audited is common to many locations. The development of such programs is time-consuming and results in duplication on a service-wide basis.

 III-18 An internal audit organization should be established at the OSD level, headed by a highly qualified civilian audit administrator who should report to the Deputy Secretary of Defense (Evaluation) through the Assistant Secretary of Defense (Comptroller). This new office, which might be called the Office of Defense Internal Audit, should include the present functions and staffs of the Office of the Director for Audit Policy, the Deputy Comptroller for Internal Audit, and the Directorate of Inspection Services now existing in the Office of the Assistant Secretary of Defense (Administration). In addition to the existing responsibilities of the audit groups being combined, the new Office of Defense Internal Audit should direct its efforts toward:

(a) Making more extensive reviews of the manner in which the internal auditing function is being carried out by the internal audit organizations of the Military Departments and Defense Agencies.

(b) Making more internal audits of inter-Service activities and Unified Commands

with the use of its own personnel to a much greater extent than is presently being done.

III-19 The head of each internal audit group should be a civilian, and the internal auditors of each of the audit groups should be primarily civilian rather than military personnel. The head of each departmental internal audit group should report directly to the Secretariat of his respective Department.

III-20 A single formal internal audit education and training program within the Department should be initiated by the new Office of Defense Internal Audit, the execution of which could be delegated to one of the Military Departments as executive agent.

III-21 The following modifications in internal audit should be made:

- (a) The guidelines for determination of savings under the Cost Reduction Program should be clarified and improved to permit such determinations to be made with greater reliability;*
- (b) The proposed new Office of Defense Internal Audit should develop improved methods for budgeting and controlling the time utilized on internal audits;*
- (c) Each audit group should expand its audit coverage to include the activities of major headquarters staffs at the departmental level;*
- (d) Audit tests and investigations should not be extended beyond the point where findings are sufficient to identify significant problems and to support reasonable conclusions as to their causes and seriousness; and*
- (e) Standard audit programs or modules should be developed and used for common audit areas. They should be flexible enough to permit modifications in the field prior to the commencement of audit assignments.*

CHAPTER IV

MANAGEMENT OF PERSONNEL RESOURCES

I. INTRODUCTION

The success of any organization is determined in large measure by the qualifications of the people engaged in its activities, particularly by the caliber of the personnel in positions of top responsibility.

The Department of Defense is no exception to this general principle, but the effective organization and management of its operations is made more difficult by the very large number of people on its rolls – both military and civilian – and by the fluctuations in these numbers to meet changing requirements. On June 30, 1969, the Department of Defense had 4.8 million people on its rolls, of whom 3.5 million were military and 1.3 million were civilians.

Military personnel is made up of a nucleus of career professionals and a much larger group flowing into the Armed Forces for relatively short periods of service and then moving out again into civilian life.

The nucleus of career officers and enlisted men must provide the capability, continuity, and stability needed during periods of peace and at the same time be ready in sufficient numbers and in professional competence to fill the principal leadership positions in time of war.

Because of their composition and their mission, the Armed Forces must direct a major part of their effort to training, education and development of their personnel. This means training for the parade of short term personnel flowing in and out of the Services and continuous education and development for the career professionals.

Furthermore, the skill requirements of the Armed Forces are constantly changing. Advances in technology are reflected in greater sophistication in weapons systems. This means that better educated and more highly skilled personnel are needed to maintain and operate the machines and equipment of modern warfare.

II. CIVILIAN PERSONNEL

The Department of Defense is a large employer of civilian personnel, who may be classified as follows: (1) White collar employees, the large majority of whom are included in the General Schedule (GS) Civil Service grade structure; (2) Blue collar Civil Service employees; and (3) Indirect hires, consisting primarily of foreign nationals employed abroad.

There are two overriding management problems connected with civilian employees of the Department.

The first, and most significant from a management viewpoint, is the rigidity of the personnel system. By far the most troublesome effect of the rigidity is at the higher levels, or supergrades (GS 16, 17 and 18), of whom there are approximately one thousand in the Department serving as administrators, managers and scientists. Position assignments and

grades of these key personnel are subject to approval of the Civil Service Commission, based largely on written job descriptions which are keyed to such factors as the number of persons supervised and the budget of the operations supervised. Efforts to adjust or change job assignments of supergrade civilian personnel are subject to interminable delays and most frequently, to rejections. In such a large organization as the Department of Defense, a dynamic management structure requires a continuous review to adapt to changing conditions and to improve management capabilities. This requires, in turn, a flexibility in utilization of senior personnel which currently does not exist. The existing management inflexibility to deal with more senior civil servants is incompatible with efficient operations of the Department of Defense.

Increased authority for the Secretary of Defense over senior civilian personnel is essential. He must be able to match individual talents with position assignments, if necessary, based on his judgment of the importance of a job and regardless of the scope of supervision or size of budget involved. He must be able to reassign personnel whose job responsibilities have grown beyond their performance capabilities. He must be able to move younger personnel into more senior positions on the basis of demonstrated capabilities without being so constrained by seniority requirements.

Not even the best organization and management procedures will improve effectiveness of defense operations unless qualified personnel are matched to the requirements of the jobs.

The second major management problem connected with civilian personnel is the utilization practices for civilian personnel in the Military Departments, which employ some ninety-one percent of "White Collar" personnel in the General Schedule (GS) grades of the Civil Service in the Department of Defense. All too frequently, non-combat activities in the Military Departments are headed (or commanded) by a military officer whose immediate subordinate is a civilian. This one-on-one relationship (or two men for one job) is predicated on the fact that the military officer who heads the activity is subject to normal military rotation - every three years or less - and his civilian subordinate remains to provide continuity in the direction of the activity. Often the particular activity is technical or specialized in character, with which the military officer in the number one position is likely to have had no prior experience or familiarity, necessitating increased reliance, at least initially, on his immediate civilian subordinate. The incentive for the civilian subordinate to excel, however, is inhibited by the fact that he cannot, under this system, aspire to the top job in the activity, for it is reserved for a military officer.

While the need for military billets to which to rotate military officers from hardship or hazardous assignments is recognized, as is the desirability of providing an officer with broad exposure to Service-directed activities, there is substantial room for improvement in this personnel structure. All activities which do not have an essential requirement for military direction at the head should be identified. For at least a substantial portion of such activities, civilian direction from the top should be made at least optional, and to the extent the requirements of military rotation policies will permit, should be converted to civilian positions. This will result in manpower savings as well as improved civilian personnel incentives.

IV-1 The application of Civil Service rules to "supergrade" positions in the Department of

Defense should be changed to provide the Secretary of Defense with more authority for placement, rotation, promotion and compensation rates in these grades.

IV-2 Those activities in the Military Departments now headed by a military officer with an immediate civilian subordinate should be surveyed to determine the necessity of military direction of the activity, and where no such requirement is found to exist, the position at the head of the activity should be civilianized or made optional for a military officer or a civilian to fill, and dual staffing should be permitted only in exceptional cases.

III. MILITARY PERSONNEL

a. General

The acquisition and retention of officers and enlisted men in the Armed Services is adversely affected by the negative attitude of significant segments of the public towards national defense and military service.

There is an open hostility toward the military on many campuses. The ROTC and campus recruiting by the Armed Services and defense-related industries have been prime targets. At a number of universities, faculties have voted to strip ROTC of its academic standing and to relegate it to the status of an extracurricular activity. It has been forced to withdraw entirely in some instances.

The impact of this antimilitarism is not confined to the university campus nor to the training and acquisition of officers. It directly affects recruiting activities at all levels. While the total number of young men and women who may have been deterred from military service cannot be ascertained, it is undoubtedly significant.

At the root of much of this problem is disenchantment - even bitterness - with respect to the Southeast Asian War. It would be unwise to assume, however, that without positive steps to overcome anti-military feelings, an end to that war will necessarily fully restore respect for military service.

b. Rotation

Officers and enlisted men are rotated among assignments at much too frequent intervals.

It is clear from the evidence that the rotation practices which have been followed result in (a) excessive and wasteful cost, (b) inefficiencies in management, and (c) difficulty in fixing responsibility.

A staff study of Army, Navy and Air Force promotions to General Officer and Flag rank in 1969 revealed this situation: there were 174 officers in the group and their average service was 24 years; these officers had been given 3,695 assignments, or an average of 21 per man; the average duration per assignment was 14 months. Looked at another way, the average officer had spent: 8 years in Operational assignments, 5 years in Service Schools and other

educational assignments, and 11 years in Staff assignments.

Although this is a relatively small sample, there is no reason to believe that it is not reasonably typical of the prevailing career pattern of all military officers.

It is recognized that some assignments must be of limited duration: for example, operational assignments to hardship or combat duty. School assignments also are of limited duration as these are determined by the length of the course. However, in the case of the other assignments, there are no such inherent limitations.

The driving force in almost all of these assignments (combat assignments excepted) is to give the officer a wide variety of exposure as an aid in his training and development. The problem is that the requirements of the job seem to be secondary to the career pattern which has been mapped out for the officer.

This system of rotation of officers leads inevitably to deficiencies in management. Officers assigned for such limited periods simply cannot acquire a knowledge of the work, become familiar with the qualifications of the people, make plans, set goals and push the work ahead.

This system of rotation not only fails to provide management and leadership needed on the job, but also has deficiencies in accomplishing its stated purpose – the development of the officer himself. Men are not developed by being observers; they must have responsibility to assure growth.

From the point of view of the position to be filled, as well as in the best interests of the officer himself, his job assignments should be of sufficient duration so that he can become thoroughly involved in the work and be fully responsible for results.

There is merit in giving to officers opportunities in a broad spectrum of military responsibilities. Nevertheless, under existing conditions in which technical or professional training in areas other than commanding men have become of increasing importance, the Services' current rotation policies and rates are counter-productive.

In the technical and professional areas, the rotation rules often call for rotation of an officer out of an assignment at a very critical point in the job he is performing. In addition, when an officer is rotated out of a technically complicated job, his replacement often either comes at the time of rotation or later, and therefore, does not have an adequate opportunity to acquire the necessary background before his predecessor leaves.

One solution is to change the rules for career advancement, rather than try to conform the requirements of the job to an arbitrary set of rotation and promotion rules. This is particularly true in the technical and professional areas.

IV-3 Specialist careers should be established for officers in such staff, technical and professional fields as research, development, intelligence, communications, automatic data processing, and procurement.

IV-4 The duration of assignments should be increased, and should be as responsive to the requirements of the job as to the career plan of the officer. Officers continued on an assignment for these reasons should not be disadvantaged in opportunity for promotion.

IV-5 In technical assignments, the officer's replacement should be assigned to the job sufficiently in advance of his predecessor's departure to be ready to take over without loss of momentum when he leaves.

c. Promotion

Officers

Opportunity for promotion provides the motivating force and greatest incentive for the military officer.

The following table shows the numbers of military officers in the Services by grade.

Officers on Active Duty - December 31, 1969

| <u>Grade</u> | <u>Title</u> | | <u>Number</u> |
|---|-------------------------------|-----------------|---------------|
| | <u>Army-Air Force-Marines</u> | <u>Navy</u> | |
| 0-10 | General | Admiral | 40 |
| 0-9 | Lt. General | Vice Admiral | 142 |
| 0-8 | Major General) | Rear Admiral) | |
| 0-7 | Brig. General) | Rear Admiral) | 1,156 |
| Sub-Total | General and Flag Officers | | 1,338 |
| 0-6 | Colonel | Captain | 18,181 |
| 0-5 | Lt. Colonel | Commander | 43,993 |
| 0-4 | Major | Lt. Commander | 69,987 |
| 0-3 | Captain | Lieutenant | 116,859 |
| 0-2 | 1st Lieutenant | Lieutenant (jg) | 67,917 |
| 0-1 | 2nd Lieutenant | Ensign | 58,893 |
| Sub-Total | Commissioned Officers | | 377,168 |
| W-1 - W-4 | Warrant Officers | | 30,783 |
| Total Commissioned and Warrant Officers | | | 407,951 |

Young officers who meet the standards move up fairly rapidly to Grade 0-3 (Captain - Lieutenant). Progress above this level is complicated by several factors: (a) "Regular" officers have a better chance of promotion than "Reserve" officers on active duty which is explained by the fact that the better qualified "Reserve" officers have already been transferred to "Regular" status; and (b) the numbers needed in Grade 0-4 simply will not permit the promotion of a substantial proportion of Grade 0-3 officers. (The number of officers of Grade 0-4 and higher is limited by statute.)

The progression to Grade O-5 and on to Grade O-6 becomes increasingly difficult, and the ratio of officers in Grade O-6 to those in O-7 is 13 to 1. For this reason, attainment of Grade O-6 is looked upon as the measure of a successful career.

Not only are the numbers of officers established by legislation, but the procedures handling promotions are also set forth in the law.

The Secretary of the Military Department has an important responsibility in the whole promotion procedure. He appoints the selection board, he instructs them as to the approach they should use in making their selections, and he approves the list to be forwarded to the President.

Although not specifically mentioned in the law or procedures, the Military Chief of the Service works closely with the Secretary and has an influence on the selection of boards and the decisions made. This is particularly true of promotions to the General or Flag Officer ranks.

The fact that promotions are within the exclusive authority of an officer's parent Service creates an incentive for officers, even when serving on assignments with unified organizations, to adhere closely to the official Service position of his parent Service on issues in which he is involved. This circumstance can influence the objectivity of an officer's performance. The extent to which this undesirable incentive motivates officers cannot be precisely measured, but there can be no question that many officers are convinced that any evidence of a deviation by them from their parent Service's official position will seriously jeopardize their chance for further promotion.

There is substantial evidence that the Services place too much emphasis on "Command" experience in promotion of officers, particularly at the higher ranks, and do not give adequate weight to the growing importance of functions requiring technical competence or executive management talent - e.g., Program Management, Procurement, Research and Development, Intelligence, Communications, and ADP, etc. There should be a better balance.

There is too much emphasis in the Military Services on promotion by "date of rank." (There is a common saying among the military that at least the junior officers progress in lock-step.) The importance of seniority is obvious, but promotion opportunities should be premised on criteria which stress performance and ability more, and seniority less. This is increasingly important as officers progress up the ladder.

IV-6 Promotion Boards should consider a larger proportion of candidates from "below the zone" in order to encourage younger officers of top ability to remain in the service. (The percentage so selected might well vary by grade).

IV-7 The Secretary of Defense should have more direct responsibility for the promotion and career management of officers to and within General and Flag ranks, and in the selection of and instructions to promotion boards.

IV-8 The Secretary of Defense and Secretaries of the Military Departments should designate specific percentages, or proportions, of promotions in particular joint, technical, or professional fields and should establish special career ladders of promotion in special technical and professional fields.

d. Military Compensation

Provision of an equitable compensation scale is important at any time, and it is receiving particular attention just now for two reasons: (a) the Office of the Secretary of Defense is nearing conclusion of an intensive study of military pay, and (b) the Gates Commission issued its report in February 1970 on the "All Volunteer Armed Force," among other things in effect, contains recommendations to substitute the incentive of higher pay for the compulsion of Selective Service.

In view of the comprehensive study already made by the Gates Commission, a review of the issue of an All Volunteer Armed Force was not undertaken. It should be recognized, however, that whether made up of volunteers or draftees, or a combination of the two sources, the Armed Forces should provide a system of equitable pay, appropriate benefits and conditions of service which are conducive to acquisition and retention of officers and enlisted men in the numbers needed and with the skills required. Short service and high turnover are to be expected in certain categories, but excessive turnover is sheer waste.

Provision for retirement pay is an important segment of the military pay package. Retirement pay provisions are poorly designed from the point of view of (a) equity to servicemen, (b) retention of qualified men in the Services, and (c) maintaining the age ratios among personnel that will insure young and vigorous forces.

IV-9 (a) Military pay and other forms of compensation should be made sufficient to facilitate recruitment and retention of competent officers and enlisted personnel. This applies to all grades and position classifications, and particularly to those that have suffered the highest termination rates. This should be done as a matter of equity, and to assure the acquisition and retention of competent military manpower.

(b) The military retirement system should be adjusted in order to encourage retention of qualified and needed personnel, while at the same time permitting military forces to be kept young and vigorous. Among retirees, consideration should be given to the varying needs of those still in the working age group and those over such age. The trend of increases in both the number of retirees on the rolls and the total costs of military retirement necessitate early consideration of the retirement system.

e. Accession and Retention of Commissioned Officers

The Armed Forces have somewhat more than 400,000 officers and about one-sixth of these are replaced each year.

The Service Academies produce a relatively small proportion of the officers entering the Services – in recent years less than 4%. However, these officers have been selected under rigid standards, they have received an excellent education and they are highly motivated toward a full career as professional military officers.

Graduates of the Service Academies are commissioned as officers of the Regular Army, Navy, Marine Corps or Air Force. They now have an obligation to serve at least 5 years, and every encouragement is given to have them continue for a full career. The retention rates of graduates of the Service Academies are much higher than the rates for officers who come in from other sources.

The Reserve Officers Training Corps (ROTC) is one of the principal sources of officers for the Armed Forces. Over the 5-year period 1965-1969, it produced 9 times as many as the Service Academies and about one-third of all officers commissioned.

There is a wide diversity of types of ROTC programs offered by the Services. The ROTC program is offered in 353 colleges and universities, some of which have programs from all three Services while others have only one or two of the Services represented.

The ROTC program is divided into two parts - Scholarship and Non-Scholarship.

Under the Scholarship Plan, there is a very careful selection procedure, and the candidates selected have qualifications closely paralleling those of students admitted to the Service Academies. The Scholarship program is usually for four college years, but the Army offers 2-year scholarships and the Air Force has one-, two- and three-year awards. The Scholarship student receives a \$50.00 monthly stipend, and, in addition, receives tuition, instructional fees and an allowance for books. He is required to serve at least 4 years. Each of the Services is now authorized to have 5,500 ROTC students on scholarships.

The Navy has looked upon its Scholarship program as a source of regular officers; the other two Services offer an opportunity for ROTC Scholarship holders to become Regulars, but on a selective basis after a period of service.

The Non-Scholarship Program has less rigid selection standards. In some colleges all students are required to take ROTC training during their first two years, but the number of institutions with these mandatory requirements is declining. Regardless of whether the first two years are mandatory or optional, participation in the third and fourth year of non-scholarship ROTC is voluntary in all cases, subject to the acceptability of the individual by the Military Department involved.

The Non-Scholarship student receives \$50.00 per month during the last two years of the 4-year program. His required active service is at least 2 years.

The Officers who come into the Services under the Non-Scholarship plan are usually commissioned in the Reserves. Retention rates for these officers after their required period of service is not high. This lower retention rate, as compared with graduates of the Service Academies, is explained by two factors: first, the main purpose of the ROTC programs is to supply the large number of junior officers required by the Services, a much lesser number of

officers being needed in the higher grades; second, the major thrust of the ROTC man's undergraduate studies, unlike those of the attendees of the Service Academies, is toward preparation for a civilian career.

Because it is both the largest and a proven source of officers, the ROTC program should be strengthened. The ROTC graduate would benefit, and there would be increased acceptance of ROTC on the campus, if typical ROTC curricula were modified to achieve a better balance between technical military subjects and subjects of a more solid academic content.

Both the Service Academies and the ROTC program involve a lead time of up to four years in the production of officers. When there is need for rapid expansion in the number of officers, the Services have other programs which are productive in shorter periods. These Officer Training Programs offer opportunities for college students, college graduates and qualified candidates from enlisted personnel and other sources. They have the advantage of flexibility, since they can be expanded and contracted rapidly to meet changing requirements.

In addition to the Senior ROTC program at the college level, there is also a Junior ROTC program offered to male students in 805 high schools. The Army has by far the largest such programs.

Students who have had Junior ROTC receive credit when they enroll in the Senior program in college. However, the principal advantage is in the training itself with its emphasis on physical fitness, discipline and the development of leadership. In many areas, and particularly in the larger cities, this program offers constructive opportunities for development of young men, including those from minority groups and broken homes.

Total enrollment in these Junior ROTC programs has increased from 63 thousand in October 1965 to 134 thousand in October 1969. This latter figure represents less than 24% of the male enrollment of these 805 high schools, and is a very small fraction of the more than 8 million male high school students in the country.

In the accession of officers, as in other areas of personnel administration in the Department of Defense, efforts should be continued to provide equal opportunity for minority groups. Some progress has been made in recruitment for the Service Academies, and the Senior ROTC program of one or more of the Services is now offered in 15 predominantly Negro colleges as follows:

| <u>Military Department</u> | <u>Colleges</u> | <u>ROTC Enrollment</u> |
|----------------------------|-----------------|------------------------|
| Army | 14 | 5,143 |
| Air Force | 5 | 882 |
| Navy | 1 | 67 |
| Total | | 6,092 |

143

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The problem of retaining a sufficient number of competent military personnel has always existed, but in recent years it has become increasingly serious. The reenlistment rate of Regular enlisted men in all Services combined has dropped from 50.2 percent in 1965 to 34.2 percent in 1969.

For officers, the retention rates vary considerably, but for certain special essential skills, the trends are particularly serious.

In attempting to ameliorate the serious reenlistment problem, the Services devote considerable attention to troop information and education programs. This is an important activity and may well merit more thoughtful and concentrated effort than it has received.

In addition to strictly military training there is a need for substantially increased emphasis on a thoughtful program, factually and objectively designed, to raise the level of knowledge of American and world history and of our form of government.

Troop information and education officers are often not given adequate training. There should be special training of the officers who undertake this important educational responsibility, and appropriate recognition given when this assignment is well performed.

IV-10 In order to improve the process of acquisition and retention of military personnel, the Executive Branch should develop, and submit to the Congress for its consideration as necessary, a total military personnel program which coordinates and reconciles all the separate considerations, particularly including: (1) military compensation and retirement, (2) personnel policies on promotion and rotation, and (3) acquisition programs, such as Reserve Officers Training Corps.

IV-11 Participation of predominantly Negro colleges in the ROTC program should be encouraged. The Navy and Air Force in particular should increase their programs in predominantly Negro colleges.

IV-12 The Junior ROTC Program should be expanded.

IV-13 Substantially increased emphasis should be placed on information and education programs for enlisted personnel, with special training provided for officers to be responsible for conducting the programs.

CHAPTER V

OTHER MANAGEMENT CONSIDERATIONS

I. TELECOMMUNICATIONSA. General

The telecommunications systems of the Department of Defense, using every presently conceivable type of signal, carry nearly every type of information. Current annual expenditures are in the two-to-four billion dollar range. More than 100,000 people on the Department's payroll spend full time in telecommunications activities in locations around the world. These locations are of necessity often remote and costly to support.

The span of technology is nearly all encompassing. The Department has a recognized need to load antennas at the lowest possible frequency (SANGUINE) and, by contrast, to use the highest frequency which is just now beginning to be understood (LASER). The signals of radars and other sensing devices, for example, are transmitted over short and very long distances for analysis and as decision aids. Sensor and device control, voice and record, secure and clear, analog and digital, graphic and photographic signals pass over vast networks composed of every type transmission system.

Buried, aerial and underseas cables along with field wire are significant system elements. LF, HF, VHF and UHF radio systems are used extensively. Tropospheric scatter, terrestrial point-to-point and celestial (satellite) microwave radio systems are used in many forms and configurations. The signals carried by these systems are switched and processed by a wide variety of switchers, signal processors, computers and/or other devices to deliver the information carried by them to the users in useful form for decision making or for the support and administration of the Department's activities.

The reliability and redundancy needed in some defense telecommunications are both bona fide and unique. Virtually every telecommunications technology known is applied somewhere within the Department. The state-of-the-art is continuously pressed to find new or better solutions to satisfy legitimate military requirements.

The telecommunications requirements of the Department are largely being met, although at a greater cost than necessary. Many fine systems and operations exist. These reflect the efforts of able technicians, engineers, researchers, managers, and executives in the telecommunications field in the Department and of contractors. However, duplication and inadequate inter-operability, Military Department parochialism, and divided and weak central management from the Office of the Secretary of Defense have reduced the efficiency and effectiveness of the procurement and utilization of telecommunications resources.

The command and control of personnel, weapons, and weapon systems, and their support is the military necessity and justification for telecommunications in the Defense Department. The effective and efficient administration of worldwide forces numbering in the millions is an easily demonstrated justification for large-scale telecommunications. Therefore, telecommunications is nearly universal to the Department's activities.

Telecommunications is that capability along with associated devices which enables commanders at the various levels along the military operations chain of command to have timely, appropriate and sufficient information on which to base the command of operations. Much of this capability has been traditionally called strategic communications, but this nomenclature has largely lost its meaning in the wake of technological and organizational evolution since World War II. The telecommunications associated directly with basic combat units is defined as tactical and includes telecommunications in these categories only: man-pack, vehicular, aboard naval vessels, airborne, combat field units necessary to the fluid movement of ground forces in combat, combat airfield navigation aids, air transportable field units while in combat deployment and finally, all like assets held for contingencies and in combat readiness.

The command and control aspect of telecommunications means the telecommunications for command and control, including directly coupled displays, consoles, processors, and other terminals whose primary function is telecommunications, and special subsystems such as minimum essential emergency communications network (MEECN).

B. Operations

The point-to-point and long-haul telecommunications requirements are satisfied, for the most part, by the Defense Communications Systems (DCS), a worldwide telecommunications capability planned, engineered and managed by the Defense Communications Agency (DCA), but procured, owned and operated by the Military Departments (except those that are leased, which are operated by the Military Departments). The bulk of the DCS consists of common-user switched systems:

(1) The Automatic Digital Network (AUTODIN) is a world-wide system primarily for handling record and data traffic and used in common by the Military Departments and others in the Department of Defense structure. It employs high quality, current technology in store and forward switching, message processing, terminal and peripheral hardware. Its assets are largely leased from common carriers in the Continental United States (CONUS) and Hawaii and largely owned, operated and maintained by the Military Departments elsewhere. The system is planned, engineered and managed by DCA.

(2) The Automatic Voice Network (AUTOVON) is a world-wide dial network, primarily for voice traffic but capable of data and record transmission. It is a common-user service in that it is used by all elements of the Department structure. Its four wire trunks and electronic switching reflect high quality current technology. Its assets are also largely leased in the CONUS and Hawaii, and largely owned, operated and maintained by the Military Departments elsewhere. It is planned, engineered and managed by DCA.

(3) The Automatic Secure Voice Communication network (AUTOSEVOCOM) is a worldwide dial secure voice network. It is used in common by the Military Departments and other elements of the Defense Department. It is planned, engineered and managed by DCA. The Military Departments operate and maintain Government-owned elements.

The resources of the DCS are used also to meet some, but not all, long-haul telecommunications needs for dedicated-use systems. Dedicated systems, or networks, are noncommon-user assets and are those procured and used for a particular need, generally for a particular Military Department or command. There is a large number of these, some of which are very large. The trunking for some of them is managed by DCA. Other elements

use large-scale, fixed-plant routes which are not a part of the DCS and, therefore, are in no way under the management control of DCA.

While the DCS is the backbone of the Department's system, it is only a part of the total complex. Telecommunications for military garrisons, weapons systems, dedicated systems and tactical needs comprise an even larger segment of the telecommunications complex.

Telecommunications technology is changing more rapidly than is almost any other discipline and there is no indication that the rate of change will slow in the foreseeable future. Telecommunications are critical to the military mission itself. Effective and efficient administration of the entire spectrum of the Department's activities rests heavily on adequate, readily accessible telecommunications.

1. Military Departments

Each of the Military Departments has a large communications command to operate and maintain its telecommunications, including the dedicated systems it has retained and the elements of the DCS assigned to it. These commands are: ARMY – Strategic Communications Command (STRATCOM); NAVY – Naval Communications Command (NAVCOMM); and the AIR FORCE – Air Force Communications Service (AFCS).

In the Air Force, the Strategic Air Command (SAC) and the Air Defense Command (ADC) have sizable telecommunications organizations of their own in addition to the AFCS. The Ground Electronics Engineering Installation Agency (GEEIA) is a separate worldwide Air Force command for field engineering and installation. The Air Force proposes to fold GEEIA into AFCS. Field engineering and installation in the Army is a function of STRATCOM while in the Navy these functions are performed by the Navy Electronics Command (NEC).

Each of these worldwide commands has an organization structure headed by a General or Flag officer. To help these organizations remain sensitive and fully responsive to mission requirements, the jobs at certain levels of the command structure are dual roled; i.e., these officers serve their own chain of command for the operation and maintenance of communications, as well as serving as the communications staff officer for the military operations chain of command.

These Military Department commands for telecommunications are large scale, complex undertakings. The largest has over forty thousand people, most of whom are technically oriented. They, along with the communications and electronic staffs of the Military Departments, do all necessary programming, budgeting, field engineering, installation engineering, transportation, construction, installation, acceptance/performance testing, operation, maintenance, modification, modernization, removal, relocation, reconditioning, and reinstallation of all telecommunications. They maintain contingency assets along with personnel in combat readiness. They train, deploy and support the necessary personnel to satisfy all of the above functions.

2. Office of the Secretary of Defense and the Joint Chiefs of Staff

Overall policy guidance and management of telecommunications matters is now widely diffused throughout several elements of the OSD staff, largely as a result of the functional design of the organization.

The Secretary of Defense is the Executive Agent for the National Communications System and the Executive Agent for the Government in all communications security matters.

The Assistant Secretary of Defense (Administration) is the principal advisor to the Secretary of Defense for National Communications Systems (NCS) matters, and is his coordinator for all command and control communications.

The Assistant Secretary of Defense (Installations and Logistics) is the principal staff assistant to the Secretary of Defense for transportation, telecommunications, petroleum and logistical services. He develops both policy and technical guidance to insure the development of compatible Department telecommunications systems and plays a predominant role in the management of the Department's telecommunications resources.

The Assistant Secretary of Defense (Comptroller) is the principal advisor to the Secretary of Defense in programming, budgeting and fiscal matters. His relationship with the defense agencies and Military Departments extends across the entire financial management field. The DCA and the Military Departments communicators work closely with the ASD(C), for it is he who establishes and directs, in coordination with other OSD staff elements, the functioning of the Department's Planning, Programming and Budgeting System (PPBS), which is the mechanism by which Defense components obtain, first, resource approval for updating their portion of the Five-Year Defense Plan and, finally, dollar approval through the annual budget hearing procedures.

The Assistant Secretary of Defense (Systems Analysis) performs analytical functions spanning the entire operation of the Department. In the telecommunications area he performs studies and analyses of quantitative telecommunications requirements in light of strategic missions, force planning, etc., and conducts cost effectiveness studies and reviews communications requirements as a part of his responsibilities.

The Director of Defense Research and Engineering (DDR&E) has the basic responsibility in the telecommunications area for the research, development, test and evaluation of new communications techniques and equipment. In addition, by Secretary of Defense direction, he is assigned the responsibility for planning, directing and supervising the execution of technical support for the National Military Command Center (NMCC) and, in that capacity, exercises supervision over DCA which provides the engineering and actual technical support for the NMCS.

Lastly, the Assistant Secretary of Defense (International Security Affairs) participates with DCA and the Military Departments when negotiations are required to obtain overseas base rights for telecommunications facilities and activities.

At best, the fragmented responsibilities in the Office of the Secretary of Defense generate difficulty in coordinating all of the individual considerations which may arise in an issue, even on such an issue as a discrete weapons system. The problem is greatly magnified when dealing with a commodity or service such as telecommunications which, by the nature of its universality throughout the Department requires corporate management to optimize costs and mission effectiveness.

Within the Joint Chiefs of Staff (JCS), as within OSD, the responsibility for the overview of telecommunications matters is fragmented throughout several functional

offices. And, of course, the Director of DCA reports through the JCS to the Secretary of Defense.

(3) The Defense Communications Agency

The Defense Communications Agency (DCA), a separate agency reporting to the Secretary of Defense through the JCS, exercises management control and operational direction over all telecommunications elements included in the Defense Communications System (DCS). The DCS, and hence the management purview of DCA, stops at the mainframe of bases, posts, camps and stations, a point considerably short of the total system. This means that no one exercises R&D, planning, engineering and management on an overall user-to-user basis for complex systems like AUTODIN, AUTOVON, AUTOSEVOCOM, etc. DCA has little fiscal control of the DCS; for example, it is still possible for money specifically programmed for the DCS to be unilaterally reprogrammed by a Military Department to other purposes, without either the approval or concurrence of the Director, DCA.

The Director of DCA allocates, reallocates and restores DCS service but does not determine restoral priorities, that being a function of the JCS. Nor does the Director have any command function over the DCS; the Military Departments have operating commands who provide for installation, operation, maintenance and support of their assigned portion of the DCS. The Director of DCA takes direct action, via his Defense Operations Control Center (DOCC) in Washington and its area and regional centers, to satisfy requirements, route and reroute circuits, authorize alternate routes, etc.

Additionally, the roles and responsibilities of the Director, DCA, have been constructively expanded beyond the original boundaries. The Director now has these additional duties:

- (1) Acting as manager of the National Communications System (NCS), for which the Secretary of Defense acts as the Executive Agent for the entire Government.
- (2) Acting as system/project manager for the Defense Satellite Communications System.
- (3) Providing technical support for the National Military Command System (NMCS).
- (4) Providing centralized leasing of Department of Defense circuitry from communications common carriers (but not the programming and budgeting for such leases).
- (5) Implementing the automatic switched networks, including the Defense Special Security Communications System (DSSCS).
- (6) Acting as Chairman of the Military Communications-Electronics Board.

4. Research and Development (R&D)

The basic responsibility for R&D efforts lies with the Director of Defense Research and Engineering. The Director of DCA exercises management direction over those R&D activities of the Military Departments which directly relate to the DCS. The Military

Departments directly manage all other R&D efforts under the guidance of DDR&E. The R&D is either carried out in the Defense laboratories, or under contracts generally administered by them.

Telecommunications R&D in the Army is primarily conducted at the several laboratories at Fort Monmouth, New Jersey, which are under the command of the Army Electronics Command, a major command of the Army Materiel Command. An electronics R&D capability also exists at the Army's Electronics Proving Ground, Fort Huachuca, Arizona, also under the command of the Army Materiel Command.

In the Navy, telecommunications R&D is carried out by one of two organizations: the Naval Research Laboratories, under the Chief of Naval Research, or the Naval Electronics Laboratory Center, under the Chief of Naval Materiel.

Telecommunications R&D in the Air Force is carried out primarily by the Rome Air Development Center, an activity of the Air Force Systems Command.

C. Management

The most obvious weakness of the organization structure is the absence of unitary management at the top level to assure effectiveness and efficiency from an overall Department of Defense mission point of view, rather than from an individual Military Department's point of view.

OSD is the only level of the management structure with overall Department of Defense perspective which can be given sufficient authority to assure appropriate standardization, compatibility and inter-operability among DCA and the Military Department elements of telecommunications, while protecting the integrity of the mission requirements of the individual combat, contingency and support commands. It is the only level in a position to objectively balance mission capability and cost. This level should be restructured, and staffed with appropriate expertise to provide effective staff management from a total Department of Defense point of view of (1) all telecommunications resources and (2) all operations and engineering matters relating to telecommunications.

In June 1970, a position of Assistant to the Secretary of Defense (Telecommunications) was established. This ATSD(T) was assigned broad, consolidated functions and responsibilities in the telecommunication area in response to the problems created by the lack of single management from the OSD level. The responsibilities assigned to the ATSD(T) are consistent with the conclusions of the Panel.

V-1 The responsibility for defense telecommunication activities should be under the staff supervision of the Assistant Secretary of Defense (Telecommunications). The Assistant Secretary of Defense (Telecommunications) should be directed to review all defense communications activities with the goal of eliminating inefficient duplication; specifically, for example, those telecommunications activities of the existing Air Defense Command (ADC) which can be effectively merged into other telecommunications operating activities of the Military Departments. The Assistant Secretary of Defense (Telecommunications) should also be directed to assure that each major element of the telecommunications

community in the Department generates professionally planned and managed education, training and career development programs for its engineers, researchers and managers, both civilian and military.

V-2 The responsibility for all existing and future defense long-haul transmission systems, regardless of their current or intended use, should be assigned to the Defense Communications Agency as part of the Defense Communications System, except those vehicular and air transportable types when held as contingencies or while in temporary deployment for active combat support. In addition, the Defense Communications System (DCS) should be redefined so as to include base, post, camp and station telecommunications in the United States and garrison (permanent) type installations overseas. The DCA should also be assigned the fiscal control of DCS elements. The communications and electronics officers of the Unified Commands should be under the operational and technical supervision of the Defense Communications Agency.

V-3 The Air Force Ground Electronics Engineering Installation Agency (GEEIA) and the telecommunications activities of the Strategic Air Command (SAC) should be merged into the Air Force Communications Service (AFCS).

II. AUTOMATIC DATA PROCESSING

A. General

During the past decade the use of computers has expanded at an explosive rate. The computer has become a part of almost every facet of business and industrial life and its effectiveness has been universally accepted. Technological developments during this decade include time sharing, remote job entry,* storage allocation and data protection,** and high speed digital data transmission.

During the next decade, computer systems will undoubtedly continue to develop at a rapid rate. It is anticipated that the larger computer systems in 1980 will have as much as 100 times the capacity of the largest system today, and that the medium-scale computer, which is the backbone of the Defense Department's system today, will be substantially

*Remote Job Entry: The input or readout of data from locations geographically different than the computer, usually by telecommunication, and additionally, in the case of time sharing arrangements, the activation and deactivation of the program.

**Storage Allocation and Data Protection: The predetermined and programmed use of tape or disk storage, usually in time sharing arrangements, where the activation and deactivation of the program and access to the tape or disk is protected by a unique signal, known only to the user.

replaced by a combination of the new, larger computers and small, desk-type computers.

Another major change will result from telecommunications between computer and computer users. Indications are that most computers will be on-line with teleprocessing capability by 1980. At the present time, the majority of the Department's computers cannot be used in this mode.

The recent trend of unbundling* will affect the acquisition of automatic data processing (ADP) equipment as each part of an ADP system will be available separately.

Another trend which will affect the acquisition of ADP equipment is that of the rising software cost. The present systems have about equal investments in hardware and software. By 1980, however, the software cost could be many times the hardware cost.

The Defense Department currently has approximately 2,800 computers (1,200 owned by the Department, the others leased) which are used for general purpose data processing. Thirty-six percent of these are considered to be incapable of performing efficiently by current standards. This inventory consists predominantly of small and medium-size computers with only 113 large second or third generation systems. In addition, it should be noted that a large number of computers are used to considerably less than their capacity.**

The majority of management attention, with respect to ADP in the Department of Defense, is directed toward justification, selection and acquisition of computers. Once the equipment has been acquired, the management of the computers is by the Department's component where the computer is installed.

The challenge which the Department continues to face is that of design and development of standard Department-wide ADP systems. The history of ADP development clearly shows the need for and benefit of, progressive standardization, at least for compatibility. Standard systems were first introduced at the Command level, and were followed by the development of Service-wide systems. Today's primary challenge is at the Department of Defense level.

For example, at the present time, the Army is developing a system which encompasses the Army Logistics Command function. The Air Force is currently working on an Advanced Logistics System, which performs the same functions as the Army system. The Navy is planning a redesign and updating of their Uniform Automatic Data Processing System, which supports their key logistics functions. Many of the modules of these systems perform almost identical functions, such as warehousing, shipping and receiving, inventory control, etc. Software programming for each of these is costly and each independent modernization step taken on the many separate programs involves unnecessary duplication and appears to lock in more tightly the incompatibilities of the various systems. This same observation applies to other functional areas, such as personnel management systems and base level management.

*The separation of system design, hardware, software, support, training and maintenance aspects into independently purchasable and manageable elements.

**Inventory and usage data are reported by fiscal year to the General Services Administration (GSA), and included in their annual report on all Government ADP equipment.

B. Hardware and Software System Design Capability

The Department is almost completely dependent on hardware manufactures for system design* for hardware and software. Those individuals within the Department who are competent in system design are scattered among the various components of the Department and their efforts are directed primarily to other activities such as development of application programs or information systems. The lack of in-house system design capability necessitates placing a substantial load of system design work on potential vendors as a condition of responding to Requests for Proposals. This condition has a tendency to limit responses to the larger suppliers, and, even within this group, to those suppliers who assess their competitive position as being very high. The net effect inhibits competition for hardware procurements.

The lack of an in-house capability for hardware systems design deprives the Department of the potential for improved efficiency and lower costs to be obtained from selection among separately priced elements of a computer system available from commercial suppliers, including independent peripheral manufacturers. This lack of capability also prevents the Department from promoting a higher degree of separate pricing and increased competition through the development by manufacturers of hardware elements with a broader interface capability. The potential losses from this lack of in-house capability will increase as the unbundling trend in the private sector continues. It is becoming increasingly important for the Department to have a capability to develop interface standards. In the continued absence of such a capability, the Department will be unable to keep its ADP policy sufficiently flexible to anticipate and take advantage of continuing changes in the ADP field.

There is no significant software systems design capability in the Department. Such capability as exists is widely dispersed and focused on narrow spectrums, usually tied to specific applications. As a consequence, no effective mechanism exists for development of more flexible languages, compilers, executive monitors, data storage and retrieval software, operating systems, translators and liberation programs, etc. Current practice makes the Department highly dependent on hardware manufacturers for design of systems software. The manufacturers have no incentive to provide increased flexibility to the Department

***Systems Design - Hardware**

This activity includes the design of the overall computer hardware system. This design consists mainly of the selection among equipment available from commercial suppliers including independent peripheral manufacturers. This activity will establish the necessary interfaces required to interconnect the equipment available from different suppliers. It is not anticipated that the Department will design its own hardware.

Systems Design - Software

This activity includes the design of basic systems software; i. e., Compilers, Executive monitors, Data Storage and retrieval software, "liberation programs," etc. It does not include applications programs or information systems.

In-House Capability

In-House capability to perform a function or task does not necessarily mean that the work be totally performed by Department employees but that some of the Department's employees must be able to perform the task. Where work is contracted to outside sources, the Department must have sufficient depth to evaluate the work of the contractor and make selections among alternatives.

which might increase the Department's independence of the supplier's particular machine and increase Department-wide compatibility of ADP programs.

C. Justification and Selection of ADP Equipment

The justification and selection of computers by the Department of Defense is controlled by procedures intended to assure that the computer is used for beneficial applications, and that the selection process provides the necessary capability at the lowest cost and promotes competition between vendors. The Assistant Secretary of Defense (Comptroller) and each of the Military Departments has prepared documents which establish these procedures.

Systems specifications basically consist of detailed information concerning the application which the computer will perform. This description can be as large as several thousand pages and includes each input-output and file description, estimates of the number of instructions in each program or sub-routine, the frequency of use of each sub-routine or program, the number of characters in each record, and the number of records in each file. The file descriptions also include whether the character is alpha or numeric.

If the computer is used for a new application, the effort required to complete the selection documents can be as large as the effort required to actually prepare the programs. The cost of this work is approximately the same as the actual cost of the equipment.

In addition to the descriptions of the inputs, outputs, and files, flow diagrams are required for each program or sub-routine. The descriptions are also used to determine whether a computer application should be approved. This system has not worked effectively and its use causes delays of two-to-three years in the procurement of the computer. In the past, the Department has even attempted to use this same procedure to obtain equipment to be used for research and development centers.

These descriptions are sent to the computer manufacturers and they then propose to provide equipment which will perform the work described and the Department often buys the lowest priced proposed system.

A major difficulty involved in the justification and selection process is the time required to complete the process and the difficulty of predicting the workload with sufficient accuracy to select the ADP system which most adequately meets the requirements over the life span of the equipment. The vast majority of estimates are lower than the actual workload by the time the system is operational, and this causes the system to be too small to perform all the required functions.

Perhaps the most serious flaw is that all this work is done to determine the best computer system for one particular process. If a broader approach were taken, an entirely different computer system might be able to accomplish that process and many others also on a more efficient basis at no increase in cost.

In many cases, the selection is made by personnel who have no first-hand knowledge of the workload, but depend entirely on the description of the applications.

This process has caused the Department some difficulties in the past, and in several cases the computer equipment selected by this process has been too small to carry the workload for even the first year. There is general agreement among Department personnel that the

procedures are too complex and time consuming, and limit competition between vendors.

In an attempt to reduce the problems inherent in these system specifications, the Department, at times, has used other means of computer selection. The primary alternative has been the use of the benchmark. A benchmark is a typical computer workload, either selected from the present computer workload or generated from a knowledge of the type of work the new computer will perform. These benchmarks require less time and effort than the system specifications to prepare, but they also require substantial investments by potential vendors for programming, debugging, and machine time for running these benchmarks. Difficulties result from the failure of most benchmarks to truly represent the actual computer workload. The same problems of estimating the workload during the system life exist for this method as exist for the system specifications approach. In general, forecasting the future is difficult and most likely incorrect, and computer workload forecasts are no exception.

The elapsed time between the preparation of the first documentation describing a computer requirement and the installation of the equipment varies between a minimum of two years and a maximum of six or more years. This time is used in the preparation of the justification documents, the system specifications, soliciting bids from vendors, evaluating proposals from vendors, and obtaining equipment. Often it is necessary to repeat one or more of these steps.

The computer workload is a dynamic and changing requirement and often by the time the computer has been installed, the workload is much larger and significantly different from the one anticipated at the time the computer procurement began. The time required to change the documentation is almost as long as the initial preparation. Therefore, often the requirement is not updated during the procurement cycle and the system effectiveness may not be as high as it could have been. If the Department is to have effective and efficient computer support of its missions, the time delays in obtaining computer support must be greatly reduced.

The current procedures result in major inefficiencies within the Department. The long delay times in obtaining new or replacement equipment result in equipment being kept long beyond its useful life. The determination of useful life should be based on the cost of performing work on the equipment, not on the age of the equipment.

Another major effect of the present procedures is the installation of several small and medium scale computers in the same geographical area. There are several locations which have over 50 computers. These multiple computers can result in costs which are as much as five times larger than would be necessary if a few large computers were used in a shared time operating mode.

If the Department had a system design capability, as previously discussed, the requirement for equipment could be stated in terms of the equipment's performance characteristics, rather than the specific planned application. The justification would be of the system, not of the individual equipment acquisitions, and the system could include many specific applications by today's terms.

D. Overall Management

The basic problem is that the present organizational assignment of responsibilities for

ADP policy formulation, management and operation is inadequate to insure the most efficient and economical use of ADP either Department-wide, or within a Military Department or Defense Agency. The organizational level of policy responsibility within the Office of the Secretary of Defense (OSD) for ADP is too low to insure that required and desirable policy changes are made and implemented consistently throughout the Department. In addition, there is no single office charged with the responsibility for long-range planning to keep policy abreast of industry development, and to provide flexibility in Department policy to take advantage of evolving technological changes.

Neither is any office charged with the responsibility for periodic review of existing ADP installations and operations or for minimizing the total cost of computers. Reviews are now focused on requirement justification and procurements. A standard for measurement of total ADP costs does not exist today, nor does the means of compiling such total costs for a given ADP installation or operation.

Present assignment of policy responsibility for ADP in OSD takes inadequate cognizance of the close technical and cost relationship of communications and ADP management. As a consequence, the interface between ADP and communications is inadequate, and will become increasingly inadequate as digital communications technology increases.

No office is charged with the responsibility to insure that research and development on ADP done by the Military Services or Defense Agencies, or under contract with them, is beneficially utilized Department-wide.

In addition, with the major change anticipated in the next ten years with respect to teleprocessing and digital data transmission, the management functions of telecommunications and ADP should be combined.

E. Other Factors

The following factors and resulting conditions contribute to the current problem within the Department and could be substantially improved if overall management responsibility were consolidated, if the Department developed a system design capability, and the justification and selection procedures were revised.

1. Utilization rates (estimated 50-60%) of computers owned and leased by the Department of Defense are low compared to those of industry. Low utilization rates are primarily due to the following:

(a) The long lead time for ADP procurements makes desirable the acquisition of growth capacity, but the specific applications orientation of requirements justification inhibits design for growth capacity. As a consequence, it is largely impossible to plan orderly matching of growth of requirements with growing capacity.

(b) Constraints on payment of overtime applied generally in the Department inhibit resort to longer shifts and increased utilization, since no mechanism exists to balance overtime costs against potential savings from increased utilization.

(c) Constraints on paying shift differentials, similar to those of paying overtime, inhibit the resort to three shift operations to increase utilization rates.

(d) Effective sharing between organizational elements is inhibited by existing regulations, which permit a facility owner to charge an external (Department) user only for direct charges and prevent the owner from charging rates based on total costs.

(e) Sharing is further inhibited by the orientation of procurement to specific applications. When a computer system is purchased for a specific application, it is likely to be the least costly for the specific application, and therefore, the least flexible for other applications. Consequently, sharing of the computer system is inhibited by the limitations of the computer system. This lack of flexibility of the system contributes to under-utilization.

2. There currently exist no standards for determining total costs of ADP service, within a given organizational element, a specific installation or Military Service, or Department-wide. Cost calculations do not now include cost of invested capital, depreciation estimates, elements of labor costs other than direct salaries, housing for installations, base support of computer personnel, air conditioning, etc. It is consequently very difficult to effectively make management decisions and trade-offs for existing and new applications.

3. The numbers of skilled technical professionals in the ADP field needed to plan, specify and design major applications are not available in the Department. The skilled technical ADP professionals available within the Department of Defense are scattered among several organizations within the various components of the Department. There do not appear to be adequate plans for obtaining or training these professionals in substantial numbers. In a rapidly changing technology such as ADP, personnel resources, in the absence of intensive training, tend to become obsolescent at the same rate as hardware resources, and a major effort is required to keep a staff current and competent.

In today's economy there are virtually no qualified ADP personnel who are unemployed. Large commercial organizations find that they must hire the basic talent, train it and specifically provide for keeping it current. The Department must determine the number and types of qualified ADP personnel it will need and provide the training resources necessary to assure their availability.

V-4 The responsibility for defense automatic data processing should be under the staff supervision of the Assistant Secretary of Defense (Telecommunications). The Assistant Secretary of Defense (Telecommunications) should: (a) take the necessary steps to enable the Department to develop an in-house capability for ADP hardware systems and software systems design needed for proper management; (b) review proposed ADP activities and monitor and evaluate on-going activities with respect to effectiveness of the utilization of resources; (c) test through model programs the feasibility of computer services/centers which could standardize and centralize the ADP system by functions (such as the major Commands) and/or geographically, with the intent of determining both short-and long-range ADP capability objectives; and (d) develop a training program for ADP specialists and a career plan for ADP personnel.

V-5 The procedures governing the justification and selection of computers should be revised to require a statement of ADP equipment capability as opposed to specification of intended application of the equipment.

III. Contract Studies

The purpose of contract studies is to provide a capability to the Department of Defense which is not available internally, either because it requires scarce or special skills required infrequently in any Departmental organizational element, or because independence and objectivity are a special concern. Those organizations who regularly provide contract studies frequently provide a transmission belt for ideas and information across the echelons of defense organizations.

Accurate information on the nature and extent of contract studies within the Department is difficult and often impossible to obtain. Large numbers of contract studies are performed for various elements of the Department of Defense by both profit making and not-for-profit private research organizations. There are, however, no central records of the studies that are done. It is not possible to go to one place in the Department or even a few places in each of the Services and get a tabulation of recent or on-going studies including subject, purpose, significant findings, cost or an assessment of the quality of the work.

There is no effective control of contract studies within the Department. While each study must be justified to get funding, there does not appear to be, at any point, an effective mechanism for establishing a relative need for the study, or for determining the extent to which the subject area has been studied previously. It appears from reviewing completed studies that many of them are not objective analyses to provide inputs to the decision process, but are rather performed to support positions known to be held by the contracting organizations.

The procedures used by the Department of Defense to contract for studies do not provide adequate safeguards to assure that the Department receives value for its expenditures. A study contract does not generally contain a stipulation as to the quality of the study to be made. The organization that wants to contract for a study works with a contracting officer, usually not a part of the organizational element wanting the study, and provides the information and justification required for the contracting. After the contract is let, the element for which the study is being done provides a technical representative who represents the contracting organization in the substantive areas of the contract study. The contracting officer and the technical representative frequently have little communication after the contract is let. The technical representative often is not consulted before periodic payments are made to the contractor. Most technical representatives are not familiar with contracting procedures, and even if they see that the contractor is not performing and will not produce a satisfactory product, they do not know what to do to protect the Department's investment.

Contracts for analytical studies tend to be let on the same basis as hardware production contracts. There is considerable evidence that they experience many of the same problems.

The low bidder is not always the best equipped to make the desired analysis. One major requirement should always be an objective analysis, but often contracts are let to contractors who have a direct interest in the outcome. By bidding low, they buy information which is used to obtain an advantage in a subsequent competition for hardware or software production. The contracting officers make too little use of their authority to exclude study contractors from subsequent production contracts.

The Federal Contract Research Centers (FCRCs) are a group of special nonprofit organizations created during and since World War II. Each has a special relationship with some agency of the Federal Government. There are currently 12 FCRCs under the sponsorship of the Department of Defense, with annual funding totalling about \$250 million. Based on their principal efforts, they are categorized as: (1) general and continuing research and experimentation in support of military research and development; (2) systems planning, systems engineering, and technical direction of systems development; and (3) operations analysis, systems analysis, general advice and analysis, and long-range military planning.

Originally every FCRC obtained all or most of its financial support from a single sponsor, but some are now attempting, with varying degrees of success, to diversify - to become less dependent on their Department of Defense sponsors, and in their view, less vulnerable.

The close ties between sponsor and FCRC often prevent the sponsor from seeking study assistance elsewhere to obtain work better suited to his immediate requirements. It would be highly desirable to provide flexibility, whereby a sponsor could on occasion have research done by another FCRC. That this would lessen the reliance of an FCRC on a single sponsor could only be beneficial. It would soon be evident which FCRCs were strongest and they would be encouraged to become capable of competing successfully within their own ranks.

Traditionally, there have been close relationships between most FCRCs and universities, and unquestionably the forging of this link to the academic community was a major reason for creating FCRCs. The changing attitudes of university administrations, faculties, and students have already resulted in the severing of a number of long-standing university-FCRC relationships, and others are in imminent jeopardy.

There is little doubt that each FCRC was, when created, the most effective or expedient means of providing certain required capabilities to the Department of Defense. However, both the needs of the Department and the character of some of the FCRCs have changed substantially. The Panel believes that this is an appropriate time to reassess the special relationship of each FCRC and its Departmental sponsor.

V-6 The Secretary of Defense should delegate to the Deputy Secretary for Evaluation the authority to establish and enforce Department of Defense policies and procedures which make it possible to account for all contract studies to reduce duplication, assure relevance, and enhance quality. Specifically, the Deputy Secretary for Evaluation should:

- (a) Establish procedures to review and validate requirements for contract studies.*

(b) *Establish a central control record of contract studies to include subject, purpose, cost, significant finding and an assessment of the quality of the work and the utility of the product.*

(c) *Establish procedures for contracting for studies to provide adequate safeguards to assure that the Department gets a product that is relevant and responsive to the requirement; assure a close working relationship between the contracting officer and the technical representative; and develop criteria for selecting contractors that will assure competent and objective support to the Department.*

(d) *Review each Federal Contract Research Center sponsored by the Department of Defense to determine on an individual basis which should be continued with substantially their present form and mission, which should undergo significant changes, and whether any may have outlived their usefulness as FCRCs. The study should also develop the means to make collective FCRC capabilities more widely available to Department of Defense sponsors.*

IV. OFFICE OF CIVIL DEFENSE

In 1961 certain responsibilities for Civil Defense contained in the Federal Civil Defense Act of 1950, as amended, were assigned to the Secretary of Defense by Executive Order 10952. These responsibilities are currently assigned to the Department of the Army and specifically to the Office of Civil Defense (OCD).

The Act, as amended in 1958, includes in the Declaration of Policy the following:

“It is the policy and intent of Congress to provide a system of Civil Defense for the protection of life and property in the United States from attack. It is further declared to be the policy and intent of the Congress that the responsibility for Civil Defense shall be vested jointly in the Federal Government and the several States and their political subdivisions. The Federal Government shall provide necessary direction, coordination and guidance; . . . and shall provide necessary assistance as herein authorized.”

Except for a period in 1962-63 when the fallout shelter program was given a high priority, the Civil Defense function has apparently been given little emphasis. There has been, since 1961, considerable discussion about the effects of dividing the Civil Defense responsibilities between the Executive Office of the President and the Department of Defense. This question is presently being addressed by the Executive Office of the President. The mission of the Civil Defense Organization is also being reviewed.

The present mission of OCD in the Department of the Army is essentially limited to the development and execution of a fallout shelter program and a communications and warning capability. The staff of OCD is divided roughly equally between the Army Department headquarters and the OCD Regional Offices which work directly with the Civil Defense organizations of the States and their political subdivisions. If, as a result of the present review of Civil Defense by the Executive Office of the President, the Secretary of Defense continues to be delegated responsibilities for Civil Defense, the Office of Civil Defense should not continue as a part of the Department of the Army Secretariat. The Office of

Civil Defense is primarily a line, not a staff, activity. Further, its mission is sufficiently different from and independent of the missions of the Military Departments that it should be established as an independent agency reporting to the Office of the Secretary of Defense.

The Office of Civil Defense, should it be retained in the Department of Defense, should be converted into a Defense Agency (the Civil Defense Agency), and the Director thereof should report to the Secretary of Defense through the Deputy Secretary of Defense (Operations).*

V. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE IN DEFENSE CONTRACTS

Executive Order (EO) 11246, "Equal Employment Opportunity," was issued on 24 September 1965 and amended by EO 11375 in October 1967. Among its provisions are regulations (Part II) which require that government contractors and subcontractors take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. This obligation applies to the entire company, and not just to the facility involved with the specifically contracted item.

The contractors are also required under the Order to:

1. State in all job advertising that all qualified applicants will receive consideration without regard to race, creed, color, religion, sex or national origin.
2. Give appropriate notice to the unions with which the contractor has a contract, advising the union of the contractor's commitment under the Order.
3. Comply with the Order and all rules, regulations and orders of the Secretary of Labor.
4. Furnish all information and reports required by the Order and permit access to books, records and accounts by the contracting agency and the Secretary of Labor.
5. Make reference to these commitments in all subcontracts and purchase orders so that such provisions shall be binding on each subcontractor or vendor.

The Order specified that the Secretary of Labor shall be responsible for the administration of Part II and this function was in turn assigned to the Office of Federal Contract Compliance (OFCC) which was established in January 1966.

The OFCC, among its various duties, designates which Federal agency will have contract compliance responsibility for individual contractors, so that each contracting agency is not required to separately administer the Order for every contractor with which it does business. This designation has been made by using the grouping of industries according to the Standard Industrial Classification (SIC) codes and the government agency designated is known as the Predominant Interest Agency (PIA).

*See Recommendation I-4.

The Department of Defense is the PIA for the following eleven industries:

1. Ordnance & Accessories
2. Textile Mill Products
3. Apparel & Related Products
4. Leather Products
5. Primary Lethal Products
6. Fabricated Metal Products
7. Machinery (non-Electrical)
8. Electrical Machinery
9. Motor Vehicles & Equipment
10. Miscellaneous Manufacturing
11. Printing & Publishing Industries

In addition, the Department agreed to perform the compliance activity for the National Aeronautics and Space Administration (NASA) which has been designated the PIA for Aircraft and Parts and Business Services.

The organizational assignment within the Defense Department for this area of responsibility has evolved over the years. Prior to October 1965, each of the Military Departments had its own separate contract compliance unit. There was also a Department-wide compliance unit for common-items procurement in the Defense Supply Agency (DSA). Each unit was organized and operated independently with its individual policies and procedures, causing a wide variance in implementation.

In November 1965, the contracts compliance programs were consolidated under the Assistant Secretary of Defense (Manpower and Reserve Affairs).

A second reorganization of the Department's contract compliance function was made in July 1967. It removed operating responsibility for contract compliance from the ASD(M&RA) and reassigned that responsibility to the Defense Contract Administration Service (DCAS, a component of DSA) which is responsible for the Department's contract management functions. This transfer was not a complete shift of responsibility. It did not include policy direction and guidance, which was retained by the ASD(M&RA).

The compliance review is the method of examining the Equal Opportunity Program of a contractor. The Contract Relations Specialists, usually GS-13s, begin a compliance review by conducting a community survey. Community surveys involve examining local labor market conditions with persons such as Urban League employment specialists, representatives of the local chapter of the National Association for the Advancement of Colored People (NAACP), officials of the state employment service, local religious or

community service leaders familiar with minority group job prospects, and spokesmen for organizations representing Mexican-Americans. Assuming that the review is not of a large facility where a team approach is required, the reviewer ordinarily spends four-to-five days in the contractor's locale, with the first day or half-day devoted to the community survey.

The initial visit to the job site is usually devoted to general discussions with the plant manager or the industrial relations director regarding the contractor's equal employment opportunity posture and recent affirmative action efforts. The specialist generally will have familiarized himself beforehand with the employer's latest employment data. Following the initial discussions, most specialists tour the contractor facility with a representative of the contractor. Subsequent discussions with the contractor deal in specific terms with major problem areas and whatever affirmative actions must be taken to place and upgrade larger numbers of minority group workers. The contractor and the specialist then draw up an agreement on new or accelerated affirmative action steps.

In May 1966, OFCC adopted a government-wide program of special compliance reviews called "Pre-Award" reviews. On all contracts and subcontracts of \$1 million or more, the OFCC requires that there be a comprehensive review of the potential recipient's employment system before the contract is awarded and that it not be awarded until the contractor is adjudged to be in compliance with the Order. Full reports on all pre-award reviews must be transmitted to the principal contract compliance officer of each contracting agency, which is required to transmit the report to the OFCC within thirty (30) days after the award is made.

The Department of Defense is the Predominant Interest Agency and/or responsible for review of 14,000 contractor facilities. OFCC Order No. 1, dated 24 October 1969, requires that by the beginning of fiscal year 1971, at least fifty percent of the assigned facilities will be reviewed annually. DCAS currently has a field staff of 149 persons (110 professional and 39 clerical). It is estimated that approximately 450 additional persons (345 professional and 105 clerical) will be needed for the Department to fulfill its review responsibilities.

The aspect of the Department's Contracts Compliance program which causes the most concern is the apparent conflict of the Equal Employment Opportunity and the procurement missions within DCAS. Procurement officers appear to view the contract compliance requirement as a hindrance in performing their primary procurement function. Since the contracts compliance program is essentially an audit function, the apparent conflict seems to be in the fact that the procurement people are auditing themselves. This conflict could be reduced by relieving the procurement people of the potential trade-off decision which might compromise the Equal Employment Opportunity requirements.

There are additional means, of course, of advancing the general objectives which underlie the Equal Employment Opportunity Contracts Compliance Order. There should be equal opportunity for employment for all races by contractors producing for the Department of Defense, but it is just as important that all persons have an equal opportunity, regardless of race, to be employers who contract with the Department of Defense. Procurement policies should not show preference to prospective contractors either on the basis of race, size or age of the prospective contractor as a business entity, among those capable of performing the needed service or supplying the needed materiel.

V-7 The Equal Employment Opportunity policy direction and guidance responsibility within the Defense Department should be under the staff supervision of the Deputy Secretary for Evaluation. A restudy and clarification of the requirement of the Office of Federal Contract Compliance and the penalties for noncompliance for the guidance of the Defense Contract Audit Agency and Defense Contractors should be obtained.

V-8 The implementation of the contract compliance program within the Defense Department should be assigned to the Defense Contract Audit Agency (DCAA). In order to fulfill its assigned annual review of contractors facilities, additional professional and clerical personnel should be assigned to DCAA.

V-9 Procurement policies should be so formulated as to insure that there is no impediment to participation by prospective contractors with the capability to perform, regardless of the race or size of the prospective contractor, or the period which the prospective contractor has been in business.

VI. EQUAL EMPLOYMENT OPPORTUNITY WITHIN THE DEPARTMENT OF DEFENSE

In recent years, considerable high level official attention has been directed at the matter of the Equal Opportunity Program of the Department of Defense. The matter has been studied in depth by, for example, the President's Committee on Equal Opportunity in the Armed Forces (the Gesell Committee), appointed by President Kennedy in 1963. Executive Orders and Secretary of Defense Directives have been issued by each recent President and Secretary of Defense, down to and including the present administration, which set forth comprehensive programs for assuring equal opportunity.

The record of implementation, however, leaves much to be desired. In fact, the responsibility for implementation is so diffused that in some areas it has proved to be ineffective.

Studies of the actual numbers of minority groups in various grades of both the civilian and military indicate that the percentages are far below what the Department of Defense considers to be reasonable in the companies with which the Department makes contracts for goods or services. This is particularly true in the officer group in the military and the civilian supergrades.

One area which calls for special attention is the relatively small percentage of minority officers in the Military Services. As shown in the appended tabulation, the number increased from 6,351 in 1965 (1.9% of the total), to 8,595 in 1969 (2.11% of the total). There was a decrease in the number and percentage of Negro officers in grades O-1 and O-2, but an increase in each higher grade. (See Table A).

Somewhat the same situation is shown in the statistics on enlisted personnel – a decline

TABLE A - NEGRO PARTICIPATION IN THE ARMED FORCES BY GRADE (AGGREGATE)
(1969, 1967, 1965)

| | 1965 | | | 1967 | | | 1969 | | |
|-------------|-----------|---------|--------|-----------|---------|--------|------------|---------|--------|
| | Total | Negro | (%) | Total | Negro | (%) | Total | Negro | (%) |
| 07-10 | 1,310 | 1 | (0.1) | 1,330 | 1 | (0.1) | 1,338 | 2 | (0.1) |
| 06 | 16,480 | 25 | (0.2) | 17,547 | 47 | (0.3) | 18,190 | 90 | (0.5) |
| 05 | 34,734 | 238 | (0.7) | 43,095 | 534 | (1.2) | 43,887 | 880 | (2.0) |
| 04 | 57,707 | 1,050 | (1.8) | 67,392 | 1,742 | (2.6) | 68,259 | 1,851 | (2.6) |
| 03 | 105,742 | 2,634 | (2.5) | 105,313 | 2,484 | (2.4) | 115,803 | 2,991 | (2.6) |
| 02 | 59,124 | 1,112 | (1.9) | 62,093 | 1,309 | (2.1) | 70,672 | 1,094 | (1.5) |
| 01 | 46,783 | 951 | (2.0) | 80,726 | 1,605 | (2.0) | 58,893 | 875 | (1.5) |
| WO | 16,178 | 340 | (2.1) | 24,582 | 613 | (2.5) | 30,790 | 812 | (2.6) |
| Total | 338,068* | 6,351 | (1.9) | 402,078 | 8,335 | (2.1) | 407,847*** | 8,595 | (2.1) |
| E-9 | 14,068 | 287 | (2.0) | 16,390 | 448 | (2.7) | 16,687 | 578 | (3.5) |
| E-8 | 36,111 | 1,447 | (4.0) | 42,563 | 2,352 | (5.5) | 44,886 | 2,959 | (6.6) |
| E-7 | 120,187 | 6,453 | (5.4) | 144,421 | 11,607 | (8.0) | 157,906 | 15,617 | (9.9) |
| E-6 | 235,300 | 21,290 | (9.0) | 281,808 | 34,445 | (12.2) | 291,690 | 291,690 | (13.1) |
| E-5 | 409,583 | 52,702 | (12.9) | 473,641 | 55,580 | (11.7) | 495,371 | 52,625 | (10.6) |
| E-4 | 471,339 | 55,161 | (11.7) | 733,903 | 71,641 | (9.8) | 710,758 | 63,197 | (8.9) |
| E-3 | 546,315 | 58,553 | (10.7) | 691,646 | 57,463 | (8.3) | 521,744 | 48,128 | (9.2) |
| E-2 | 369,524 | 39,229 | (10.6) | 329,267 | 31,802 | (9.7) | 371,813 | 36,395 | (9.8) |
| E-1 | 302,860 | 28,167 | (9.3) | 268,466 | 29,702 | (11.1) | 265,690 | 19,604 | (7.4) |
| Gr. Unk** | 177 | 10 | (5.6) | | | | 134 | 17 | (12.7) |
| Total | 2,505,464 | 263,299 | (10.5) | 2,982,105 | 295,040 | (9.9) | 2,876,679 | 277,129 | (9.6) |
| Grand Total | 2,843,532 | 269,650 | (9.5) | 3,384,183 | 303,375 | (9.0) | 3,284,526 | 285,724 | (8.7) |

*Includes 10 Army officers with grade and race unknown.

**Army only.

***Includes 15 Army officers with grade and race unknown.

Source: Reports compiled by the Office of the Deputy Assistant Secretary of Defense (Civil Rights), 20 April 1970.

in the lower grades and an increase in grades E-6 and higher.

Effective implementation of the equal opportunity program of the Department can only be secured through personal and continued intervention by the Secretary, to the extent that all personnel of the Department become conscious of his scrutiny of the progress at all levels. The Secretary's intervention can take the form of requiring evaluations, frequent periodic reports and recording his satisfaction or dissatisfaction with the progress. A record of complaints and their disposition could be required by the Secretary. The Secretary should take whatever steps are needed to assure substantial improvement in the trends - in number and percentage of minority employment at all levels.

The accession of more officer personnel from minority groups would be implemented by increasing ROTC programs in predominantly Negro colleges.

Another useful approach lies in an expansion of the Junior ROTC program in the high schools. In this way, an opportunity would be provided young men, including minority children who come from broken homes, to get constructive training in leadership and discipline.

The entire approach to handling complaints of discrimination, and the procedures pertaining to their handling, need a review within the Department. Such a review must naturally consider, especially with regard to civilian employees, similar problems and programs in other branches of the Federal Government. If it is found that general policies conflict with policies or programs appropriate to the Department of Defense, appropriate changes in such general policies should be recommended.

If any general comment could be made concerning the existing overall Equal Employment Opportunity Program in the Department of Defense, it would probably be that it lacks central coordination and is designed for reaction rather than action. The tendency is to react defensively, or even more self-defeating, to attempt to disprove the complaint rather than learn what caused it and take appropriate steps to reasonably insure that other such complaints are not likely to occur. It does not lend itself to the insight which would cause introspection at all levels into why situations exist and what can be done to overcome and improve them.

Perhaps the most important part of an effective Equal Opportunity Program is the attitude of recruiters and supervisors. It does little good for the top people, no matter how sincere, to enunciate an equal opportunity policy, if a member of a minority group is greeted with a hostile attitude in the recruiting or personnel office, or with a supervisor who is unsympathetic to his human needs and aspirations to be given an equal opportunity for promotion all the way up the line.

Changes in attitudes in these areas are not likely to just happen - even if the President's or the Secretary's directives and messages get through, which is by no means certain. An intensive and effective training course is needed, to teach recruiters, noncommissioned officers, officers, and civilian supervisors the importance of helping minority groups and their white associates get along with each other.

To be effective, the responsibility must lodge in the regular line organization, not in some outside structure, and supervisors must realize that their own success in accomplishing these goals will have an important part in determining their own progress within the

Department of Defense. They must also appreciate that it is important not only for all such people as individuals, but also for the successful accomplishment of their mission and for the attainment of the Nation's basic goals.

This lodging of responsibility in the regular line organization does not conflict with the need for using professional equal opportunity personnel to design programs and advise the line organization, including OSD, regarding evaluation and monitoring of the programs.

While specialized equal opportunity personnel are used to some extent in the Department of Defense, many personnel who have equal employment opportunity responsibilities have no training or experience to qualify them for the positions at the time they are assigned. For the most part, this is an on-the-job training program. In some cases, the equal employment opportunity responsibility is an additional responsibility for personnel who have no interest in promoting the program.

V-10 An immediate evaluation should be directed by the Secretary of Defense as to the extent of minority employment and promotion in all areas of the Department; each administrative unit should be required to make frequent periodic reports to him of their progress in both qualitative and quantitative terms. The Secretary should personally review the trend of employment of minority employees at all levels, let it be known that he is personally doing this, and record with each unit his satisfaction or dissatisfaction with the progress made.

The Secretary should direct his staff to:

(a) Review the field of complaints in the military and civilian areas and the procedures set up for fair and expeditious dealing with them, and

(b) Establish an on-going affirmative action program to discover the reasons for complaints, remove them, and make sure that minority groups are in fact recruited and promoted on an equitable and nondiscriminatory basis.

Job descriptions should be established for equal opportunity personnel at all appropriate grade levels, and a career or progression ladder should be provided for equal opportunity personnel with appropriate grade structure commensurate with other priority programs.

V-11 Executive Orders and Department of Defense Directives with respect to matters of equal employment opportunity for Department of Defense military personnel, civilian employees and contractors, as set forth in the existing comprehensive programs for insuring equal opportunity, should be administered from a sufficiently high organizational level in the Department to assure effective implementation, and the procedures for assessing penalties for non-compliance should be reviewed and clarified.

VII. INDUSTRIAL RELATIONS

The labor and union-relations policies of the Department of Defense, both as to its own employees and its relations with the policies of employers with whom the Department has procurement or other contracts, are determined primarily by the policies applicable to the entire executive department of the Federal Government.

As this is such a vast field, and as it is not peculiar to the Department of Defense, the Panel did not study it in depth. However, to present a rounded picture, a few comments seem called for.

First, it is obvious that the Department of Defense could not operate efficiently without the whole-hearted cooperation of its own employees and the employees of its contractors. It must also do its part to maintain good relations with unions, whether they represent their own employees, employees of their contractors, or other employees whose cooperation is essential to the operations of the Department – such as transportation and construction workers.

Second, the Department of Defense is involved in such a large percentage of the contracts entered into by the Federal Government, that the Department's actions and attitudes have an important bearing on the relationships with labor of the Government as a whole. If it wants the cooperation of labor – working people and their unions – as it must, it is necessary, in turn, for it to be sensitive to the attitudes of labor.

Third, while the Department of Defense must operate under the terms of legislative mandates, executive orders of the President, rulings of the Comptroller General and others, it has the responsibility to point out to the appropriate authority any circumstances which seem to call for changes in existing procedures.

A number of cases were noted in which representatives of organized labor complained that the Department was contracting with employers who seemed to be deliberately thwarting national policies prescribed by Congress and the President. The Department replied that under existing regulations it could not on these grounds legally disqualify a prospective supplier.

V-12 The Department of Defense, although not expected to act as enforcement agency of national labor laws, should support any appropriate action that would permit more flexibility in such matters, so that contracts could be withheld from companies that have been determined by appropriate authority to have flagrantly, deliberately, and repeatedly violated expressed national labor policy. At the same time, the Department should not use its contracting powers to help or hurt any party involved in a union representation question, a collective bargaining agreement, or an inter-union dispute.

V-13 The objective of the Department of Defense, in determining wage rates for its own employees around the country, should be to have its rates fair and competitive with the

wage rates of private employers for employees of comparable skills.

VIII. DOMESTIC ACTION

The Department of Defense is so large that it cannot ignore the significant impact it has on the economy of the country. On the other hand, its basic responsibility of assuring the security of the nation is so vital, that it must be careful not to dilute its energies in other activities, however important.

There are areas where the Department is especially well-equipped to be helpful to minority groups. Two examples are:

First, the junior ROTCs at the high school level provide an excellent opportunity to give disadvantaged children, at their option, a chance to make up for the opportunities many of them have missed because they come from broken homes, and have not had the advantages of parental attention, training, leadership, and discipline.

Second, unused areas on defense installations in central city areas offer a possible opportunity to help offset the lack of open space and adequate physical facilities that limit the recreational resources available to minority youth in their areas. School facilities are usually unavailable at times other than school hours due to fear of vandalism. Yet, physical exercise and planned recreational activity are needs of youth everywhere.

The use of recreational facilities is the most direct approach to counseling of minority male youth. Experiences of the educational system and the sports world appear to support those who contend that youth who are hard to reach by authority figures respond well to competitive events and to the coach. A test should be made of this hypothesis by combining certain educational and social counseling with such activities.

Two possibilities for making such facilities available are: (1) use of unused areas on defense installations in central city areas; and (2) cooperative use of school playground facilities in after-school hours.

Such projects might more properly be within the province of the Department of Health, Education and Welfare (HEW). The Department of Defense's role, at least at the outset, might be to cooperate with HEW and the Office of Economic Opportunity to get such programs under way.

V-14 The Department of Defense should explore the possibilities of its making a contribution to community betterment through the expansion of junior ROTC and by making available unused areas on defense installations in or near central city areas for recreational use of minority youth.

V-15 A careful study should be made as to how the successful techniques developed by our armed forces in Vietnam to help rebuild communities could be applied to working with minority and other disadvantaged groups in this country, particularly in areas near military installations in central city and distressed rural areas.

IX. DEFENSE ATOMIC SUPPORT AGENCY

The Defense Atomic Support Agency (DASA), with its present organization and functions, represents an evolutionary growth of the Armed Forces Special Weapons Project (AFSWP), which was established in January 1947. AFSWP was a necessary consequence of the Atomic Energy Act of 1946, which terminated the Manhattan Project and created the Atomic Energy Commission. Established by a joint directive of the Secretary of War and Secretary of the Navy, AFSWP was described therein as “. . . a joint Army-Navy, atomic energy organization which will discharge all military service functions relating to atomic energy . . .” With the formation of the U. S. Air Force later in 1947, AFSWP became tri-service; however, its mission and functions were unchanged. In 1959, AFSWP was redesignated the Defense Atomic Support Agency. The Director, DASA, reports to the Joint Chiefs of Staff for military command, to the Secretary of Defense for technical matters, and has direct liaison with all Department components, the Atomic Energy Commission, and certain other organizations.

When AFSWP was established as an interdepartmental agency, the individual services had no capabilities in the nuclear field, and atomic warfare was a new and mysterious activity. Initially, AFSWP consisted of those Army and Navy personnel who had been on duty with the Manhattan Project. During the years since then, the Services have achieved substantial capabilities, as the use of nuclear power has expanded and as nuclear weapons programs have grown.

Originally the AFSWP-DASA charter was very broad (“ . . . discharge all military service functions relating to atomic energy . . . ”); however, this mission has been modified and reduced in scope from time to time during the intervening years. Early directives generally limited its functions to providing technical, logistics, and training support to the Services in the field of nuclear weapons. However, the 1959 charter establishing DASA as an independent activity reporting to the Secretary of Defense through the Joint Chiefs of Staff also assigned it the function of supervising defense nuclear weapons test activities.

Department Directive 5105.31 prescribes the current mission of DASA, which has remained substantially unchanged since 1964. According to this charter, DASA is to provide support to the Secretary of Defense, the Joint Chiefs of Staff, the Military Departments, and such other Department components as may be appropriate, in matters concerning nuclear weapons, nuclear weapons effects, nuclear weapons testing, and such other aspects of the defense nuclear program as may be directed by the Secretary of Defense. The Director, DASA, is responsible for the consolidated management and direction of these nuclear programs, and also for providing staff advice and assistance to them and other related nuclear matters to the Secretary of Defense, the Joint Chiefs of Staff, the Military Departments, and other Department components as appropriate.

The Charter also provides that staff supervision of DASA for the Secretary of Defense should be exercised by the Joint Chiefs of Staff, the Director of Defense Research and Engineering, and the Assistant to the Secretary of Defense (Atomic Energy).

By 1952, AFSWP had reached its peak strength of more than 11,000, which included about 1,800 civilians. When DASA was established as an independent Defense agency, strength had declined to about 8,800, and it has been diminishing fairly steadily since that time. At the end of FY 1970, DASA will have slightly more than 4,000 assigned. This reduction has been almost exclusively in military personnel; civilian strength has remained remarkably stable over two decades.

Currently DASA consists of a Headquarters located in the Washington area and four subordinate commands, as follows:

- Field Command: Sandia Base, New Mexico
- Joint Task Force Eight: Sandia Base, New Mexico
- Test Command: Sandia Base, New Mexico
- Armed Forces Radiobiology Research Institute (AFRRI): Bethesda, Maryland.

Joint Task Force Eight, which in recent years has been maintained as a nucleus for a task force to conduct atmospheric nuclear tests, if resumed, is scheduled to be deactivated on 30 June 1970.

Unquestionably some elements of DASA are assigned to it simply because DASA exists. If DASA did not exist they would just as readily, and often more logically, be a part of some other organization. Two examples are cited below:

1. The Armed Forces Radiobiology Research Institute (AFRRI). AFRRI was chartered in 1961 as a joint agency of the three military departments, subject to the authority, direction, and control of the Secretary of Defense and under the management control of the Secretary of the Navy. In 1964, AFRRI was assigned to DASA as an operational field element. As a medical research laboratory, it would more properly be under the joint control of the Service medical elements.

2. Sandia Base Army Hospital. This hospital is under the operational control of and is budgeted for and funded by DASA. It is staffed and operated in accordance with the directives of the Surgeon General, Department of the Army, and does not provide any services that are peculiar to the DASA mission. There seems to be no good reason why this hospital should not be transferred to the Army.

Department Directive 5105.31 sets forth a large number of functions which DASA is charged with performing. The Director, DASA, has indicated that he considers the following to be the most important functions now assigned to DASA:

- a. Research and testing of nuclear weapon effects;
- b. Support of limited Test Ban Treaty Safeguards;

- c. Coordination for the Department with AEC on nuclear weapon research, development, production, surveillance, and testing;
- d. Formulaton for JCS of requirements for development of new nuclear weapons;
- e. Management of national nuclear weapon stockpile;
- f. Nuclear weapon storage and maintenance; and
- g. Nuclear weapon technical training.

Coordination and management of the research and testing of nuclear weapons effects clearly require joint attention. These functions currently account for about 75% of DASA's funds. It should be noted, however, that DASA does not perform in-house research, but rather contracts for it, based upon service-generated requirements. Testing could be done by individual Services, but this would undoubtedly be inefficient. It would be more appropriate and efficient for DASA's test functions to be transferred to the Defense Test Agency.

Supporting limited test ban treaty safeguards currently requires only a small amount of effort and the program is being deemphasized.

DASA is unnecessary as an overall Department coordinator with the AEC. The Services should coordinate directly on matters concerned with their individual weapons development, and the Assistant to the Secretary of Defense (Atomic Energy) should coordinate for the Office of the Secretary of Defense. The formulation of requirements for the development of new weapons could and should be done by the combatant forces. DASA constitutes an unnecessary channel which can only contribute to delays and misunderstandings.

In its responsibility for nuclear stockpile management, DASA provides operating elements to the Organization of the Joint Chiefs of Staff which function as an integral part of the National Military Command System. In addition to maintaining information on the status and location of nuclear weapons, these elements have been assigned the responsibility for collecting and displaying information regarding the Single Integrated Operational Plan, both as to the plan and the results of its execution. They also have other functions that fall entirely within the current responsibilities of the Joint Chiefs of Staff in their delegated role as operations staff for the Secretary of Defense.

Nuclear weapons storage and maintenance can be adequately done by the individual services. No special agency is required for this function.

Nuclear weapons technical training can also be adequately conducted by the individual Services - and, in fact, most of it is now being so conducted.

The Defense Atomic Support Agency should be disestablished and its current responsibilities and functions, to the extent that they should be continued, reassigned to other elements of the Department as appropriate.*

*See Recommendation I-9.

X. THE MILITARY INDUSTRIAL COMPLEX

Among the more relevant issues which bear on many facets of the Panel's study are the role, the sufficiency and the incentive of the industry on whom the national defense is dependent.

The so-called "military-industrial complex" has become a matter of major concern to Americans in the decade since President Eisenhower named and described it in this excerpt from his farewell address to the nation in 1961:

"Now this conjunction of an immense military establishment and a large arms industry is new in the American experience. The total influence – economic, political, even spiritual – is felt in every city, every state house, every office of the Federal Government. We recognize the imperative need of this development. Yet we must not fail to comprehend its grave implications. Our toil, resources and livelihood are all involved; so is the very structure of our society.

"In the councils of Government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.

"We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together.

"Akin to, and largely responsible for the sweeping changes in our industrial-military posture, has been the technological revolution during recent decades.

"In this revolution, research has become central; it also becomes more formalized, complex, and costly. A steadily increasing share is conducted for, by, or at the direction of, the Federal Government.

"Today, the solitary inventor, tinkering in his shop, has been overshadowed by task forces of scientists in laboratories and testing fields. In the same fashion, the free university, historically the fountainhead of free ideas and scientific discovery, has experienced a revolution in the conduct of research. Partly because of the huge costs involved, a government contract becomes virtually a substitute for intellectual curiosity. For every old blackboard there are now hundreds of new electronic computers.

"The prospect of domination of the nation's scholars by Federal employment, project allocations, and the power of money is ever present - and is gravely to be regarded.

"Yet, in holding scientific research and discovery in respect, as we should, we must also be alert to the equal and opposite danger that public policy could itself become the captive of a scientific-technological elite.

"It is the task of statesmanship to mold, to balance, and to integrate these and other forces, new and old, within the principles of our democratic system - ever aiming toward the supreme goals of our free society." . . .

This quotation is often referred to out of context – almost always omitting the sentence: “We recognize the imperative need for this development.” Also, the “military-industrial complex” has become the “military-industrial-labor-academic complex.” Clearly our national defense capability is contingent on the vigor of our industrial research, development, and production capability.

A significant consideration in shaping overall national defense policy should be to endeavor to create or maintain adequate, but not excessive, incentives to assure that industrial contractors exist who are willing to compete for defense business, recognizing that the participating contractors must be able to compete for manpower and capital. This is particularly necessary in fields of advanced technology, where substantial research and development costs must be incurred, sometimes without a high probability for a successful result. On the other hand, it must be recognized that in some industrial fields, there has been and is now an excess industrial capacity and number of prospective contractors competing for particular types of defense business.

The very size of our military budget inevitably has a massive effect on our society as a whole and its traditional goals. While as a percentage of Gross National Product, the military budget has been generally declining,* it still represents large sums.

The Panel has not been asked to examine the level of military expenditures, nor is it qualified by composition or study to offer advice on this critical matter, but we believe it is our responsibility to comment on other interfaces between the Department of Defense and defense industry that have given rise to concern, namely: (1) the need for effective civilian control; (2) the size of profits under defense contracts; and (3) conflicts of interest.

(1) The most important of these is the need for effective civilian control, so that any tendency of a “military-industrial complex” to expand beyond the levels necessary for the security of the country can and will, in fact, be curbed. The recommendations in this Report considered this concern and were aimed at reassuring that the decision-making powers are in the hands of the duly constituted civil authorities in the legislature and executive branches of the Federal Government.

(2) Concern with the military-industrial complex often appears to be founded on a belief that defense contractors make large profits, and that the desire for profits leads them to press for ever larger defense budgets.

Some years ago, there were instances of excessive profits on defense contracts. However, the rate of profits has been declining and there are now instances where profits are abnormally low or non-existent. In recent years, the only conclusion that can be reached from available evidence is that no charge of generally excessive profitability can be supported. Furthermore, renegotiation requirements applicable to defense contracts afford reasonable protection against possible excessive profits.

Profits, which constitute the principal incentive for industrial organizations, cannot be effectively adjusted to influence the level of competition for defense business by an approach based only on the average profits of large contractors or small contractors. The

*1955, 10.9%; 1960, 9.1%; 1965, 7.5%; 1970, 8.2%; projected for 1971, 7.1%.

approach must deal both with the level of profits for all industry necessary to compete for capital, and the level of profits in each particular industrial field.

To formulate such a policy will not be easy; but the attainment of the objective can never be reached unless the first step is taken, which is to make the adjustment of incentives for industry to compete for defense business a continuing consideration in forming overall defense policy. In addition, of course, there must be careful monitoring of the profit level on individual contracts to make sure that the levels are not generally higher than necessary to attract the number of contractors, large and small, needed to fulfill the requirements.

To keep the whole subject in perspective, it is important to note that the amounts paid for research, development, and procurement are large in dollars, but still represent only a portion of the total defense budget. Even within this portion, profits are a relatively small proportion of the costs – less than 10%. Too much attention to profits can divert attention from the much larger elements of costs, quality, and performance. Costs other than profits can vary much more than the entire amount of defense profits, depending on the productivity of defense contractors and the effectiveness of their management and of the management of the Department of Defense. Implementation of the recommendations made in these latter areas can, it is believed, result in large savings over a period of years, and at the same time produce improvements in quality and performance.

(3) A full discussion of the subject of conflicts of interests follows in Chapter VI.

XI. EXTERNAL RELATIONS OF THE DEPARTMENT OF DEFENSE

The activities of the Department of Defense, and its relationships to other parts of the Executive Branch, the Congress, the general public and to representatives of foreign powers require a continuing, significant level of attention and manpower of the Department.

Relations within the Executive Branch

The reinstatement of a formalized National Security Council (NSC) process has had a significant impact on the Department of Defense.

The stated purpose of the NSC process is to establish, through a series of national security policy studies on major issues, all the pertinent facts, complete with pros, cons, and costs, to bring to the President a full range of choices. To accomplish the studies directed by the NSC, the Departments, and particularly the Department of Defense, must provide masses of information, and also provide representation on the working groups of the NSC. In 1969, a total of eighty-five National Security Study Memoranda (NSSMs) were issued.

The Assistant Secretary of Defense (International Security Affairs) is assigned primary responsibility for the interface of the Department of Defense with the National Security Council, and for providing staff support to the Secretary of Defense in his role as a member of the NSC, and to the Deputy Secretary of Defense in his role as a member of the Under Secretaries Committee.

In October 1969, the Defense Program Review Committee (DPRC) was added to the NSC system. DPRC membership consists of the Assistant to the President for National Security Affairs (Chairman), the Under Secretary of State, the Deputy Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Director of Central Intelligence, the Chairman

of the Council of Economic Advisors and the Director of the Bureau of the Budget. Although its operational functions and procedures are not yet clear, one of the DPRC's stated purposes is to aggregate and relate the demands on national resources from the private sector, and from both the domestic and foreign military areas of the public sector. It is generally assumed that the DPRC will conduct a broad examination of proposed defense programs for future fiscal years some time before these programs are jointly reviewed by the Department of Defense and the Bureau of the Budget.

Although the DPRC is a part of the NSC system, the Assistant Secretary of Defense (Systems Analysis) is currently assigned responsibility to provide staff support to the Deputy Secretary of Defense in his role as a member of the DPRC.

The Joint Chiefs of Staff (JCS), in practice, are represented separately from the Department of Defense, throughout the NSC structure. This is appropriate to the statutory role of the JCS as principal military advisors to the President.

In addition to his responsibility for providing the primary staff support to Departmental officers on NSC matters, the Assistant Secretary of Defense (International Security Affairs) has the responsibility for providing the interface between the Department on international security affairs and the State Department and other elements of the Executive Branch of the Government. There is some evidence that the differing organizational structures of the Defense and State Departments may inhibit somewhat the close working relationship of the two Departments. This factor was considered in connection with recommendations made on changes in OSD organization, and implementation of these recommendations should improve the potential for a more workable interface between Defense and State.

Although the ASD(ISA) has responsibility for staff support to the Secretary of Defense on all international security affairs, the Department of the Army is assigned principal responsibilities relating to both the Panama Canal Zone and the Ryukyu Islands (Okinawa included). There is evidence of inadequate coordination on matters involving these areas by the Department of Army with the ASD(ISA), and through the ASD(ISA), the NSC and State Department. Assignment of principal responsibility for this area to the ASD(ISA), with the Department of Army providing support as necessary, would materially improve the ability of the Executive Branch to deal effectively with matters relating to these geographic areas. Special problems relating to both involve matters far broader than the interests of the Department of Army or even the Department of Defense, although the interests of the Department of Defense appear paramount within the Executive branch.

There is a demonstrated need, not met by existing organizational elements within the Department, for interchanges of information between the Department and the public, or elements of the public, on a wide range of matters, including but by no means limited to community relations, labor relations, equal opportunity, etc. The officials of the Department do not have the time to maintain, on a continuing basis, the dialogue with the numerous segments of the public which feel the need for exchanges of information and opinions with the Department. This need could best be met with a standing group created for this purpose.

V-16 The Assistant Secretary of Defense (International Security Affairs) should be assigned staff supervision responsibility for matters relating to the Panama Canal Zone and the

Ryukyu Islands, in lieu of the Secretary of the Army.

 V-17 *The Secretary of Defense should appoint a General Advisory Committee to the Secretary, which is widely representative, to serve without compensation, but provided with a small staff to:*

(a) *Advise the Secretary of Defense, at his request, on matters concerning internal management of the Department that could be of special public interest, such as: (1) opening, closing or consolidating military installations; (2) community relations; (3) labor relations; and (4) contract compliance and equal opportunity;*

(b) *Serve as a vehicle through which matters included in the preceding paragraph could be brought to the attention of the Secretary of Defense by interested parties from outside the Department.*

XII. MILITARY INSTALLATIONS

The Department of Defense has over four hundred and fifty major military installations in the United States, which are administered through the Military Departments. These installations represent a large composite real estate holding and have a significant replacement value when improvements are considered. For example, in the ten counties of southern California, the composite real estate holding is approximately 4.7 million acres of land, with improvements having a replacement value of nearly \$10 billion, exclusive of land.

Originally, most of these installations were considered not to be in conflict or competition with their surroundings, and in many cases had a favorable and significant economic impact on the immediate community. Today, however, in many metropolitan areas, the economic input from a substantial military installation is of much lesser interest to both community and political leaders. Skyrocketing land values now often suggest to the community that the military installations could be more productive to the community if they were utilized differently.

Another major factor affecting military installations today is encroachment due to urbanization of the areas surrounding these installations. In some cases, such as airfields, this encroachment has drastically reduced the operational capability of the installations, or seems certain to do so in the near future.

With the announced projections for reductions in the size of the military establishment, fewer facilities will be required, even when allowances are made for future expansions to meet emergencies. Consolidation of military activities at fewer installations would produce substantial savings, and would often contribute to more efficient operations. Such consolidations would frequently require expansion of a facility or installation. Both the necessary flexibility and desired incentives for such consolidations could be provided by permitting the Defense Department to use all or some portion of the proceeds of sales of facilities to construct additional facilities required by the consolidation, and specifically

authorized for construction by the Congress.

There is needed the flexibility and authority for the Department of Defense to: (1) in some cases, take economic advantage of land values, while benefiting the community; (2) in other cases, improve and assure for the future, the availability of operational capability when needed; and (3) consolidate activities to reduce the number of installations operated. One of the major impediments to effecting this today is the difficulty of obtaining funds for military construction. There is no legal method, at present, whereby a Service may sell an installation and use even a part of the proceeds to build a new one or to expand an existing one.

V-18 A procedure should be authorized by statute whereby all or part of the proceeds from the disposal of existing military installations can be used for construction of a new installation or for expansion of an existing one when such construction or expansion has been authorized by Congress. These transactions should in no way affect the normal general appropriations.

XIII. PHYSICAL SECURITY IN THE PENTAGON

Access to the Pentagon is not controlled during normal duty hours. From 1800 to 0730 hours a Pentagon building pass must be displayed while in the building and to gain access or egress. The physical security of the building is the responsibility of the Department of the Army, and guards are provided by the General Services Administration.

Each organization occupying space in the building is responsible for protecting its own classified information. There does not appear to be any established criteria for determining which activities should be located in areas with controlled access. Many organizations have consolidated their organizational elements which deal with sensitive materials in one area of the building and control access to that area. Some control access to all their space. The majority of the individual offices in the Pentagon, however, are in areas of the building where the general public has free access during normal duty hours.

The elements of the Office of the Secretary of Defense deal with very sensitive information; yet, none of them is located in an area of controlled access. They are all open to the general public and each individual must protect the materials he possesses.

Each of the Military Departments has provided controlled access to its Operations Center, some or all of its intelligence activities, and other highly sensitive activities.

The Joint Chiefs of Staff control access to all their spaces. Access can be gained only by displaying a JCS pass or by prior arrangement with a JCS pass holder to provide an escort while in the area. The National Military Command Center is in the controlled access area of the JCS, but is further controlled with its own guard force and passes.

The JCS, by restricting access to all their space, have tended to inhibit the interchange

that should take place between the Joint Staff and the Office of the Secretary of Defense.

It appears that some activities, such as the elements of OSD handling very sensitive materials, need greater physical security than they now have, while others, like some elements of the JCS, have greater protection than is required.

It is recognized that physical security is not a free asset. It usually involves an initial outlay for modification of the facility and a continuing cost for guards. While it might be desirable to control access to the Pentagon building, the cost would probably be prohibitive, especially with presently declining budgets. It does appear necessary, though, to make one office responsible for determining which activities should be provided with greater physical protection, and how such protection should be obtained.

V-19 The responsibility within the Pentagon for determination of criteria for various levels of physical security to be provided for organizational elements should be consolidated under the staff supervision of the Assistant Secretary of Defense (Intelligence).

CHAPTER VI
CONFLICTS OF INTEREST

I. INTRODUCTION AND SCOPE

Because of the importance of maintaining the integrity of Department of Defense personnel and the confidence of the public, the standards of conduct required of past and present members of the Department of Defense were examined. This chapter sets forth the Panel's findings and recommendations in this area. Incidents of bribery, graft or other criminal conduct were not investigated inasmuch as the various investigative and enforcement agencies appear to be adequate to cope with such criminal activities.

For study and discussion, the personnel of the Department of Defense were grouped into the following classes:

- a. Retired Officers and Former Employees;
- b. Current Officers and Employees;
- c. Personnel connected with Nonappropriated Fund Activities; and
- d. Consultants and Advisory Committees.

II. RETIRED OFFICERS AND FORMER EMPLOYEES

For some time, there has been Congressional concern* with the possibility of a retired military officer exercising undue influence over his former colleagues in government on behalf of a defense contractor. Similar concern exists with respect to former Department of Defense civilian employees who have joined the defense business, since their ability to exercise undue influence is at least as great as that of retired officers, and in the case of former high officials, probably much greater. Although such former civilian employees are subject to certain legal restrictions, there are very few data available on this subject and, in the limited time provided, the Panel was unable to devote as much detailed consideration to this aspect of the problem as was possible for retired military officers.

The increasing number** of retired military officers is compounded by several socio-economic factors. Generally, military officers retire at a relatively early age and expect to have twenty or more useful years remaining before attaining the normal age associated with withdrawal from the labor force. At the same time, because of the number of dependents which the average retiree must support, there are strong economic incentives to take a civilian job to supplement his income, since the amount of his retirement annuity is insufficient either to support his family, or to maintain an established standard of living. The military retirement system itself has the effect of "pushing out" an eligible member

*105 Cong. Rec. 9742 (1959);

Report of Subcomm. for Special Investigations, House Comm. on Armed Services, pursuant to H. Res. 19, 86th Cong., 1st Sess (1959); Hearing before Senate Comm. on Armed Services on H. R. 10959, 86th Cong., 2d Sess (1960).

**Report of the Task Force on Military Compensation (1967).

after as few as 20 years of service in order to retain a youthful military organization.

In a study of retired servicemen seeking second careers, the Bureau of Social Science Research made certain findings.* While it found that an individual's educational level had the greatest effect on his second career opportunities, it seemed also that few of the military skills acquired by those surveyed were directly translatable to the civilian job market. Although many of the officers and enlisted men questioned would have preferred federal employment after retirement, a significant number dismissed this possibility as unacceptable because of the restrictions of the Dual Compensation Act.**

In 1969, the Department of Defense (in response to an inquiry from the Chairman of the Senate Armed Services Committee) compiled data concerning the types of employment of retired officers in the higher grades (06-10). The number of such officers employed by the 100 largest defense contractors comprised only about 5% of all the retired officers in the upper grades and only a minute .27% of all retired military personnel.

Based on the foregoing, it appears that retired military personnel (a) leave the service at an early age, (b) normally seek a second career, (c) frequently have difficulty in translating military skills into comparable civilian skills, and (d) do not tend to cluster around military-related industries.

The current statutory restrictions*** upon the dealings of a retired officer with the Department of Defense vary according to *inter alia* (a) the length of time retired, (b) the degree of his former Department of Defense relationship to the subject matter, (c) his status as a Regular or Reserve officer, (d) his capacity as a representative of another rather than dealing in his own behalf, and (e) the kind of activity, with specific prohibitions against "selling" to the Department of Defense.

In analyzing the applicable statutes, it was concluded that a number of changes may be desirable to effect more reasonable and equitable treatment of all retired personnel. For example, the so-called "selling statutes" (18 U.S.C. 281 and 37 U.S.C. 801(c)) reflect the need for reexamination.

First, they apply only to Regular officers; Reserve officers similarly situated are exempted.

Second, under the pay-forfeiture statute (37 U.S.C. 801 (c)), both representation of others and selling on one's own behalf are barred, while under the criminal statute representation by a retired officer of another is prohibited, but a sale on his own behalf is not.

Third, under 18 U.S.C. 281 the officer is restricted for life from selling to the department from which he retires, while under 37 U.S.C. 801(c) the restriction lasts only three years.

*Monthly Labor Review, January and February 1967.

**5 U.S.C. 5532.

***18 U.S.C. 201-218; 18 U.S.C. 281 and 283; 27 U.S.C. 801 (c).

Fourth, under 18 U.S.C. 281 the sale of services is prohibited, while under 37 U.S.C. 801(c) the sale of services is permitted.

Fifth, under 18 U.S.C. 281 the restriction applies only to the department from which the officer retired, while under 37 U.S.C. 801(c) the restriction is Department of Defense-wide.

Sixth, the concept of "sale" under 18 U.S.C. 281 is so vague, both as to what activities constitute selling, and the points at which a sale commences and is completed, as to raise serious constitutional doubt as to its validity as a criminal statute.

Finally, neither statute covers leasing activities.

The efficacy of 18 U.S.C. 281, with its criminal sanction, may be questionable. Only one inconclusive prosecution* was brought under it. On the other hand, the pay-forfeiture statute (37 U.S.C. 801(c)) has been vigorously applied, with the Comptroller General rendering numerous interpretive rulings** which are helpful to disbursing officers in determining whether an officer's retired pay should be withheld because of selling activities in violation of the law.

Implementing the statutory restrictions, the Department of Defense requires retired Regular officers to file and keep current an accurate DD Form 1357, a form of disclosure designed to establish whether the officer is in compliance with the anti-selling statute. This form not only causes the retiree to reflect upon the restrictions on his activities but also, depending upon its accuracy, provides an administrative basis to determine the extent of compliance and the extent of pay forfeitures in the event of violations. A new law, to be effective on July 1, 1970, and affecting former and retired officers and civilian employees, is intended to strengthen the disclosures obtained from such persons employed by defense contractors. With certain exemptions for those employed with smaller contractors, those in a low salary bracket, and those who departed from the Department of Defense more than three years previously, the failure to submit a required report is a misdemeanor. In addition, the Secretary of Defense will have to consolidate the data and report to Congress each year.

To examine the magnitude of problems, if any, posed by the employment of retired officers in defense industries, the activities of a ten percent sample*** of the retired

*United States v. Gillian, 288 F.2d 796 (2d Cir. 1961).

**See e.g., *Ms. Dec. Comp. Gen. B-167407* (8 Aug 1969); 42 *Decs. Comp. Gen. 236* (1962); 42 *Decs. Comp. Gen. 87* (1962); 42 *Decs. Comp. Gen. 642* (1962); 40 *Decs. Comp. Gen. 511* (1961); 38 *Decs. Comp. Gen. 470* (1959); 41 *Decs. Comp. Gen. 799* (1962); 41 *Decs. Comp. Gen. 642* (1962).

See e.g., 41 *Decs. Comp. Gen. 677* (1962); 39 *Decs. Comp. Gen. 366* (1959).

***The list of retired officers used in this study was supplied by the Department of Defense. The names of the individuals were obtained by the Department by writing to the 100 largest defense contractors and asking that they supply lists of the retired colonels and general officers employed by them, and by then verifying those lists against the official retired rolls of the armed forces. The ten percent sample was supplied by an official of OASD (I&L), who had earlier requested that each military department supply him with a ten percent random sample of the retired officers of that department contained on the master list. Unfortunately, the method by which the random sample was to be compiled was not specified, and the military departments did not in turn supply information as to the methods used in selecting the officers. Therefore, one is unable to state categorically that the sample is truly random. However, the sample was subjected to a number of tests, and there was no evidence of any bias in the sample actually submitted.

Colonels/Navy Captains and General and Flag officers employed by the 100 largest defense contractors were studied.

In fiscal year 1969, the total number of retired Reserve and Regular officers in these grades was 37,945, of which 1,973 (about 5%) were employed by the 100 largest contractors. Of those so employed, 129 were General or Flag officers. Of the officers in the sample, Tables I and II of this section show the length of retirement, and the distribution of those employed by the top 100 contractors.

Of the 11 firms shown in Table II, at least eight are concentrated in aerospace work, and they employed 94 of the 98 officers. In 1969, these firms employed about one-half of the officers in the sample, were awarded 47% (\$12.2 billion) of the prime contracts received by all of the top 100 contractors (\$26.2 billion) and accounted for 31% of all defense contracts (\$38.8 billion). Clearly, a few firms - primarily in the aerospace business - employ most of the retired senior officers engaged in defense work.

From the available background data on the officers in the sample, an examination was made of the extent to which these officers accepted employment by contractors with whom they had had official dealings while holding a military position in which they could have influenced the award or administration of a contract. There were two such cases, each involving a plant representative who had been stationed at a plant operated by his future employer.

To obtain data for determining the extent of influence which retired officers in the industry could exert with the Department of Defense, questionnaires were sent to 115 officers in the original sample, and 85 answers were received. (The subjective nature of information so acquired was recognized.)

The following characteristics and attitudes were observed from the responses:

1. Most of the officers stated that they were motivated to post-retirement employment for economic reasons - for additional compensation either to support dependents or to maintain an established standard of living.
2. Fully two-thirds of the officers indicated they would have considered or accepted federal employment but for the Dual Compensation Act.*
3. Only 15 stated that they were recruited for their jobs while the others obtained employment through friends or "beating the bushes."
4. About 30 indicated that their former duties or positions with the Department of Defense were directly related to their present functions.
5. Most evidenced only a vague understanding of the conflict of interest statutes, Directive 5500.7 and the implementing regulations. Many expressed resentment of them as impugning their honor, and very few expressed an understanding that the rules may have been intended to prevent the appearance as well as the fact of conflicting interests.

*5 U.S.C. 5532.

Table I
LENGTH OF RETIREMENT OF OFFICERS IN SAMPLE
AS OF 30 JUNE 1969

| | ARMY | NAVY | MARINE CORPS | AIR FORCE | TOTAL |
|--|-------------|-------------|-------------------------|----------------------|--------------|
| 0-2 years | 8 | 16 | 6 | 40 | 70 |
| 2-3 years | 7 | 5 | 0 | 12 | 24 |
| 3-5 years | 7 | 10 | 2 | 8 | 27 |
| 5-10 years | 20 | 20 | 1 | 4 | 45 |
| over 10 years | 6 | 13 | 1 | 3 | 23 |
| Retire- ment date unknown | 1 | 0 | 0 | 1 | 2 |
| TOTALS | 49 | 64 | 10 | 68 | 191 |

Table II
DISTRIBUTION OF OFFICERS IN SAMPLE
AMONG TOP 11 DEFENSE CONTRACTORS

| | ARMY | NAVY | MARINE CORPS | AIR FORCE | TOTAL |
|-------------------|-----------|-----------|-----------------|--------------|-----------|
| General Dynamics | 0 | 8 | 0 | 4 | 12 |
| Lockheed Aircraft | 2 | 7 | 1 | 9 | 19 |
| General Electric | 0 | 0 | 1 | 0 | 1 |
| United Aircraft | 1 | 0 | 0 | 1 | 2 |
| McDonnell Douglas | 5 | 0 | 1 | 7 | 13 |
| Am. Tel. & Tel. | 1 | 1 | 0 | 0 | 2 |
| Boeing Co. | 0 | 4 | 2 | 14 | 20 |
| Ling Temco Vought | 0 | 0 | 0 | 7 | 7 |
| N. Am. Rockwell | 1 | 0 | 0 | 9 | 10 |
| General Motors | 1 | 0 | 0 | 0 | 1 |
| Grumman Aircraft | 1 | 6 | 2 | 2 | 11 |
| Total: | 12 | 26 | 7 | 53 | 98 |

6. All seemed to understand fully the pay forfeiture provision, and commented unfavorably on it, advocating its repeal or extension to Reserve officers.

7. As to the prohibitions on "selling" activities, several stated that a lifetime prohibition was unnecessary, upon the reasoning that contacts and non-public knowledge dissipate rapidly after retirement.

In addition to these, the responses offered several judgments about the usefulness of retired officers with respect to employability:

1. That the skills which are translated from the military into industry are mainly managerial skills.

2. That former contacts, rank and position within the Department of Defense have little, if any, value to them or their employers in their new jobs and, in some cases, can even be a handicap.

3. That the knowledge acquired of the Department of Defense procedures, organization and requirements was a great aid in the performance of some industry jobs; e.g., knowledge of jargon, key positions, technical requirements and procurement procedures.

To isolate possibility of influence on the procurement process the 85 responses were sifted to eliminate officers retired more than three years, and those whose industry job description were unrelated to the procurement process. This screening left 45 officers whose questionnaires, together with their job descriptions, indicated that the possibility of their affecting some aspect of the procurement process could not be entirely ruled out.

Among these 45 officers there were 13 in executive or management positions, 14 managers of specific weapons systems, 13 engineers, scientists and system analysts, 3 concerned with internal logistics in support of specific defense contracts, one Congressional lobbyist, and one officer in charge of testing military aircraft. The following statistics were also determined:

1. 28 were presently working or had previously worked for their employer on specific defense contracts.

2. 28 (not exactly the same persons as above) were either recruited or obtained their positions through friends.

3. 25 were from the Air Force, 10 from the Navy, 8 from the Army and 2 from the Marine Corps.

4. 6 were General or Flag officers (3 Air Force, 2 Army and 1 Navy).

5. 28 (not exactly the same persons as above) were employed by the 11 defense contractors who receive almost half of all the business awarded to the top 100 contractors.

6. 6 of these retired officers are no longer with their former defense-contractor employer.

The number 45 may be put into perspective. It comprises 63% of the officers returning questionnaires who have been retired less than three years and who were in a position possibly to affect some aspect of the procurement process. Fifty-seven officers in the original ten percent sample could be deemed to be in similar circumstances by extrapolation. Five hundred and seventy of the 1,973 retired senior officers were employed by the top 100 defense contractors. This analysis serves only to provide an estimate of the number of such senior officers who might conceivably have some effect, however remote, on the award or administration of a contract. From these data, no determination can be made as to the extent of actual influence which has been or is likely to be exerted by this class of officers.

It is suggested that the nature of the procurement process should be considered in evaluating the potential for undue influence. In the case of major procurements, the collective judgment of numerous individuals and boards is an essential part of the process. It is difficult to envision a retired officer who would have sufficient personal influence within the Department to manipulate the whole process.

There is no record or evidence known to the Panel of attempts by retired senior officers to exercise influence with respect to the award or administration of contracts. There may well be incidents, but the potential for successful and meaningful exploitation of conflicts of interest does not appear significant.

No less than for retired officers, the potential to influence the procurement process may exist among former high-level civilian officials who join (or return to) the industry doing business with defense. These persons may develop close relationships at the Secretarial level where an official could have the power to affect directly a procurement decision. Until the passage of the recent statutory amendment (to be effective July 1, 1970), such officials had no post-employment reporting obligations, so that very little data are available.

Since 1958, 10 (about 8%) of the 124 Secretaries, Under Secretaries and Assistant Secretaries of the Department of Defense accepted employment with one of the 100 largest defense contractors and, of these, 3 had been employed by the same contractor prior to his appointment to a position in the Department. A much higher ratio applies to the group of Directors, Assistant Directors and the Management Group in the Office of the Director of Defense Research and Engineering (DDR&E) during the same period. Out of a total of 101 such persons, 31 (about 30%) accepted employment with one of the top 100 contractors, and 16 of these were returning to their previous employer.

It should be emphasized that there is no record or evidence of attempts by former Presidential appointees or former officials in DDR&E to exercise influence in the award or administration of contracts. DDR&E is a focal point in determining what kinds of weapons systems are developed, and, therefore, to a certain extent, by what contractors. Familiarity with this process would provide an insight into the direction of future weapons requirements which could be of value to a defense contractor. If the dominant consideration is avoiding any potential use of influence, or the appearance of influence, there is no justification for treating former high-level civilian employees any less restrictively than retired senior military officers.

Generally, two fundamental approaches have been used to deal with potential conflict of interest situations: (a) the imposition of prior restraints on classes of personnel, that is, prohibiting classes of personnel from engaging in specified categories of legal activities to

preclude the opportunity for them to commit specific undesired acts; and (b) the prohibition of specific activities, enforced by the imposition of administrative or criminal sanctions for violations.

In view of the relatively low probability of incidents involving retired or other former employees in conflict-of-interest situations, and because prior restraints on classes of personnel adversely affect the attractiveness of military careers or government service by professional civilians in the Department of Defense, the emphasis of conflict-of-interest statutes and regulations should be directed toward prohibition of and punishment for specified undesired acts, rather than toward prior restraints.

Any proposal to bar entirely the employment of retired officers (or former civilian employees) by contractors should be rejected as excessive. Also excessive would be any proposal to bar such employment for a "cooling-off period," except perhaps in the case of plant representatives accepting positions with the company to which they were assigned.

Further across-the-board changes are not necessitated by the present circumstances. Any extraordinary problems should be handled on a case basis. To provide this flexibility, and to meet the need for respected and authoritative determinations as to what constitutes ethical behavior, a Board of Ethics might be established. The Board would provide advisory opinions upon request to all the past and present members of the Defense community and defense contractors on the propriety of particular relationships and activities.

To assure impartiality, the Board should be composed of five or more members, appointed from civilian life by the Secretary of Defense, with no more than three from the same political party. If a similar government-wide Board should be created, the responsibilities of the defense board could readily be assumed.

VI-1 Conflict of interest statutes (18 U.S.C. 281; 18 U.S.C. 283; 5 U.S.C. 5532; and 37 U.S.C. 801(c)) should be reevaluated in order:

(a) To achieve consistency of application, equity of application, consistency of coverage and harmony of sanctions; and

(b) To reorient such statutes toward prohibition of and punishment for specified undesirable acts rather than toward prior restraints.

VI-2 Consideration should be given by the Secretary of Defense to establishing a Defense Board of Ethics to provide advisory opinions upon request to past and present military and civilian members of the Department of Defense and to defense contractors on the propriety of specific activities.

III. CURRENT OFFICERS AND EMPLOYEES

Upon taking office, the Presidential appointees to the top 42 civilian jobs in the Department of Defense are subject to the same standards of conduct rules as other members of the Department. Prior to confirmation, they are also screened by the Senate Committee on the Armed Services which carefully scrutinizes the nominee's existing financial interests in order to avoid any apparent conflict of interest and, in certain cases, requires divestment of particular investments. On a case-by-case basis, the Committee has demonstrated some flexibility depending upon the nature of the contractor's business, the extent of the nominee's interest and the duties of his prospective position.

There has been concern that the Committee's policy of forced divestment, with the likelihood of harsh tax consequences, inhibits the recruitment of many highly qualified executives for top positions within the Department of Defense. Although the extent to which this policy actually has deprived the Department of executive talent cannot be documented, it certainly has been a restraint and undoubtedly has narrowed choices in recruitment. On the other hand, the policy requiring the absence or elimination of obvious and occasionally dramatic potential conflict is sound and necessary. There should be sufficient flexibility in administering this policy to allow a wise balancing of the competing public interests which are involved. While divestment may be required by the public interest, adverse tax consequences of the divestment provide no benefit to the public. Where divestment is required, harsh tax consequences might be avoided by amending the Internal Revenue Code to provide that such divestments qualify as involuntary conversions, the proceeds of which could be reinvested after leaving office without adverse tax consequences.

The standard-of-conduct-rules applicable to current officers and employees of the Department of Defense are derived from several sources.* The primary rules are the conflict-of-interest and related laws enacted by Congress and enforced through criminal sanctions. Congress has also promulgated a suggested "Code of Ethics" for Government employees. These rules are amplified by a Presidential Executive Order and by rules promulgated by the Civil Service Commission. While the existing restrictions establish minimum standards of conduct, the review focused upon certain deficiencies, overlaps, ambiguities and practices felt to deserve particular attention.

Various categories of personnel in the Department of Defense are not treated under the applicable statutes as the circumstances warrant. Exclusion of all enlisted personnel from the scope of the statute** appears untenable in view of the recently publicized NCO club scandal. Since inclusion of all enlisted personnel would be unnecessary and unwise, selective application to enlisted personnel by designation of function, rather than rank, presents a reasonable way of closing this gap. Similarly, Reserve officers on active duty may be classified in a number of categories, some of which provide various exemptions or lesser restrictions. *** It appears that the differences in the status of various Reserve officers create some deficiencies and ambiguity as to the applicable standards and, for fairness and uniformity, the statute should be clarified. The treatment of active Regular Navy and

*18 U.S.C. 201-218, Executive Order 11222, 10 May 1961; Rules of the Civil Service Commission in 5 C.F.R. 735.101-735.412 (1969); DOD Directive 5500.7, 8 August 1967 and multiple subordinate command regulations.

**18 U.S.C. 202(a).

***18 U.S.C. 202; 10 U.S.C. 1033.

Regular Marine Corps officers by the special restriction in 37 U.S.C. 801(a) seems to be unnecessary. These persons are subject to the whole array of basic standards of conduct as are the active Regular officers of the other services who are not similarly restricted. The status of employees of nonappropriated fund activities is not clear under the present law, but the need for the regulation of their conduct has been recently demonstrated.*

Implementing the legislation is Directive 5500.7, the regulation which incorporates the basic conflict of interest laws and establishes the rules for standards of conduct. In addition to setting forth the rules, the Directive provides an internal enforcement mechanism by imposing a requirement that certain high-level officials (GS-13/Major/Lieutenant Commander and above) occupying positions affecting the procurement process execute a confidential statement of employment and financial interest (DD Form 1555) and further requires that these forms be reviewed by attorneys to affirmatively determine the absence of a conflict of interest.

Directive 5500.7 differs from the rule of the Civil Service Commission in one significant aspect. Contrary to the Commission's rule**, it does not require that all employees be furnished with a copy of the pertinent regulations. This fact has been a matter of quiet controversy between the Department of Defense and the Commission for several years. The Department of Defense takes the view that such a dissemination would be unduly burdensome because of its many enlisted members and its overseas installations.

This basic Directive is implemented by the regulations of the Military Departments and the Defense Agencies and frequently supplemented by regulations of several subcommands and subordinate installations. At the highest command levels, no fundamental differences were noted, but neither is there any evidence that any attempt has been made to encourage or require universal adoption of the better rules, or any systematic cross-review by the services or agencies.

The multiple regulations which exist have created varying standards which are inconsistent with the basic Directive, or tend to create some distortion***, ambiguity**** or unwarranted diversity of treatment. The degree of such difficulties increases directly as it proceeds down the chain of command, and several recommendations are hereafter made with respect to dissemination of the rules for standards of conduct.

Through the use of the 1969 reports of field inspections by the Civil Service Commission and inquiries to a number of installations and activities selected according to mission, size and location, the administration of the rules for standards of conduct was investigated.

As for dissemination of the rules, it appears that the general tendency is to rely on a minimal routine distribution of written materials, or on calling attention to their availability and to expect self-familiarization by typical "read and sign" requirements. This process fails

*Report by Douglas H. Strahan, January 1969.

**5 C.F.R. 735.104(b)(2)(1969).

***See Army Materiel Command Reg. 600-6, Par. 7A and cf. Directive 5500.7 Sec. XV.A.4.

****See Army Materials Research Agency Reg. 600-3, 1 May 1967, concerning the acceptance of favors or gratuities from companies doing business with the agency.

to allow for the different categories of persons to whom the rules are addressed, the enormous quantity of written material which is generated in the Department, and the complexity of the rules themselves, all of which tend to render them incomprehensible to the individual who is supposed to abide by them.

Even if effective dissemination of the rules is assumed, their enforcement depends to a great extent on voluntary compliance of the individual, on the effective use of disclosure statements by supervisory and reviewing personnel, on the nature of the individual's duties rather than his rank, and, to a certain extent, on good investigative work which can play a useful role in detecting violations and in deterring potential violators. From questionnaires, interviews, and other available data concerning the several investigative branches within the Department of Defense, several conclusions are apparent:

First, the extent to which investigators are specifically trained in the investigation of standards-of-conduct problems is very limited.

Second, no system designed to discover violations of these restrictions exists within the Office of the Secretary of Defense, the Army, or the Navy. Only the Air Force maintains an office at Headquarters level equipped to provide advice and guidance to the field as to the procedure for standards-of-conduct investigations.

Third, no office queried has trained agents working full-time in the investigation of alleged standards-of-conduct violations, no Service knows the extent to which time is devoted to such investigations, and no Service knows the number of investigations conducted into this area or the number of violations uncovered and proven.

A special enforcement problem exists in connection with the Plant Cognizance Program whereby government employees are assigned to a contractor's plant in order to strengthen quality and cost controls. The obvious difficulty is the possible temptation for the individual to curry favor in the hope of future employment with the contractor. Less obvious is the difficulty of role identification. Because of the individual's direct and close relationship to the plant and its personnel, his judgment in any government/contractor dispute could be swayed in favor of personal attachments and unfavorably to the government. The Panel's investigation shows that these inherent difficulties may also be accentuated by a great lack of mobility* among such plant representatives.

Finally, a review of the general administration of the standards of conduct program for active personnel reveals that advisory, interpretive, and general administrative functions are frequently fragmented among different entities so that an effective and well-coordinated program is difficult to achieve. To establish both the appearance and substance of impartial administration, a number of administrative and procedural changes are desirable.

VI-3 In order to develop a more effective standards-of-conduct program applicable to

*Reply of Air Force Logistics Command to questionnaire from this Panel which shows, for example, four hundred eighty-eight employees (55%) of the Air Force contract management division's civilian personnel in the grade of GS-12 or higher have been at their present duty locations from five to ten years.

current officers and employees of the Department, consideration should be given to:

(a) Amending 18 U.S.C. 202(a) to provide that the terms "officer" or "special Government employee" shall for the purpose of Chapter 11 of Title 18, United States Code, include enlisted personnel occupying certain positions of trust as designated by the Secretary of the military department involved.

(b) Amending 18 U.S.C. 202 (a) to provide that NAF employees as described in 5 U.S.C. 2105(c), shall be considered employees of the United States for purposes of Chapter 11 of Title 18, United States Code.

(c) Further amending 18 U.S.C. 202(a) to provide that a Reserve officer serving on extended active duty or active duty for training will be considered a special government employee only if he has been ordered to active duty for a period not in excess of 180 days, and that all other Reserve officers serving on active duty will be considered full-time government employees.

(d) Amending 10 U.S.C. 1033 to provide that it applies only to Reserve officers ordered to active duty pursuant to 10 U.S.C. 672(a), 673, or 673a (i.e., "involuntary" orders to active duty), and amend section 4(f) of the Military Selective Service Act of 1967 to limit its application to individuals inducted into an enlisted status.

(e) Repealing 37 U.S.C. 801(a) which applies to active Regular Navy and Regular Marine Corps officers.

(f) Amending the Internal Revenue Code to define divestments required of prospective Presidential Appointees as involuntary conversions, the proceeds of which divestments may be reinvested by the appointee within a time period which terminates after leaving office without there being a taxable transaction, but with the taxpayer's basis in the property so divested to constitute his basis in the reinvestment.

VI-4 The Secretary of Defense should consider making the following changes to Directive 5500.7:

(a) Rewriting the directive in the more lucid manner exemplified by AR 600-50 and AFR 30-30.

(b) Providing that repromulgation by the military departments and their subordinate commands will be limited to republication of the Directive in its entirety with the permissible addition by those agencies only of clarifying terms.

(c) Providing minimum standards for the effective and relevant dissemination of standards-of-conduct rules.

(d) Providing that the rendering of advice on standards-of-conduct matters shall be accomplished by deputy counsellors as much as possible.

(e) Requiring the designation by each command of a person of adequate authority who

shall have overall responsibility for administration of the standards-of-conduct program.

(f) Providing that the supervisor will retain a copy of the confidential statement of employment and financial interest submitted by the employee or officer covered in the directive and will forward a complete job description to the deputy counsellor along with the employee's DD Form 1555.

(g) Removing the civil service and military grade and rank limitations on submission of DD Form 1555, so that applicability is determined solely by job duties and responsibilities.

(h) Specifically providing that each member and employee will be given a simple and comprehensible summary of the standards-of-conduct rules upon acceptance of employment or entry on active duty.

(i) Limiting the "read and sign" requirements to personnel above the grades of GS-13/major or lieutenant commander.

VI-5 The Secretary of Defense should cause to be prepared and distributed a manual, to be continuously updated, for all the deputy counsellors containing digests of relevant opinions of the courts, the Attorney General, the Civil Service Commission, the Comptroller General, the Judge Advocate Generals, and the General Counsels of the Department of Defense and the Military Departments pertaining to standards of conduct. Prepare and distribute a short movie dealing with standards of conduct and require annual attendance for the first three years of service or employment in a job, or encompassing responsibilities, designated in Directive 5500.7 to necessitate filing of a confidential statement of employment and financial interest. Prepare and distribute posters calling attention to proper standards of conduct.

VI-6 The following steps should be considered among the means to insure the more effective investigations on conflict-of-interest situations:

(a) Expand Army procurement inspections to the scope of Air Force investigative surveys, and institute such surveys within the Navy and the Office of the Secretary of Defense.

(b) Require the Navy to coordinate its investigations into procurement fraud and standards of conduct with local judge advocate offices.

(c) Require the Army to submit its reports of investigation to the Department-level office having staff interest in the subject matter.

(d) Require that the Army and Navy institute procurement fraud courses including coverage of standards of conduct for investigators similar to that conducted by the Air Force.

(e) Require that each Service create a record-keeping classification for standards - of -

conduct investigations undertaken.

VI-7 To better insure against conflict-of-interest incidents in connection with the Plant Cognizance Program, the Department of Defense should:

(a) Limit tours of duty of civilian and military personnel stationed at defense contractors' plants to three years.

(b) Explore the possibility of proposing legislation which would prohibit a military or civilian member or employee assigned as plant representative from accepting employment with the company at whose plant he was last stationed for a period of three years from the termination of active service.

IV. NONAPPROPRIATED FUND ACTIVITIES

The reputation of the Department of Defense has been damaged recently by disclosures concerning breaches of standards of conduct by some employees of the various nonappropriated fund (NAF) activities supervised by the military. Historically, these activities have enjoyed a decentralized relationship to the Military Departments in performing their function of assuring adequate morale, welfare and recreation programs for military personnel and their families. While the Department of Defense has established broad policy guides affecting NAF activities, great latitude is afforded local commanders in creating, operating and controlling these instrumentalities.

The various types of NAF activities are substantial, both in the dollar volume generated, and the number of civilian, military and foreign personnel employed. Recent developments have emphasized that NAF activities are susceptible to abuses. Irregularities were discovered by the Senate Permanent Subcommittee on Investigations in its 1969 probe of the management of non-commissioned officers' clubs in Vietnam; by the 1969 survey of Douglas H. Strahan, an Army investigator, who found widespread abuses in bookings of commercial entertainment and other kickbacks received by personnel in the Vietnam theater; and by the Inspector General's 1968 investigation of the Qui Nhon open mess associations which found gross abuses and irregularities in purchasing and contracting procedures of the Vietnam club system.

With this recent background, the applicability and administration of the laws governing the officers and employees engaged in NAF activities were evaluated.

Whether employees of these activities are considered employees of the United States for the purpose of conflict-of-interest laws is somewhat doubtful. There is neither a statute nor a judicial decision which explicitly resolves the matter. Though there are private legal opinions which are affirmative, Title 18 United States Code, should be amended to assure applicability to NAF employees of the laws governing the standards of conduct of Federal employees.

In a questionnaire sent to various installations and activities, inquiries were made about the standards-of-conduct rules administered for NAF activities. Generally, the responses indicated that the situation is not distinguishable from that discussed in connection with current officers and employees of the Department of Defense. Cumbersome directives, routine dissemination and fragmented administration can hopefully be resolved by the recommendations suggested earlier. It should not be concluded that laxities that seem to have been tolerated in a war zone exist in long-established posts and bases in the Continental United States. However, the nature of open messes as essentially bars and restaurants seems to lend itself to improprieties by employees because of the difficulties of maintaining accountability.

As for the effectiveness of existing controls, sound management techniques such as separating the functions of purchasing, receiving, and the use of competitive bidding are lacking. While the exchange system has benefited from using principles of management in a quasi-corporate approach, the open mess system and sundry fund activities have not utilized this approach. Neither the exemption for enlisted personnel nor the grade limitation for civilian personnel disclosures are realistic in view of the lower grade levels of NAF personnel in procurement or financially responsible positions. Changes should be made in connection with the communication and enforcement of standards-of-conduct rules to parallel those for other current officers and employees. Commanders at all echelons should achieve a high level of control and supervision over open messes and other NAF activities through administrative inspections, in addition to regularly scheduled audits and general inspections.

VI-8 The following actions with respect to the employees of non-appropriated fund (NAF) activities should be considered:

(a) Retaining a professional management study group to review the operating procedures of the open mess system and other locally controlled NAF activities.

(b) Amending 18 U.S.C. 202(a) to provide that NAF employees, as described in 5 U.S.C. 2105(c), shall be considered employees of the United States for purposes of Chapter 11 of Title 18.

(c) Modifying the exemption of enlisted personnel from the conflict-of-interest law (Title 18) to authorize the service Secretaries to designate categories of enlisted jobs subject to that law.

(d) Abolishing the GS-13 equivalency level cut-off for filing financial disclosure statements under Department Directive 5500.7.

(e) Improving the dissemination of standards-of-conduct rules in NAF activities as recommended generally for current Department of Defense officers and employees.

(f) Holding administrative inspections of subordinate NAF activities in addition to regularly scheduled audits and personal inspections.

V. CONSULTANTS

The possibility of a conflict of interest may arise for a Consultant, just as it may for more permanent personnel of the Department of Defense. Such persons, whether on a full or part-time basis, provide advice to officers or agencies of the government, but do not engage in operational functions. While the advice of these experts can be extremely valuable to the Department, in many instances the Consultants have related private interests which could conflict with the interests of the Department.

Consultants associated with the area of research and development are in particularly sensitive positions and, from the data reviewed, it appears that:

1. A substantial number of scientific and engineering Consultants are drawn from the largest defense contractors.
2. Although they do not make actual decisions, these Consultants are in positions to influence weapons development and, implicitly, the kinds of defense contractors who could benefit thereby.

The 1962 revision of the conflicts-of-interest laws appears to provide generally reasonable limits on the activities of Consultants. Several administrative deficiencies exist, however, which should be rectified.

The Civil Service Commission, in 1953, discontinued on-site inspections to determine whether or not each Consultant has a conflict of interest, and now relies upon a quarterly report. The departments and agencies have not filled this gap, and certain procedural safeguards have been omitted. The use of quarterly reports as an external control by the Civil Service Commission has resulted in some ambiguity and misunderstanding of the internal controls which the departments should exercise. An inconsistency in the requirements for current disclosure statements, and the omission of safeguards in the event of a change in the Consultant's duty assignment, are both matters of administration which should be reexamined. In addition, it appears that when consultant services are obtained by a contract with a firm, its employees are not covered by the rules for standards of conduct, even though the potential for the appearance of a conflict can be as great. In this case, a qualified requirement for a contract clause similar to that used to require security clearances is suggested.

 VI-9 *The following actions with respect to Consultants should be considered:*

(a) *Clarification of the applicability of the disclosure requirements and of the necessity for determining the absence of a conflict.*

(b) *Initiation by the Department of Defense of on-site inspections to establish administrative compliance with the restrictions upon Consultants generally and with special emphasis upon those in positions of high level research and development.*

(c) *Revision of Department of Defense Directive 5500.7 and the implementing regulations concerning Consultants to require:*

(1) Supplementary statements reflecting changes in financial interests under certain conditions.

(2) A redetermination of the absence of conflict of interest whenever the validity of a prior determination is jeopardized by reassignment.

(d) Requiring contract financial disclosure statements from the personnel of consulting firms where deemed necessary in the public interest.

CONCURRING STATEMENT OF DR. GEORGE J. STIGLER

Because of the scope of the Report, and the short time available for review of it by the Panel, I wish to emphasize that general agreement with the Report does not preclude my disagreement or uncertainty with respect to many detailed recommendations and much of the language of the Report. One may question the wisdom of the Panel's decision to embark upon so encyclopedic a review of the immense economy of the Department of Defense within a time limit of one short year. The following comments differ in emphasis more than in position from the Report:

1. No organization can achieve or maintain efficiency in structure or operation by having a critical review made by expert outsiders once each five or ten years – even if, contrary to the experience of previous surveys of the Department of Defense, the recommendations of the review panel are unflinchingly adopted. A good organization must have built into its very structure the incentives to its personnel to do the right things.

The administrative problems posed by the Department of Defense arise in good part because (a) its professional corps has a strict hierarchy which more often punishes than rewards criticism and innovation at lower ranks, (b) its central product – military efficiency – cannot be easily measured in peace time and therefore rewarded by larger appropriations and more rapid promotions, and (c) many of the prices put on its inputs (conscripted troops, rent-free land, etc.) are wholly incorrect measures of the scarcities of these inputs.

2. Competition between the military services should in general be encouraged rather than deplored. This competition is a major element of civilian control, and I do not place a low value on the fact that of the major powers only the United States and Great Britain have avoided military takeovers in the last 200 years. This competition is also a source of strength in discovering good and bad weapons and tactics: for example, we would not have a respectable rifle if the Army had kept sole control of the weapon. Even a limited amount of duplication of function is part of a prudent national policy.
3. The hierarchical structure of the Services is necessary to discipline and the coordinated control of large numbers of men, but it is not necessary to innovations in techniques nor is it even favorable to civilian review and control of the military establishment. To these ends it is essential that the Secretary of Defense be advised and informed by a civilian staff capable of discovering the real controversies within a Service and of advising on the division of functions and resources among Services. This civilian staff, largely concentrated in Systems Analysis, simply cannot be taken out of the main center of decision-making without depriving the Secretary of Defense of the capacity for independent decision-making. The Secretary will not turn over the direction of military forces to this civilian group (if he did, they would have to be put in uniform). But the Services have no right to reject independent review of their top-level decisions, and the nation cannot afford to give final power to them. (I may add that I fully

approve of extensive Congressional review of the operations of the Department of Defense.)

4. **The vast, horrendously expensive, weapon systems which now consume so large a part of the budget of the Department of Defense may be our saving or our downfall. The great difficulty is that presently we do not know. Operational testing is almost non-existent in the weapons acquisition process. The recommendation of the Report that systematic operational testing be introduced deserves highest priority.**

DISSENTING STATEMENT OF ROBERT C. JACKSON

Herewith is my dissent to the Blue Ribbon Defense Panel Report, including my recommended organization chart for the Department of Defense.

I consider the following quote from page 16 of the Panel's Report to be very important and use it to set the stage for my comments:

"In retrospect, the evolutionary approach to reorganization of the Department of Defense, while falling significantly short of the objectives of organizational and management purists, and at the same time overriding the inhibitions of the organizational traditionalists, has, on the whole, served the Nation's interests well. A more revolutionary approach to military reorganization might have destroyed values inherent in the traditional military organization which have been worth preserving. Even more significant, revolutionary changes would probably have seriously disrupted the operation and reduced the effectiveness of U.S. military forces during a period when the world situation necessitated maintenance of credible military power."

Previously I have made several recommendations for changes in the Panel's Report and indicated the reasons therefor. Although I am still not in agreement with a number of facets of the report, I will, however, limit my dissent to three important areas.

The first is - the idea recurrent throughout the report that the JCS organization and function as now constituted is not and cannot be wholly responsive to the requirements of the SecDef, and that an additional staff organization, under a Deputy/Under SecDef, is required solely for Military Operations, thus limiting the JCS principally to planning activities.

The second is - the Panel's citation of deficiencies relating to the Unified Command organization and the proposals to correct the situation, i.e.:

- to create another command echelon consisting of strategic, tactical, and logistics elements to be organizationally situated between the Unified and Specified Commands and the Washington level.
- to merge the Southern, Atlantic, and Strike Commands into a Reconstituted Strike Command.
- to require that Component Commanders be made Deputies of the Unified Commanders in order to strengthen the Unified Commander's authority.

Finally, the proposal to submerge the identity of the Service Secretaries under a new Under Secretary for Resources.

As presently constituted, the JCS system permits Service views to be expressed as a necessary protection against unilateral thinking and the adoption of a one-sided strategic concept. The existence of differing points of view in the Joint Chiefs of Staff and their ultimate melding into strategic guidance and policies are not evils to be abolished, but are healthy values to be preserved.

The present JCS organization and procedures are designed to ensure precise, careful determination of the best military strategy and necessary strategic guidance for the Armed Forces. This requires careful examination of all alternatives. It is important to note that in generating strategic guidance, quality rather than speed is necessary. Better solutions result from thorough consideration of differences of opinion. Planning decisions should be made only after all aspects of complex strategic problems have been examined.

Operational decisions, on the other hand, usually require a more rapid decision making procedure than do strategic problems. It is my understanding that operational decisions have been made during the Vietnam war principally by the Chairman of the JCS acting on Joint Staff advice, and on most occasions the Chairman acts without consulting the Chiefs. At the same time, if the Chairman feels an important policy is involved, he can, and frequently does, conference the Chiefs by telephone in a matter of minutes. However, I recommend that the Chairman of the JCS have a four star officer to assist him. This would relieve the Chairman of the day to day detail, make it possible to delegate functions, and generally result in faster decision making for operational matters. I recommend that the Director of the Joint Staff be advanced to four star rank and be designated Director of the Joint Staff and Deputy Chairman.

It is important to differentiate between the planning problems which require mature consideration and the operational decisions which can be made very rapidly. In my opinion the Joint Staff and the Joint Chiefs of Staff do have the flexibility necessary to make decisions or to submit proposals to higher authority within the time limit required.

It is quite necessary to have a military operations command unit in Washington and it should be composed of the best qualified officers available. However, to set up another staff to handle operations while the Joint Staff of the JCS concentrates on planning and other advice to the Secretary would create untold problems. For example, it is most difficult to separate planning from operations. Where does planning stop and operations begin? What part of logistics is operational logistics?

Two separate Joint Staffs at the national level would create a highly unsatisfactory situation. I believe it would be chaotic to set up another large military staff in Washington to parallel the work now done by the Joint Staff of the JCS. Therefore, I recommend that the Joint Staff continue the operations function, that the Chairman or his four star Deputy, acting for the JCS, continue to report direct to the Secretary of Defense, and provide the channel of communications from the President and the Secretary of Defense to the Unified Commands. I recommend that the great responsibility of the Chairman of the Joint Chiefs of Staff position be recognized by making the Chairman a five star officer.

The second theme in this report with which I do not agree is that which finds some vague deficiency in the Unified Command organization which, according to the report, makes it necessary to form an ad hoc organization to meet each particular crisis. It is indicated that an examination of the missions of the present commands and some of the specific problems reveal that the present structure is not effective and probably would have to be radically changed to support a major war effort.

To correct this presumed deficiency the Panel recommends a drastic reorganization of the Unified Commands now existing and the insertion of another command echelon between the Unified and Specified Commands and the Washington level. This new command echelon would consist of a Strategic, a Tactical, and a Logistics Command.

I do not concur with the proposal to form a Strategic Command, a Tactical Command, and a Logistics Command. While the present structure of the Unified and Specified Commands could be improved by some consolidation, the present setup does work and is responsive. Nothing could be more cumbersome than a structure into which all of the Armed Forces were assigned in accordance with the determination that they were strategic or tactical. The present Area Commands were formed after mature consideration. They work well in practice. There is no revolutionary change in the art of warfare that requires them to be altered in a radical way. This proposal would add another echelon between the combatant commanders and the JCS with more large staffs, headquarters, communication requirements, and a proliferation of directives when the Armed Forces are submerged in directives already.

Strategic direction must come from the JCS level with direct and close supervision from SecDef. At present the JCS provide strategic direction, with the Unified and Specified Commanders responsible for implementation of JCS directives. The Single Integrated Operating Plan provides optimum integration of committed forces. The national strategic targeting and attack policy provides supplemental strategic direction. Assumption of additional responsibility by a newly created Strategic Command would only duplicate functions now performed by the JCS and the Unified Commanders, and quite possibly would result in unsafe, uneconomical, and inefficient operations. It is highly important to have direct and rapid communications between the JCS and the operational command in an emergency situation and a new intervening command echelon would tend to increase communications time to an unacceptable degree. These are only a few of the reasons why I cannot concur with the proposal to form a Strategic Command.

What would be gained, for example, by marrying three completely diverse operational elements – the Strategic Air Command, Continental Air Defense Command, and the Polaris Submarines into a so-called Strategic Command? What would it do better than the present set-up? Would it improve the readiness or the wartime control? Readiness of submarines, for example, involves complex and expensive maintenance systems, specialized training, and operation in a manner which takes into account all the other elements below the surface, on the surface, and in the air that have means of detecting submarines. These functions are now performed by the Atlantic and Pacific Fleet Commands. The proposed command echelon would tend to hinder rather than improve their performance. Similarly, coordination of targeting is accomplished by the Joint Strategic Target Planning Group in Omaha in a most satisfactory manner and does not require the assistance of the newly proposed command echelon. However, this new command grouping would create a demand for a mammoth staff, so economy certainly cannot be the objective.

The formation for a Tactical Command is even less useful. CINCPAC, CINCLANT and CINCEUR combine area geopolitical knowledge with a command and control system needed to operate military forces in the area. Direct contact with the JCS makes for rapid decision-making. I am unable to imagine what duties would be assigned to the so-called Tactical Command. It would insert another echelon to slow up decision-making and, of course, as with the Strategic Command it would certainly create a demand for a mammoth staff, a large headquarters, and a proliferation of communication systems.

I do not concur that the Southern Command function should be reconstituted in the Strike Command. The Strike Command has become an Area Command by virtue of the responsibility it has been given for the Middle East and Africa. I would recommend consideration of the following: that the responsibilities for the Middle East be transferred

to CINCEUR; responsibilities for Africa be transferred to CINCLANT; and the Strike Command be disestablished; that the Southern Command be transferred to the Atlantic Command.

The Atlantic Command, in addition to its very important national function, is closely related to the Allied Command Atlantic, one of the two major NATO commands. CINCLANT is also the Supreme Allied Commander Atlantic. The CINCLANT and SACLANT staffs, both situated in the same compound at Norfolk are closely interrelated. To disestablish the Atlantic Command would be a major downgrading of the United States' contribution to the NATO alliance. And this would take place at a time when the President is trying to reassure our NATO allies of the permanence of the United States commitment.

I do not concur that the Component Commanders should be made Deputies of the Unified Commander in order to strengthen the Unified Commander's authority. This is not necessary as the Unified Commander now has full authority over the Component Commanders; this applies to all matters affecting the operations of his assigned forces. His channels of authority are clear and unmistakable. The Unified Commander can exercise his command through his Component Commanders or through a subordinate Unified Commander; he can set up a Special Task Force; or he can exercise command directly, as he desires. This decision is one in which the Unified Commander has full freedom of action. The Unified Commander also has logistics responsibility. He can assume it as he feels necessary. The Component Commanders are not the dominating factor in the Unified Command structure. The Unified Commander is as strong as he wants to make himself. The law should be re-examined and made sufficiently clear so as to strengthen the Unified Commanders' charter and to provide him the necessary authority to exercise command in every field that affects the performance of his assigned forces, including logistics and personnel matters. The Unified Commander, responsible to the SecDef, with immediate access to the SecDef if he wants to use it, to the Chairman of the Joint Chiefs of Staff, and to the members of the Joint Chiefs of Staff, has a great deal of power. For the above reasons I believe the present structure is satisfactory and do not agree that the Service Component Commanders should be redesignated as Service Deputies to the Unified Commanders.

The Logistic Systems of the three Services are certainly large, as would be expected since each Service is many times larger than the largest U.S. corporation. The Services have resisted integrating these supply systems into a single system for good reason. They recognize that a functioning logistics system is essential to efficient combat operations. Most do not believe that combining these three systems into one would improve efficiency. The Assistant SecDef for Installations and Logistics should provide measures to achieve maximum coordination as a means of promoting efficiency and economy without complete integration. Other Assistant SecDef, e.g., for Computing and for Communications can do this and therefore SecDef for I&L should also be able to. In regard to Transportation, MATS and MSTC should remain assigned as they now are with coordination achieved through the JCS and the Assistant SecDef for I&L. I do not believe that complete integration of supply, maintenance, and transportation functions for the support of Unified Commanders can improve the effectiveness of logistics support, nor will it achieve great efficiency and economy. Overall, therefore, I am not in agreement with the proposal to establish a Logistics Command.

Finally, I am concerned at the proposed derogation of the three Military Departments of the Army, the Navy and the Air Force. The legislative history of our National Security Act makes clear that Congress intended each of the Departments to be separately organized

under its own Secretary, subject to control, direction, and authority of the Secretary of Defense.

The Service Secretary should serve the Secretary of Defense as a responsible assistant, exercising the necessary control over his Service. Service Secretaries symbolize and give genuine meaning to the term "civilian control of the military." Each Service is dedicated to this fundamental American principle, and would lose traditional identification as an organic body if the authority of its Secretary were assumed by an individual who represented all Services, or who would be imposed in the chain of command between the Service and Secretary of Defense.

The Services are not alike. The retention by each of its separate character, customs, and confidence is essential to the preservation of our national military power. The first requirement of our unified military establishment is the moral soundness of each of its integral parts. I feel that further reduction in the role of the Service Secretary moves us closer to an undesirable over-centralization, and could be a prelude to the merging of the Services - a concept with which I strongly disagree and which is contrary to law. For these reasons, I recommend that no change be made in the vertical relationship between the Service Secretaries and the Secretary of Defense.

The Panel by inference recommends that the Office of Deputy of Secretary of Defense be eliminated. I believe that in an organization as large as the Defense Department it is essential that the Secretary of Defense have a Deputy who is senior to all other Secretaries in the Defense Department, be they Assistant Secretaries, Under Secretaries, or Deputy Secretaries.

The Panel recommends a Long Range Planning Group to provide staff support to the Secretary of Defense with responsibility for long range planning which integrates net assessment, technological projections, fiscal planning, etc. The Panel further recommends a coordinating group to assist the Secretary in coordinating the activities of the entire Department. The Panel also recommends a Net Assessment Group to conduct and report on net assessment of United States and foreign military capabilities and potentials. I believe these three groups should be assembled under an Assistant Secretary of Defense for Long Range Planning, Coordination, and Net Assessment. This Assistant Secretary would report directly to the Secretary/Deputy Secretary of Defense.

I recommend that the present Assistant Secretary of International Security Affairs be renamed Assistant Secretary for Political/Military Affairs and that he report directly to the Secretary/Deputy Secretary for Defense.

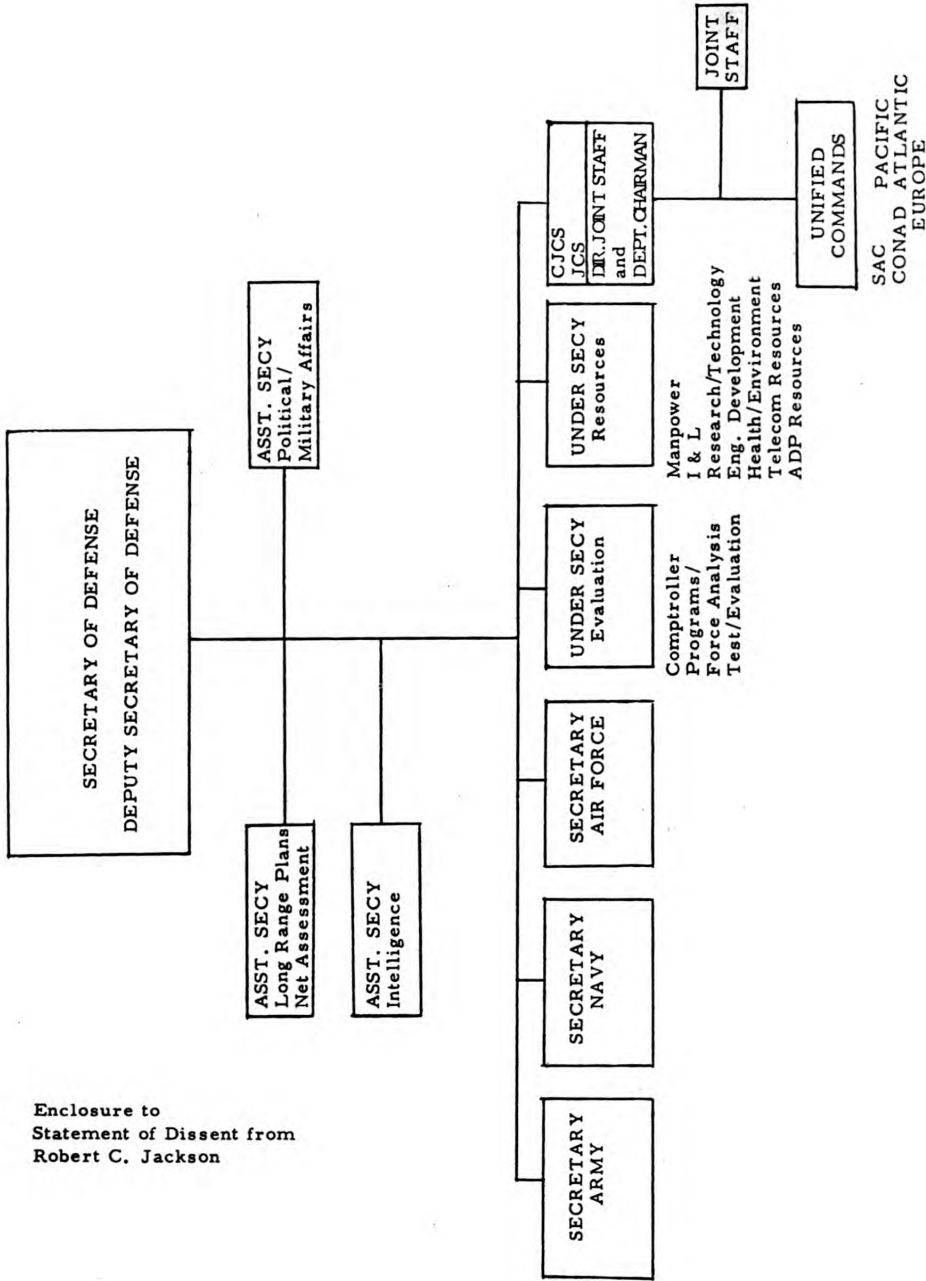
Since I am opposed to an Under Secretary for Operations, I recommend that the Assistant Secretary of Defense for Intelligence report directly to the Secretary/Deputy Secretary of Defense.

In summary, I believe that the JCS and the Joint Staff as presently constituted should remain in the operational chain of command between the Secretary of Defense and the Unified and Specified Commanders. I believe that the Chairman of the JCS should have a four star Deputy but I am opposed to the creation of another operational staff and to the creation of an Under or Deputy Secretary of Defense for Operations. Likewise, I recommend against the creation of a Strategic, a Tactical and a Logistics Command and the subordination of the Service Secretaries to an Under Secretary of Defense. I further believe

that the Unified Commanders are able to exert all necessary command authority over their Component Commanders, and I do not concur that the Component Commanders should be designated as Service Deputies.

I concur with the proposal to establish an Under Secretary of Defense for Resources and an Under Secretary of Defense for Evaluation, and believe that this change will solve many of the organizational problems with the Defense establishment in Washington by reducing the number of offices reporting to the Secretary of Defense.

Referring once again to the paragraph from the Panel's Report quoted at the beginning of my comments, I wish to add that the revolutionary approach to organizational change could conceivably cause unconscionable chaos, and at the least, a furor out of proportion to the importance of the recommended change. However, in my view, the real danger would be that in this environment of contention brought about by dissension over organization, other important and vitally necessary changes recommended by the Panel would be submerged and efforts to bring them to fruition would be interdicted by the cloud of controversy over organization.



Enclosure to
Statement of Dissent from
Robert C. Jackson

DISSENTING STATEMENT OF WILFRED J. McNEIL

The Report of the Blue Ribbon Defense Panel contains many statements and recommendations that are deserving of full support. As an example, I think that the reasoning and conclusions dealing with the development and acquisition of weapons and equipment are excellent and the recommendations should be adopted without delay.

However, with certain exceptions, I do not concur in the concept nor in most of the recommendations in Chapter I, "Organization," references to organization matters in other chapters or with some of the recommendations on logistics. Following are comments relating to these sections of the Report together with my recommended organization chart for the Department of Defense.

The results of overcentralized management of the 1960's, the hearings conducted by the Panel, and the preface of the Report itself, all call for decentralization of command and management. Panel recommendations on organization, however, go in the other direction. It is proposed that present functions of the Office of the Secretary of Defense be expanded and assigned to an OSD staff of greater stature encouraging more and more centralization. At the same time, the Military Departments and their Secretaries would be downgraded and the Joint Chiefs of Staff, including The Chairman, considered - by implication, at least - unsuited because of Service rivalry or parochialism, etc., to lead or direct the fighting forces. This in spite of the fact that they all have thirty to forty years of honorable field or combat experience and are among the best trained and ablest people in the nation.

To carry out a program of decentralization, the need for strong, well-organized and well-run military departments is recognized. Yet, for reasons touched on above, many of the recommendations on organization in the Report - if carried out - would be one long step toward a highly centralized Single Service and in the case of logistics, recommendations admittedly lay the groundwork for a Single Service of Supply. I could not concur with either objective.

(Note: There are evidences that the Secretary of Defense and the Deputy Secretary of Defense are attempting to decentralize or delegate some of the decision making tasks and to restore some of the responsibilities that the heads of the Military Departments once carried. This effort may be - for the time being at least - a somewhat frustrating experience. After some eight years of overcentralization, the capability to accept responsibility and to make decisions withers (standing instructions being what they are) and it can take time to reverse the pattern. Temporary lapses or failures should not affect the long-term objective.)

As groundwork for the comments that follow, I would like to quote from the foreword of one of the Panel's Staff Reports:

"... we tend to meet any new situation by reorganizing and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency, and demoralization."

Petronius Arbiter circa. A.D. 60

There is a natural tendency to choose the route of drastic reorganization if some segment is

not living up to expectations. Also, there is the tendency to merge or combine two or more segments of an organization if either or both are operating in an unsatisfactory manner instead of attempting to solve the individual and lesser problem first. It is in this framework that the following comments are submitted.

Mr. Robert C. Jackson, a member of the Panel and a person with long experience in observing the strong and weak points of the military structure submitted a dissent from the Panel Report. While he indicated that he still was not in agreement with a number of facets of the Report, he limited his formal dissent to three important areas. I subscribe to his reasoning and his conclusions except that any new Under Secretaries of Defense (for Resources and for Evaluation) should be staff to the Secretary of Defense and ranked next junior to the Secretaries of the Military Departments. Because of the thoroughness of his work I will try to avoid undue duplication of Mr. Jackson's observations, although my comments point to the same conclusions.

First, there is merit in the grouping of certain OSD functions dealing with: (1) Resources and, (2) Evaluation - PROVIDING that each of the two groups were to be headed by an Under Secretary of Defense who was staff to the Secretary of Defense and the Deputy Secretary of Defense, and ranked next junior to the Secretaries of the Military Departments. I do not subscribe to the proposal for another Under Secretary of Defense to head a new military operations staff as contemplated in the Report.

Next, I urge that the Joint Chiefs of Staff, their Chairman, and the Joint Staff be considered as an integral part of the Office of the Secretary of Defense. In this context I believe that the JCS, and the Chairman should report directly to the Secretary of Defense, or his Deputy acting in his stead, that the JCS represented by the Chairman should be in the chain of command to the Unified or Specified Commands as is the practice at present and that the Joint Staff should report to him. No new and separate military operations staff is needed although the Secretary of Defense may wish to have a Special Assistant or a small personal staff to monitor JCS work.

(Note: There is criticism, and with some justification, of the size of the Joint Staff, its committees and of the involved procedures that have developed over the years. What is not recognized in the Report is the tendency for every element of OSD - when they have a problem - to "pass the buck" by just asking JCS for their comments. As a result, the Joint Staff and the associated committees devote many man years of effort to matters that should, in my opinion, never go to JCS at all. For example, the JCS should not get into Budget detail. Rather their contribution to this function should be in the consideration of primary force requirements and the general readiness of the forces.)

I am not sure what would be accomplished by placing Component Commanders as staff to the Unified Commander. It would result in the creation of a large single staff dealing in a myriad of technical and logistic detail of all Services that normally a Unified Commander should not be burdened with. The present organization gives the Unified Commander clear, unfragmented command authority over all forces assigned to him and the designation of Component Commanders as Deputies would not enhance the Unified Commanders authority. In my opinion, the primary duties of the Unified Commander is to "fight" the assigned forces, or to be ready to "fight" the assigned forces. He should, of course, be able to state his opinion as to his present and future needs and to submit views as

to the adequacy and inadequacy of weapons available to him. His requirements, however, are just a part of the overall picture and cannot be accepted without evaluation any more than any other element of the forces.

While the dissent submitted by Mr. Jackson presents reasons against the proliferation of top commands, I would like to add a brief comment for emphasis, at the risk of repetition.

There is no need for, nor do I favor the establishment of a "Strategic Command." The present Joint Targeting system has worked well and should continue. The creation of a "Strategic Command" would produce yet another 'layer' between decision makers and the forces. In the years to come the maintenance, replacement, and if need be, the use of these forces can be most effectively and efficiently accomplished under the present system.

A new "Tactical Command" headquarters is, in my opinion, unnecessary. Facilities exist today to handle the command relationships with the Unified and Specified Commands. The "Tactical Command" concept is once again the 'layering' process which produces a large staff but leaves in doubt just how this produces more effectiveness or clear cut lines of command and for planning.

I do not subscribe to a "Logistic Command" as proposed in the Report. I find no solid evidence in Staff Reports to support this proposal.

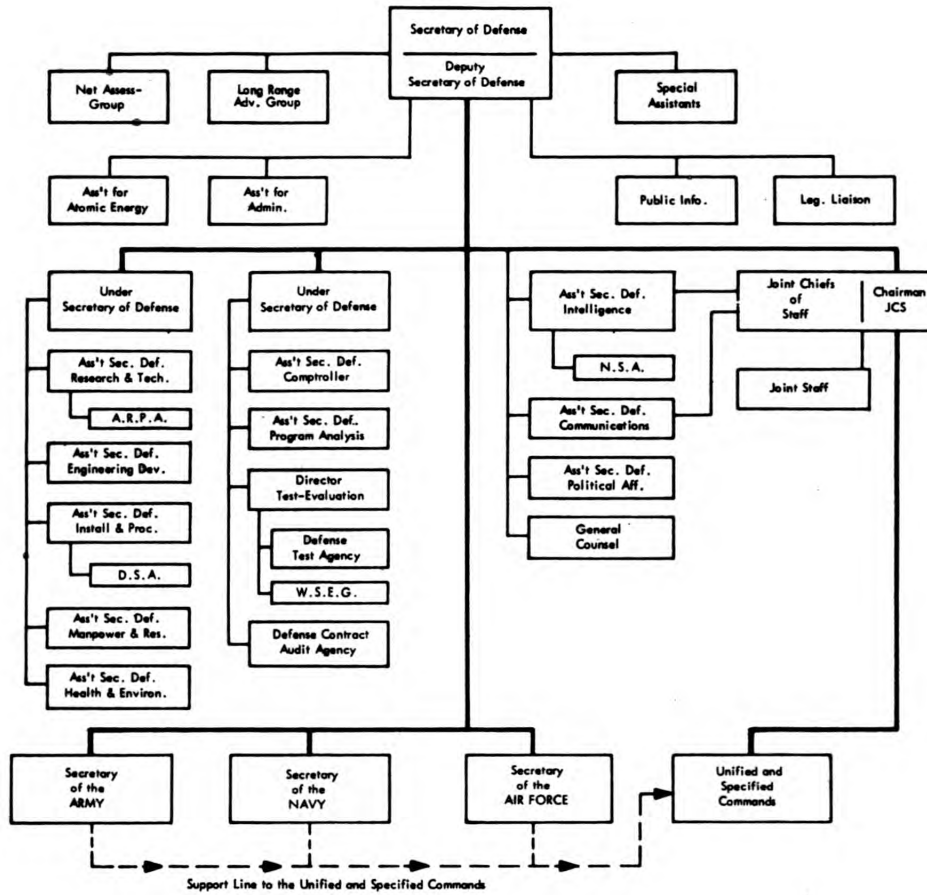
The Long Range Planning Council and a Net Assessment Group has merit and should report directly to the Secretary/Deputy Secretary of Defense as special staff groups.

I agree with Mr. Jackson that what is now ISA should be retitled Political/Military Affairs, as being more descriptive, and this function should report to the Secretary of Defense. The enclosed chart shows the Communications function and the Intelligence function reporting to the Secretary/Deputy Secretary of Defense. They might well report to the Under Secretary of Defense. Regardless of the reporting line, it would be helpful if these functions were organized and staffed so they might serve all users - in a manner similar to the way the Navy has organized and operated its finance function at Headquarters.

It is not possible for a Panel such as this to cover every facet of the work of the entire Department of Defense. I do feel, however, that there are certain deficiencies in the Report that should have been dealt with. For example, no staff studies on organization of the Military Departments were undertaken, and except for an admonition to reduce staff personnel, no recommendations are included in the Report. Another example - on several occasions I proposed that the sense of major recommendations or alternatives that were under consideration by the Panel be discussed with senior people of the organizational entities affected in order to secure their input and ideas. Conceivably, people currently engaged in the actual work of the Department would have a contribution to make. No doubt some objections - both real and fancied - would have been raised which the Panel could have accepted or rejected. In any case, I believe that the work of the Panel would have been more thorough and complete had this been done. The Panel, as a whole, took the opposite view.

Although the dissents relate to important areas of the Panel's work there are - as stated at the outset - many conclusions and recommendations that deserve full support. They are well worth the year-long effort on the part of the Panel members and the Staff.

RECOMMENDED ORGANIZATION CHART
DEPARTMENT OF DEFENSE
June 25, 1970



Enclosure to
Statement of Dissent from
Wilfred J. McNeil

CONSOLIDATED LIST OF RECOMMENDATIONS

ORGANIZATION

I-1 The functions of the Department of Defense should be divided into three major groupings:

(a) **Military Operations, including operational command, intelligence, and communications (herein called Operations);**

(b) **Management of personnel and materiel resources (herein called Management of Resources); and**

(c) **Evaluation type functions, including financial controls, testing of weapons, analysis of costs and effectiveness of force structures, etc, (herein called Evaluation).**

I-2 Each of these major groups should report to the Secretary of Defense through a separate Deputy Secretary. Appointees to these three positions should be drawn from civilian life, and should rank above all other officers of the Department of Defense except the Secretary. One of the three should be designated principal deputy. The General Counsel, the Assistant to the Secretary of Defense (Atomic Energy), the Assistant Secretary of Defense (Public Affairs), and the Assistant to the Secretary of Defense (Legislative Affairs) would continue to report directly to the Secretary of Defense. The staff of the Office of the Secretary of Defense should not exceed 2,000 people.

I-3 The Deputy Secretary of Defense for Management of Resources should be delegated responsibility for the following functions:

(a) **The Military Departments, which should continue under the immediate supervision of their Secretaries;**

(b) **Research and Advanced Technology;**

(c) **Engineering Development;**

(d) **Installations and Procurement (a modification of the present Installations and Logistics);**

(e) **Manpower and Reserve Affairs;**

(f) **Health and Environmental Affairs;**

(g) **Defense Supply Agency; and**

(h) **Advanced Research Projects Agency.**

There should be an Assistant Secretary of Defense for each of the functions (b) through (f) inclusive, who reports and provides staff assistance to the Secretary of Defense through the Deputy Secretary of Defense (Management of Resources). The position of Director, Defense Research and Engineering should be abolished, and his functions reallocated between the Assistant Secretary of Defense for Research and Advanced Technology and the Assistant Secretary of Defense for Engineering Development.

Functions (g) and (h) should continue to be constituted as Defense Agencies, each under the immediate supervision of a Director.

The Advanced Research Projects Agency should be delegated the responsibility for all research and exploratory development budget categories. Funds for such research should be budgeted directly to this Agency, and the Agency should be authorized to assign or contract for work projects to laboratories of the Defense Department or in the private sector, as appropriate.

I-4 The Deputy Secretary of Defense for Operations should be delegated responsibility for the following functions:

- (a) Military Operations;
- (b) The Unified Commands;
- (c) Operational Requirements;
- (d) Intelligence;
- (e) Telecommunications (and Automatic Data Processing);
- (f) International Security Affairs;
- (g) Defense Communications Agency; and
- (h) Civil Defense Agency (If Civil Defense is to be retained in the Department of Defense).

Three new major Unified Commands should be created: (1) A Strategic Command, composed of the existing Strategic Air Command, the Joint Strategic Target Planning Staff, the Continental Air Defense Command, and Fleet Ballistic Missile Operations; (2) A Tactical (or General Purpose) Command, composed of all combatant general purpose forces of the United States assigned to organized combatant units; and (3) A Logistics Command, to exercise for all combatant forces supervision of support activities, including supply distribution, maintenance, traffic management and transportation. No Commander of a Unified Command should be permitted to serve concurrently as Chief of his Military Service.

The responsibilities now delegated to the Joint Chiefs of Staff by the Secretary of Defense to serve as military staff in the chain of operational command with respect to the Unified Commands, and all other responsibilities so delegated which are related to military

operations and the Unified Commands, should be assigned to a single senior military officer, who should also supervise the separate staff which provides staff support on military operations and the channel of communications from the President and Secretary of Defense to Unified Commands. This officer should report to the Secretary of Defense through the Deputy Secretary of Defense (Operations). This senior military officer could be either the Chairman of the Joint Chiefs of Staff, as an individual, not ex-officio, the Commander of the Tactical Command, or some other senior military officer, as determined by the President and the Secretary of Defense.

There should be an Assistant Secretary of Defense for each of the functions (c) through (f), inclusive, who reports and provides staff assistance to the Secretary of Defense through the Deputy Secretary of Defense (Operations). The Defense Communications Agency and the Civil Defense Agency would each be under the immediate supervision of a Director.

All intelligence functions of the Department of Defense and all communications functions should report to the Secretary of Defense through the Deputy Secretary of Defense for Operations.

I-5 The following steps should also be taken:

(a) To provide the staff support on military operations, and the channel of communications from the President and the Secretary of Defense to the Unified Commands, an operations staff, separate from all other military staffs, should be created.

(b) The responsibilities now delegated to the Joint Chiefs of Staff by the Secretary of Defense to serve as military staff in the chain of operational command with respect to the Unified Commands, and all other responsibilities so delegated which are related to military operations and the Unified Commands, should be rescinded; and consideration should be given to changing the title of the Chief of Naval Operations to Chief of Staff of the Navy.

(c) All staff personnel positions in the Organization of the Joint Chiefs of Staff and in the headquarters military staffs of the Military Services which are in support of activities, such as military operations, which are recommended for transfer to other organizational elements, should be eliminated.

(d) The Organization of the Joint Chiefs of Staff should be limited to include only the Joint Chiefs of Staff and a reconstituted Joint Staff limited in size to not more than 250 officers augmented by professional civilian analysts as required.

(e) The Unified Commanders should be given unfragmented command authority for their Commands, and the Commanders of component commands should be redesignated Deputies to the commander of the appropriate Unified Command, in order to make it unmistakably clear that the combatant forces are in the chain of command which runs exclusively through the Unified Commander;

(f) In consolidating the existing area Unified Commands into the Tactical Command, major organizational and functional advantages will be obtained by:

- (1) Merging the Atlantic Command and the Strike Command;
- (2) Abolishing the Southern Command and reassigning its functions to the merged Atlantic and Strike Commands;
- (3) Abolishing the Alaskan Command and reassigning its general purpose function to the Pacific Command and its strategic defense functions to the Strategic Command; and
- (4) Restructuring the command channels of the sub-unified commands.

(g) The responsibilities related to civil disturbances currently delegated to the Army should be redelegated to the Tactical Command; and

(h) The Unified Commanders should be given express responsibility and capability for making recommendations to the Deputy Secretary of Defense for Operations, for operational capabilities objectives and for allocations of force structures needed for the effective accomplishment of the missions assigned to their Commands.

I-6 The Deputy Secretary of Defense for Evaluation should be delegated the responsibility for the evaluation and control-type activities, including:

- (a) Comptroller (including internal audit and inspection services);
- (b) Program and Force Analysis (a modification of the present Systems Analysis Unit);
- (c) Test and Evaluation;
- (d) Defense Contract Audit Agency; and
- (e) Defense Test Agency.

There should be an Assistant Secretary of Defense for each of the functions (a) through (c) inclusive, who reports and provides staff assistance to the Secretary of the Defense through the Deputy Secretary of Defense for Evaluation.

The Defense Contract Audit Agency should be continued as a Defense Agency, under the immediate supervision of a Director.

A Defense Test Agency should be created to perform the functions of overview of all Defense test and evaluation, designing or reviewing of designs for test, monitoring and evaluation of the entire Defense test program, and conducting tests and evaluations as required, with particular emphasis on operational testing, and on systems and equipments which span Service lines. The Defense Test Agency should be under the supervision of a civilian Director, reporting to the Secretary of Defense through the Deputy Secretary of Defense for Evaluation.

I-7 The number of Assistant Secretaries in each of the Military Departments should be set at three, and except for the Assistant Secretaries (Financial Management), they should serve as senior members of a personal staff to the Secretaries of the Military Departments without the existing limitations of purview imposed by formal functional assignments. The Assistant Secretary (Financial Management) should become the Comptroller of the Military Department, with a military deputy, as in the current organization in the Department of the Navy.

The Secretariats and Service Military Staffs should be integrated to the extent necessary to eliminate duplication; the functions related to military operations and intelligence should be eliminated; line type functions, e.g., personnel operations, should be transferred to command organizations; and the remaining elements should be reduced by at least thirty percent. (A study of the present staffs indicates that the Secretariats and Service staffs combined should total no more than 2,000 people for each Department).

I-8 Class II activities (Army), Field Extensions (Air Force), and Commands and Bureaus (Navy), all of which are line, rather than staff in character, which are now organizationally located under the direct supervision of staff elements in the headquarters military staffs of the services, should be transferred to existing command-type organizations within the Services.

I-9 The Defense Atomic Support Agency should be disestablished. Its functions for nuclear weapons management should be transferred to the operations staff under the Deputy Secretary of Defense for Operations, and its weapons effects test design function should be transferred to the Defense Test Agency.

I-10 The administration functions presently assigned to the Assistant Secretary of Defense (Administration) should be assigned to a Director of Pentagon Services, reporting to the immediate office of the Secretary of Defense. He should be responsible for operating the facilities and providing administrative support for the Washington Headquarters.

I-11 A separate program category should be established for public affairs activities in the Department of Defense.

I-12 A Net Assessment Group should be created for the purpose of conducting and reporting net assessments of United States and foreign military capabilities and potentials. This group should consist of individuals from appropriate units in the Department of Defense, consultants and contract personnel appointed from time to time by the Secretary

of Defense, and should report directly to him.

I-13 A Long-Range Planning Group should be created for the purpose of providing staff support to the Secretary of Defense with responsibility for long-range planning which integrates net assessments, technological projections, fiscal planning, etc. This group should consist of individuals from appropriate units in the Department of Defense, consultants and contract personnel appointed from time to time by the Secretary of Defense, and should report directly to him.

I-14 A coordinating Group should be established in the immediate office of the Secretary of Defense. The responsibilities of this Group should be to assist the Secretary of Defense and the Deputy Secretaries of Defense in coordinating the activities of the entire Department in the scheduling and follow-up of the various inter-Departmental liaison activities; to staff for the Secretary the control function for improvement and reduction of management information/control systems needed within the Department and required from Defense contractors; and to assure that each organizational charter of the Office of the Secretary of Defense is properly scoped and coordinated and in accordance with the assigned responsibility of the organization. The responsibility for the Department's Directive/Guidance System, currently assigned to the Assistant Secretary of Defense (Administration), should be assigned to this group. The coordinating group should be headed by a civilian Director, who should also serve as executive assistant to the Secretary of Defense.

I-15 The Army Topographic Command, the Naval Oceanographic Office and the Aeronautical Chart and Information Center should be combined into a unified Defense Map Service reporting to the Secretary of Defense through the Deputy Secretary of Defense for Management of Resources.

CONSOLIDATED LIST OF RECOMMENDATIONS
MANAGEMENT OF MATERIEL RESOURCES

II-1 Research and Development to advance the technological base should be constituted as a separate program, under the staff supervision of the Assistant Secretary of Defense (Research and Advanced Technology). It should be subject to continuing intensive review to insure that available funds are allocated to militarily-relevant research and that all militarily-relevant areas of technology are considered in fund allocations.

II-2 The responsibility for control of Defense research designated to advance the technological base and the appropriated funds therefor should be assigned to the Advanced Research Projects Agency (ARPA). Further, ARPA should be directed to:

- (a) Allocate its R&D among qualified performers;
- (b) Assure by review the relevance of all projects and appropriateness of fund allocations;
- (c) Evaluate the effectiveness of all its R&D participants; and
- (d) Develop and submit for approval to the Deputy Secretary of Defense (Management of Resources) an annual Research Objective (RO) statement which would be a companion document to the Operational Capability Objectives developed by the Unified Commands and which would provide the Secretary of Defense an information base to determine the overall defense capability objectives.

II-3 The Strategic, Tactical and Logistics Commands should be assigned the responsibility to develop, and submit to the Deputy Secretary for Operations, Operational Capability Objectives relating to their assigned missions. For this purpose, each Command and major sub-command Headquarters should be organized to include an operations analysis element.

II-4 For each Operational Capability Objective which is validated by the Deputy Secretary for Operations, the Deputy Secretary for Management of Resources should require one or more of the Military Departments to prepare and submit a development plan aimed at satisfying the Operational Capability Objective.

II-5 A new development policy for weapon systems and other hardware should be formulated and promulgated to cause the reduction of technical risks through demonstrated hardware before full-scale development, and to provide the needed flexibility in acquisition strategies. The new policy should provide for:

(a) Exploratory and advanced development of selected sub-systems and components independent of the development of weapon systems;

(b) The use of government laboratories and contractors to develop selected sub-systems and components on a long-term level of effort basis;

(c) More use of competitive prototypes and less reliance on paper studies;

(d) Selected lengthening of production schedules, keeping the system in production over a greater period of time;

(e) A general rule against concurrent development and production, with the production decision deferred until successful demonstration of developmental prototypes;

(f) Continued trade-off between new weapon systems and modifications to existing weapon systems currently in production;

(g) Stricter limitations of elements of systems to essentials to eliminate "gold-plating";

(h) Flexibility in selecting type of contract most appropriate for development and the assessment of the technical risks involved;

(i) Flexibility in the application of a requirement for formal contract definition, in recognition of its inapplicability to many developments;

(j) Assurance of such matters as maintainability, reliability, etc., by other means than detailed documentation by contractors as a part of design proposals;

(k) Appropriate planning early in the development cycle for subsequent test and evaluation, and effective transition to the test and evaluation phase; and

(l) A prohibition of total package procurement.

II-6 Department of Defense Directive 3200.9, Initiation of Engineering Development, should be rescinded.

II-7 Research and Development undertaken to satisfy specific military materiel requirements should be under the staff supervision of the Assistant Secretary of Defense (Engineering Development).

II-8 The Advanced Research Projects Agency (ARPA) should be required to provide a formal technical risk assessment on all proposed new systems prior to the approval of the Development Concept Paper (DCP).

II-9 In concert with the new development policy recommended for major weapons systems, the same increased flexibility of techniques should be provided for minor systems.

II-10 The stated policy of the Department of Defense to provide incentives to encourage private innovators' participation in the development of defense products should be reaffirmed and promulgated. The reaffirmation of policy should be supplemented by directives -

(a) To improve procurement practices by requiring the submittal of bid samples in the procurement of catalog items;

(b) With respect to patent rights, to define "Subject Inventions": as

(1) Those inventions originally conceived pursuant to the research and development work specifically called for by a Government contract; and

(2) Those inventions conceived prior to the award of a Government research and development contract which have not been reduced to practice constructively or actually prior to said award, and are first actually reduced to practice pursuant to the research and development work specifically called for by the contract; and acquire for the Government a royalty free non-exclusive license in patents based on Subject Inventions, for Governmental purposes; and

(c) With respect to Rights in Data, to obtain only that proprietary data essential to accomplishing Governmental purposes other than manufacture or procurement, and to establish new basic categories of data rights:

(1) Unlimited - including publication rights;

(2) Limited - prohibited for procurement or manufacture, and

(3) Production - right to use (license) for procurement and manufacture.

II-11 The effectiveness of Program Management should be improved by:

(a) Establishing a career specialty code for program managers in each Military Service, and developing selection and training criteria that will insure the availability of an adequate number of qualified officers. The criteria should emphasize achieving a balance between needs of a knowledge of operational requirements and experience in management;

(b) Increasing the use of qualified civilian personnel as Program Managers;

(c) Providing authority commensurate with the assigned responsibility and more direct reporting lines for Program Managers, particularly those operating in matrix organizational arrangements; and

(d) Giving the Program Manager, subject to applicable laws, directive authority over the contracting officer, and clarifying the fact that the contract auditor acts only in an advisory role.

II-12 The Secretary of Defense should establish a small staff within the Coordinating Group reporting to him and assign it the responsibility of effecting both a major improvement and reduction in the control and information needed for management within the Defense Department and, in turn, of its defense contractors. This should be done by specifying what is required, not dictating how to manage. Immediate top-level support to follow the current management system control project through to its successful conclusion should be one of the first actions. Included in this action should be direction to implement Instructions 7000.6, "Development of Management Control Systems Used in the Acquisition Process," and 7000.7, "Selection and Application of Management Control Systems in the Acquisition Process," with the control responsibility specified therein for the Assistant Secretary of Defense (Comptroller) reassigned to the Coordinating Group.

II-13 The management cost information needed within the Department and for visibility to Congress on major weapon systems acquisitions should be improved by recognizing the evolutionary nature of cost baseline estimates. Estimates should be reevaluated at each significant milestone of development.

II-14 Increased use should be made of parametric costing techniques to improve the quality of original and subsequent estimates, and to help offset the difficulties of estimating the cost of unknowns.

II-15 Individual contractors should accept a more responsible role as management members of a defense development team, and provide the Government with the benefit of greater objectivity in the contractor's independent evaluation of a proposed development.

II-16 The practice of providing the members of the Congress 24-hour advance notice of contract awards should be discontinued. Such members should be notified concurrently with public announcement of contract awards.

II-17 The Advanced Research Projects Agency (ARPA) and the Defense Test Agency (DTA) should be directed to make a joint review to determine which in-house defense laboratories and test and evaluation centers are essential to research and development needs of the Department with the goal of eliminating the nonessential ones, and consolidating (across Services) the remainder.

II-18 A procedure should be authorized by Statute whereby all or a part of the proceeds from the disposal of existing defense laboratories or centers can be used for construction of a new facility or expansion of an existing one which such construction or expansion has been authorized by Congress.

II-19 Close attention should be given to the possible advantages of having some of these laboratories and centers government-owned but contractor-operated.

II-20 The responsibility for Defense test and evaluation policy should be assigned to the Assistant Secretary of Defense (Test and Evaluation).

II-21 A separate program category should be established for Test and Evaluation.

II-22 The responsibility for overview of Defense test and evaluation effort should be assigned to the Defense Test Agency. In addition, the Agency should be responsible for design or review of test designs, performing or monitoring of tests, and continuous evaluation of the entire test and evaluation program.

II-23 The Secretary of Defense should recommend to the Congress and to the existing commission on Government-wide procurement that the Armed Services Procurement Act and other applicable statutes be amended to reduce or eliminate the requirement for Determination and Findings on all negotiated contracts, to reflect the practicalities of Defense procurement needs and activities which result in most Defense procurements being accomplished by other than formally advertised methods, and also to reflect the various new types of contracts developed in recent years.

II-24 The Armed Services Procurement Regulation (ASPR) and the ASPR Committee System should be reviewed with the objective of formulating a more efficient management organization for incorporating changes into the ASPR and with the view toward reduction in the volume and the complexity of the ASPR.

II-25 In the implementation of procurement policy, due regard should be given to the need for an adequate but not excessive, industrial base.

II-26 Improvement should be affected in the acquisition, training and retention of procurement personnel, with emphasis on a promotion system for contract negotiators which will not necessarily remove them from negotiating activities.

II-27 The Department of Defense should consider buying and providing industrial plant and equipment to contractors only when it can be clearly shown to be to the economic advantage of the Government or when it is essential to the Department's plan to provide a viable industrial mobilization base. Contractors should be encouraged to provide necessary industrial plants and plant equipment, and should be permitted to charge off peculiar plant equipment against specific contracts.

II-28 A program should be initiated for the Department of Defense to divest all plant equipment where ownership cannot clearly be shown to be to the economic advantage of the Government.

II-29 A plan should be developed and implemented to assure that emergency production of high priority war materiel can be initiated quickly and effectively.

II-30 The responsibility for maintaining an inventory and control of Department-owned equipment should be assigned to the Assistant Secretary of Defense (Installations and Procurement).

II-31 Repair in lieu of replacement should be an allowable charge against the parent procurement appropriation funding the basic equipment.

II-32 The responsibility for providing supply distribution, maintenance and transportation services to the combatant forces in Unified and Specified Commands under the Strategic and Tactical Commands should be assigned to the unified Logistics Command.

II-33 The Logistics Command should be assigned the traffic management and terminal management functions now allocated to the Military Traffic Management and Terminal Service (MTMTS), the Military Sea Transportation Service (MSTS) and the Theater Traffic Management agencies.

II-34 The Military Airlift Command and Military Sea Transportation Command both should

be assigned to the Logistics Command.

II-35 The Logistics Command should be directed to develop, under the policy guidance of the Assistant Secretary of Defense (Telecommunications), an ADP logistics system to encompass supply distribution elements that can be shared among the Services, and all development and procurement activity toward separate ADP logistics systems not essential to support of near-term operations should be suspended.

II-36 A moratorium should be declared on Integrated Management Coding for transfers of the management of items, and a complete review be conducted to determine:

- (a) The adequacy of IMC criteria as indicated by experience with their use;
- (b) The magnitude of impact of divided management responsibility for major end items and for the components and parts for the item;
- (c) The number of items coded for transfers of managers with partial or dry pipelines, the relationship of "dry pipeline" item management transfers and stock fund depletion of transferers, the impact of "dry pipeline" item management transfers on requisitioners, and the feasibility of establishing pipeline fill requirements as prerequisites for item management transfers;
- (d) The feasibility of establishing technical data availability standards for item management transfers;
- (e) Methods of reducing conflicts of Integrated Management Coding by the several Military Services; and
- (f) The impact on requisitioners of existing criteria by which items are coded as "non-stocked".

CONSOLIDATED LIST OF RECOMMENDATIONS

MANAGEMENT AND PROCEDURES

III-1 The PPBS should be modified to include the formulation of Research Objectives (ROs) by the Advanced Research Projects Agency (ARPA), the preparation and submission of Operational Capability Objectives (OCOs) and Command Program Memoranda (CPMs) by the major Unified Commands, and development plans and Development Concept Papers (DCP) submitted by the Military Departments.

III-2 The time prescribed annually for the PPBS cycle should be constricted after the first cycle and the new FYDP is completed in order to bring the planning phase nearer in time to the period of operations.

III-3 The various categories used in and in connection with the PPBS should be made to coincide as nearly as practical and be stabilized.

III-4 The fiscal guidance should prescribe a declining limit for each out year in the Research and Development and in the Procurement program categories in order to preserve a flexibility in the FYDP to exploit developing technology and to program to meet unanticipated threats.

III-5 Every effort should be made to obtain agreement by the Congress to accept defense budgets and to appropriate in program rather than existing budget categories.

III-6 The Joint Staff should be augmented with a complement of civilian analysts, in order to enhance its analytical capability generally, and to improve its capability to evaluate Service submissions of cost and manpower levels for the JFM in particular.

III-7 Analytical capability should be strengthened throughout the Department, and particularly in the Office of the Secretary of Defense.

III-8 The factors bearing on war reserve stock levels and production base plants should be analyzed and evaluated in order to develop meaningful policy objectives which can be compatible with logistics guidance.

III-9 Increased emphasis should be placed on identifying, acquiring and training personnel who have the capability to prepare Development Concept Papers for major developments.

III-10 The Development Concept Paper should not be employed as a management tool for areas of research and development other than major systems developments.

III-11 The Secretary of Defense should establish a small staff function within the Coordinating Group reporting to him and assign it the responsibility of effecting both a major improvement and reduction in the control and information needed for management within the Defense Department, and in turn, of its Defense contractors. This should be done by specifying what is required, not dictating how to manage. An objective should be established to further enable the Department components and industry to evolve a more stable management environment by restricting changes in control and report requirements to the minimum basic requirements. The Department's Directives and Instructions should be codified through consolidation, rescision and restatement. In addition, criteria for imposition of control systems and reporting requirements should be expanded to require a statement of need, benefit, estimated cost (of preparation, handling and review) and why existing systems and reports do not satisfy the need. Periodic reviews should also be required for the purpose of confirming the continuing need for the controls and information required. In addition, all organization charters of the Office of the Secretary of Defense should be reviewed to assure that they were properly defined and coordinated and were in accordance with the responsibilities assigned to the office(s).

III-12 Similar small staff groups should be constituted in the immediate offices of the Military Department Secretaries and the Chairman of the Joint Chiefs of Staff.

III-13 Policy makers in the Department of Defense should be acutely aware of the necessity of using formal communications channels for promulgation of policies and procedures.

III-14 The Selected Acquisition Reports in their present formats should no longer be used as management tools.

III-15 The Flimsy-Buff-Green decision-making process of the Joint Chiefs of Staff should be eliminated.

III-16 A decision-making process for the JCS should be established on the pattern of the

Development Concept Paper (DCP). Inputs should be requested from the Military Departments, as required, only for the initial draft of the position paper, and the Military Services should participate in no other way in the internal decision-making process of the JCS. The draft position paper should contain all known feasible alternatives; and each level in the process should be required to review for quality and sufficiency, and indicate by signature and designation the recommended alternative, all to the end that fidelity to the original issue be maintained and the extraneous pressures for unanimity be reduced.

III-17 Accrual accounting systems in the Department of Defense should be confined to those Service activities which operate under stock funds or industrial funds, and which are required to establish service charges which reflect total costs.

III-18 An internal audit organization should be established at the OSD level, headed by a highly qualified civilian audit administrator who should report to the Deputy Secretary of Defense (Evaluation) through the Assistant Secretary of Defense (Comptroller). This new office, which might be called the Office of Defense Internal Audit, should include the present functions and staffs of the Office of the Director for Audit Policy, the Deputy Comptroller for Internal Audit, and the Directorate of Inspection Services now existing in the Office of the Assistant Secretary of Defense (Administration). In addition to the existing responsibilities of the audit groups being combined, the new Office of Defense Internal Audit should direct its efforts toward:

(a) Making more extensive reviews of the manner in which the internal auditing function is being carried out by the internal audit organizations of the Military Departments and Defense Agencies.

(b) Making more internal audits of inter-Service activities and Unified Commands with the use of its own personnel to a much greater extent than is presently being done.

III-19 The head of each internal audit group should be a civilian, and the internal auditors of each of the audit groups should be primarily civilian rather than military personnel. The head of each departmental internal audit group should report directly to the Secretariat of his respective Department.

III-20 A single formal internal audit education and training program within the Department should be initiated by the new Office of Defense Internal Audit, the execution of which could be delegated to one of the Military Departments as executive agent.

III-21 The following modifications in internal audit should be made:

(a) The guidelines for determination of savings under the Cost Reduction Program should be clarified and improved to permit such determinations to be made with greater reliability;

(b) The proposed new Office of Defense Internal Audit should develop improved methods for budgeting and controlling the time utilized on internal audits;

(c) Each audit group should expand its audit coverage to include the activities of major headquarters staffs at the departmental level;

(d) Audit tests and investigations should not be extended beyond the point where findings are sufficient to identify significant problems and to support reasonable conclusions as to their causes and seriousness; and

(e) Standard audit programs or modules should be developed and used for common audit areas. They should be flexible enough to permit modifications in the field prior to the commencement of audit assignments.

CONSOLIDATED LIST OF RECOMMENDATIONS

MANAGEMENT OF PERSONNEL RESOURCES

IV-1 The application of Civil Service rules to "supergrade" positions in the Department of Defense should be changed to provide the Secretary of Defense with more authority for placement, rotation, promotion and compensation rates in these grades.

IV-2 Those activities in the Military Departments now headed by a military officer with an immediate civilian subordinate should be surveyed to determine the necessity of military direction of the activity, and where no such requirement is found to exist, the position at the head of the activity should be civilianized or made optional for a military officer or a civilian to fill, and dual staffing should be permitted only in exceptional cases.

IV-3 Specialist careers should be established for officers in such staff, technical and professional fields as research, development, intelligence, communications, automatic data processing, and procurement.

IV-4 The duration of assignments should be increased, and should be as responsive to the requirements of the job as to the career plan of the officer. Officers continued on an assignment for these reasons should not be disadvantaged in opportunity for promotion.

IV-5 In technical assignments, the officer's replacement should be assigned to the job sufficiently in advance of his predecessor's departure to be ready to take over without loss of momentum when he leaves.

IV-6 Promotion Boards should consider a larger proportion of candidates from "below the zone" in order to encourage younger officers of top ability to remain in the service. (The percentage so selected might well vary by grade).

IV-7 The Secretary of Defense should have more direct responsibility for the promotion and career management of officers to and within General and Flag ranks, and in the selection of and instructions to promotion boards.

IV-8 The Secretary of Defense and Secretaries of the Military Departments should designate

specific percentages, or proportions, of promotions in particular joint, technical, or professional fields and should establish special career ladders of promotion in special technical and professional fields.

IV-9 (a) Military pay and other forms of compensation should be made sufficient to facilitate recruitment and retention of competent officers and enlisted personnel. This applies to all grades and position classifications, and particularly to those that have suffered the highest termination rates. This should be done as a matter of equity, and to assure the acquisition and retention of competent military manpower.

(b) The military retirement system should be adjusted in order to encourage retention of qualified and needed personnel, while at the same time permitting military forces to be kept young and vigorous. Among retirees, consideration should be given to the varying needs of those still in the working age group and those over such age. The trend of increases in both the number of retirees on the rolls and the total costs of military retirement necessitate early consideration of the retirement system.

IV-10 In order to improve the process of acquisition and retention of military personnel, the Executive Branch should develop, and submit to the Congress for its consideration as necessary, a total military personnel program which coordinates and reconciles all the separate considerations, particularly including; (1) military compensation and retirement, (2) personnel policies on promotion and rotation, and (3) acquisition programs, such as Reserve Officers Training Corps.

IV-11 Participation of predominantly Negro colleges in the ROTC program should be encouraged. The Navy and Air Force in particular should increase their programs in predominantly Negro colleges.

IV-12 The Junior ROTC Program should be expanded.

IV-13 Substantially increased emphasis should be placed on information and education programs for enlisted personnel, with special training provided for officers to be responsible for conducting the programs.

CONSOLIDATED LIST OF RECOMMENDATIONS

OTHER MANAGEMENT CONSIDERATIONS

 V-1 The responsibility for defense telecommunication activities should be under the staff supervision of the Assistant Secretary of Defense (Telecommunications). The Assistant Secretary of Defense (Telecommunications) should be directed to review all defense communications activities with the goal of eliminating inefficient duplication; specifically, for example, those telecommunications activities of the existing Air Defense Command (ADC) which can be effectively merged into other telecommunications operating activities of the Military Departments. The Assistant Secretary of Defense (Telecommunications) should also be directed to assure that each major element of the telecommunications community in the Department generates professionally planned and managed education, training and career development programs for its engineers, researchers and managers, both civilian and military.

 V-2 The responsibility for all existing and future defense long-haul transmission systems, regardless of their current or intended use, should be assigned to the Defense Communications Agency as part of the Defense Communications System, except those vehicular and air transportable types when held as contingencies or while in temporary deployment for active combat support. In addition, the Defense Communications System (DCS) should be redefined so as to include base, post, camp and station telecommunications in the United States and garrison (permanent) type installations overseas. The DCA should also be assigned the fiscal control of DCS elements. The communications and electronics officers of the Unified Commands should be under the operational and technical supervision of the Defense Communications Agency.

 V-3 The Air Force Ground Electronics Engineering Installation Agency (GEEIA) and the telecommunications activities of the Strategic Air Command (SAC) should be merged into the Air Force Communications Service (AFCS).

 V-4 The responsibility for defense automatic data processing should be under the staff supervision of the Assistant Secretary of Defense (Telecommunications). The Assistant Secretary of Defense (Telecommunications) should: (a) take the necessary steps to enable the Department to develop an in-house capability for ADP hardware systems and software systems design needed for proper management; (b) review proposed ADP activities and monitor and evaluate on-going activities with respect to effectiveness of the utilization of resources; (c) test through model programs the feasibility of computer services/centers which could standardize and centralize the ADP system by functions (such as the major Commands) and/or geographically, with the intent of determining both short-and long-range ADP capability objectives; and (d) develop a training program for ADP specialists and a career plan for ADP personnel.

V-5 The procedures governing the justification and selection of computers should be revised to require a statement of ADP equipment capability as opposed to specification of intended application of the equipment.

V-6 The Secretary of Defense should delegate to the Deputy Secretary for Evaluation the authority to establish and enforce Department of Defense policies and procedures which make it possible to account for all contract studies to reduce duplication, assure relevance, and enhance quality. Specifically, the Deputy Secretary for Evaluation should:

(a) Establish procedures to review and validate requirements for contract studies.

(b) Establish a central control record of contract studies to include subject, purpose, cost, significant finding and an assesment of the quality of the work and the utility of the product.

(c) Establish procedures for contracting for studies to provide adequate safeguards to assure that the Department gets a product that is relevant and responsive to the requirement; assure a close working relationship between the contracting officer and the technical representative; and develop criteria for selecting contractors that will assure competent and objective support to the Department.

(d) Review each Federal Contract Research Center sponsored by the Department of Defense to determine on an individual basis which should be continued with substantially their present form and mission, which should undergo significant changes, and whether any may have outlived their usefulness as FCRCs. The study should also develop the means to make collective FCRC capabilities more widely available to Department of Defense sponsors.

V-7 The Equal Employment Opportunity policy direction and guidance responsibility within the Defense Department should be under the staff supervision of the Deputy Secretary for Evaluation. A restudy and clarification of the requirement of the Office of Federal Contract Compliance and the penalties for noncompliance for the guidance of the Defense Contract Audit Agency and Defense Contractors should be obtained.

V-8 The implementation of the contract compliance program within the Defense Department should be assigned to the Defense Contract Audit Agency (DCAA). In order to fulfill its assigned annual review of contractors facilities, additional professional and clerical personnel should be assigned to DCAA.

V-9 Procurement policies should be so formulated as to insure that there is no impediment

to participation by prospective contractors with the capability to perform, regardless of the race or size of the prospective contractor, or the period which the prospective contractor has been in business.

V-10 An immediate evaluation should be directed by the Secretary of Defense as to the extent of minority employment and promotion in all areas of the Department; each administrative unit should be required to make frequent periodic reports to him of their progress in both qualitative and quantitative terms. The Secretary should personally review the trend of employment of minority employees at all levels, let it be known that he is personally doing this, and record with each unit his satisfaction or dissatisfaction with the progress made.

The Secretary should direct his staff to:

(a) Review the field of complaints in the military and civilian areas and the procedures set up for fair and expeditious dealing with them, and

(b) Establish an on-going affirmative action program to discover the reasons for complaints, remove them, and make sure that minority groups are in fact recruited and promoted on an equitable and nondiscriminatory basis.

Job descriptions should be established for equal opportunity personnel at all appropriate grade levels, and a career or progression ladder should be provided for equal opportunity personnel with appropriate grade structure commensurate with other priority programs.

V-11 Executive Orders and Department of Defense Directives with respect to matters of equal employment opportunity for Department of Defense military personnel, civilian employees and contractors, as set forth in the existing comprehensive programs for insuring equal opportunity, should be administered from a sufficiently high organizational level in the Department to assure effective implementation, and the procedures for assessing penalties for non-compliance should be reviewed and clarified.

V-12 The Department of Defense, although not expected to act as enforcement agency of national labor laws, should support any appropriate action that would permit more flexibility in such matters, so that contracts could be withheld from companies that have been determined by appropriate authority to have flagrantly, deliberately, and repeatedly violated expressed national labor policy. At the same time, the Department should not use its contracting powers to help or hurt any party involved in a union representation question, a collective bargaining agreement, or an inter-union dispute.

V-13 The objective of the Department of Defense, in determining wage rates for its own employees around the country, should be to have its rates fair and competitive with the

wage rates of private employers for employees of comparable skills.

V-14 The Department of Defense should explore the possibilities of its making a contribution to community betterment through the expansion of junior ROTC and by making available unused areas on defense installations in or near central city areas for recreational use of minority youth.

V-15 A careful study should be made as to how the successful techniques developed by our armed forces in Vietnam to help rebuild communities could be applied to working with minority and other disadvantaged groups in this country, particularly in areas near military installations in central city and distressed rural areas.

V-16 The Assistant Secretary of Defense (International Security Affairs) should be assigned staff supervision responsibility for matters relating to the Panama Canal Zone and the Ryukyu Islands, in lieu of the Secretary of the Army.

V-17 The Secretary of Defense should appoint a General Advisory Committee to the Secretary, which is widely representative, to serve without compensation, but provided with a small staff to:

(a) Advise the Secretary of Defense, at his request, on matters concerning internal management of the Department that could be of special public interest, such as: (1) opening, closing or consolidating military installations; (2) community relations; (3) labor relations; and (4) contract compliance and equal opportunity;

(b) Serve as a vehicle through which matters included in the preceding paragraph could be brought to the attention of the Secretary of Defense by interested parties from outside the Department.

V-18 A procedure should be authorized by statute whereby all or part of the proceeds from the disposal of existing military installations can be used for construction of a new installation or for expansion of an existing one when such construction or expansion has been authorized by Congress. These transactions should in no way affect the normal general appropriations.

V-19 The responsibility within the Pentagon for determination of criteria for various levels of physical security to be provided for organizational elements should be consolidated under the staff supervision of the Assistant Secretary of Defense (Intelligence).

CONSOLIDATED LIST OF RECOMMENDATIONS

CONFLICTS OF INTEREST

VI-1 Conflict of interest statutes (18 U.S.C. 281; 18 U.S.C. 283; 5 U.S.C. 5532; and 37 U.S.C. 801(c)) should be reevaluated in order:

(a) To achieve consistency of application, equity of application, consistency of coverage and harmony of sanctions; and,

(b) To reorient such statutes toward prohibition of and punishment for specified undesirable acts rather than toward prior restraints.

VI-2 Consideration should be given by the Secretary of Defense to establishing a Defense Board of Ethics to provide advisory opinions upon request to past and present military and civilian members of the Department of Defense and to defense contractors on the propriety of specific activities.

VI-3 In order to develop a more effective standards-of-conduct program applicable to current officers and employees of the Department, consideration should be given to:

(a) Amending 18 U.S.C. 202(a) to provide that the terms "officer" or "special Government employee" shall for the purpose of Chapter 11 of Title 18, United States Code, include enlisted personnel occupying certain positions of trust as designated by the Secretary of the military department involved.

(b) Amending 18 U.S.C. 202 (a) to provide that NAF employees as described in 5 U.S.C. 2105(c), shall be considered employees of the United States for purposes of Chapter 11 of Title 18 United States Code.

(c) Further amending 18 U.S.C. 202(a) to provide that a Reserve officer serving on extended active duty or active duty for training will be considered a special government employee only if he has been ordered to active duty for a period not in excess of 180 days, and that all other Reserve officers serving on active duty will be considered full-time government employees.

(d) Amending 10 U.S.C. 1033 to provide that it applies only to Reserve officers ordered to active duty pursuant to 10 U.S.C. 672(a), 673, or 673a (i.e., "involuntary" orders to active duty), and amend section 4(f) of the Military Selective Service Act of 1967 to limit its application to individuals inducted into an enlisted status.

(e) Repealing 37 U.S.C. 801(a) which applies to active Regular Navy and Regular Marine Corps officers.

(f) Amending the Internal Revenue Code to define divestments required of

prospective Presidential Appointees as involuntary conversions, the proceeds of which divestments may be reinvested by the appointee within a time period which terminates after leaving office without there being a taxable transaction, but with the taxpayer's basis in the property so divested to constitute his basis in the reinvestment.

VI-4 The Secretary of Defense should consider making the following changes to Directive 5500.7:

(a) Rewriting the directive in the more lucid manner exemplified by AR 600-50 and AFR 30-30.

(b) Providing that repromulgation by the military departments and their subordinate commands will be limited to republication of the Directive in its entirety with the permissible addition by those agencies only of clarifying terms.

(c) Providing minimum standards for the effective and relevant dissemination of standards-of-conduct rules.

(d) Providing that the rendering of advice on standards-of-conduct matters shall be accomplished by deputy counsellors as much as possible.

(e) Requiring the designation by each command of a person of adequate authority who shall have overall responsibility for administration of the standards-of-conduct program.

(f) Providing that the supervisor will retain a copy of the confidential statement of employment and financial interest submitted by the employee or officer covered in the directive and will forward a complete job description to the deputy counsellor along with the employee's DD Form 1555.

(g) Removing the civil service and military grade and rank limitations on submission of DD Form 1555, so that applicability is determined solely by job duties and responsibilities.

(h) Specifically providing that each member and employee will be given a simple and comprehensible summary of the standards-of-conduct rules upon acceptance of employment or entry on active duty.

(i) Limiting the "read and sign" requirements to personnel above the grades of GS-13/major or lieutenant commander.

VI-5 The Secretary of Defense should cause to be prepared and distributed a manual, to be continuously updated, for all the deputy counsellors containing digests of relevant opinions of the courts, the Attorney General, the Civil Service Commission, the Comptroller General, the Judge Advocate Generals, and the General Counsels of the Department of Defense and the Military Departments pertaining to standards of conduct. Prepare and distribute a short movie dealing with standards of conduct and require annual attendance for the first three

years of service or employment in a job, or encompassing responsibilities, designated in Directive 5500.7 to necessitate filing of a confidential statement of employment and financial interest. Prepare and distribute posters calling attention to proper standards of conduct.

VI-6 The following steps should be considered among the means to insure the more effective investigations on conflict-of-interest situations:

(a) Expand Army procurement inspections to the scope of Air Force investigative surveys, and institute such surveys within the Navy and the Office of the Secretary of Defense.

(b) Require the Navy to coordinate its investigations into procurement fraud and standards of conduct with local judge advocate offices.

(c) Require the Army to submit its reports of investigation to the Department-level office having staff interest in the subject matter.

(d) Require that the Army and Navy institute procurement fraud courses including coverage of standards of conduct for investigators similar to that conducted by the Air Force.

(e) Require that each Service create a record-keeping classification for standards-of-conduct investigations undertaken.

VI-7 To better insure against conflict-of-interest incidents in connection with the Plant Cognizance Program, the Department of Defense should:

(a) Limit tours of duty of civilian and military personnel stationed at defense contractors' plants to three years.

(b) Explore the possibility of proposing legislation which would prohibit a military or civilian member or employee assigned as plant representative from accepting employment with the company at whose plant he was last stationed for a period of three years from the termination of active service.

VI-8 The following actions with respect to the employees of nonappropriated fund (NAF) activities should be considered:

(a) Retaining a professional management study group to review the operating procedures of the open mess system and other locally controlled NAF activities.

(b) Amending 18 U.S.C. 202(a) to provide that NAF employees, as described in 5 U.S.C. 2105(c), shall be considered employees of the United States for purposes of Chapter 11 of Title 18.

(c) Modifying the exemption of enlisted personnel from the conflict-of-interest law (Title 18) to authorize the service Secretaries to designate categories of enlisted jobs subject to that law.

(d) Abolishing the GS-13 equivalency level cut-off for filing financial disclosure statements under Department Directive 5500.7.

(e) Improving the dissemination of standards-of-conduct rules in NAF activities as recommended generally for current Department of Defense officers and employees.

(f) Holding administrative inspections of subordinate NAF activities in addition to regularly scheduled audits and personal inspections.

VI-9 The following actions with respect to Consultants should be considered:

(a) Clarification of the applicability of the disclosure requirements and of the necessity for determining the absence of a conflict.

(b) Initiation by the Department of Defense of on-site inspections to establish administrative compliance with the restrictions upon Consultants generally and with special emphasis upon those in positions of high level research and development.

(c) Revision of Department of Defense Directive 5500.7 and the implementing regulations concerning Consultants to require:

(1) Supplementary statements reflecting changes in financial interests under certain conditions.

(2) A redetermination of the absence of conflict of interest whenever the validity of a prior determination is jeopardized by reassignment.

(d) Requiring contract financial disclosure statements from the personnel of consulting firms where deemed necessary in the public interest.

REPORT
OF THE
COMMISSION
ON
GOVERNMENT
PROCUREMENT

VOLUME 1

DECEMBER 1972

COMMISSION ON GOVERNMENT PROCUREMENT

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The Honorable Spiro T. Agnew
President of the Senate
Washington, D. C.

and

The Honorable Carl B. Albert
Speaker of the House of
Representatives
Washington, D. C.

Gentlemen:

In accordance with the requirements of
Public Law No. 129, Ninety-first Congress,
as amended by Public Law No. 47, Ninety-
second Congress, the Commission on Govern-
ment Procurement submits herewith its
report.

Respectfully yours,

E. Perkins McGuire
E. Perkins McGuire
Chairman

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**REPORT OF
THE COMMISSION ON GOVERNMENT PROCUREMENT**

Volume 1

Part A—General Procurement Considerations

Volume 2

Part B—Acquisition of Research and Development

Part C—Acquisition of Major Systems

Volume 3

Part D—Acquisition of Commercial Products

Part E—Acquisition of Construction and Architect-Engineer Services

Part F—Federal Grant-Type Assistance Programs

Volume 4

Part G—Legal and Administrative Remedies

**Part H—Selected Issues of Liability:
Government Property and Catastrophic Accidents**

Part I—Patents, Technical Data, and Copyrights

Part J—Other Statutory Considerations

FOREWORD

The Commission on Government Procurement was created by Public Law 91-129¹ in November 1969 to study and recommend to Congress methods "to promote the economy, efficiency, and effectiveness" of procurement by the executive branch of the Federal Government. The appointment of all commissioners and the assembling of the principal staff was completed some eight months later.

The study was proposed in 1966, and preliminary hearings were held by the 89th and 90th Congresses. The bill² that led to Public Law 91-129 was introduced in the 91st Congress by Representative Chet Holifield on January 3, 1969, and hearings were held in the spring and summer. Testimony from more than 100 witnesses filled ten volumes of hearings on the House bill and a companion bill introduced by Senator Henry M. Jackson.

A commission, with membership from the legislative and executive branches and from the public, was adopted as the study mechanism. The statute provided for a bipartisan, 12-member body. Two members of the House of Representatives and a public member were appointed by the Speaker of the House; two members of the Senate and a public member were appointed by the President of the Senate. Two members of the executive branch and three public members were appointed by the President of the United States. The Comptroller General of the United States was designated a member by the statute.

The commissioners elected public member Perkins McGuire as chairman and Representative Chet Holifield as vice-chairman. The Com-

mission appointed an executive committee³ to assist and advise the chairman and vice-chairman in the management of the study operations. A staff of about 50 professional members was employed by the Commission to conduct day-to-day study operations and direct the study effort.

The collection and analysis of massive amounts of materials required help and advice of Government, industry, and the academic community. In all, the services of almost 500 persons were loaned to the Commission on a full- or part-time basis; some for periods exceeding a year. Details on the fields of inquiry and membership of the Study Groups are presented in Appendix B.

In the first phase of the study, more than 400 problems and issues were identified and divided among 13 study groups and several special teams. The study was organized to provide in-depth coverage of the procurement process in three ways: (1) the environment in which procurement occurs (for example, Federal organizations and personnel and the numerous authorities and controls under which they operate); (2) the sequence of procurement events (for example, precontract planning, pricing and negotiation, selection and award, and contract administration and audit); and (3) types of procurement (for example, research and development, major systems, commercial products, and construction).

The Commission and its participants reviewed thousands of pages of procurement reports, congressional testimony, documents, comments, and opinions; consulted approximately 12,000 persons engaged in procurement; held more than 2,000 meetings at 1,000 Government, industry, and academic facilities, including 36 public meetings attended by over

¹ For text of Public Law 91-129, as extended by Public Law 92-47, see Appendix A.
² H.R. 474, 91st Cong., reported out of committee Aug. 12, 1969 (H. Rept. 91-468); a companion bill, S. 1707, reported out of committee Sept. 24, 1969 (S. Rept. 91-427). Conference Report (H. Rept. 91-613), Nov. 12, 1969. Other 91st Cong. House bills: H.R. 989; H.R. 10070; H.R. 13286. Earlier House bills in the 90th Cong. include H.R. 187, H.R. 2641, H.R. 4324, H.R. 7565, and H.R. 8785. Also a companion bill, H.R. 12510, was reported out of committee on Nov. 4, 1967 (H. Rept. 890). See also H. Rept. 1344, 89th Cong., Mar. 28, 1966, discussing the need for a comprehensive study.

³ Chairman McGuire, Vice-Chairman Representative Holifield, Comptroller General Elmer Staats, Senator Edward Gurney, and Under Secretary of the Navy Frank Sanders.

1,000 persons in 18 cities (see Appendix B); and received responses to questionnaires from nearly 60,000 individuals and many organizations. Government agencies, suppliers, and trade and professional associations all made significant contributions to the program.

Each study group was instructed to provide the Commission with recommendations for improving the procurement process and to support its recommendations with the most relevant, timely, and comprehensive information possible. The products of more than a year's intensive work by the study groups were presented to the Commission in reports totaling more than 15,000 pages.⁴

At intervals during its work and at the conclusion of its effort, each study group made detailed presentations to the Commission. These presentations and the reports prepared by the groups served as working tools for the Commission. Overall, the work of the study groups served this purpose well and provided valuable basic information and differing viewpoints for Commission deliberations.

The study effort was designed with some overlap in order to explore different viewpoints; some of the study groups reached different conclusions about the same subject matter. In some cases, the study group reports contain recommendations for improvement that the Commission has not included in its report. A number of these pertain to details of procurement procedures that merit consideration

⁴ Copies of the Study Group reports will be filed with both the House and Senate Committees on Government Operations; and, after Feb. 15, 1973, reference copies will be available in the Commission's Library; interested persons may contact the Federal Supply Service, General Services Administration (GSA), Washington, D.C. 20406 for information regarding location and hours.

by individual agencies; some were not considered appropriate for other reasons.

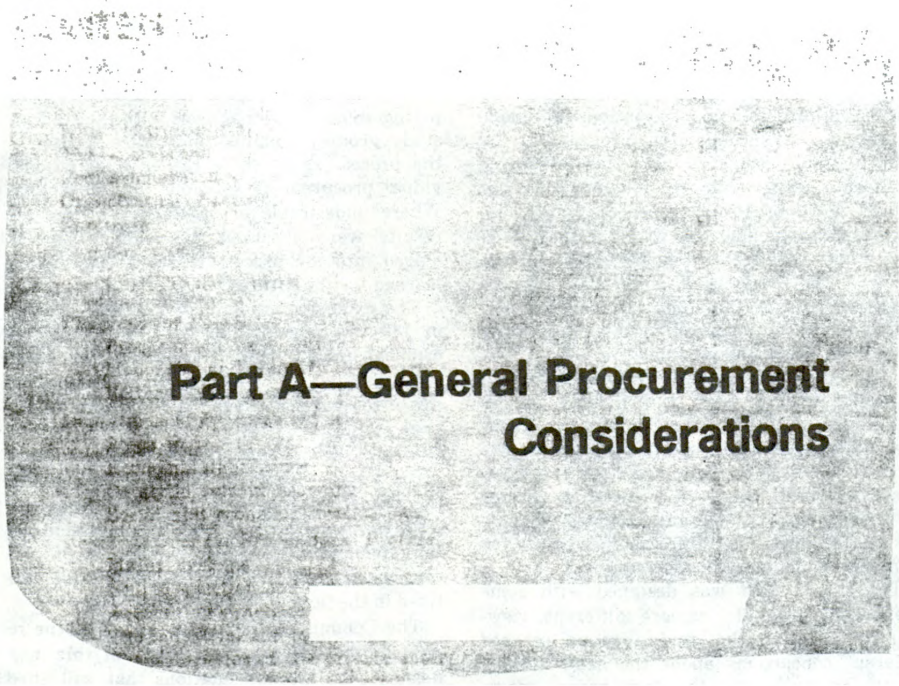
The Commissioners held more than 50 day of formal meetings, in addition to participating on an individual basis with the staff in study groups. Commission studies focused on the process as a whole rather than on individual procurement decisions or transactions. Where undesirable or salutary practices and results were observed, the Commission inquired into the process to see what could be learned for the future.

The extensive study just described resulted in 149 recommendations for improving Government procurement.⁵ These recommendations are presented in a Commission report consisting of ten parts packaged in four volumes (see page v).

While each Commissioner does not necessarily agree with every aspect of this report, the Commission as a whole is in agreement with the general thrust of the discussion and recommendations, except where noted. Exceptions of individual Commissioners are identified in the text as "dissenting positions."

The Commission is acutely aware of the responsibility it bears for a study of this magnitude, with recommendations that will affect tens of thousands of people and the expenditure of billions of dollars. Hopefully, this report will be received by the public and by the procurement community with the earnestness of purpose with which it was prepared, and any resulting dialogue will be directed toward constructive efforts to improve the procurement process.

⁵ See Appendix H for a list of recommendations in Parts A-J



**Part A—General Procurement
Considerations**

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CHAPTER 1

Introduction

From the time the Second Continental Congress established a Commissary General in 1775, Government procurement has commanded the attention of public officials and private citizens. All too often, the attention has focused on individual abuses rather than the overall system.

In many respects, Government procurement is guided by the same considerations the Commissary General faced in 1775: maximize competition, obtain reasonable prices, and assure accountability of public officials for public transactions. Despite the similarity of principles, present-day purchasing agencies have additional problems. Huge and exotic systems to meet military and civilian needs; spiralling costs; and far-reaching economic and political effects of Government purchases complicate the Government procurement process and continually keep it before public and congressional attention.¹

THE NEED FOR THIS STUDY

The extensive hearings² conducted by Congress on Public Law 91-129 indicated that: (1) the procurement process is overly complex, (2) patchwork solutions to procurement problems will no longer suffice, (3) Government procurement is important economically and politically in both its methods and goals, and (4) Congress and the public are deeply con-

¹ See Appendix G for an account of the "Historical Development of the Procurement Process."
² U.S. Congress, House, hearings before a subcommittee of the Committee on Government Operations on H.R. 157, 90th Cong., 1st sess., 1967, on H.R. 474, 91st Cong., 1st sess., 1969; Senate, hearings before the Committee on Government Operations, 91st Cong., 1st sess., 1969.

cerned about the effectiveness of procurement and the manner in which it is conducted.

In establishing the Commission, Congress recognized that the annual expenditures for procurement and the attendant administrative costs are so great that even small improvements promise large rewards; that not only the Government but industry and ultimately the American people could benefit greatly from a full-scale study of the entire procurement process.

Procurement Expenditures

The Commission estimates that in fiscal 1972 the Government contracted to spend \$57.5 billion for goods and services.³ Savings of two percent on these contracts would have saved the American taxpayer more than \$1 billion.

Modernize and Simplify the System

No systematic review of Government procurement has been undertaken since the First Hoover Commission in 1949 and the Second Hoover Commission Task Force in 1955, which was limited to military procurement. Neither of these bodies was devoted exclusively to studying the procurement process.

In the meantime, numerous newly created departments and agencies have undertaken significant procurement activities in support of their programs, such as improving the Nation's transportation system, purifying the environ-

³ See Appendix D.

ment, and providing adequate housing. The military arsenal continues to require multi-billion dollar weapon systems, and undertakings of similar size and complexity are needed for space, nuclear power, and other technologically advanced programs.

Over the past 20 years, Government procurement has increased sixfold.⁴ Some 80,000⁵ Federal employees are engaged in this process, and many more are employed in private industry.

Despite new programs, spiralling growth, and complicated products, military and civilian procurements still are governed primarily under laws enacted more than 20 years ago—the Armed Services Procurement Act of 1947 and the Federal Property and Administrative Services Act of 1949.

The procurement process as it has developed over the years has, in general, served the Nation well and should not be subject to blanket criticism. At the same time, it has developed in a piecemeal fashion. The magnitude of the outlays involved, the important program needs dependent on procurement, and the impact of procurement policies on the private sector underscore the importance of making certain that procurement operations are carried out as effectively and economically as possible.

Better Coordination and Management

The congressional hearings disclosed that procurement regulations, practices, and procedures are relatively uncoordinated and often inconsistent.⁶ The volume of expensive paperwork swells yearly, and procurement procedures grow more complicated with each passing day. New agencies grope for direction as they begin to establish procurement ground rules. As a result each one's rules may differ from those already used by older agencies or from those being developed by other new agencies.

As the agencies generate new rules to control procurement and new devices to motivate contractors, Congress continues to receive an

⁴ Legislative History of Commission on Government Procurement, Public Law 91-129, Nov. 26, 1969, prepared by Office of General Counsel, U.S. General Accounting Office, p. 19.

⁵ See Appendix E for summary of data developed through a questionnaire used by Study Group 5.

⁶ See note 2, *supra*.

THE PROCUREMENT PROCESS

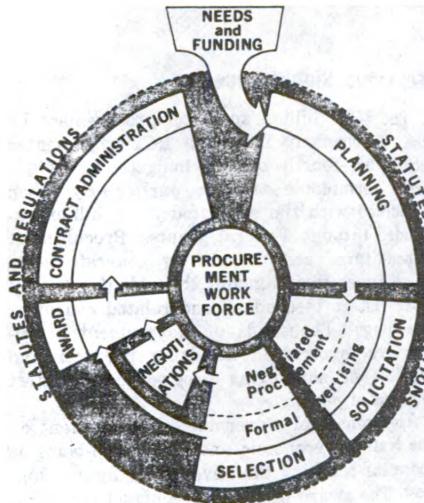


Figure 1

increasing volume of complaints, inquiries, and suggestions concerning Government procurement. Efforts to correct deficiencies or inequities have been fragmented and, at best, have produced only stopgap remedies.

The varying requirements of the agencies and the millions of individual procurement actions cannot be reduced to a single neat formula. However, the situation suggests that there is urgent need for a more unified approach to procurement.

IMPORTANCE OF PROCUREMENT

Steps in the Process

The procurement process includes all actions taken by Federal agencies in obtaining needed goods and services. The process begins with identification of a need and ends with delivery of goods or services. Key steps in the process (fig. 1) provide the setting for the subjects covered in this volume.⁷ The steps do not necessarily occur in an exact sequence, and the dis-

⁷ For an expanded description of the process, see Appendix F.

ussion that follows highlights only selected aspects.

Economic Significance

The \$57.5 billion spent on procurement by the Government in fiscal 1972 represented about one-fourth of the budget (fig. 2), a truly formidable amount, particularly when combined with the estimated \$39.1 billion expended through Federal grants.⁸ Procurement expenditures are thought to generate some three times their amount through the "multiplier" effect (secondary and related consumer spending). Thousands of Government activities are involved in acquiring products and services or supporting programs that affect millions of persons.

The impact of Government procurement on the Nation's economic and social well-being is more far-reaching than even these figures suggest. The award of a major contract can stimulate the growth of States and localities; the withdrawal of a contract may cause the decline of long-established communities and enterprises; and the failure of a large Government contractor may plunge sizeable areas into economic hardship.

Catalytic Role in Economy

Federal procurement plays a catalytic and pacing role in bringing Government-developed standards and products into practical commercial use. These range from automobile safety standards and Apollo fire-resistant materials to solid-state computer components. Entire segments of industry have been spawned by technological breakthroughs and spinoffs from Government procurements for electronics, metallurgy, fuels, and lubricants.

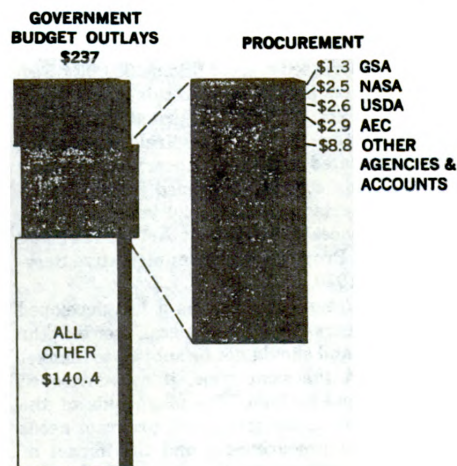
Social and Economic Implications

The magnitude of Government procurement provides leverage which is used as an instrument for achieving national, social, and economic objectives that do not pertain directly

⁸ Part F outlines a plan for improving the use of grants and contracts in Federal assistance programs.

RELATIONSHIP OF BUDGET OUTLAYS TO GOVERNMENT PROCUREMENT AND GRANTS

FISCAL 1972 ESTIMATE (Billions of dollars)



Sources: Appendix I, The U.S. Budget in Brief, Fiscal Year 1973, Office of Management and Budget, table 8, Budget Receipts and Outlays, 1789-1972, p. 85.

Figure 2

to deliverable goods and services. For example, procurement is used to assure equal employment opportunities, improve wages and conditions of employment, and channel employment and business opportunities into labor-surplus areas.

CONCERNS OVER THE PROCUREMENT PROCESS

There is genuine and specific concern over the manner in which the procurement process works and over its deficiencies.

Major Systems

Understandably, the public is concerned over the cost growth of major systems, a characteristic of almost every major procurement hav-

ing a long leadtime. This includes not only major weapon systems but also large commercial or Government buildings and other large but conventional undertakings. Because of their magnitude and because they do not contribute directly to the fulfillment of growing domestic needs, investments in major weapon systems inevitably are singled out for special scrutiny.

Cost increases have been ascribed to early planning deficiencies, organizational rivalries, abnormal inflation, changes in design to meet new threat assessments or to counter obsolescence, weak contractor management, Government interference, contractors underestimating in order to "buy-in" to the ultimate production stages, overoptimism by program advocates, and premature progression toward more costly stages of development without adequate technical validation. The degree to which these factors contribute to cost growth is considered in the discussion of major system acquisition, Part C.

Source Selection and Competition

The procedures for selecting a contractor for a major system frequently are challenged on grounds of integrity, priority, or competence. Most major systems and many lesser procurements are subjected to such challenges. Sometimes the Government is charged with disregarding its own selection criteria to assure preservation of a needed industrial source; at other times, it is charged with conveying or transfusing information on the superior technical characteristics of one bidder to his competitor; and still other charges allege that the Government uses techniques that inhibit true competition.

Accounting Practices and Profits

During periods of crisis, the profits of major contractors often come under public scrutiny. Such scrutiny has been particularly close in the past few years. Concern over total procurement costs has led to various attempts to com-

pare profits of defense contractors with those of other commercial enterprises. It also has led to enactment of a new law intended to promote more uniform cost accounting standards in order that costs and profit comparisons can be made with greater ease and validity.

The Industrial and Technological Base

The United States recognizes that industrial preparedness for defense is a major deterrent to war. In the post-World War II era, planning for industrial preparedness has become extremely complicated since rapidly evolving technology has accelerated the rate of obsolescence of existing equipment.

The weapons build-up caused by international tensions of the past two decades and the space and nuclear competitions have maintained and nurtured the technological and industrial base. However, recent fluctuations, adjustments, and cutbacks in almost every field of technological and industrial activity raised serious questions regarding the future viability of the base.

Characteristics of the Private Enterprise System

Coupled with concerns over the industrial base are questions related to the traditional reliance of the Government on the private sector of the economy. The diversity of Government needs has compelled it to develop new purchasing methods in order to optimize the blending of public and private skills and resources. For example, the Government furnishes industry with facilities such as machine tools or heavy equipment, and provides advance funding, thus relieving industry of many of the normal risks of commercial enterprise.

The degree of risk industry assumes is debated continually; particularly with respect to firms that are Government-fostered, partially Government-protected, and which, in some respects, operate outside of the traditional free enterprise concept. One important issue is the

amount of profit that should be permitted on capital invested in this environment as contrasted with return on risk capital in the regular commercial world.

bound by legal, procedural, and social program requirements not generally applicable to other customers.

Contract Disputes and Remedies

Disputes and protests result from the award, performance, and administration of Government contracts. Such disputes must be resolved fairly, efficiently, and economically. The system for resolving contract disputes is said to be too time-consuming and costly for resolution of smaller claims and is often said to lack procedural safeguards. Protesting a contract award is allegedly confused by a multiplicity of forums and lack of an effective remedy for those with valid protests.

Alternative Sources

To satisfy its needs, the Government may rely on private industry, the academic community, or other nonprofit organizations. It may also resort to in-house facilities run by Government employees, or it may turn to not-for-profit organizations established and funded by the Government but operating in a manner that is neither wholly Government nor wholly private enterprise.

Traditionally, the criticality of the need and the "relative cost" to the Government of relying on private enterprise rather than Government sources have been the primary factors in deciding on the resources to be used.

Businessmen worry over what they believe is a trend, particularly in a period of cutback or belt-tightening, to retain work "in-house" that was previously performed commercially. It is alleged that this trend is encouraged by Government policy that favors performance in-house. However, Government employee groups are concerned that there is a trend toward increased use of contracts for services, especially when Government personnel ceilings limit hiring.

GOVERNMENT NEEDS AND RESOURCES

Types of Procurement

The Government as a consumer participates in thousands of activities that involve millions of people and each year spends billions of dollars for the purchase or development of products and services. Many of these products and services are consumed by Government employees and military personnel, but billions of dollars go to buy "program support" in fields such as atomic energy development, scientific research, space technology, environmental improvement, housing, transportation, health protection, and many others.

An increasing number of acquisitions consist of major military or civilian systems of vital importance to the Nation's defense, technological advancement, and future well-being. Because the Government usually is the only customer for such major systems and the number of suppliers is limited, the normal rules of the commercial market do not apply fully.

Thousands of products, off-the-shelf or specially fabricated, and services are acquired from the commercial marketplace. Even here, the rules are partially tailored to the unique character of the Government as a customer,

BLUEPRINT FOR ACTION

As may be gathered from the foregoing discussion, Government procurement is more than a purchasing function. It is affected by a wide range of Government needs influenced by numerous social, political, and economic activities—all of which act and react on each other. The Commission tried to identify the principal problem areas and the concerns of Congress, the public, and the procurement community itself. We outline now the direction of our proposals for improving the process in accordance with the mandate of Congress.

Policy Goals

The law establishing this Commission declares it "to be the policy of Congress to promote economy, efficiency, and effectiveness" in the procurement of goods and services by the executive branch.⁹ The methods for achieving this policy are spelled out in the law. Essentially, the law calls for (1) the reevaluation and improvement of policies for the Government to acquire goods and services in a timely, economical, and competitive manner; (2) an improvement in procurement organization and personnel; (3) the correction of duplication or gaps in laws, regulations, and directives; (4) uniformity and simplicity when appropriate; (5) fair dealing; and (6) overall coordination of Federal procurement programs.

Recommendations are contained throughout the four volumes of our report. Clearly, not all are of equal importance or of similar impact. Some call for a fundamental recasting of the procurement process; others for alleviating ills that have plagued Government and industry. Taken together, the major recommendations will achieve the policy goals set forth in the congressional mandate establishing the Commission.

An Integrated System with Central Leadership

An important objective of our recommendations is to ensure that the system fully warrants the public trust. The recommendations propose an integrated system for effective management, control, and operation of the Federal procurement process. The focus of this system is the proposed Office of Federal Procurement Policy that, if established, will provide leadership in the determination of Government-wide procurement policies.

The system we advocate will enable the executive branch to ensure that procurement operations are businesslike and orderly and that goods and services are efficiently acquired. To carry out this responsibility, Federal purchasing agencies must be provided with necessary instructions and resources. Another essential

⁹ See sec. 1, Public Law 91-129 (Appendix A).

ingredient is timely information on how well procurement needs are being met, so that deficiencies and resources may be adjusted at the appropriate management level. Our system satisfies these criteria and represents the net result of our study. The ten elements of our system are:

- The creation of an Office of Federal Procurement Policy in the executive branch to assure fulfillment of Government-wide statutory and executive branch requirements in performing procurement responsibilities.
- An integrated statutory base for procurement, implemented by a Government-wide regulatory system, to establish sound policies and simplified agency procedures to direct and control the procurement process.
- Latitude for Federal agencies to carry out their responsibilities within the framework of Government-wide statutes, policies, and controls.
- Availability of funds in time to permit improved planning and continuity of needed Federal and contractor operations.
- Government-wide recruitment, training, education, and career development programs to assure professionalism in procurement operations and the availability of competent, trained personnel.
- Carefully planned agency organizations, staffed with qualified people and delegated adequate authority to carry out their responsibilities.
- A coordinated Government-wide contract administration and audit system. The objective is to avoid duplication and deal uniformly, when practical, with the private sector in the administration of contracts at supplier locations.
- Legal and administrative remedies to provide fair treatment of all parties involved in the procurement process.
- An adequate management reporting system to reflect current progress and status so that necessary changes and improvements can be made when the need appears.
- A continuing Government-wide program to develop better statistical information and improved means of procuring goods and services.

The Role of Leadership

As we have examined the management of the procurement process, we have been repeatedly drawn to the conclusion that a process of such central importance demands continuing, thoughtful attention by the leaders in Government. No capable executive in the private sector or in the Government can afford to ignore the significance of his purchasing operation when organizational success depends largely on effective contracting. This is particularly true of the Government's purchasing function because of the broad social, political, and economic implications of Government spending.

All too often we see the ill effects of the lack of an executive branch mechanism that can focus Government-wide attention on the impact of procurement on costs and efficiency. For example, attempts to achieve uniformity in interagency policy often go unheeded and become compounded by management-level neglect or by isolated congressional actions. Similarly, our studies show that social and economic goals attached to the procurement process involve needlessly cumbersome administrative procedures. Controversies over how best to proceed are often relegated to low-level interagency haggling rather than being dealt with expeditiously by top management.

The improvements we recommend in organization, personnel capabilities, policies, and procedures, together with the other elements of the integrated system just described, would considerably improve the procurement process—but more is needed. Without strong

leadership, understanding, and effort by top management in both the legislative and executive branches, the procurement process will not be a strong mechanism for accomplishing national goals.

A Concluding Thought

The complexity of procurement is such that mistakes will be made even by people dedicated to doing a quality job. The important thing is to learn from the mistakes and continually improve the process. There are no universal answers to the myriad operating problems of Government procurement and the many goals it supports. However, if the recommendations advanced in this report receive effective and timely implementation, measurable improvement should result in the short term and even greater improvements should result over the long term.

The Commission has not attempted to make an estimate of the savings which could be achieved through the adoption of its recommendations. Indeed, it would have been impossible since many of them are in the nature of policy changes for which estimates could not be made with any degree of precision. At the same time, the Commission is certain that substantial savings can be made and has so indicated at many points in its report. For example, one recommendation alone—increasing from \$2,500 to \$10,000 the limit on exemptions from using advertised procurement procedures for small purchases—would save approximately \$100 million.

CHAPTER 2

Policy Development and Implementation

Federal agencies contract within a framework of ground rules set by all three branches of Government. These policies¹ establish the overall environment of procurement, and control millions of individual decisions. Therefore, in reviewing the procurement process we concentrated on the manner in which basic policies are developed and implemented.

There is a void in policy leadership and responsibility, and a fragmented and outmoded statutory base. These shortcomings in basic law and policy are root causes of many problems that beset the procurement process. Virtually every Commission study group recommended, in one form or another, enhanced central policy direction.

Effective management of the procurement process requires a high degree of direction and control of basic policy. However, except for isolated and sporadic cases, the executive branch has not seen fit to fill this need. This is not to say that there should be centralized Federal buying for all agencies, or a central group involved in agency business decisions. Nor do we suggest a huge policymaking bureaucracy to issue all procurement regulations.

What we urge, instead, is an Office of Federal Procurement Policy, high in competence and small in size, established by law and responsive to Congress, and placed in the executive branch at a level where it can provide leadership and oversee the development and application of procurement policy. The contracting agencies should continue to be re-

¹ For example, policies governing methods of procurement, contract clauses, solicitation of bids and proposals, administration of contracts, termination of contracts, cost allowability, quality control, contract types, contract forms, warranties, contract options, and small purchase procedures.

sponsible for individual procurement actions and agency procurement operations.

We have placed creation of a central policy office first among our recommendations because of its overall importance in achieving the improvements we propose in the procurement process.

Recommendation 1. Establish by law a central Office of Federal Procurement Policy in the Executive Office of the President, preferably in the Office of Management and Budget, with specialized competence to take the leadership in procurement policy and related matters. If not organizationally placed in OMB, the office should be established in a manner to enable it to testify before committees of Congress. It should develop and persistently endeavor to improve ways and means through which executive agencies can cooperate with and be responsive to Congress.

SOURCES OF PROCUREMENT POLICY

Many segments of Government make or strongly influence procurement policy. Table 1 lists the major policymakers by branch. The next few paragraphs outline the nature of these influences.

Legislative Branch

Congress establishes fundamental procurement policies through legislation and through

TABLE 1. SOURCES OF PROCUREMENT POLICY

| <i>Legislative Branch</i> | <i>Executive Branch</i> | <i>Judicial Branch</i> |
|---|--|-----------------------------|
| <i>Congress</i> | <i>President</i> | <i>Courts</i> |
| Legislation—Government-wide or limited to particular agencies or programs | Executive orders | Decisions in contract cases |
| Committee reports | Other directives | |
| Informal communications | <i>Office of Management and Budget</i> | |
| <i>General Accounting Office</i> | Circulars | |
| Legislative advice to Congress | Legislative advice to Congress | |
| Reports and audits | <i>Department of Defense</i> | |
| Decisions on individual matters | ASPR | |
| Comments on proposed executive branch regulations | Other directives | |
| Regulations | <i>General Services Administration</i> | |
| | FPR | |
| | Other directives | |
| | <i>Other procuring agencies</i> | |
| | Procurement regulations | |
| | Other directives | |
| | <i>Boards of contract appeals</i> | |
| | Decisions | |
| | <i>Other agencies</i> (for example, Department of Labor, Small Business Administration, Environmental Protection Agency) | |
| | Regulations | |
| | Other directives | |

Source: Commission Studies Program.

less formal actions ranging from committee reports and investigations to individual attention to constituent complaints or suggestions. These actions may shape Government-wide policy or affect only individual agencies, groups of agencies, or units or programs within an agency. Our studies identified more than 4,000 provisions of Federal law related to procurement. Most important among these are the Armed Services Procurement Act of 1947² and title III of the Federal Property and Administrative Services Act of 1949.³ Improvements needed in these laws are discussed in Chapter 3 and in Part J (Other Statutory Considerations).

The General Accounting Office (GAO) serves as an arm of the Congress. With its responsibility for auditing and certifying to Congress the legality of specific contractual disbursements, and its continuing responsibility for closely following procurement trends, GAO exerts profound influence on procurement policy. This influence is exerted through decisions on individual matters, overall reports, audits, legislative advice to Congress, and review of proposed agency policies. Its actions

² 10 U.S.C. 2801-14 (1970).

³ 41 U.S.C. 251-60 (1970).

may affect Government-wide patterns of practice or policy, or may relate only to particular agencies or situations.

Judicial Branch

Interpretations of statutes, regulations, and contract provisions by the Federal courts in suits involving procurement have a direct effect on the evolution of policy.

Executive Branch

Although Congress and the courts play a basic role, most procurement policy is developed in the executive branch. Much of this development consists of translating the basic policies and requirements established by the other branches into a body of rules and regulations governing procurement; keeping Congress informed as to the effects of legislation and recommending changes to make the process more effective; interpreting the requirements in specific cases for contractors, grantees, and

others; and reporting on the results of action taken. The policies initiated in the executive branch also cover important subjects on which Congress and the courts have not spoken.

The President establishes procurement policy in some areas through Executive orders⁴ or similar directions⁵ to the agencies. Despite its pervasive authority, the Office of Management and Budget (OMB) has little direct, formal involvement in the formulation of procurement policy and has not evidenced a continuing concern with overall procurement management; it infrequently promulgates policy in circulars⁶ limited to a particular topic.

Under the Armed Services Procurement Act, the Department of Defense (DOD) establishes policy for the military departments.⁷ The General Services Administration (GSA) is directed by the Federal Property and Administrative Services Act to set basic policies for the civilian agencies.⁸ However, this direction is circumscribed by a series of exceptions and limitations.⁹

In the absence of an effective focal point for procurement policy in the executive branch, DOD dominates its development. DOD dominates primarily because the military departments historically have done the major share of Federal contracting. Through the Armed Services Procurement Regulation Committee structure, DOD operates the most effective forum for development of procurement policies.¹⁰ The defense agencies are required to follow the Armed Services Procurement Regulations (ASPR) and other agencies often do so if no other guidance is available.

By virtue of its responsibility for the Federal Procurement Regulations (FPR), GSA has the second most significant impact in the

executive branch on the evolution of procurement policy. The Federal Procurement Regulations are developed with the advice of an interagency committee composed of representatives from 27 agencies. However, the functioning of the committee is sporadic, and most of what is incorporated in the FPR stems from earlier coverage in ASPR. The military departments and others, including the National Aeronautics and Space Administration (NASA) are not bound by the FPR. For this and other reasons, including the status of GSA in the executive branch, the FPR system has not been an effective source of Government-wide procurement policy. New agencies, and existing agencies whose procurement missions expand into new areas, lack the guidance that should be available from a system of uniform Government-wide procurement policy.¹¹

The present lack of central leadership in the formulation of procurement policy has led to development of many policies and procedures that are needlessly diverse or meaninglessly different. In our discussion of the regulatory framework in Chapter 4 and elsewhere throughout this report we discuss some of these diverse policies.

In Chapter 11, we discuss numerous social and economic programs that wholly or partially depend on the procurement process for their implementation. Agencies primarily concerned with these programs, such as the Department of Labor and the Environmental Protection Agency, issue rules and regulations that are binding on procurement officials in other agencies.¹² Our studies show that procedures for coordinating these policies and for melding them into overall procurement policies range from virtually nonexistent to barely satisfactory. The lack of continuing management attention and leadership from a level above both the procuring agencies and the agencies principally concerned with social and economic programs is a chief cause of problems with these programs.

¹¹ A specific example is the recently published procurement regulations of the Department of Transportation (*Federal Register*, 37:4801 et seq. (1972), over 90 pages in length, which implement and supplement the FPR. A DOT official estimated that 98 percent of the DOTPR material should have been developed and issued at the FPR level, but because FPR is neither adequate or timely for their purposes DOT was forced to develop these policies at the agency level.

¹² For example, 41 CFR, Ch. 50—Public Contracts, Department of Labor.

⁴ For example, Executive Order 11602, 3 CFR 234, Clean Air Act Administration with Respect to Federal Contracts, Grants, and Loans.

⁵ For example, Memorandum and Statement of Government Patent Policy issued by President Nixon, Aug. 23, 1971, *Federal Register*, 36:16827.

⁶ For example, OMB Circular A-100, *Cost Sharing on Research Supported by Federal Agencies*, Dec. 18, 1970.

⁷ In the act, this authority is granted by implication only. Other authorities relied on are 10 U.S.C. 2202 and 5 U.S.C. 301 (1970).

⁸ 41 U.S.C. 242(a) (1970).

⁹ *Ibid.*

¹⁰ Also significant is the fact that the *Armed Services Procurement Regulation* predated the *Federal Procurement Regulations* by a dozen years. As a result, the content of FPR has been strongly influenced by ASPR.

In Part F, we discuss the lack of consistency across Government, and within agencies, in the use of contracts and grants. We highlight the confusion caused by inconsistent and often interchangeable use of these instruments and the hodgepodge of clauses and administrative techniques employed.

Effects on the Procurement Process

Throughout this report, we discuss many problems caused by the lack of central executive branch leadership in developing policies and effectively monitoring ongoing procurement operations. Our conclusions are summarized below:

- Government procurement policies and procedures are needlessly diverse. Although complete uniformity is neither desirable nor attainable, there is no justification for much of the diversity that exists.
- Contractors frequently are bewildered by the variety of requirements from different agencies but lack an effective route in the executive branch through which to appeal for more realistic treatment.
- There is no unit in the executive branch prepared to interact with Congress and GAO on a Government-wide basis with respect to recommendations and advice for improving the procurement process.
- There is no systematic Government-wide effort to improve training or qualifications of procurement personnel or for continuing study of ways to improve the process.
- When agencies disagree on the best procurement policy to adopt, the only arbiter available is OMB, which is not staffed to provide the needed decisions in a timely fashion.
- No authoritative source in the executive branch is knowledgeable of how the public and private sector interface is affected by procurement, how much agencies are procuring, or how well they are implementing existing Government-wide policies.
- Data on the operation of the procurement process is either nonexistent or collected with little regard for Government-wide management use or comparative analyses.

THE OFFICE OF FEDERAL PROCUREMENT POLICY

Major Attributes

We have concluded that a central Office of Federal Procurement Policy is urgently needed. The office should have the following attributes:

Be independent of any agency having procurement responsibility. Objectivity requires separation of basic procurement policymaking from operational concerns and biases. Judicious use of advice and personnel from the procuring agencies will avoid the dangers of an ivory tower approach to policy formulation. The new office should not become involved in the award of contracts or in the administration of procurement actions.

Operate on a plane above the procurement agencies and have directive rather than merely advisory authority. A major limitation in the effectiveness of GSA as the responsible agency for the FPR has been its circumscribed authority and lack of control over other agencies in the executive branch.

Be responsive to Congress. In the basic procurement statutes, Congress should provide the executive branch ample latitude for initiative and experimentation aimed at improving procurement policies. In turn, the executive branch must provide a responsible, effective, and responsive source of Government-wide policy control and leadership within a framework of executive-legislative cooperation.

Consist of a small, highly competent cadre of seasoned procurement experts. To ensure its focus on major procurement policies and effective use of agency expertise, the Office of Federal Procurement Policy should be limited in size. Its staff should be composed of experts in major disciplines necessary for procurement; for example, business management, law, accounting, and engineering.

Representative Functions

Without attempting to define each duty and operating rule for the Office of Federal Procurement Policy, we suggest the following functions as expressing the type of organization we have in mind:

- Serve as the focal point within the executive branch with special competence and leadership in Government-wide procurement and procurement-related matters.
- Provide for the issuance of Government-wide policies as separate instructions or for DOD issuance of such policies for defense agencies and GSA issuance for other agencies. Provide for the granting of exceptions to established policies and procedures when justified.
- Designate lead agencies to develop most Government-wide and multi-agency policies and procedures in coordination with other agencies. Participate, as appropriate, with the lead agency in coordination with other agencies.
- Establish Government-wide guidelines concerning the use of grants and the policies to be followed in making grants.
- Review and reconcile, where appropriate, those procurement policies and procedures that are not Government-wide but affect two or more Government agencies, or their suppliers (for example, the number and kinds of differing requirements placed on suppliers).
- Make or obtain the final decision when controversy or irreconcilable differences exist between executive agencies concerning procurement policy or regulatory development.
- Develop and promote programs for the upgrading of procurement personnel, including recruitment, training, career development, and standards of performance and the conduct and sponsorship of research in procurement policy and procedures.
- Monitor and revise instructions concerning reliance on the private sector and maintenance of the in-house competence necessary to assure that this reliance yields benefits commensurate with its promise.
- Promote Government-wide exchange of information that highlights successful ways to improve the procurement process.
- Establish requirements for uniform reports and statistics on procurement activities.
- Establish advisory groups, as desirable, to provide counsel and advice and to serve

as sounding boards for policies, procedures, and practices related to procurement.

Organizational Placement for the Central Policy Office

Alternatives considered for the organizational placement of the Office of Federal Procurement Policy ranged from placement in an existing agency to the creation of an independent office. On the basis of the functions to be performed and the authority to be vested in the central authority, the Commission strongly favors placement in the Office of Management and Budget.

OMB has broad Government-wide policy and management responsibility and can relate procurement matters to other program and operational requirements. It has a large measure of responsibility for leadership in all areas of management improvement and demonstrated capability for achieving interagency coordination and cooperation. It is also in a central position in the Executive Office of the President, which should make it effective in dealing with executive branch procurement activities, GAO, Congress, and the public. Additionally, having a Government-wide perspective and no purchasing responsibilities, we believe OMB can consider procurement policy needs in a more objective manner than can an agency engaged directly in procurement.

Within OMB, the Office of Federal Procurement Policy should be headed by an experienced, high-level official. We recommend a Deputy Director with no other responsibilities. This would ensure the identity, level of authority, and continuity of effort necessary for leadership toward effective management of the procurement function.

We recognize that the wishes of the President are of overriding importance in the organization of his Executive Office. Therefore, we have stopped short of saying that the office should only be in OMB. Placement elsewhere in the Executive Office, as long as responsiveness to Congress is assured, would be consistent with our recommendation.

Legislative Base

The Office of Federal Procurement Policy should be established by law. In the long run, only an organization solidly based in statute can have the prestige, stature, and assurance of continuity of effort necessary for so important a function. By enacting the basic statutory authority for the policy office, Congress can make clear the relationship it intends to maintain with the executive branch in policy development.

Executive Branch Action

We view the establishment of an Office of Federal Procurement Policy as long overdue and urgently required. Therefore, recognizing that the Congress will want to consider with care the legislation establishing the procurement policy office, we suggest the President give immediate consideration to establishing

the office by Executive order, without waiting for the legislative process to be completed. The office could then begin to give prompt attention to the problems highlighted in our report and to work with Congress and the agencies in considering and implementing our recommendations.

Relationship of Recommendation 1 To Other Recommendations

Throughout this report, we refer to the Office of Federal Procurement Policy either in recommendations or in the accompanying text. The purpose is to highlight the potential role of the office. We emphasize, however, that such recommendations are not contingent on the establishment of an Office of Federal Procurement Policy. Each of our recommendations has merit independent of the existence of such an office.

CHAPTER 3

The Statutory Framework

Statutes provide the foundation for the whole framework of Government procurement. They create agencies; define roles and missions; authorize programs; appropriate funds; balance public and private interests; provide for methods of procurement and for contract award procedures; and promote fairness, effectiveness, and uniformity in the procurement process.

The charter act of the Commission directed us to "study and investigate the present statutes affecting Government procurement" and to include in our report "recommendations for changes in statutes. . . ."¹

This chapter is concerned with the need to unify the two basic procurement statutes and to improve statutory provisions on methods of procurement and on procedures for contractor selection. Part J deals with the potential for codifying procurement and procurement-related laws as well as with statutory matters not directly related to methods of procurement or procedures for contractor selection.

STATUTORY FOUNDATION

Recommendation 2. Enact legislation to eliminate inconsistencies in the two primary procurement statutes by consolidating the two statutes and thus provide a common statutory basis for procurement policies and procedures applicable to all executive agencies. Retain in the statutory base those provisions necessary to establish fundamental procurement policies and procedures. Provide in the statutory base for an Office of

¹ 41 U.S.C. 251 note, sec. 4(a) (1970).

Federal Procurement Policy in the executive branch to implement basic procurement policies.

The procurement systems of the defense agencies, the Coast Guard, and the National Aeronautics and Space Administration (and to some extent the Central Intelligence Agency) are governed generally by the Armed Services Procurement Act of 1947 (ASPA).² The procurement systems of many civilian agencies are governed generally by title III of the Federal Property and Administrative Services Act of 1949 (FPASA).³

Consolidation or Conformance

We recognize that the two acts could be conformed to eliminate inconsistencies and incorporate the new principles we recommend. However, we think that a single consolidated act would focus attention upon procurement as a Government-wide operation and minimize the possibility of agencies obtaining independent statutory treatment. Our preference, therefore, is for a single consolidated statute to replace the two basic procurement acts, and thus eliminate the inconsistencies between them. In our judgment, a single act would provide the best assurance against the recurrence of inconsistencies.

Our studies revealed more than 30 troublesome inconsistencies between the two acts. For example, major inconsistencies involve:

- *Competitive Discussions.* ASPA re-

² 10 U.S.C. 2301-2314; 50 U.S.C. 405(c) (1970).

³ 41 U.S.C. 251-260 (1970).

quires,⁴ but FPASA does not, that proposals for negotiated contracts be solicited from a maximum number of qualified sources and that discussions be conducted with all sources in a competitive range.

- *Truth in Negotiations*. ASPA requires,⁵ but FPASA does not, that contractors and subcontractors submit cost or pricing data.

- *Negotiation Authority for Research and Development*. Both acts require agency head approval to negotiate research and development (R&D) contracts. Under ASPA someone below the head of the agency can approve contracts of up to \$100,000.⁶ Under FPASA, the limit is \$25,000.⁷

- *Negotiation of Certain Contracts Involving High Initial Investments*. ASPA includes,⁸ but FPASA does not, an exception to the advertising requirement for negotiating certain contracts requiring a high initial investment.

- *Specifications Accompanying Invitations for Bid (IFB)*. ASPA states that an inadequate specification makes the procurement invalid.⁹ Comparable language is not found in FPASA.

Although some of the inconsistencies stem from special problems originally encountered by only one or a limited number of agencies, most of them arise simply because there are two basic procurement statutes, and because each is amended at different times in different ways by different legislative committees. These basic inconsistencies have proliferated to an overwhelming degree in the "flowdown" from the statutes to agency, bureau, and local policies, regulations, procedures, and practices. This results in serious inefficiencies and adds enormously to the procurement-related costs incurred by the Government and its contractors.

The merger of ASPA and FPASA into one Government-wide statute will minimize the need for future amendments, although special problems will have to be treated by specific provisions in the merged statute. However, these occasions will be fewer in number be-

cause problems that originally were unique to one or a limited number of agencies have tended to become problems for other agencies and have required separate legislative treatment each time the problem arose.

A case in point is the provision of ASPA, but not in FPASA, that allows negotiation where performance requires a large initial investment.¹⁰ In the 1940's this provision only had application to the Department of Defense (DOD). Special legislation was required later because the Department of Transportation needed similar authority for its air navigation equipment contracts.¹¹ The need for this negotiation authority may increase as other civilian agencies become involved in more expensive and more technical procurements.

Many of the differences between the acts arose through legislation initiated by a congressional committee which had jurisdiction over only one of the basic acts. For example, the Truth in Negotiations Act and the statutory provisions requiring competitive discussions were added to ASPA but not to FPASA. Thus, major substantive issues were resolved in only one act because the legislation had been drafted to cover the military departments only.

A comparable situation occurred recently when Congress enacted Public Law 92-582, establishing Federal policy with respect to the selection of architect-engineers. The statute amends FPASA but not ASPA. Although the Senate Report (92-1219) noted this fact, it concludes that DOD was already following the new provisions and no amendment to ASPA was needed. The result is that the civilian agencies are required by statute to have "discussions" with A-E firms before making a selection but not for other types of contracts. On the other hand, DOD is not required to conduct "discussions" with A-E firms but is required to conduct discussions for other types of contracts.

Another example is the addition of language in ASPA requiring complete specifications to be prepared in connection with invitations for bid under formal advertising. The new language¹² was added to ASPA as part of a bill

⁴ 10 U.S.C. 2304 (c) (1970).

⁵ 10 U.S.C. 2306 (f) (1970).

⁶ 10 U.S.C. 2311 (1970).

⁷ 41 U.S.C. 257 (b) (1970).

⁸ 10 U.S.C. 2304 (a) (14) (1970).

⁹ 10 U.S.C. 2305 (b) (1970).

¹⁰ 10 U.S.C. 2304 (a) (14) (1970).

¹¹ 49 U.S.C. 1344 (e) (1970).

¹² 10 U.S.C. 2305 (b) (1970).

primarily intended to amend the Small Business Act and was processed by the committees having jurisdiction over that act. The legislative history does not explain or even mention that the bill would change only one of the two basic procurement acts.

The present statutory foundation is a welter of disparate and confusing restrictions and of grants of limited authority to avoid the restrictions. This problem has arisen in part because Congress has never been called on to focus its attention on the overall procurement process. The inaction of top managers of the executive agencies has aggravated the problems.

Although both DOD and NASA are governed by ASPA, each relies on its separate organic act or on general statutory provisions¹³ to issue separate and often unnecessarily inconsistent procurement regulations.¹⁴ Some provisions of FPASA give the appearance of minimizing the multiplicity of agency regulations; they give either the President or the Administrator of the General Services Administration (GSA) authority to prescribe regulations or policies.¹⁵ However, FPASA effectively or potentially excludes from GSA regulations¹⁶ the major procurement activities which come under its "no impairment" provision.¹⁷ The "no impairment" provision is a broad, ambiguous statement which provides that nothing in FPASA shall impair or affect the general authority of certain named agencies or specified functions of other designated agencies.

The agencies have differed in their approach as to what they consider an "impairment." The Atomic Energy Commission (AEC) generally has followed GSA's Federal Procurement Regulations (FPR), but in a few cases has decided to adopt more "liberal" regulations under the broader statutory authority of its organic act. The Tennessee Valley Authority (TVA), on the other hand, has interpreted the "no impairment" provisions as giving it authority to disregard the FPR's completely.¹⁸

¹³ For example, 10 U.S.C. 2202 and 5 U.S.C. 301 (1970).

¹⁴ These agencies are not required to comply with regulations issued pursuant to FPASA. See 41 U.S.C. 252(a) (1) (1970).

¹⁵ See 40 U.S.C. 481(a) (1) and 486(a) and (c); and 41 U.S.C. 252(a) (1970).

¹⁶ 41 U.S.C. 252(a) (2) (1970).

¹⁷ 40 U.S.C. 474 (1970).

¹⁸ The matter of diversity in regulations is discussed in greater detail in Chapter 4.

The statutory foundation must be changed if significant improvements in unifying procurement policies and procedures are to be achieved. Consolidation of the procurement statutes would be a major step in fostering a single regulatory system which would help rather than hamper those wishing to do business with the Government.¹⁹ It also would focus attention on the fact that procurement is a Government-wide operation and would discourage attempts by parochial interests to obtain special statutory treatment.

Greater statutory uniformity may be viewed by some as a threat to the special missions of executive agencies. Such a fear is unfounded. Our recommendations contemplate Congress confining its dictates to fundamental matters. Under our recommendations, the regulatory system will assume the responsibility of amplifying congressional direction and of creating such restrictions or safeguards as may apply only to some agencies or that prove essential only for limited periods. This approach provides the best balance of congressional control and executive efficiency. It minimizes the burden on a busy Congress. It also recognizes that, when feasible, administrative action by regulation is quicker, more specific, and more readily adaptable to necessary change. Such latitude is essential to the use of procurement techniques which best ensure the success of a Government program.

Sharing of responsibility for procurement policy between the legislative and executive branches is consistent with the practice in other policy areas; that is, Congress establishes the general framework of a national priority and the executive branch is charged with the responsibility to implement the approved program. The need for executive branch latitude to fill in the details by regulation is particularly acute in Government procurement because of the number of techniques and technologies involved; the frequency and volatility of change; the close connection between procurement and agency missions; and the multitude of detailed policies, procedures, guidelines, and controls attending the process.

Executive branch latitude, however, cannot justify accelerating the issuance of conflicting

¹⁹ See Chapter 4, for the discussion and recommendation to establish a system of Government-wide coordinated procurement regulations.

regulations. The success of procurement within the statutory framework we recommend will require strong leadership in the executive branch and a means for implementation of the statutory policies governing procurement. Only such leadership can ensure a more consistent treatment of day-to-day procurement problems and a more harmonious and responsible relationship with Congress.

Summary

The unconsolidated structure of the two primary procurement statutes generate unessential or troublesome distinctions in basic procurement policies and procedures of various components of our Government. A clear rationale does not exist for two acts setting forth separate policies and procedures for that part of the Nation's business conducted by contract; or for either of them permitting the extent of diversity exhibited by today's regulatory systems. Efficiency, economy, and effectiveness of Government procurement would be increased if:

- The basic procurement statutes were consolidated
- The consolidated statute concentrated on fundamental procurement policies and procedures
- The fundamental procurement policies and procedures were implemented under the leadership of the Office of Federal Procurement Policy.

FUNDAMENTAL POLICIES FOR A CONSOLIDATED STATUTE

Background

The procedure by which the Government solicits offers, establishes terms and conditions, and selects a contractor, is the heart of the procurement process. The statutes traditionally have classified these methods as either "formal advertising" or "negotiation." The terminology and distinctions connoted by the terminology obscure as much as they ex-

plain. Understanding these terms, and the relation they bear to the degree of competition available in markets from which the Government procures, is essential to understanding our recommendations concerning competitive methods of procurement.

FORMAL ADVERTISING

"Formal advertising" denotes a sealed-bid technique of obtaining offers from several competitors. The rules of this sealed-bid procedure are designed to forbid "private" bargaining and to encourage open disclosure upon award. Formal advertising presumes a specification that dictates a common baseline of technical features and contract terms. This in turn obviates any need for discussions with competitors about their bids and provides an objective means for distinguishing among capable competitors on the basis of price. Therefore, a fixed-price contract is always awarded to the lowest-price offeror, provided he does not take exception to the specification and is a responsible producer. These and other rules discourage a buyer's inclination to unfairly favor award to one contractor over another.

Private business generally does not refer to any of its procurement practices as "formal advertising." Occasionally, they do use a sealed-bid technique in which they "advertise" a procurement to potential suppliers. However, they are not as likely to broadcast their solicitation of offers as widely as does the Government, to commit themselves as unequivocally to accept the lowest price received, or to foreclose the possibility of having discussions with an offeror before awarding him a contract (as the Government does when it announces it will use the "formal advertising" method of procurement).

NEGOTIATION

Negotiation permits contracting agencies greater latitude in the selection of contractors than is allowed by formal advertising procedures. It embraces procurements in which all potential contenders are invited to participate as well as those that involve only one seller. We are concerned here only with those which

are publicized widely for competition.²⁰ Some of these contracts are awarded on a fixed-price basis, others on a cost-reimbursable basis.²¹

In negotiated fixed-price competitions the Government usually does not rely on the prices initially submitted by competitors. The comparability between initial offers generally is insufficient to judge the relative merits on the basis of the common denominator of price. For this or other reasons, contracting agencies ordinarily conduct discussions or bargaining with the competitors in the course of entering into a fixed-price contract with the one who offers the best terms.²²

In competitive negotiations involving cost-type contracts, the offerors submit cost estimates rather than fixed prices. The fact that a cost-type approach is used generally indicates that the primary interests of both the competitors and the contracting agency will focus on relative technical competence, not price "guessimates."

The single element which most acutely distinguishes negotiation techniques from formal advertising is the subjective judgment which weighs quality and other factors against price; these judgments are referred to as "tradeoffs." Formal advertising, in effect, resolves all "tradeoffs" by specifying a common product before offers are solicited. Only products conforming to that specification can represent the best, and indeed the only, deal for the Government, subject solely to the variable of the prices which will be submitted. Negotiation, on the other hand, uses a more general or more complex specification which asks the seller to recommend the combination of those aspects of the solicitation he thinks will represent the best deal to the Government; all aspects are variables to be considered in selecting the contractor. Price is likely to be an important, often critical aspect in competitively negotiated fixed-price contracts, and not as likely to be so in cost contracts.

²⁰ Sole-source negotiation is discussed later in this chapter.

²¹ Generally, a contract awarded on a cost-reimbursable basis is one where the Government promises, for performance of a contract, to pay: (1) the reasonable, allocable, and allowable cost of performance, as determined by predetermined cost principles and the terms of the specific contract (see ASPR 7-208.4 and ASPR, sec. XV, part 2); and (2) a fee, where applicable.

²² Competitive negotiations in fixed-price contracts is further discussed with respect to Recommendation 4, under "Competitive Discussions for Fixed-Price Contracts."

COMPETITION

Competition is not a procurement technique. It is a phenomenon of the marketplace, and the extent to which it exists in any given marketplace ordinarily is not influenced by the method of procurement employed. Competition is the effort of sellers, acting independently of each other and offering products or services that are reasonably close substitutes for those offered by other sellers, to secure the business of the buyer by proposing the most attractive contract terms.

Formal advertising is one means of obtaining competition. It involves a broad solicitation of offerors, but so do competitively negotiated procurements. Although fixed-price contracts are always used in formal advertising, this feature also is not peculiar to that method of procurement; they are used as well in many negotiated procurements. Further, the desire among competitors for winning the award should be equally strong regardless of which method of procurement is used. The unique feature of the Government's formal advertising technique is its insistence on offers of products or services which are *essentially identical*, regardless of which competitor is selected.

Many procurements involve an item that is not sufficiently comparable to others available from the same general market to make an award on the basis of price without discussions with the offeror. In these circumstances, the technique of negotiation affords the best opportunities to obtain the most effective competition available. It permits discussions with competitors for the purpose of more precisely defining achievable requirements, or otherwise obtaining sufficient comparability between offers, in order to reach a common understanding of the specifications. By enhancing the degree of competition in this manner, the Government may be able to validly select the contractor on the basis of price and thus consummate a fixed-price contract.

Cost-type competitions often involve markets quite dissimilar to those in which fixed-price competitions take place. The end items may be of such magnitude and exhibit so many unknowns that initially no one can draw specifications that realistically dictate a common technical baseline for all offerors; nor can the parties agree to fixed-price contracts which

provide for reliable price comparisons of common baseline products. The acquisition of major systems usually is characterized by these features.

Another illustration is the procurement of R&D. Here the competition is generally characterized by several rival sellers offering proposals which are not expected to exhibit a broad baseline of comparable features. The Government deliberately asks rival R&D sellers to focus on innovative and individualistic approaches; thus the offers received are unlikely to exhibit the common technical baseline essential to reasonable price comparisons. In addition, the performance of these services may involve such risk that use of a fixed-price contract is not feasible.²³

Statutory Standards for Competitive Negotiation and Formal Advertising

Recommendation 3.

(a) Require the use of formal advertising when the number of sources, existence of adequate specifications, and other conditions justify its use.

(b) Authorize the use of competitive negotiation methods of contracting as an acceptable and efficient alternative to formal advertising.

(c) Require that the procurement file disclose the reasons for using competitive methods other than formal advertising in procurements over \$10,000, or such other figure as may be established for small purchase procedures.

(d) Repeal statutory provisions inconsistent with the above.

REQUIRED USE OF FORMAL ADVERTISING

Many Government procurements are entirely suitable for fixed-priced formal advertising. The prerequisite for its use, however, is an adequate specification and a number of com-

²³ Competition in cost-type contracts is further discussed with respect to Recommendation 4, under "Competitive Discussions for Cost-Type Contracts."

petitors sufficient to assure the Government, receiving the best deal if it commits itself to accept the lowest bid of a responsible contractor. We recommend, therefore, that formal advertising, the competitive procurement method exhibiting the greatest safeguards against favoritism, be preferred whenever market conditions are appropriate for its use. Toward this end, we also recommend that contracting officers be required by statute to document their reasons for not using formal advertising in a competitive procurement.

Our recommendation exempts procurements under \$10,000, or such other figure as may be established from time to time for small purchase procedures, from the statutory rules of solicitation which ordinarily would apply.

UNDUE RESTRAINT AGAINST COMPETITIVE NEGOTIATION

ASPA and FPASA provide that formal advertising is the preferred method for conducting Government procurement. Both statutes authorize the use of negotiated procurement, but restrict its use by numerous procedural requirements that are not related to market conditions. ASPA provides 17 and FPASA provides 15 exceptions to the requirement for use of formal advertising. Each requires that a particular condition exist in order to use negotiation instead of formal advertising.²⁴ Many of the exceptions require written findings and determinations, and some also require approval by the agency head. Still other provisions limit the authority of the agency head to delegate his approval function.

Nevertheless, the Government uses formal advertising for purchasing only from 10 to 15 percent of its needs in terms of reported contract award dollars.²⁵ The pattern of using

²⁴ See 10 U.S.C. 2304(a)(1)-(17) and 41 U.S.C. 252(c)(1)-(15). Our recommendations involve repealing those sections, as well as those concerned with justifying the use of negotiated cost and incentive-type contracts. Some of the decisions made pursuant to these sections are final and not reviewable by the General Accounting Office. See 10 U.S.C. 2310 and 41 U.S.C. 257. The mechanics of repeal will involve either rewriting or eliminating the finality presently accorded some administrative decisions to negotiate. We take no position on whether the current prohibition against GAO review should be eliminated or substantially retained with new statutory language.

²⁵ Calculated by the Commission. See recent annual reports: *Military Prime Contract Awards*, DOD, and *Procurement for Civilian Agencies*, GSA, Office of Finance. These sources also indicate that

competitive negotiations instead of formal advertising has arisen only in the last three decades. During that period, first the urgency and demands of war, and then national domestic priorities, compelled Government to meet more of its needs by advancing the state of technology rather than by purchasing items "off the shelf." This development—not the conjecture that agency officials intentionally and increasingly disregard the law—explains the decline in the use of formal advertising. In recent years, many Government requirements do not lend themselves to the form of specifications needed for "formal advertising." Creating such specifications to procure items beyond the existing state of technology is not realistic.

Simply identifying the conditions which justify negotiation is time-consuming. When the statute also requires that such justification be put in writing, more time and expense is consumed. Of even greater importance is the fact that when the contracting officer's written justification must be approved at higher levels, the process often is wasteful and even more expensive and time-consuming.

These justification provisions are intended to discourage sole-source negotiation. However, they also may restrain the use of competitive negotiation to satisfy requirements for imprecise, changeable, and sometimes unique products and services. Competition in the markets where these requirements must be satisfied cannot be achieved by the use of formal advertising. The point is not that there should be more negotiation and less advertising but that competitive negotiation should be recognized in law for what it is; namely, a normal, sound buying method which the Government should prefer where market conditions are not appropriate for the use of formal advertising.²⁴

Formal advertising can be as inappropriate in some Government procurements as it is appropriate in others. Since its use in many po-

tentially competitive circumstances is inappropriate, it should not be encouraged, much less preferred, in those circumstances. When competitive negotiations are the appropriate procurement technique, the statute should not require Government officials to indulge in expensive, wasteful, and time-consuming procedures to carry out congressionally authorized missions.

UNDUE RESTRAINTS AGAINST THE USE OF COST-TYPE CONTRACTS

The current statutes²⁵ provide that cost-reimbursable and incentive contracts cannot be used without a finding either that such contracts probably will be cheaper or that it is impractical to use any other type of contract.²⁶ However, in numerous situations the use of cost-reimbursable or incentive contracts is desirable, even if fixed-price contracts could be used or might be cheaper. Many of these are competitively awarded and include procurements where the use of a fixed-price contract would involve an inordinate risk or where the procuring agency wishes to motivate the contractor to apply his efforts toward specific elements of contract performance.

Where a cost-reimbursable or incentive contract promises no net advantage over a fixed-price contract, public policy rightly favors the use of the fixed-price contract. In competitively negotiated procurements, it provides the greater assurance that the benefits of competition have been obtained and employed. However, conjectures that one type of contract will prove more expensive than another or otherwise be "impractical" to use generally are pure speculation. Nor is there any reliable way of validating whether the prediction was an accurate one. Consequently, the finding or prediction required by the present statute is a hollow requirement and in practice is generally satisfied by findings which merely repeat the language of the statute.

We believe the procurement statutes should not stigmatize cost-reimbursable and incentive contracts and require their use to be accom-

small business set-aside contracts, which are restricted to small business but are also awarded by formal advertising techniques, account for approximately an additional four to five percent of reported Government procurement award dollars. In terms of the number of reported procurement actions in DOD during fiscal 1972, the restricted and unrestricted use of formal advertising techniques totaled approximately 11.4 percent of all military procurement actions of \$10,000 or more.

²⁴ See similar point made by the Task Force on Procurement, *Military Procurement*, 1955, p. 24, prepared for the Commission on Organization of the Executive Branch of the Government.

²⁵ 10 U.S.C. 2306(c) and 41 U.S.C. 254(b) (1970).

²⁶ They also contain an absolute prohibition against "cost-plus-a-percentage-of-cost" contracts, which prohibition we recommend be continued. See 10 U.S.C. 2306(a) and 41 U.S.C. 254(b) (1970).

panied by findings which, as a practical matter, can rarely be supported by verifiable evidence.

CONCLUSIONS

Our recommendations encourage the use of competitive procurement procedures. They endorse a preference for formal advertising wherever practical but eliminate the wasteful and unnecessarily expensive exercise—in both time and money—of having high-level agency reviews of decisions to use competitive procedures other than formal advertising. Thus, procuring agencies will be directed to use appropriate techniques to obtain the best possible competitive results.

Competitive Discussions

Recommendation 4. Adjust the statutory provision on solicitations and discussions in competitive procurements other than formal advertising in the following manner:

- (a) Extend the provision to all agencies.
- (b) Provide for soliciting a competitive rather than a "maximum" number of sources, for the public announcement of procurements, and for honoring the reasonable requests of other sources to compete.
- (c) Promulgate Government-wide regulations to facilitate the use of discussions in fixed-price competitions when necessary for a common understanding of the product specifications.
- (d) Require that evaluation criteria, including judgment factors to be weighed by the head of an agency when he is responsible for contractor selection, and their relative importance, be set forth in competitive solicitations involving contracts which are not expected to be awarded primarily on the basis of the lowest cost.

EXTENSION OF ACT TO ALL AGENCIES

The only general legislative requirement for

written or oral discussions in negotiated procurements is found in ASPA, as amended:

... proposals, including price, shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the supplies or services to be procured, and written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, price, and other factors considered: *Provided, however*, that the requirements of this subsection with respect to discussions need not be applied to procurements . . . where it can be clearly demonstrated from the existence of adequate competition or accurate prior cost experience with the product, that acceptance of an initial proposal without discussion would result in fair and reasonable prices . . .²⁹

Civilian agencies currently are not subject to a similar general statutory prohibition against dealing with only one of the competitors they solicit for a negotiated procurement.³⁰ They are covered only in the FPR which, unlike the statutory requirement, provide³¹ that competitive discussions are not mandatory for some procurements; for example, cost-reimbursable and R&D contracts.

We believe a statute requiring discussions in competitively negotiated procurements is fundamental to protecting the Government's interest, and that its requirements should be applied uniformly throughout the Government.

REVISIONS TO STATUTORY REQUIREMENTS

Ten years of experience with the law on competitive discussions indicates that modest changes are desirable. Some of these changes appear to be evolving through regulations and decisions interpreting the law; others require legislation. These are discussed below.

"MAXIMUM" SOURCES

Under 10 U.S.C. 2304(g), solicitation of pro-

²⁹ 10 U.S.C. 2304(g) (1970).

³⁰ Congress enacted the requirement for discussions in Public Law 87-653. Recently, Congress enacted Public Law 92-582 requiring agencies subject to FPASA to conduct "discussions" in obtaining architect-engineer services by contract.

³¹ FPR 1-3.805.

posals is required "from the maximum number of qualified sources consistent with the nature and requirements" of a procurement. Translating this requirement to practice poses a vexing problem.

R&D procurements, probably more than any other, embody the two characteristics which give rise to the problem; namely, a large number of firms seeking Government contracts and relatively complex proposals which are costly to prepare and evaluate. Under these circumstances, total solicitation costs may exceed the value of the contract. Moreover, most R&D procurements seek innovative ideas and frequently cannot be considered as essentially cost or price competitive. Therefore, the participation of a maximum number of firms does not necessarily ensure minimum costs to the Government, a primary purpose of the statute. Participation by a "maximum" number of firms in such situations may unduly complicate the selection process and add considerably to both the procuring agency's and the offerors' costs.

Several agencies now interpret the statute to permit limiting the initial issuance of requests for proposals (RFPs) to a reasonable number of firms deemed most competent. Others are reluctant to follow this practice. They believe a blanket issuance of the RFP and the evaluation of all proposals is easier, safer, and possibly less costly than attempting to justify a limited solicitation. Moreover, some consider that the intent of Congress, as reflected in the statute, requires that all doubts be resolved in favor of "maximum" solicitation.

Providing in the statute for the solicitation of a "competitive" rather than a "maximum" number of sources in negotiated procurements should convey the intent that the desirable number of sources depends on the conditions which prevail in the market at the time the purchase is made. We recognize that this change could foster favoritism for certain contractors; that is, only "favorites" might be invited to submit proposals. To prevent this abuse, we recommend retaining the statute which requires public announcement of procurements²² and adding to it a requirement

that agencies honor all reasonable requests by uninvited offerors to compete.

COMPETITIVE DISCUSSIONS FOR FIXED-PRICE CONTRACTS

An exception in ASPA permits an agency conducting a competitively negotiated procurement to select a contractor on the basis of his initial offer, without discussions with any of the competitors.²³ When Congress was considering the exception language in the legislation, GAO's view was that it would curtail competition. GAO was concerned that the contracting agency would not be in a position (without the benefit of discussions) to determine with any degree of certainty the reasonableness of estimated costs and proposed prices. Congress, however, accepted DOD's position that the statutory requirement for discussions include the exception permitting awards without discussions. DOD believed that the exception would discourage offerors from submitting padded initial prices.

GAO's concern appears to have been directed toward the use of fixed-price contracts in negotiated procurements. It cited an example where the contracting agency rejected formally advertised bids because of a statutory technicality. The agency later conducted a "negotiated" procurement for the same items, without competitive discussions, and accepted a low offer from a contractor which was about \$20,000 higher than the offer he made in the formally advertised procurement. GAO maintained that discussions would prevent these abuses without encouraging padded offers, since competitors would hesitate to submit unnecessarily high offers that eliminated them from the competitive range.

Our studies suggest that offerors will not be deterred from including substantial contingencies in initial offers.²⁴ Moreover, we believe there is a likelihood of the Government's

²² Offerors must be advised of the possibility that discussions may not be conducted, and the prices received must appear reasonable to the contracting officer. The exception applies to both cost-type and fixed-price contracts.

²⁴ Responses to a question raised by Study Group 8 (Negotiations and Subcontracting), disclosed that more than half of the Government buyers interviewed on this point thought sellers did not pad their offers; over half of the sellers believed they did. (See Study Group 8, *Final Report*, vol. II, appendix F.)

²³ 15 U.S.C. 637(e) (1970).

inadvertently accepting higher offers under fixed-price contracts if discussions are not held. This could occur when an offeror anticipates discussions with the Government to establish a common understanding of an imprecise specification and wishes to leave a margin in his initial price or contract terms to facilitate making appropriate concessions. For example, his experience might be that the Government often discovers through discussions that its needs are not adequately defined by the specification and asks the offeror to go beyond what is literally required by the specification without increasing the original bid price. Inadvertent acceptance of unnecessarily high offers also might occur as a result of divergent understandings of an imprecise specification; this could lead to a higher quality product than actually is needed.

When the specifications are inadequate for formally advertising the procurement, they also are unlikely to be adequate for negotiating a fixed-price procurement without competitive discussions. The low offer may be a higher price than the Government need pay, or it may offer a lower quality product than is acceptable. In short, if the specification is not sufficient to assure a common understanding by all offerors, thereby permitting a choice between offers on the basis of price, then such offers may be too high or too low, and in either event, unacceptable.

In these circumstances, the procurement regulations should require the Government to conduct discussions for the purpose of establishing a common understanding of the specifications. Such an understanding usually should permit contractor selection on the basis of the lowest price finally offered.

The statutory changes we recommend do not say how long discussions should be conducted in the attempt to achieve a common understanding of the specification. The statute should not dictate that Government buyers bargain endlessly in order to achieve such common responses to a specification as to permit selection primarily on the basis of price. This must be left to the common sense and discretion of the Government buyer.

COMPETITIVE DISCUSSIONS FOR COST-TYPE CONTRACTS

The extensiveness of competitive discussions, rather than the absence of discussions, has been a recurring complaint of contractors dealing in cost-reimbursable and R&D contracts. Representatives of the R&D industry believe that technical portions or ideas of one competitor's proposal commonly are "transfused" into another's. They allege this occurs during competitive discussions, especially when the Government points out deficiencies in a competitor's proposal and invites him to change and improve it.

They further allege that discussions in R&D procurements have been used to achieve the comparability between competing "products" which one expects in formal advertising. This tends to bring the offer of each proposer to a common level of technical excellence. Such "technical leveling" can foster a Government practice of "auctioning" the contract to the proposer who bids the lowest price.

Recent changes in procurement law suggest that agencies now are devoting much attention to this matter and that these problems may not continue to be considered acute.³⁵ However, the lines of distinction between improvements initiated by the offeror and those to which the Government may allude, on the basis of its knowledge of others' ideas, is often a difficult one to draw. Creating sensible rules in statutes, regulations, or legal decisions to facilitate drawing the line between competitive endeavors and "technical transfusion" is a hard task.

In view of the recent attempts to avoid

³⁵ In U.S. Comptroller General transmittal letter (p. 3) and decision B-173677 (p. 32), Mar. 31, 1972, which denied a protest against NASA's alleged illegal failure to discuss deficiencies in the protester's R&D proposal, the Comptroller General observed:

... This is a research and development procurement in which the offeror's independent approach in attaining the desired performance is of paramount importance. . . . Obviously, disclosure to other proposers of one proposer's innovative or ingenious solution to a problem is unfair. We agree that such "transfusion" should be avoided. It is also unfair, we think, to help one proposer through successive rounds of discussions to bring his original inadequate proposal up to the level of other adequate proposals by pointing out those weaknesses which were the result of his own lack of diligence, competence, or inventiveness in preparing his proposal.

Also see NASA Procurement Regulation Directive 70-15 (revised), Sept. 15, 1972, providing that in cost-reimbursement and R&D competitive procurements, the contracting agency shall not point out to competitors the deficiencies in their proposals which inhere in their management, engineering, or scientific judgment.

"technical transfusion" and "auctioneering," the complexity of the subject, and the present state of flux in implementing the statute, we have concluded it would be inappropriate at this time to recommend detailed statutory revisions.

EVALUATION CRITERIA

The procuring agencies use different procedures for evaluating proposals. The procedure most commonly used for larger or more complex procurements in which price may be only one of numerous considerations requires that evaluation criteria be established prior to soliciting offers. Evaluation criteria apprise competing sellers of the features, in addition to cost, the Government considers important to the purchase and their relative importance to each other. The criteria also alert Government technical specialists, who may not be the ones who devised the criteria, of what to look for and what weight to give to certain aspects of the proposal in scoring or otherwise evaluating it.

The statutes currently are silent on the evaluation criteria the Government uses to select a contractor, although this is a matter of major importance. Proposers often complain they cannot adequately respond to solicitations because the evaluation criteria do not indicate the relative weight the buyer attaches to various elements of the specification or proposed contract terms.

The procuring agencies have reservations about communicating the relative importance of evaluation criteria. They fear such disclosure may result in the buying officials and the sellers relying too heavily on the mechanics of the scoring system instead of using their own judgment. They also believe that the Government might award contracts to inferior firms which had a slightly higher "score" than a superior competitor, that competitors might be inhibited from submitting innovative ideas which did not agree with the evaluation criteria, and that GAO might be inclined to uphold protests on the ground that award was not made to the competitor with the highest score. The weakness in these observations is

that neither law nor common sense supports the likelihood of their occurrence.

Nothing could be more basic to sellers than knowing what the buyer really wants. Without knowledge of the relative importance of evaluation criteria, sellers can determine only partially what the procuring agency considers important. Withholding uniform and formal disclosure of such information may, on occasion, lead to some sellers learning more than others about what the agency regards as important.

Acceptance of our recommendation to communicate the relative importance of evaluation criteria would create greater public confidence in the procurement process, motivate procuring agencies to give greater attention to defining what they want from sellers, and facilitate the preparation of more responsive proposals.

Post-Award Policy

Recommendation 5. When competitive procedures that do not involve formal advertising are utilized, establish that agencies shall, upon request of an unsuccessful proposer, effectively communicate the reasons for selecting a proposal other than his own.

Letting an offeror know why he lost a competition contributes to his ability to compete for future solicitations. It also adds to the general confidence in the fair application of the rules and procedures governing Federal procurement. Today there are no statutory requirements or uniform practices for informing losing offerors why their proposals were not considered as advantageous to the Government as the winning contractor's.

Losing competitors believe they should be, but frequently are not, provided with enough details on the relative value of their proposals. Consequently, existing practices often result in informal complaints as well as formal protests to force adequate disclosure. We believe the Government will receive better proposals and gain more credibility if a statutory base exists for honoring the post-award requests of losing offerors for the reasons why the contractor was selected.

SOLE-SOURCE PROCUREMENT

Recommendation 6. Authorize sole-source procurements in those situations where formal advertising or other competitive procedures cannot be utilized, subject to appropriate documentation; and, in such classes of procurements as determined by the Office of Federal Procurement Policy, subject to the determination being approved at such level above the head of the procuring activity as is specified in agency regulations.

One reason for public concern over the procurement process is the high proportion of non-competitive (sole-source) contracts awarded by the Government. Nevertheless, in many instances, because of urgency, lack of a reasonable competitive source, standardization, or other factors, the contracting agency has no realistic alternative to soliciting an offer from one firm. This is particularly true in DOD, NASA, and AEC, where costly items of high technology frequently are needed. For fiscal 1972, 58.6 percent of the reported DOD military procurement dollars involved noncompetitive procurements.³⁶

ASPA and FPASA have provisions that limit negotiation, regardless of whether the negotiation is a competitive or a sole-source procurement. We have recommended removing the statutory restrictions insofar as they apply to competitively negotiated procurement. Lifting the restrictions against competitive negotiations, however, requires adoption of statutory safeguards for noncompetitive negotiations.

Our recommendations introduce additional safeguards. Written determinations for failure to use formal advertising are not required today for seven of the exceptions under ASPA and 11 of the exceptions under FPASA. Our recommendation would require written documentation in the file for all cases over \$10,000 where formal advertising is not used and where only one source is solicited.

Moreover, the documentation in some of

³⁶ U.S. Department of Defense, *Military Prime Contract Awards, July 1971-June 1972*, p. 40. Of these dollars, the Commission calculated that 32.4 percent were "follow-on" to contracts which originally had been awarded on a competitive basis, and 67.6 percent were other sole-source procurements.

these procurements would require approval at an agency level above the head of the procurement office. The rationale for this is the fact that some potentially sole-source procurements will involve large expenditures or otherwise be of a sensitive nature. In such cases, we believe the issue of whether competition can be obtained should not be decided at the level within the agency which is most likely to be biased.

We recommend that the Office of Federal Procurement Policy decide which classes of sole-source procurement should be approved at a level above the contracting officer. We would leave to the discretion of each agency the exact administrative level from which the contracting officer should seek approval because the level at which an independent and detached judgment can be expected may vary.

SPECIAL PROCUREMENT TECHNIQUES

Small Purchase Procedures

Recommendation 7. Increase the statutory ceiling on procurements for which simplified procedures are authorized to \$10,000. Authorize the Office of Federal Procurement Policy to review the ceiling at least every three years and change it where an appropriate formula indicates the costs of labor and materials have changed by 10 percent or more.

Under ASPA and FPASA, procurements in excess of \$2,500 must be made pursuant to the statutory rules for formal advertising or negotiation. Simplified procedures are authorized in procurements of less than \$2,500. These procedures include the use of competitive techniques but need not be encumbered by either the sealed-bid requirements of formal advertising or the administrative burdens ordinarily associated with a negotiated transaction. Their use is not conditioned on a written explanation of why formal advertising is not feasible or, when a single source is solicited, why competition is not being obtained.

The limit of \$2,500 was placed on small purchases in 1958. Data for fiscal 1972 in-

icates that DOD alone issued 795,917 formally advertised contracts under \$10,000.³⁷ This represented only 7/10 of 1 percent of the total dollar value of all reported DOD military procurements.³⁸ In terms of procurement actions, more than 98 percent are for less than \$10,000.³⁹ Many of these transactions are for commercial items for which prices are set competitively or by regulatory processes. Mandatory procedures for small transactions in excess of \$2,500 require a great deal of extra paperwork, time, and frustration, and discourage many companies from competing. This results in additional costs and longer delivery schedules. GAO estimated that up to \$100 million in administrative costs⁴⁰ can be saved annually by DOD procurement centers if contracts under \$10,000 could be awarded under simplified, small purchase procedures.⁴¹

To assure that potential savings are not lost, more is required than simply raising the dollar ceiling. The need to avoid the statutory rigidity of a fixed dollar ceiling is of equal importance. Such rigidity can inadvertently restrain the use of appropriate procurement techniques and increase administrative costs. Therefore, the ceiling should be made flexible by relating it to the purchasing power of the dollar.⁴²

Multi-year Contracting Authority

Recommendation 8. Authorize all executive agencies to enter into multi-year contracts with annual appropriations. Such contracts shall be based on clearly specified firm requirements and shall not exceed a five-year duration unless authorized by another statute.

"Multi-year procurement" is a special term

³⁷ *Ibid.*, p. 49.

³⁸ The dollar value of these contracts in fiscal 1972 was \$259.5 million. Letter from U.S. Department of Defense (Comptroller) to the Commission, Nov. 1, 1972. (Percentage calculated by the Commission.)

³⁹ Note 36, *supra*, p. 38. (Military procurement actions under \$10,000, including both negotiated and formally advertised actions, represented 10.3 percent of DOD procurement monies in fiscal 1972. *Ibid.*, p. 53.)

⁴⁰ Letter (B-160725) from the Assistant Comptroller General to the Commission, Nov. 30, 1972.

⁴¹ See 10 U.S.C. 2304(a) (3) and 41 U.S.C. 252(c) (3) (1970) for ceiling of \$2,500.

⁴² See Part D, Chapter 4, for additional discussion of the use of simplified procedures for small purchases.

used to denote a method of competitively contracting for more than one year. It is now used by agencies which either have "no-year" or multi-year appropriations, or special statutory authority.⁴³ However, many appropriations, including most of those for the procurement of services, are on an annual basis. This requires that the funds be obligated within the fiscal year for which the appropriation is made and only for needs arising during that fiscal year. Further, 31 U.S.C. 627 prohibits contracting in excess of an appropriation unless an act of Congress declares specifically that such a contract may be executed. Consequently, in the absence of special statutory authority, multi-year contracting generally has not been used when annual appropriations are involved.

Multi-year contracting properly is used only to purchase firm and clearly specified requirements, which do not change during the term of the contract.⁴⁴ This method of contracting provides for the solicitation of prices based on both the current one-year program, and on the annual increments making up the total program, for a period of up to five years. The contractors' nonrecurring or "start-up" costs⁴⁵ are lumped together in their one-year bids, but are prorated over the entire period of the contract in the multi-year bids. The contract is awarded on the basis of the bid that reflects the lowest unit prices to the Government. Often, the proration of nonrecurring costs and other advantages of high-volume and long-term production results in a multi-year bid representing the lower overall cost.

If a multi-year contract is awarded, only the first year is funded. The next year, if additional funds are available, the contracting officer notifies the contractor prior to a deadline date or event to continue; notice obligates the parties to the next year's performance. If

⁴³ Isolated statutes provide a few agencies with limited authorization to enter into long-term contracts with appropriated funds. See, for example, 42 U.S.C. 2201(u), 7 U.S.C. 427(i), 7 U.S.C. 416, 10 U.S.C. 2306(r), and 10 U.S.C. 2352 (1970). A list of statutes providing authority for long-term contracts is found in Study Group 2, *Final Report*, vol. III, appendix 1 to chapter 3, pp. 1038-1035.

⁴⁴ A change in the character of the purchase would bring into question whether the work completed was the work competed, that is, whether there had been a valid competition and a competitively established price.

⁴⁵ "Start-up" costs are nonrecurring costs, such as the expense of training labor or of purchasing equipment for the specific contract.

the contract is canceled, the contractor and the Government negotiate the cancellation payment. In this event, the Government can pay no more than the pre-agreed cancellation ceiling which represents the estimated unpaid increment of nonrecurring costs.

Proper use of multi-year contracting appears to have yielded impressive results. In a survey conducted by the Commission, DOD reported average annual savings of over \$52 million, attributable to the use of multi-year contracting for fiscal years 1968–1973.⁴⁶ These savings resulted from spreading the nonrecurring costs over several years, the purchase of items and services for more than one year, and the increased efficiency of a stable labor force.

Potential savings in the field of automatic data processing equipment (ADPE) are also impressive. In fiscal 1969, almost all of the \$390 million spent on ADPE rentals involved short-term leases—usually the most expensive method of acquisition.⁴⁷ Statistics show that the ADPE is usually needed for longer than one year. If 828 of the ADPE systems rented by the Government as of June 30, 1969, were under three-year leases, costs could have been reduced by as much as \$26 million over the periods of the leases. Similarly, if 666 of the systems were under five-year leases, costs could have been reduced by as much as \$70 million.⁴⁸ The Comptroller General concluded that either the GSA's ADPE Fund should receive greater capitalization or legislation should authorize the ADPE Fund to contract on a multi-year basis without obligating monies to cover the full period at the time of entering into a lease.⁴⁹

The U.S. Army Corps of Engineers noted that in the case of the Safeguard missile system a multi-year contract for approximately \$43 million was awarded to one supplier. Had annual funds been involved in this procurement, thus precluding a long-term contract, the Corps doubts that it would have secured competition on the next year's procure-

ment. Competition would have been impractical because of the special equipment and large initial capital outlay required to enter the program.⁵⁰

Congress has been reluctant to extend authority for multi-year contracting.⁵¹ Also, the House Committee on Armed Services, in its report covering fiscal 1973 authorizations for DOD, expressed dissatisfaction with the results in some procurements using this contract method. The multi-year contracting authority appeared to have been misused in that requirements were not firm, nor was the design specified with adequate clarity. Consequently, Congress has enacted a provision which denies DOD the use of this authority for contracts when the cancellation ceiling is more than \$5 million.⁵²

Despite occasional misuse of the authority, the evidence amply supports the greater use of multi-year contracts for required goods and services. Legislation is required, however, to overcome a number of statutory restrictions on the use of annual funds if this contract method is to enjoy wider use.⁵³

Granting broader authority for multi-year contracting will not substantially diminish congressional control of agency expenditures. Such control still may be exercised during the authorization and appropriation process. Through the Office of Federal Procurement Policy, adequate controls could be established to assure Congress that multi-year contracting provisions are properly implemented, particularly with respect to the definitiveness of requirements and specifications.

Subcontracting Review

Recommendation 9. Repeal the current statutory requirement that the contractor provide the procuring agency with advance notification of cost-plus-a-fixed-fee subcontracts and subcontracts over \$25,000 or five percent of the prime contract cost.

⁴⁶ Attachment to a letter from the Office of the Chief of Engineers to the Commission, Sept. 1, 1971.

⁴⁶ Commission Studies Program.

⁴⁷ U.S. Comptroller General, Report to Congress, B-115369, *Multi-Year Leasing and Government-Wide Purchasing of Automatic Data Processing Equipment Should Result in Significant Savings*, Apr. 30, 1971, p. 1 of Digest.

⁴⁸ *Ibid.*, p. 17.

⁴⁹ *Ibid.*, p. 26.

⁵¹ See, for example, *Multiyear Procurement Bill* (H. R. 15789), hearings before the Subcommittee for Special Investigations of the Committee on Armed Services, H. Rept. 47, 90th Cong., 1st and 2d sess., under the authority of H. Res. 124, July 27, Oct. 26, 1967, and Mar. 13, 1968, p. 7558.

⁵² Public Law 92-436, Act of Sept. 26, 1972.

⁵³ See Chapter 7 for a discussion of contract funding.

Both ASPA and FPASA⁵⁴ require that cost-type contracts contain a provision for advance notification to the procuring agency by the contractor of cost-plus-a-fixed-fee subcontracts and of fixed-price subcontracts in excess of \$25,000 or five percent of the estimated cost of the prime contract.

These statutory provisions, while not objectionable per se, do not establish an adequate system for the review of contractor procurement transactions and represent inflexible requirements which can result in an unnecessary and inefficient use of resources. They

⁵⁴18 U.S.C. 2306(e); 41 U.S.C. 254(b) (1970).

typify the kind of detail that should be eliminated from the statute and made a part of the policy responsibilities of the executive branch. Both ASPR and FPR now contain criteria for reviewing contractor purchasing systems and transactions. In Chapter 8, we discuss the need for placing more emphasis on the review of contractor purchasing systems and recommend the adoption of a Government-wide policy in this area. We conclude that the guidelines for review and approval of contractor purchase transactions should be established by the Office of Federal Procurement Policy.

CHAPTER 4

The Regulatory Framework

After statutes and Executive orders, agency regulations are the most important written means for directing the Government procurement process. At the Government operating level, regulations provide the main, if not the sole, reference source for guidance on Government procurement policy and procedures. Regulations affect contractors directly to the extent that they are given the force and effect of law and are binding on contractors and indirectly to the extent that they control contracting officers and thus limit what contractors can accomplish by negotiation.

The impact of regulations goes beyond the immediate contracting parties. Subcontractors and vendors are affected through flowdown clauses.¹ Workers, minorities, and others also are affected by wage, hour, and work standards,² as well as by nondiscrimination,³ safety,⁴ health,⁵ insurance,⁶ and environmental requirements⁷ which implement social and economic objectives. Buy-American,⁸ gold-flow,⁹ and barter policies¹⁰ have international repercussions. Thus procurement regulations have widespread ramifications and many parties in interest.

Problems involving the substance of specific regulations are discussed throughout this report. Here we focus on the regulatory process and consider problems relating to:

¹ FPR 1-3.814-3.

² FPR 1-12.605.

³ FPR 1-12.803-2.

⁴ FPR 1-12.904-1.

⁵ *Ibid.*

⁶ FPR 1-10.3, 1-10.4, 1-10.5.

⁷ Proposed Environmental Protection Agency regulations relating to Administration of the Clean Air Act with respect to Federal contracts, grants, and loans. See also Executive Order 11602, same subject, June 29, 1971, 3 CFR 167 (1971 Comp.).

⁸ ASPR 6-100.

⁹ ASPR 6-800.

¹⁰ ASPR 4-501.

- The organization, composition, and volume of procurement regulations
- The extent of industry and other public participation in procurement rulemaking
- The legal force and effect of procurement regulations.

A SYSTEM OF COORDINATED PROCUREMENT REGULATIONS

Multiplicity of Procurement Regulations

Recommendation 10. Establish a system of Government-wide coordinated, and to the extent feasible, uniform procurement regulations under the direction of the Office of Federal Procurement Policy, which will have the overall responsibility for development, coordination, and control of procurement regulations.

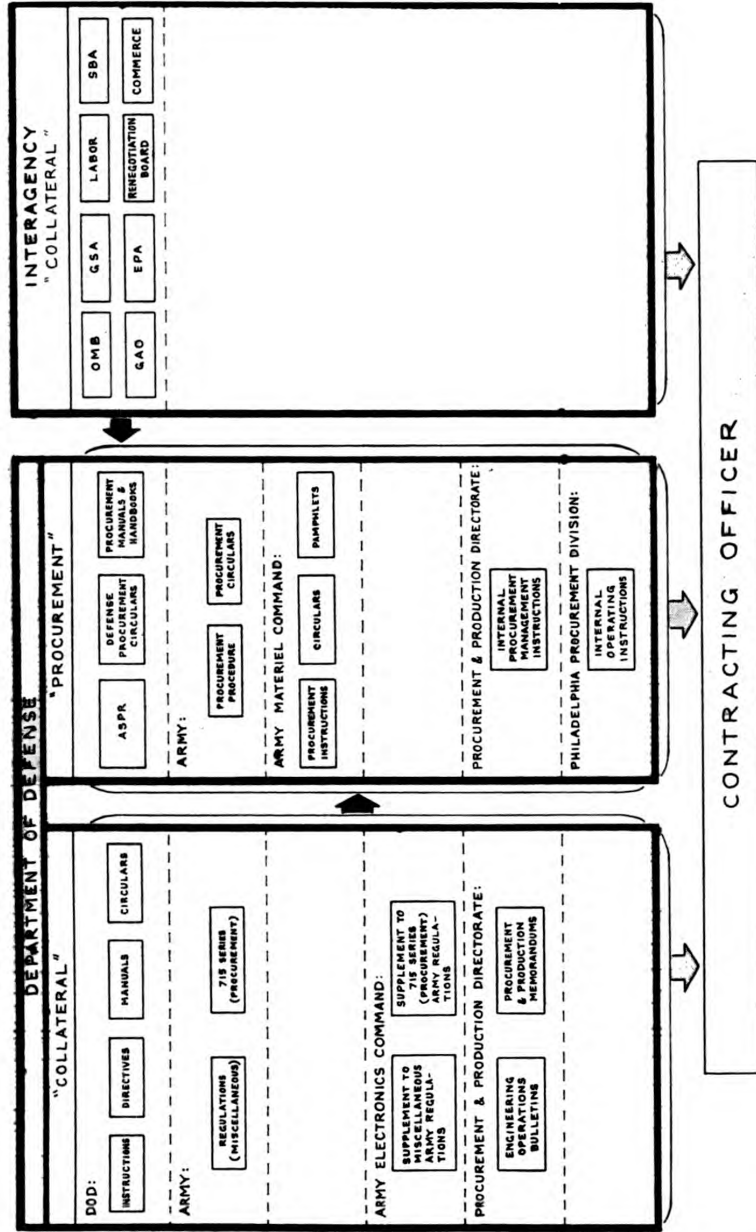
In our review, we found a burdensome mass and maze of procurement and procurement-related regulations.¹¹ There are:

- Too many primary sources of regulations
- Numerous levels of supplementing and implementing regulations
- Numerous collateral procurement-related regulations, issued independently of, but nevertheless affecting the procurement process and organization.

And there is no effective overall system for coordinating, controlling, and standardizing regulations. Basically, there is no central

¹¹ See fig. 1, for an example of a system of regulations as it impacts on a local procurement officer.

FLOW DOWN OF PROCUREMENT-RELATED REGULATIONS TO DOD CONTRACTING OFFICER



Source: Commission Studies Program.

Figure 1

manager and therefore no Government-wide management of procurement regulations.¹² We emphasize that our recommendation does not require publication of a single Government-wide procurement regulation; the recommendation can be accomplished through the present structure. Leadership by the Office of Federal Procurement Policy in directing and controlling a coordinated and uniform system of regulations is the key to our recommendation.

There are two primary procurement regulations: the Armed Services Procurement Regulation (ASPR), and the Federal Procurement Regulations (FPR). The statutory relationship between the ASPR and the FPR is somewhat nebulous and varies with the subject matter involved.¹³ Although the question of preeminence or authority of one over the other has not been pressed to a conclusion, in practice, a working accommodation has been achieved in areas of mutual interest.

There are also semiautonomous procurement regulations for AEC, CIA, NASA, TVA, Bonneville Power, and, until recently, the Coast Guard. Each of these has some degree of independence from the FPR, though the extent to which this is manifested varies in form and practice. For example, the NASA PR, like the ASPR, is published independently of the FPR. The AECPR, however, generally follows the FPR.

Collateral policies and procedures are issued by nonprocuring organizations outside the normal channels of procurement regulations. Though not designated as "procurement regulations," they directly affect procurement. Some are interagency, some intra-agency. The interagency collateral policies and procedures are issued by such agencies as:

- Department of Labor
- Small Business Administration
- Environmental Protection Agency
- Office of Management and Budget

¹² The Federal Procurement Regulations staff and the Interagency Procurement Policy Committee established by GSA cannot in practice be considered a central manager of procurement regulations as we envision one should operate. See Chapter 2 for a discussion of the proposed Office of Federal Procurement Policy.

¹³ The following provisions of FPASA have circumscribed in some respects the seemingly broad authority of GSA to prescribe procurement policies and regulations under FPASA: 40 U.S.C. 474, 481(a); 41 U.S.C. 252(a)(1)-(2) (1970).

- General Services Administration (with respect to property management and disposal)
- Renegotiation Board
- General Accounting Office.

Intra-agency collateral policies and procedures are issued by high-level nonprocurement elements within an agency (such as comptroller, engineering, accounting, supply, audit, and agency administration). In the Department of Defense (DOD) these may take the form of DOD directives, manuals, circulars, and instructions.¹⁴ Some directly affect procurement, such as those governing funding, source selection, management reporting systems, and data requirements.

Supplementing and implementing—and often repeating and rephrasing—the top-level procurement and collateral regulations are subordinate agency procurement and collateral regulations. These sometimes flow down to the fourth and fifth levels. For example, in the Army, the ASPR and other primary regulations are amplified by five levels of intermediate regulations and instructions (see fig. 1).

As a result, a contracting officer at the U.S. Army Electronics Command, Philadelphia Procurement Division, has a five-foot shelf of procurement and procurement-related regulations which he is responsible for knowing and applying to the extent they govern his area of procurement (see fig. 2).¹⁵

This five-foot stack of regulations does not include interagency regulations such as those of the Department of Labor. Apart from the burden of absorbing and piecing together all this guidance and reducing it to everyday practice, there is the mechanical task of keeping the books up-to-date. Considerable manpower is expended for this purpose alone. For example, revisions 8 and 9 to the 1969 edition of ASPR (published in a seven-month period) totaled 1664 pages and represented about 53 percent of the total number of ASPR pages. DOD has estimated that its internal cost for posting these two revisions was \$482,000 (72 man years).¹⁶

¹⁴ An example of such an intra-agency collateral regulation is DOD Directive 5000.1, *Acquisition of Major Systems*.

¹⁵ ASPR 1-403.

¹⁶ Memorandum for the Chairman, ASPR Committee (Case 71-87), Feb. 4, 1972, p. 4.

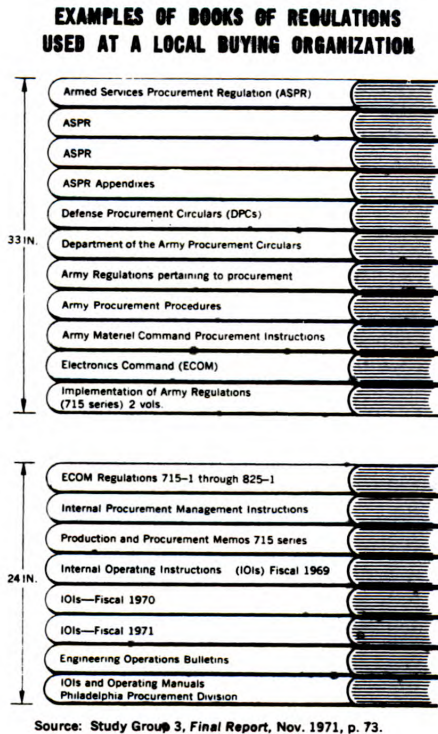


Figure 2

Lack of Uniformity

As is to be expected with a multiplicity of regulations and no authoritative central manager to coordinate and control them, there are many gaps and inconsistencies in the ASPR, FPR, and other procurement regulations. Reflecting DOD predominance and greater experience in procurement, ASPR generally has taken the lead in developing new procurement regulations and these regulations have been substantially incorporated in the FPR and NASA PR. Although there is considerable uniformity on subjects such as formal advertising and mandatory contract clauses, substantial differences remain. The AS-

PR covers many subjects not treated in the FPR; for example:

- Research and development contracting (ASPR section IV, part 1)
- Multi-year procurement (ASPR 1-322)
- Advance procurement planning (ASPR 1-2100)
- Government property (ASPR section XIII)
- Purchases under \$250 (ASPR 3-604.1)
- Prison-made supplies (ASPR 5-400)
- Blind-made products (ASPR 5-500)
- Special treatment of Canadian supplies under Buy American Act (ASPR 6-103.5)
- Freedom of information (ASPR 1-329)
- Novation agreements (ASPR 26-400)

In addition, the ASPR includes many mandatory or optional contract clauses not in the FPR.¹⁷

Even when there is coverage of identical subjects, there may be substantive differences. For example:

- ASPR provides for an alternative 50 percent cost evaluation factor in addition to the basic six-percent Buy American evaluation formula used under the FPR.¹⁸
- ASPR makes prospective subcontractor cost or pricing data mandatory,¹⁹ NASA PR makes it discretionary,²⁰ and the FPR is silent on the matter.
- ASPR and FPR use three clauses for truth in negotiations; the NASA PR uses one.²¹
- AECPR cost principles are significantly different in approach from those in ASPR and FPR.²²

Table 1 gives other examples of substantive differences.

Even on subjects such as formal advertising and standard contract clauses for fixed-price supply contracts, where the greatest degree of uniformity has been achieved, there are many word differences. Of 48 sections in FPR and

¹⁷ Examples are clauses for cost-reimbursement supply contracts, cost-reimbursement research and development contracts, and service contracts.

¹⁸ Compare ASPR 6-104.4 and FPR 1-6.104-4.

¹⁹ ASPR 3-807.3(b).

²⁰ NASA Procurement Regulation Directive No. 70-2, Feb. 8, 1970.

²¹ ASPR 7-104.29, 7-104.41, 7-104.42; FPR 1-3.814-1, 1-3.814-2, 1-3.814-3; NASA PR 3.807-4.

²² Compare ASPR, section XV, and AECPR, part 9-15.

ASPR covering formal advertising only ten are identical, while most have two or three different versions. A comparison of the standard fixed-price supply contract clauses in the FPR with those in ASPR and the NASA PR shows that only 15 of 36 are identical, while most have two or three different versions.

These multiple, and for the most part, minor differences add to the burden of contracting. The parties must make sure just what version is applicable in any procurement and what, if any, difference in substance is intended. In many cases, the differences do not seem to be based on significant differences in program requirements or agency operations.

Multiple and nonuniform regulations complicate contract administration for offices that serve many agencies. These offices must tailor their practices and adapt their personnel to the various contract clauses, policies, and procedures established by the different purchasing agencies.

For the same reasons, the present system also is complicated for contractors dealing with different agencies, for they must adjust their pricing, negotiating, and contracting practices to the variable requirements and regulations of the different agencies or determine that differences in contract clauses are not significant. For example, in dealing with DOD they must concern themselves with Weighted Guidelines for Profit, Contractor's Weighted Average Share (CWAS) in determining overhead, mandatory submission of prospective subcontractor cost or pricing data, the DOD Manual for Control of Property in Possession of Contractors, Defense Financing Regulations, Rules for Avoidance of Organizational Conflicts of Interest, and use of the Material Inspection and Receiving Report (DD Form 250). In dealing with other agencies, such regulatory requirements are either different or nonexistent. There are variations even in cost principles. DOD, for example, has much more liberal policies than does AEC for reimbursing an allocable share of a cost contractor's bid and proposal costs and for independent research and development costs.²³

As previously noted, the ASPR coverage is more complete and detailed than that found

²³ Compare ASPR 15-205.3, 15-205.35 and AECPR 9-15.5010-12, 9-15.5010-13. See also Part B for discussion of bid and proposal (B&P) and independent research and development (IR&D) costs.

in other regulations. Prima facie, therefore, Government-wide coordination of regulations as recommended would involve extension of the ASPR coverage to other regulations. To the degree this would bring about greater uniformity, the result would be beneficial. However, if not properly managed, the interagency coordination process could handicap all agencies in issuing regulation changes needed to provide prompt solutions to problems.

Differences in Format

In reviewing major procurement regulations, we found troublesome differences in format and method of publication, including the numbering of paragraphs. These differences are not warranted and result in needless additional cost to the Government.²⁴ To the extent possible, the proposed system of Government-wide coordinated procurement regulations should require a uniform method for numbering regulations at all levels.

Functional Procurement Manuals

Procurement personnel at the buying level who are forced to handle and update a "five-foot shelf" of procurement regulations, in many cases use only a small portion of the regulations because their responsibility is limited to a specific area (for example, construction, small purchases, interdepartmental orders, research and development, or standard commercial items). Various sources in and out of Government have recommended that the basic procurement regulations be broken up into functional volumes to simplify issue, handling, and use and to save money when a change affects only one type of procurement, such as R&D, construction, and professional services. For example, it seems unnecessary and costly to burden the 35,591 holders of ASPR²⁵ with a change to a contract clause for mortuary services.²⁶

²⁴ See Study Group 3 (Regulations), *Final Report*, Nov. 1971, pp. 89-125.

²⁵ ASPR Subcommittee Report, ASPR Case 71-87, Feb. 4, 1972, p. 3.

²⁶ ASPR 7-1201.13.

TABLE 1. EXAMPLES OF LACK OF UNIFORMITY IN PROCUREMENT REGULATIONS
 (July 1972)

| Regulation section No.* | ASPR | FPR | AEC | NASA |
|---|---|--|---|---|
| 2-303.4 Telegraphic bids | Late telegraphic bids shall not be considered for award regardless of the cause for late receipt, including delays caused by the telegraphic company, except for delays due to mishandling on the part of the Government. | Uniform with ASPR. | Follows FPR. | Allows acceptance of late telegraphic bids where the bidder demonstrates by clear and convincing evidence, which includes substantiation by an authorized official of the telegraph company, that the bid was filed with the telegraph company in sufficient time to have been delivered by normal procedure so as not to have been late. |
| 2-4023 Delay of Bid Opening | Provides policy concerning postponement of bid openings. | No coverage. | No coverage. | No coverage. |
| 2-407.8 Protests against award | Policy in ASPR & FPR are essentially the same except ASPR makes special reference to protests involving eligibility under the Walsh-Healey Public Contracts Act. | See comment under ASPR heading. | AEC follows FPR, however it requires the contracting officer to obtain the approval of his superior officer to make an award where a protest has been filed with GAO and the matter has not been resolved. Other agencies such as VA and GSA have policies requiring approval by higher levels before a contracting officer can make award where a protest has been filed with GAO. | NASA policy differs from ASPR in that a protest which cannot be resolved by the contracting officer must be referred to NASA Hdqtrs. who will obtain views of GAO. (ASPR and FPR provide for the contracting officer to refer cases directly to GAO. NASA policy also requires approval by Hdqtrs. of an award on which a protest is pending. Also contains a statement to the effect that the policies pertaining to protest before award also apply to those protests received after award. |
| 2-503.1(a) (6) Step one (in 2 step formal advertising) | Provides a detailed statement for inclusion in requests for technical proposals concerning acceptance of late technical proposals. | No provision for a statement in the proposals concerning late proposals. Only directs that the date by which proposals must be received be included in requests for technical proposals. | Follows FPR. | Provides for a very short statement to be included in the request for proposal to the effect that the Government reserves the right to consider technical proposals or modifications thereof received after the date specified for receipt. |
| 2-503.1(a) (8) Step one (in 2 step formal advertising) | This paragraph in ASPR is more detailed than either FPR or NASA PR with respect to | See comment under ASPR. | Follows FPR. | Same as FPR. |

Part A

indicating that the technical proposals may be accepted without further discussion and the Government may proceed with the second step without requesting further information.

3-1000 (subpart J) Contractors Weighted Average Share in Cost Risk (CWAS) & ASPR XV.

The FPR lacks the coverage provided in ASPR 3-1000 and ASPR XV.

NASA regulations lack CWAS standards as provided in ASPR 3-1000 and ASPR XV.

This subpart sets forth the concepts and objectives which govern the Contractor Weighted Average Share in Cost Risk (CWAS) technique. It also sets forth detailed procedures for determining the contractors weighted average share for a given fiscal year as a percentage of costs incurred by type of contract during the contractor's fiscal year.

Part 15—Contract Cost Principles and Procedures. Although much of the language in this part compares word for word there are many areas of language differences which can result in different policy interpretations, e.g., in ASPR 15-401.2 the words "home office" are used whereas in FPR 1-15.402-2 the words "central or branch office" are used.

The use of the CWAS indicator in ASPR 15-201 et seq. constitutes the major variance in ASPR, FPR, and NASA PR cost principles.

The language in FPR 1-15.4 is different than ASPR 15-4. This subpart provides cost principles for Construction and Architect-Engineer Contracts.

NASA cost principles are substantially similar to ASPR, however, NASA does not make use of the Contractors Weighted Average Share (CWAS) as defined in ASPR Part 3, Subpart J. Also NASA PR 15.205-30 provides that pre-contract costs can be subject to the Date of Incurrence of Costs clauses in 7.205-52, 7.404-5, and 7.453-52.

*Citation refers to ASPR section. Source: Study Group 3, Final Report, Nov. 1971, pp. 66-68.

Separate manuals of regulations for specific types of procurement would:

- Reduce the mass of regulations to those needed for individual procurement functions
- Promote understanding and application of the regulations by making them easier to use
- Reduce the frequency of change for any given manual
- Focus attention on regulatory changes only in affected areas.

Although separate procurement manuals could benefit the overall procurement process, they would add to initial publishing costs by duplicating regulations and procedures which cut across functional lines.

The feasibility of providing separate procurement manuals should be decided on the basis of a cost-benefit study. While we recognize that the ASPR Committee has under study a subcommittee report which recommends against the use of separate manuals,²⁷ we question whether all factors have been given full consideration. A more thorough evaluation could be made by a test that emphasizes the effect separate volumes would have on the user. For this purpose, one or more functional procurement regulations could be published on a test basis to ascertain whether the benefits to users of separate manuals outweigh any added costs associated with duplicating material.

The Problem of "Readability"

Our studies indicate that the "readability" of procurement regulations presents a continuing problem for the user. This is not an original observation²⁸ and there is no easy solution at hand. Readability in the sense we use it involves both the speed and level of user understanding. The more understandable the text the less need there should be for adding explanatory material at each succeeding level and the greater the assurance that a given policy will be implemented uniformly.

²⁷ Note 26, *supra*, p. 4.

²⁸ For example, the ASPR Committee has studied this problem at least twice (ASPR Case 64-7 and 67-1).

Conclusions

A coordinated system of procurement regulations is needed to provide a greater integration and uniformity in the substance and format of the regulations; control their proliferation, volume, and frequency; coordinate them with socioeconomic and other collateral regulations; and make it easier for contracting officers, contractors, and their supporting personnel to correlate, understand, use, and apply procurement regulations.

PARTICIPATION IN PROCUREMENT RULEMAKING

Criteria for Participation

Recommendation 11. Establish criteria and procedures for an effective method of soliciting the viewpoints of interested parties in the development of procurement regulations.

Existing statutes authorize the Administrator of General Services, the Secretary of Defense, and other agency heads to issue procurement regulations,²⁹ but do not require that they first obtain the views of contractors or other interested parties. By contrast, public notice and opportunity for comment generally are required for proposed regulations in the nonprocurement areas by the rulemaking provisions of the Administrative Procedures Act (APA).³⁰ Matters relating to contracts are exempted from this requirement. The rationale for exempting contracts was that they involved the proprietary interests of the Government itself, as contrasted with general public regulatory matters affecting solely the interests of private parties.³¹

In recent years there has been considerable support for eliminating the exemption for matters relating to contracts from the rulemaking

²⁹ 5 U.S.C. 301; 10 U.S.C. 2202; 40 U.S.C. 481(a)(1); 40 U.S.C. 486(c); 41 U.S.C. 262(a) (1970).

³⁰ 5 U.S.C. 553 (1970).

³¹ A. E. Bonfield, report prepared for the Administrative Conference, a revision of which was later published. See Bonfield, *Public Participation in Federal Rulemaking Relating to Public Property, Loans, Grants, Benefits, or Contracts*, 118 U. Pa. L. Rev. 540, 572-573 (1970).

requirements of the Administrative Procedure Act.³² Elimination of the "contracts" exemption was proposed by Recommendation 16 of the Administrative Conference of the United States adopted at its Third Plenary Session, October 21-22, 1969, Washington, D.C. Following that recommendation, bills were introduced in Congress to eliminate the exemption.³³

We agree that giving contractors and other interested parties an opportunity to comment on proposed procurement regulations during their development is essential to ensure consideration of all available alternatives and information, promote better understanding and relationships, and enhance the acceptability of regulations when adopted. At the same time, we recognize a very practical problem—how to be fair without unduly burdening the procurement process with APA-type rulemaking procedures. Subjecting the process of issuing procurement regulations to the APA procedures has the potential for blocking procurement actions by litigation over whether an agency complied with the rulemaking requirements.

Current Practices

Current agency practices for soliciting industry comment on proposed procurement regulations are extremely varied. Some agencies never solicit comment from industry; some do so occasionally; others, like DOD and to a lesser extent GSA, do so fairly regularly, but even they solicit comments from selected industry, professional, and institutional associations, and do not publish proposed regulations in the *Federal Register* for the benefit of individual contractors and the public. Agencies sometimes make exceptions in cases seriously affecting contractors, frequently solicit comment too late to be fully effective, and provide little or no rationale for proposed or adopted changes or for rejecting industry recommendations.³⁴

³² Grossbaum, *Procedural Fairness in Public Contracts: The Procurement Regulations*, 57 Va. L. Rev. 171 (1971).
³³ S. 8569, 91st Cong., 2d sess. (1970); H.R. 8369, 92d Cong., 1st sess. (1971); S. 1413, 92d Cong., 1st sess. (1971), the Kennedy Bill.
³⁴ A pointed example of not soliciting industry comment involved the Navy "anticlaims" clause promulgated in Navy Procurement Circular No. 15, Mar. 6, 1970, which raised a hue and cry by industry and interested bar groups because there was no opportunity for industry to evaluate and offer comments on the clause. See BNA *Fed. Cont. Rep.*, No. 341, Aug. 31, 1970, pp. K-1 to K-3.

Some agencies have voluntarily adopted APA rulemaking procedures for their agencywide procurement regulations following the Administrative Conference action; however, the major procuring agencies have not.³⁵ The agencies that have are not necessarily complying with the APA since strict application of the APA definition of "rules"³⁶ to contract matters would involve more than agencywide procurement regulations. Many implementing and collateral regulations within an agency would fall within the APA definition of "rule." Accordingly, the limited voluntary compliance rendered by some agencies does not indicate what the full impact of the APA would be if its rulemaking procedures were made applicable to procurement regulations.

Problems With Current Practices

The general practice of soliciting industry comment, after the Government tentatively has agreed upon a proposed change, discourages industry. It feels handicapped in having to overcome hardened attitudes. Industry also questions whether regulations can be fair when they are formulated solely by representatives of procuring agencies.

There also has been criticism that "mandatory" and "standard" clauses prescribed by procurement regulations have seriously eroded the bargaining process in contracting. Critics say that the only real opportunity industry has for negotiating changes to mandatory contract clauses, cost principles, and other significant contract elements is through meaningful participation in the rulemaking process.

We have concluded that the present varied practices of agencies in soliciting comments on proposed regulations in some cases and not in others do not meet minimum standards for "promoting fair dealing and equitable relationships among the parties in Government contracting,"³⁷ as set forth in the Act establishing this Commission. There is a pressing need for a regularized system of participation by con-

³⁵ DOD, GSA, NASA, and AEC have not gone along with the Administrative Conference's request, as part of its recommendation, that agencies voluntarily adopt such procedures.

³⁶ 5 U.S.C. 551(4) (1970).

³⁷ See Public Law 91-129, sec. 1(11).

tractors and other interested parties in the formulation of procurement regulations. However, we do not favor accomplishing this simply by eliminating the present statutory exemption for contracts and making procurements subject to the APA rulemaking requirements.

Problems With APA Rulemaking for Contract Matters

The APA procedures were formulated primarily for public regulatory agencies, which generally issue regulations from a central source.³⁸ Procurement regulations, on the other hand, are issued by a number of offices, both headquarters and subordinate. Agency procurement directives also extend to technical and business decisions that are made at all levels in a procuring agency. Subjecting activity of this type to APA rulemaking could only create an administrative morass.

Making procurement regulations subject to APA provisions would greatly expand judicial review of procurement policies and contract awards. This, together with the interpretative problems of applying APA definitions or terms, such as "matters pertaining to agency management," "general statements of policy," and "impracticable, unnecessary, or contrary to the public interest," among others, would significantly burden the procurement process.

The proprietary interest of the Government as a contracting party must be considered a significant factor differentiating procurement agencies from regulatory agencies whose role is that of an umpire reaching a policy decision as the result of adversary activity on the part of competing groups outside the Government.³⁹ This proprietary interest is the main reason the exemption for contracts was granted. The extensive studies, hearings, and proposed legislation over a ten-year period that led up to the APA do not paint a picture of hasty consideration in adopting the "contract"

exemption from APA "rulemaking." Contracts are a principal means of accomplishing many important Government functions. The contractual arrangement between the Government and a contractor generates legal relationships that are substantially different from the relationships between regulatory agencies and the public. Although procurement regulations sometimes prescribe contract terms, prospective contractors usually can compensate for such requirements through pricing or other negotiable aspects of contracting. These differences are sufficient in degree, if not altogether in kind, to set procurement apart from the typical arbitral-type operations of traditional regulatory agencies.

It is doubtful also that publication of procurement regulations in the *Federal Register*, as required by the APA, would reach any substantial body of people not now put on notice through the ASPR procedures and voluntary publication of significant ASPR changes by trade and professional journals. We do not quarrel with the view that soliciting opinions on proposed procurement regulations is good, as our recommendation bears out, but the "minimal formal requirements" of APA rulemaking, will not significantly benefit the Government, the contractors, or other interested parties.

We recognize that some of the unique characteristics and needs of Government procurement can be accommodated under the APA procedures by resorting to the special exceptions provided in the act.⁴⁰ But the language of the act is so unclear and unsettled as to militate against the agencies acting decisively in reliance on such exceptions. Even the research paper prepared for the Administrative Conference,⁴¹ supporting removal of the "contracts" exception for rulemaking appears to recognize that at least some of the terms in the act involve problems that are difficult to resolve.⁴²

³⁸ 5 U.S.C. 553(a)(1); 553(a)(2); 553(b)(A) and (B) (1970).

³⁹ Note 31, *supra*.

⁴⁰ The courts have also struggled with the APA rulemaking provisions. For example, in *Pharmaceutical Mfgs. Assoc. v. Finch*, 307 F. Supp. 858, 863 (1970), the court stated that:

[a]ttempting to provide a facile semantic distinction between an "interpretive and procedural" rule on the one hand and a "substantive" rule on the other does little to clarify whether the regulations here involved are subject to . . . Section 4 of the Administrative Procedure Act . . . The basic policy of Section 4 [5 U.S.C. 553] at least requires that when a proposed regulation

³⁸ See the basic report which led to enactment of the Administrative Procedure Act, *Administrative Procedure in Government Agencies*, report of the Committee on Administrative Procedure, S. Doc. 8, 77th Cong., 1st sess. (1941), p. 2-4.

³⁹ Williams, *Fifty Years of the Law of the Federal Administrative Agencies—And Beyond*, 29 *Fed. B.J.* 267, 276 (1966).

Conclusions

There is a need to establish criteria and procedures within the executive branch to give contractors and other interested parties an opportunity to comment on proposed procurement regulations during their development. Adoption of APA rulemaking as a means of achieving such outside participation is fraught with many administrative difficulties and possibilities of delaying litigation which offset the minimal benefits attained by APA's requirements of notice and opportunity to comment. The benefits of meaningful outside participation during the development of procurement regulations can be attained much more easily through executive branch action.

In lieu of inflicting the uncertainties of the APA on the procurement process and the agencies, we favor a requirement that the Office of Federal Procurement Policy establish criteria for participation in development of procurement regulations. Among other things, the office could:

- Distinguish between ASPR, FPR, and agency-level regulations and lower-level regulations
- Distinguish between matters such as bid solicitation, contract clause requirements, and award and selection procedures which directly affect contractors and matters such as internal management and organization requirements which only indirectly affect contractors
- Provide for means, alternative or supplementary to the *Federal Register*, of giving notice of proposed rulemaking
- Identify the parties eligible to participate in procurement rulemaking
- Consider the extent to which its rulemaking procedures should be mandatory, preferential, or wholly optional. (The purpose would be to foreclose or minimize the poten-

of general applicability has a substantial impact on the regulated industry, or an important class of the members or the products of that industry, notice and opportunity for comment should first be provided.

The court's language, which includes terms such as "substantial impact" and "important class" to define when a proposed regulation requires APA rulemaking, also is subject to varying interpretations by reasonable persons.

tial for litigation over a failure to comply.)⁴³

Balancing the public against the individual interests involved, we question whether a pending procurement for an urgent requirement should be delayed or upset by litigation—for example, to enjoin or invalidate an award on the ground that the agency incorrectly interpreted and relied on one of the vague exceptions from the APA rulemaking requirements and, therefore, did not first publish the regulation in the *Federal Register* for comment. In lieu of court review, the Office of Federal Procurement Policy could consider alternative informal administrative procedures (for example, providing for reconsideration of a noncomplying promulgation in response to a petition for a change in the regulation or recognizing that in this as in other areas aggrieved parties can bring the matter to the attention of higher authority within the agency or elsewhere within Government).

Finally, placing the authority in the Office of Federal Procurement Policy would allow the flexibility needed to adapt and refine procurement rulemaking procedures in the light of experience and future developments.

THE LEGAL FORCE AND EFFECT OF PROCUREMENT REGULATIONS

A doctrine of law (the "Christian Doctrine") has developed in the Court of Claims and other Federal courts which generally holds that certain procurement regulations (generally summarized as those that implement a basic and specific procurement law or policy and other regulations which are for the benefit of both the Government and the contractor) have the force and effect of law and must be included in or applied to a contract, either actually or by operation of law, and neither the Government nor the contractor can waive them.⁴⁴ This

⁴³ For example, see *Ballerina Pen v. Kunzig*, 433 F.2d 1204 (1970); *Blackhawk Heating & Plumbing v. Driver*, 433 F.2d 1137 (1970). In this regard, a distinction should be made between questions involving noncompliance with rulemaking procedures and questions involving substantive authority for regulations or failure to comply with requirements in matters other than rulemaking.

⁴⁴ For a detailed analysis, see the research report submitted to the Commission by Herman M. Braude, John Lane, Jr., and Frank Krueger for Study Group 3, *The "Christian Project"—The Force and*

doctrine is not applicable where a regulation is waived before the contract is entered into by approved deviation procedures.

In *G. L. Christian & Associates v. United States*,⁴⁵ the Court of Claims read into a contract, by operation of law, a "termination for convenience" clause prescribed by ASPR as mandatory for use in the contract. The clause had been left out of the contract. The court stated that ASPR was issued under statutory authority and, therefore, had the force and effect of law.

In the immediate aftermath of the *Christian* case, a generalization quickly developed that the "Christian Doctrine" stood for the proposition that all procurement regulations have the force and effect of law and are automatically incorporated into an applicable Government contract.⁴⁶ This generalization, an early reaction to the *Christian* case, has not been borne out by the case law that has developed over the nearly ten years since *Christian* was first decided. The present legal doctrine, that certain procurement regulations have the full force and effect of law, has continued to have an impact in Government contracts but to a much lesser extent than was originally anticipated.

Effect on Regulations, July 13, 1971, a revised and extended version of which was later published. See Braude and Lane, *Modern Insights on Validity and Force and Effect of Procurement Regulations—A New Slant on Standing and the Christian Doctrine*, 31 *Fed. B.J.* 99 (1972).

⁴⁵ 312 F.2d 418 (Cl. Cl. 1963), *rehearing denied*, 320 F.2d 345 (1963), *cert. denied*, 375 U.S. 954 (1963), *rehearing denied*, 376 U.S. 929 (1964).

⁴⁶ See, for example, Cibinic, *Contract by Regulation*, 32 *Geo. Wash. L. Rev.* 111 (1963).

The current rules work to the benefit of contractors as often as they do for the Government.⁴⁷ Also, a case-by-case determination by the courts is more adaptable to the circumstances of each case. Any substitute general rule would have to be somewhat arbitrary, and it is doubtful that it would do more evenhanded justice to the parties than the courts. Industry also appears to have accepted the current rules. A current evaluation of the "Christian Doctrine" by two private attorneys concludes that:

In reviewing judicial application of the 'force of law' concept to procurement regulations, it is apparent that no particular hardship, injustice, or inequity has resulted . . . In short, the *Christian Doctrine* as applied by the Court of Claims and other courts has not resulted in general arbitrary treatment of contractors or inequitable situations.⁴⁸

While the existing rules introduce some degree of uncertainty in Government contracts, the problem rarely arises, and when it does it is no more likely to favor one party than the other.

We have concluded that no change is necessary in the present status of the legal doctrine relating to the legal force and effect of procurement regulations.

⁴⁷ For example, *Chris Berg, Inc. v. United States*, 192 Cl. Cl. 176, 426 F.2d 314 (1970); *Moran Bros. Inc., v. United States*, 171 Cl. Cl. 245, 346 F.2d 590 (1965); *Electrospace Corp.*, ASBCA 14520, 72-1 BCA 9455.

⁴⁸ Braude and Lane, *Modern Insights on Validity and Force and Effect of Procurement Regulations—A New Slant on Standing and the "Christian Doctrine,"* 31 *Fed. B.J.* 99, 120 (1972).

CHAPTER 5

The Procurement Work Force¹

The procurement process is a support function—not an end in itself. However, its importance within the Federal establishment cannot be minimized because the organizations and personnel engaged in performing the procurement process represent the means by which Federal objectives and missions are accomplished. To the extent that these organizations and personnel operate at less than optimum level, the effectiveness of the process and the realization of national objectives suffer.

Our studies revealed that the Federal organizations and personnel responsible for procurement generally have done and are doing a good job.

ORGANIZATION

Place of Procurement in Agency Organizations

Recommendation 12. Reevaluate the place of procurement in each agency whose program goals require substantial reliance on procurement. Under the general oversight of the Office of Federal Procurement Policy, each agency should ensure that the business aspects of procurement and the multiple national objectives to be incorporated in pro-

¹ Study Group 5 (Organization and Personnel) made some analysis of the grants process; the group found that the problems of organization and personnel encountered in the administration of grants are basically the same as those in procurement. Federal expenditures for procurement and grants in fiscal 1972 exceeded \$60 billion (about 41 percent of the Federal budget).

urement actions receive appropriate consideration at all levels in the organization.

An in-depth analysis was made of the organizational structures of 14 of the largest executive agencies of the Government. To accomplish their missions these agencies rely heavily on procurement. Our analysis gave particular attention to the organizational relationship of procurement to mission-oriented functions.

The official responsible for procurement reports to the head of the agency, or ranks with other functional managers, in only three² of the 14 agencies. In the other 11 agencies, he is three to seven levels removed from the head of the agency and is well below the level of other officials with whom he must interface.

The procurement officials of these agencies report organizationally to an Assistant Secretary for Administration, who may be responsible for as many as ten distinct agency functions. The word "procurement" or "grant" seldom appears in the title of primary offices; but the procurement function is found as one of several responsibilities in an activity such as an "office of general services." Little direct top management attention is devoted to procurement or grant problems and the lack of understanding of the importance of the procurement function by agency heads is apparent.

Within the civil agencies, program technical functions were readily identifiable; they were universally placed in a dominant position;

² Study Group 5, *Final Report*, appendix I, p. 619. The 14 agencies covered by this phase of the study were: Departments of Agriculture, Defense, HEW, HUD, Labor, and Transportation; and AEC, AID, EPA, GSA, NASA, NSF, OEO, and TVA. The three agencies referred to are DOD, GSA, and TVA.

and the officials in charge had direct access to the agency head. Within these same agencies, the location of the procurement function was rarely as apparent.

The failure to place procurement on an organizational parity with program technical personnel resulted in frequent comments that:

Technical personnel tend to dominate personnel engaged in the procurement process. Procurement personnel do not receive the management support they must have in order to bring their professional expertise into play in awarding and administering contracts and, as a consequence, they must often bow to the desires of requisitioners who do not have expertise in procurement.³

The constraints under which procurement now operates in some agencies should be removed. If the function is to operate effectively and on a parity with other functional disciplines with which it must interface, it must be placed at a level in the organization which affords a high degree of visibility to the agency head.

Role of the Contracting Officer

Recommendation 13. Clarify the role of the contracting officer as the focal point for making or obtaining a final decision on a procurement. Allow the contracting officer wide latitude for the exercise of business judgment in representing the Government's interest.

Recommendation 14. Clarify the methods by which authority to make contracts and commit the Government is delegated to assure that such authority is exercised by qualified individuals and is clearly understood by those within the agencies and by the agencies' suppliers of goods and services.

A further illustration of the necessity for giving attention to the status of procurement in an organization is found in the duties assigned to a "contracting officer," who is the individual having authority to sign a contract

and commit the Government to its terms. Identical language is used in both the ASPR and FPR regarding the responsibilities of contracting officers:

Each contracting officer is responsible for performing or having performed all administrative actions necessary for effective contracting. The contracting officer shall exercise reasonable care, skill and judgment and shall avail himself of all the organizational tools (such as the advice of specialists in the fields of contracting, finance, law, contract audit, engineering, traffic management, and cost or price analysis) necessary to accomplish the purpose as, in his discretion, will best serve the interest of the Government.⁴

In selecting individuals to serve as contracting officers, both the Federal Procurement Regulations⁵ (FPR) and the Armed Services Procurement Regulation⁶ (ASPR) require consideration be given to experience, training, education, business acumen, judgment, character, reputation, and ethics. These elements are essential to ensure that the individual is qualified by experience, character, and training to carry out the responsibilities of contracting for the Government.

Although the authority to commit the Government is not to be bestowed lightly on a contracting officer, Study Group 5 found:

. . . (more than half) of the civilian agencies issuing contracts were using as contracting officers, personnel whose training, educational background, experience, and expertise were in such fields as real estate, property management, general administration, economics, engineering, transportation, etc. Contracting experience, if any, was purely incidental to the specific discipline . . .

Although the criteria cited in the Federal Procurement Regulations recognize, as an *element* in the selection process, the disciplines stated above, such specialized experience, per se, does not qualify a person as a contracting officer. The personnel involved did not possess nor were they exposed to

³ Study Group 5 (Organization and Personnel) *Final Report*, Feb. 1972, p. 104.

⁴ FPR 1-3.801.2, and ASPR 3-801.2.
⁵ FPR 1-1.404.1.
⁶ ASPR 1-404.1.

(with rare exceptions) knowledge of applicable laws, Executive orders, and regulations essential to the proper performance of the contracting function.

The contracting authority being exercised generally resides in the "position" occupied. This is particularly true in the research and development and in the socioeconomic projects which are accomplished through contractual arrangements with non-profit as well as profit-making organizations. The positions of project officers, program managers, division directors, branch chiefs, etc. included in their "position description" authority to contract for "such services as required." The occupants of these types of positions are generally selected on the basis of their expertise in the particular mission to be accomplished. The contracting aspects, generally involving substantial expenditures of appropriated monies, are consummated by personnel within the specific organization whose experience, education, etc. is technically oriented rather than procurement oriented. . . . Where this procedure of delegation of contractual authority was employed, no provisions were set forth in the activities' procedures for determining the capability or qualification of an individual authorized to sign contracts in the name of the United States Government. . . .

The inadequacy of the delegation of approval authority to contracting officers is a major cause of the dilution and diffusion of his inherent responsibilities. Concern over the role of the contracting officer is not new. Similar concerns were expressed by the Commission on Organization of the Executive Branch of the Government (the Hoover Commission) in 1955. That commission was concerned primarily with the practices that constrained the judgment of the contracting officer and recommended strengthening the role of the contracting officer "in the interest of more expeditious and effective buying."³

The Comptroller General's 1970 Report, despite the changes that had occurred in the 15

years that intervened, emphasizes the same theme:

There is a need to develop a competent procurement work force *with the capacity for exercising more initiative and judgment in making procurement decisions. The mass of detailed instructions currently in use to guide Government procurement personnel is no substitute for a highly competent and motivated work force.*⁴ (Emphasis added)

We endorse this conclusion as it applies to DOD, but we would extend it throughout the Government. As discussed in Part J, there are 4,000 provisions of Federal law, reams of interpretive documents, and thousands of pages of regulations and instructions relating to procurement. We have made recommendations regarding these matters in earlier chapters, but the success of any solution will depend largely on the effectiveness of the procurement people who will be doing the work. Accordingly, agencies must recognize the impact of organizational location on effective performance of the procurement function. Further, agency heads should delegate authority to place contracts and grants to specifically designated individuals who are qualified by training, ability, and experience to carry out the responsibilities involved.

It is significant to note that eight of our 13 study groups made recommendations with respect to the role of the contracting officer. The central point of agreement was that the contracting officer's authority over the business aspects of the contract, and as Federal spokesman to the contractors, must be clearly understood and effectively enforced at all management levels.

Great changes have taken place in procurement in the last 25 years. The complexity of today's procurement calls for a broad engineering and technical support base. Specialists in fields such as engineering, the physical sciences, auditing, and law must participate and, indeed, may dominate in some procurements or at various states in others. The role of the contracting officer is not to preempt these specialists; rather it is one of resolving

¹ Note 3, *supra*, p. 80-81.

³ U.S. Commission on Organization of the Executive Branch of the Government, *Task Force Report on Military Procurement*, U.S. Government Printing Office, June 1955, p. 67.

⁴ U.S. Comptroller General, Report B-164682, *Action Required to Improve Department of Defense Career Program for Procurement Personnel*, Aug. 13, 1970, p. 5.

within the agency the various procurement considerations, gaining agreement with the supplier, and operating as the "business manager" of the Government's interests.

The impact on the procurement process of current social and economic changes, the complexities of the materials procured, the technological aspects of the hardware required, and most important of all the number of Federal dollars expended have generated an unwarranted and costly overreaction by all levels of authority involved in the review and approval of the contracting officer's functions. There are an inordinate number of reviews, by various levels of authority, that have been administratively created or imposed. These reviews frequently result in piecemeal decisions being made at higher levels by staff personnel not charged with procurement responsibility for either the program or the contract.

PROCUREMENT PERSONNEL

While statutes and regulations establish the goals of procurement and the framework within which procurements are made, a most important factor in carrying them out is the caliber of the work force.

The future capability of this work force is being endangered by lack of management attention. People are the most critical part of any effective procurement process. We have good people throughout all levels of procurement organizations today, but nowhere is it more apparent that concerted management attention is needed than in the area of organizing and planning for the procurement work force of the future:

- When we undertook our studies of the procurement work force it could not be determined from any single source how many people are engaged in procurement, what skills are needed, or how they are being provided.
- One fourth of the estimated work force of 80,000 people will be eligible for retirement within five years and almost half will become eligible within ten years. Most agencies have no long-range plans for

recruitment and training of procurement personnel.¹⁰

That the actions of the procurement work force have a major impact on the effectiveness with which about one fourth of the annual Federal budget is spent—\$57.5 billion annually—is worth repeating. It is also important to emphasize that procurement in fiscal 1972 involved nearly 16 million separate transactions.¹¹ These varied from \$5 purchases (involving only a few minutes on the telephone by one buyer) to actions committing millions of dollars (resulting from many years of effort by hundreds of people). No rulebook can provide precise directions for 16 million separate transactions; the personnel executing them must be trained, qualified, and capable of exercising good judgment in carrying out their duties.

Procurement Personnel Management

Recommendation 15. Assign to the Office of Federal Procurement Policy responsibility for:

- (a) Developing and monitoring, in cooperation with the procuring agencies and the Civil Service Commission, personnel management programs that will assure a competent work force.¹²
- (b) Defining agency responsibilities and establishing standards for effective work force management and for development of a Government-wide personnel improvement program.
- (c) Developing and monitoring a uniform data information system for procurement personnel.

¹⁰ See Appendix E for summary of data developed through the questionnaire used by Study Group 5 to obtain basic information.

¹¹ In fiscal 1972, DOD statistics show more than 10.4 million separate transactions involving \$38.3 billion. Data on the number of transactions for all nondefense agencies are not available. Using the \$57.5 billion estimate of the total procurement workload and assuming a similar ratio of dollars to transactions, the DOD data extrapolates to nearly 16 million separate transactions for the Federal establishment.

¹² As noted earlier, our concern is with personnel who have primary responsibility for the business aspects of transactions involving use of Government funds by others, whether by contract or by grants. In Part F, we give specific attention to grants and suggest definitions and parameters for different types as well as indications of where the attention to such matters is similar to procurement situations and where it is quite different.

The Office of Management and Budget (OMB) has an effect on personnel policies through its manpower and budgetary responsibilities. OMB also has a responsibility which it has never exercised Government-wide "to plan and develop programs to recruit, train, motivate, deploy and evaluate career personnel."¹³ The Civil Service Commission¹⁴ is responsible for general personnel policies and standards, investigations, retirement, personnel management evaluation, and intergovernmental personnel programs and management services. Federal agencies are responsible for carrying out personnel activities in accordance with the policies of OMB and the Civil Service Commission. Finally, managerial elements within agencies are responsible for ensuring the availability of qualified staff to carry out the procurement process efficiently.

Personnel management is not a matter for personnel or manpower people alone, but for personnel, manpower, and procurement management people working together. Achieving an effective personnel management program within this framework requires close cooperation and coordination between personnel offices and operational elements. We found cooperation and coordination to be inadequate as evidenced from our experience in trying to obtain satisfactory data on the existing work force and in the results of our comprehensive evaluation of the overall work force situation and its prospects for the next decade.

The management officials directly responsible for procurement—at the highest levels in the executive branch and within each agency as well as procurement managers supervising the work—must exercise the leadership required to maintain a work force competent to cope with the size and complexity of the procurement task. Analysis of the statistics developed by Study Group 5¹⁵ regarding age distribution and retirement potential, coupled with its findings on the extent and adequacy of existing training opportunities, make this a matter requiring immediate attention in a long-range perspective.

The Office of Federal Procurement Policy must not usurp the manpower roles of either

the Civil Service Commission or the procuring agencies. The Commission should continue to promulgate overall manpower and personnel policies and the agencies should manage their own work forces. The Office of Federal Procurement Policy must, however, provide leadership in:

- Determining and providing for the overall procurement personnel needs of the Government
- Providing for Government-wide activities (or Government-wide use of individual agency activities) whenever necessary to prevent redundant or inconsistent efforts
- "Bringing heads together" when progress is stymied.

Our study revealed that existing personnel management information systems are inadequate and are unable to provide current information (vital statistics on positions and personnel) on the procurement work force. Data from existing sources was found to be incomplete, inaccurate, and not current. It was impossible to accumulate sufficient information from the Federal agencies to study or analyze the characteristics of the overall procurement work force. We therefore used a questionnaire in order to develop the requisite information.

With greater emphasis being placed on the procurement function and the stated need for improving the quality, efficiency, and economy of Government procurement organizations and personnel, it is imperative that a comprehensive Federal procurement personnel information system be implemented. This system should cover all procurement and procurement-related personnel (for example, lawyers, engineers) who spend 50 percent or more of their time in the procurement process.

Recruiting and Trainee Programs

Recommendation 16. Establish a recruiting and trainee program to assure development of candidates for procurement positions in all agencies, at all levels, and in all required disciplines. Special attention should be given to college recruitment to obtain

¹³ U.S. Government Organization Manual, 1972-73, p. 71.

¹⁴ *Ibid.*, p. 517 ff.

¹⁵ Note 10, *supra*.

young workers capable of being trained through experience and additional formal education to provide the managerial staff required a decade from now.

Very few agencies have recruiting programs based on forecasted workload, potential losses, and allowances for training time. Recruiting is largely an immediate reaction to an impending change in actual workload. Additional spaces are seldom available for training purposes, and training suffers from lack of time and attention devoted to it by those who can benefit from it and by those whose experience qualifies them to provide it.

Only small numbers of college graduates are being placed in the procurement work force, as illustrated by data from our work force survey. Two percent of the total procurement work force is under 25 years of age; more than one-third of these employees has from four to eight years of service.¹⁶

Most of the 14 agencies studied have college recruitment programs, but most do not recruit specifically for procurement jobs. The agencies normally do not make offers to the student candidate during campus visits—they use interviews to inform students of the kinds of positions available, the examination process (Federal Services Entrance Examination [FSEE] and Management Intern Examination), the selection process, and the available trainee programs. Specific offers are weeks—even months—removed from the interviews. Outstanding candidates have to be highly dedicated to a career in Government to survive such a process when private employers are in a position to act decisively at such interviews.

The agencies need to develop specific requirements in advance of college recruitment for use in conjunction with authority to make firm job offers on-the-spot to desirable applicants. Procrastination and offers of vague opportunities at some point in the future are

¹⁶ While the overall input of college-level intern/trainees at the entry level is considered low (1.6, 2.1, 2.8 percent of those hired for fiscal years 1968, 1969, and 1970, respectively), these figures would have been considerably lower if two organizations that were hiring a large percentage of college-level intern/trainees had not been included in the statistics. The two organizations are the Defense Supply Agency and the Defense Contract Audit Agency. The Air Force has recently initiated a "procurement manager" program and has authorization for 300 trainee positions to be filled over a three-year period.

not conducive to a dynamic recruitment program.

About half of the agencies visited during our studies had some type of formal intern or trainee programs which varied in duration from one to two years. Our studies indicated that:

- Management intern programs generally required on-the-job training, classroom training, and rotation through various areas to provide the trainee with a broad knowledge of the total procurement process.
- Trainee programs vary from agency to agency but generally are narrower in scope and provide more specialized training than intern programs. In most instances, trainee programs do not provide a well-balanced and comprehensive approach.

Each agency, and sometimes several organizations within an agency, was developing (or indicated that it planned to develop) trainee programs. These individual actions have naturally resulted in highly fragmented programs. The fact that new employees in most agencies are receiving little formal training is substantiated by the personnel characteristics data developed by Study Group 5.

Procurement demands many skilled personnel at many different levels. Although not all must be college graduates, the "pipeline" must provide the personnel capable of progressing to the highest levels and the training opportunities to ensure such progress. As evidenced by the statistical data assembled by Study Group 5, particular attention should be devoted to college recruitment and on-the-job and formal classroom training if the procurement work force is to be maintained and upgraded as retirement and other losses of the next decade take effect.

Many procurement officials stated that they were unable to carry out desired training due to lack of transportation or per diem funds, heavy workloads, or unavailability of spaces in procurement schools. Most agencies indicated that when funds were cut training was the first thing to be curtailed.

Career Development

Recommendation 17. Establish a better bal-

ance between employee tenure and promotion rights and long-range needs of the agencies.

Recommendation 18. Establish grade levels together with job prerequisites to reflect the authority and responsibility vested in procurement personnel.

Recommendation 19. Establish a rotation program to provide selected future procurement management personnel with a variety of related job experiences and individual assignments throughout the Government and in various locations.

Recommendation 20. Structure career development, promotion, and reduction-in-force programs to reflect a longer-range viewpoint of what is best for the overall needs of the agency and of the Government.

TENURE AND PROMOTION RIGHTS

Government employees have substantially more stability in their employment than is possible in the private sector. This is true because the Civil Service law and implementing regulations are designed to remove the questions of tenure and promotion from political control. The rules of employment for the civil servant place heavy emphasis on longevity and numbers of people supervised as qualifications for promotion and increased responsibility.

We endorse the objectives of confining political control to those few policy positions where it is essential and of maintaining a strong work force capable of professional performance regardless of party politics.

GRADE LEVELS

In two important areas, grade levels and reduction-in-force procedures, we believe the current Civil Service regulations and agency implementation actions do not build and maintain the procurement work force in a manner that best serves the long-range interests of the Government or its employees.

Under Civil Service standards the highest level a nonsupervisory contract negotiator

can attain is GS-15. However, personnel in most agencies believe the description of duties and responsibilities in the Civil Service position classification standards for the GS-13 level, the so-called "journeyman" level, are such that it is impossible to rate an employee above that level unless supervisory duties are assigned.

The Air Force recently completed a study that compared grades of engineers and procurement personnel in System Project Offices (SPO) which handle only large major system acquisition programs. Excerpts from the study indicate that:

... Another contributing factor to these problems may be the lack of professional recognition (and consequently lower grade levels) of the procurement function in relationship to other career fields within the total acquisition process. To deal effectively with other professionals requires parity; psychological and actual. The Department of Defense analyzed the key personnel assigned to 24 specific project managed weapon systems within the military services. Of the 1506 personnel files received for review, 350 military and 1156 civilian, it was found that "60 percent of the total civilian work force in those project offices were engineers, while only slightly over 10 percent were in the procurement function." The remainder of the work force consists of administrative, fiscal and supply personnel. (These figures must be viewed in the context that the SPO's do not do any engineering per se; it's all contracted out.) One must ask if the business management function is well served by this disparity of manning emphasis. This is not a criticism of the people; they do the best they can; it is the system that is suspect.

... Another facet is grade disparity within the SPO. A grade comparison made of engineers, who constitute the majority of personnel assigned, and procurement personnel, also gives evidence of a further disproportionate structure between these career fields in these project offices. Over 16 percent of the engineers are GS-15s or higher vs. 11 percent in procurement with none above GS-15, as shown in the following:

| Engineers (800 Series Classification)* | | Procurement (1100 Series Classification)* | |
|--|--------|---|--------|
| Grade | Number | Grade | Number |
| GS-17 | 1 | GS-17 | 0 |
| GS-16 | 4 | GS-16 | 0 |
| GS-15 | 107 | GS-15 | 13 |
| GS-14 | 211 | GS-14 | 36 |
| GS-13 | 357 | GS-13 | 65 |
| GS-12 | 7 | GS-12 | 5 |

*This does not include the Administrative Contracting Officers and price analysts in the Air Force Plant Representative Offices, or the Design Engineers, who are each a part of the "Team."¹⁷

In today's environment, where multibillion dollar programs are being consummated, there should be appropriate recognition and pay grades for the persons responsible for negotiating and administering complex and costly procurements. A good contract negotiator is worth far more negotiating contracts than supervising the processing of paperwork.

Analysis of the grade structure of the various agencies indicated as much as a three-grade spread for similar positions in different organizations.¹⁸ This disparity is partially attributable to the level that procurement was assigned within the respective organizational structures and partially to the inadequacy of Civil Service standards.

If we are to retain an experienced work force, agencies must take concerted action to increase the grades of contracting personnel based on responsibilities and professionalism required rather than the numbers of people supervised.

ROTATION PROGRAMS

Only a few agencies have formal or informal plans for rotation of their civilian employees from one position to another or from one occupational area to another for purposes of career development. The agencies that have intern programs provide for rotation during the first one or two years of employment for orientation. Since agencies' plans vary, there

¹⁷ U.S. Department of the Air Force, draft study by the Directorate of Procurement Policy, "The Contracting Officer," undated. Data quoted in these two paragraphs are attributed to an earlier DOD study, *Managerial Profile of Selected Project Offices*, unpublished report, Directorate for Procurement Management, Office of the Assistant Secretary of Defense (Installations and Logistics), May 1970.

¹⁸ Note 3, *supra*, p. 686.

is no uniformity or consistency among agencies.

Movement across functional lines for career development purposes is negligible except in the Atomic Energy Commission, the Tennessee Valley Authority, and the Forest Service of the Department of Agriculture. Geographical rotation or planned interagency rotation policies are virtually nonexistent. The Department of Defense provides for a formal rotation-mobility plan in its civilian career program for procurement personnel,¹⁹ but little mobility has been achieved.

A program of wholesale rotation for career development is not necessary, but one of limited mobility is essential for individuals who have demonstrated high potential for progressing to top procurement positions. The mobility of such individuals must be determined early in their careers since there is little long-range return unless the individual is indeed mobile.

CAREER DEVELOPMENT PROGRAMS

DOD has a formal, planned career program for civilian procurement personnel, but this program does not include all the procurement occupations.²⁰ These plans specify a range of grades for the trainee, journeyman, and management levels and a master development plan for each. They also serve as guides for determining training and development assignments for career progression.²¹

In addition to the DOD career development program for civilian personnel, each of the military services has established procurement career development and training requirements for commissioned officers. These programs are not compatible either with each other or with the civilian programs.²²

¹⁹ U.S. Department of Defense, DOD Manual 1430.10-M-1, *DOD-wide Civilian Career Program for Procurement Personnel*, Aug. 4, 1966.

²⁰ U.S. Comptroller General, Report B-164682, *Action Required to Improve Department of Defense Career Program for Procurement Personnel*, Aug. 13, 1970.

²¹ *Ibid.*

²² For example, only two DOD procurement courses were listed as mandatory for military officers in key positions and up to eight, based on the occupational series, were listed as mandatory for civilian counterparts.

REDUCTION IN FORCE

Generally, reduction-in-force (RIF) procedures eliminate the least senior employee in an occupational series and grade level, giving consideration to other statutory requirements such as the Veterans Preference Act and performance ratings.²³ If a position in one occupation and grade is eliminated and the incumbent is otherwise qualified, he may displace another employee with less seniority at the next lower grade, who may in turn displace the next less senior employee in the next lower grade, and so on.

This procedure may require an agency to lay off outstanding performers having a high potential for professional development, while retaining average or even marginal employees, some of whom may be long past the combination of age and years of service required for retirement.

Reduction-in-force procedures also may have a devastating effect on long-range training or career development programs. Although an employee is protected from reduction-in-force while in trainee status, once he completes his training he becomes the most vulnerable employee. Thus, not only may the funds spent on his development be wasted (if he does not secure another Federal position for which he was trained), but an overall training plan may be completely negated.

In view of these limitations and problems arising from current reduction-in-force procedures, the agencies, together with the Civil Service Commission, should make provision for greater recognition of relative job performance in determining the retention rights of employees. The practical effect of the current performance rating system and reduction-in-force procedures is that there is inadequate recognition of merit and of the needs of the agency in determining which employees will be retained.

Agencies should give increased emphasis to those programs which are designed to place employees in position vacancies for which they are qualified rather than extending the chain reaction of employees "bumping" others throughout an entire organizational structure. A "pool" should be established within the Civil

Service Commission and/or geographical areas whereby employees designated for reduction-in-force would be "pooled" for a period of time to facilitate matching displaced personnel with vacancies available elsewhere throughout the entire Government.

TRAINING PROGRAMS AND FORMAL EDUCATION OPPORTUNITIES

Recommendation 21. Establish a Federal Procurement Institute which would include undergraduate and graduate curricula, procurement research programs, executive seminar programs, and other academic programs.

Existing schools, courses, and formal education programs—some of which are excellent—do not adequately provide the special training needed to sustain the highly competent procurement work force required to handle the major contracting efforts of the Government. Most college curricula treat marketing in some depth but similar treatment of procurement matters is unusual. Most of the Government's schools are devoted either to specialty fields or to a basic approach. Formal education opportunities for civilian employees are rare and seldom have more than an indirect relationship to procurement management needs.

Government Schools

Government schools and programs of instruction in the procurement area vary significantly from one agency to another. We identified 12 Government schools, which conducted 194 procurement or procurement-related courses. These 12 schools are spread across four separate Federal agencies and organizations. The Department of Defense, because of its major role in procurement, has nine of the 12 schools; and there is one each in the Federal Aviation Administration, Department of Agriculture, and General Services Administration. DOD has the most extensive procurement education and career development programs within the Government.

²³ 5 U.S.C. 3502 (1970).

Each DOD school, except the Defense System Management School and the Industrial College of the Armed Forces, is an organizational element of one of the armed services.

In the area of major systems management, the Air Force Institute of Technology (AFIT) has a masters program in system management in the School of Engineering at Wright-Patterson Air Force Base; the Navy has recently established a Weapons Systems Acquisition Curriculum at the Naval Post Graduate Center; and DOD opened the Defense Systems Management School (DSMS) in July 1971.

DOD has a number of continuing procurement career development programs, primarily the Continuing Education Division, School of Systems and Logistics, AFIT; the Army Logistics Management Center (ALMC); and the Army Management Education Training Agency (AMETA). The Air Force also conducts procurement courses at the Lowry Technical Training Center, Denver, Colorado, and the Defense Contract Audit Agency (DCAA) sponsors the Defense Contract Audit Institute in Memphis, Tennessee.

Procurement courses are also included in the educational programs of three civilian agencies: The Federal Aviation Administration operates the Federal Aviation Administration Academy at Oklahoma City, Oklahoma; the U.S. Department of Agriculture conducts several procurement courses at the U.S. Department of Agriculture Graduate School in Washington, D.C.; and the General Services Administration conducts procurement courses both in Washington, D.C., and at various locations around the country.

There are no schools currently in existence, Government or civilian, dedicated to the upgrading of procurement education throughout the Government. All of the schools mentioned above have broader missions involving the teaching of courses other than procurement. Hence, it is difficult to single out any one functional element in any coordinated plan to orient faculty and teaching programs to be responsive to the special needs of procurement.

Moreover, we found that the existing fragmentation of procurement training has resulted in:

- Redundant training effort (for example,

three separate programs in systems management and two basic procurement courses)

- Voids in the curriculum, particularly with respect to the management level
- A problem with the currency of some course offerings.

Federal Procurement Institute

There is general agreement among procurement management personnel on the need for a national institute or academy responsible for research and education in the field of Government procurement and charged with the general advancement of that field. Such an institute could serve to develop an elite and mobile procurement work force.

We strongly urge the establishment of a Federal Procurement Institute²⁴ responsible for the following:

In the Field of Research:

- Conduct and sponsor research in procurement policy and procedure. (This function would encompass the concept of the "Procurement Research Laboratory" as discussed in House Report 91-1719, Dec. 10, 1970).
- Establish and maintain a central repository and research library in the field of Federal procurement and grants.²⁵
- Offer a program, similar to Sloan Fellowships, for Federal and industry personnel. This program would provide a period of

²⁴ Note 9, *supra*, p. 4. The Comptroller General's report recommends such an institute for DOD alone. We believe it should serve the needs of all agencies, civilian and military.

²⁵ The Library and collected papers assembled by the Commission on Government Procurement in conducting these studies could form the nucleus of such a collection.

The Administrator, General Services Administration, will be ultimately responsible for the disposition of the Commission's library when the Commission expires (44 U.S.C. 2905 et seq.). In view of the Commission's recommendation to establish this Institute and of the important place our library could take in such an Institute, if established, the Administrator of the General Services Administration has agreed that the Commission's library will be maintained as an operating entity for a period of one year following the submission of the Commission's report. Further, should the Congress or the executive branch establish the Institute, this factor will be given appropriate consideration in determining the ultimate disposition of the library.

Meanwhile, students of procurement (whether they be employees of the Government, private industry, or from the academic community), may use the library of the Commission on Government Procurement. Interested persons should contact the Federal Supply Service, Washington, D.C. 20406, for information regarding location and hours.

study and research at the Institute or related institutions.

- Maintain liaison with professional organizations; participate in intergovernmental and international procurement conferences and related activities.

In the Field of Education:

- Formulate comprehensive education and training plans in cooperation with all agencies.
- Monitor education and training efforts throughout Government, industry, and the academic community, to include studies of the appropriateness and adequacy of such efforts.

Sponsor and publish studies and research materials relating to education for procurement operations and management.

Sponsor training for the faculties of schools instructing in procurement and related subjects.

Assist universities that wish to develop bachelor degree programs in the field of procurement.

Develop and conduct advanced degree programs in procurement, available to State and local governments and to contractor personnel.

Develop and conduct executive seminar programs for procurement management personnel.

The Institute must evolve in well-planned phases. During its initial phase, the Institute might not teach, but would conduct workshops and seminars for faculty from the various Government and civilian schools that now conduct procurement courses. Individual training should continue to be the responsibility of each agency, but the Institute should begin to coordinate procurement training on a Government-wide basis. It might also encourage, through grants and scholarships, advanced research and publication of texts to help establish the base of published data and the cadre of educators needed to support a broader program.

The Institute should eventually include a Graduate School where both Government (Federal, State, and local) and industry may send students for programs in Federal procurement

management. A representative group of programs should be made available at the masters and doctorate levels. The Institute should offer a Fellowship Program (similar to the Sloan and Princeton programs) permitting outstanding individuals to do independent research. Such a program could be operated in conjunction with a Procurement Research Laboratory for the Office of Federal Procurement Policy and individual agencies. Executive seminars should be conducted to enable high-ranking Government and industry personnel to participate in procurement programs similar to the general programs held by the Brookings Institution and the Federal Executive Institute.

Maximum use should be made of approved university courses. Of particular importance will be the development of curricula that provides basic information for prospective students.

Degree credit for procurement courses and related courses conducted by both Government and civilian schools should be provided. Courses taken at several different schools and locations should qualify for credit toward a degree.

CIVILIAN AND MILITARY PERSONNEL ASSIGNMENTS IN DOD

One procurement problem, unique to DOD, requires comment. The mix of military and civilian personnel in the top and middle procurement management positions in DOD ranged from two percent military in the Defense Supply Agency to 33 percent in the Air Force.²⁶

Each military service has its own career development and training requirements system which, as previously noted, differs from other military systems and also from those established by DOD for the civilian work force. The criteria²⁷ for designating management positions as either military or civilian provide that:

- Military personnel normally will be assigned to management positions when re-

²⁶ Note 3, *supra*, p. 680.

²⁷ Department of Defense Directive 1100.9, *Military-Civilian Staffing of Management Positions in the Support Activities*, originally dated Apr. 24, 1957, and reissued Sept. 8, 1971.

quired by law, when the position requires skills and knowledge acquired primarily through military training, and when experience in the position is essential to enable personnel to assume responsibilities necessary to combat-related support and career development.

- Civilian personnel normally will be assigned to management positions when the special skills required are found in the civilian economy and continuity of management can be provided better by civilians. (Proper civilian career development will be essential in such determinations.)
- Maximum use of personnel will be effected, and no more than one person will be assigned to perform duties which can be effectively performed individually. The line of authority and supervision in support activities need not be military. Supervisory authority may be exercised in support activities by either civilian or military personnel. The exercise of supervisory authority by civilian personnel over military personnel does not conflict with exercise of authority in the military establishment.

Two unique situations creating management problems result from this dual system:

- Top-level assignments are alleged to be made to military personnel without due regard to the effect on the procurement activity.
- Rotation policies for military personnel are incompatible with their assignment to key management positions of long-term major system development and production projects.

GAO recently found less than full application of DOD's policy²⁵—and this report is dated 15 years after the policy directive was first issued. In addition, we found a specific example, in writing, of direction contrary to the stated assignment policy:

... the optimum military/civilian mix is determined on a building block basis. *First, the military requirements are determined, then from the remainder, the civilian needs*

²⁵ U.S. Comptroller General, Report B-146890, *Extensive Use of Military Personnel in Civilian-Type Positions*, Department of Defense, Mar. 20, 1972.

allocated and finally, contract services are utilized (where appropriate).

Following the building block approach, positions and tasks are first examined to determine if it is essential to man the positions with military. Development of the military force structure includes consideration of military career progression requirements. *After establishing the minimum military essential force, the remainder of the workload is allocated to civilian manning (in the case of the procurement function). The civilian procurement workload manning level which remains may or may not be susceptible to an ideal career progression configuration for civilians.*²⁶ [Italics supplied.]

In his report, the Comptroller General recommends that the Secretary of Defense direct each military service to review all types of positions except those in deployable combat or combat-support units to determine whether:

- The position must be filled by military personnel.
- The position could be filled by either military personnel or civilians and the circumstances in which the position would be used for military personnel, such as rotation or for career development.
- The position need not be filled by a military incumbent and should be filled by a civilian.

The DOD policy needs reemphasis and enforcement. There must be educational and training requirements as well as career planning for both military and civilian personnel. Duplicate positions must be eliminated. Once military personnel are assigned to procurement management tasks involving an important time commitment, arbitrary rotation inconsistent with that commitment must be stopped. Where military personnel are used, management continuity should be provided by stabilizing assignments. Above all, military and civilian forces must be integrated so that the best man for the procurement job gets the assignment.

Efficiency and economy would be enhanced by (1) integrating, within DOD, the civilian

²⁶ Air Force Procurement Career Development Action Plan, Project COPPER CAP, Dec. 1970, p. 10.

and military procurement career development and personnel management programs to obtain optimum utilization of the total personnel assets available and (2) requiring at the option of the agency, civilian procurement personnel, upon reaching journeyman level, GS-12, to agree to geographical job relocation for career development, as a condition to higher advancement and to satisfy the need for mobility.

In addition, the following actions should be taken by the military departments:

- Thoroughly evaluate designated procurement/contract administration and program management jobs to ensure that the professional requirements of such jobs are matched with personnel possessing such required professional qualifications.
- Eliminate such dual staffing of positions as may still exist. Staffing should be accomplished with either a civilian or military person, depending primarily upon the professional requirements of the position(s) in question.
- Ensure that the tour lengths of military personnel engaged in the procurement process are extended to provide for an average tour length of at least three to five years and for longer periods to stabilize major system program manager assignments. In connection therewith, encourage greater specialization and subspecialization of military personnel in procurement or procurement-related endeavors. Such action is deemed desirable to reduce excessive current turnover rates and ensure that military procurement managers are well trained and experienced for procurement assignments.

SUPPLEMENTAL VIEWS

The basic text describes deficiencies which exist relative to the ability of the various agencies to optimally utilize total personnel assets.

While subscribing to the recommendations advanced therein, certain Commissioners* hold the view that additional steps are in order to precipitate quantum improvement in certain areas in the field of personnel management:

- Within the Department of Defense, desirable actions already underway should be expanded to more fully integrate civilian and military procurement career development/personnel management programs.
- In furtherance of the above, DOD, in concert with the Civil Service Commission where appropriate, should consider establishment of a "Defense Executive Procurement Service," which is envisioned to include certain personnel in super-grade and general/flag officer ranks assigned to certain designated managerial posts. Those who enter this "service" should be chosen by selection boards upon application by the individuals or by invitation of their superiors. Military and civilian personnel would receive equal consideration for entrance, and their promotion and assignment rules would be laid down by the Secretary of Defense and Service Secretaries. (Promotion by selection board and rates of pay perhaps set at any increment falling between minimum and maximum limits which might be established.)

Operation of the Defense Executive Procurement Service as envisioned would serve to provide greater stimulus toward personal excellence. Many assert such excellence is lacking, if not actively stifled, as a result of the manner in which certain disincentives operate within the framework of current Civil Service and military personnel policies.

An Executive Service would permit selection, placement, and retention of thoroughly qualified and motivated people in those key procurement management positions demanding such incumbents.

*Commissioners McGuire, Sampson, Sanders, Staats, and Webb.

CHAPTER 6

The Government Make-or-Buy Decision

POLICY

The Government relies heavily on contractors to provide goods and services needed to support its missions. Historically, Government policy has favored contracting for goods and services rather than providing them in-house. However, only limited expressions of this policy appear in the statutes¹ and executive branch procedures for its application have been subject to controversy.

Bureau of the Budget (BOB) Bulletin 55-4 (January 1955) was the first executive document to state the Government policy of reliance on the private sector. With minor changes, this statement was repeated in Bulletin 57-7 (April 1957) and Bulletin 60-2 (September 1959). BOB Circular A-76 (March 1966, revised August 1967) replaced Bulletin 60-2 and is currently in force; it states that the Government should rely on the private sector for needed goods and services except when:

- Use of a commercial source would delay or disrupt an agency program
- Direct performance is required for combat support, military training, or mobilization readiness
- The product or service is not available from a commercial source
- The product or service is available from another Government agency
- Procurement from a commercial source will result in higher cost to the Government.

From time to time Congress has shown concern over current interpretation and implementation of the policy. Businessmen charge that

¹ See Part J, Appendix A.

many goods and services are provided by Government agencies in direct competition with the private sector, whereas Government employee organizations contend that work which should be done by Civil Service personnel is contracted out. These and other difficult questions arise in deciding whether to "make or buy" in specific cases.

Expression of Policy

Recommendation 22. Provide through legislation that it is national policy to rely on private enterprise for needed goods and services, to the maximum extent feasible, within the framework of procurement at reasonable prices.

For almost 40 years congressional committees have studied various aspects of Government activities that are or may be in competition with private enterprise. The first extensive study was made in 1932 by a special committee of the House of Representatives. It recommended that the House create a standing committee on Government competition with private enterprise.² Later studies of various aspects of the problem have been made by the Senate and House Appropriations Committees, the House Armed Services Committee, the Senate and House Committees on Government Operations, and the Senate Select Committee on Small Business.

In the early 1950's, the Intergovernmental Relations Subcommittee of the House Committee on Government Operations studied various aspects of Federal supply management,

² U.S. Congress, House, *Government Competition in Private Enterprise*, H. Rept. 1985, 72d Cong., 2d sess., 1932.

with particular reference to military and related activities. During the 83rd Congress, the same subcommittee made an exhaustive study of all commercial and industrial activities of the Government that compete with private business. The subcommittee reported³ that the number of such activities conducted by Government agencies posed a real threat to private industry and imperiled the tax structure. It recommended that "a permanent, vigorous, preventive and corrective program be inaugurated," which "should start from the Executive Office of the President with criteria set for general guidance of all agencies."

In 1949, the Senate Committee on Government Operations considered a House-passed bill and a companion Senate bill to terminate, to the maximum extent compatible with national security and the public interest, Government activities that compete with private industry. After hearings on these bills,⁴ the House-passed bill was reported favorably in August 1954. However, action on the measure was postponed.

The First Hoover Commission reported the need for a thorough study of the extent to which the Government was competing with private enterprise. Following an examination by the Senate Committee on Government Operations of such competition of various facets, the Congress established the Second Hoover Commission to study and make recommendations for "eliminating nonessential services, functions, and activities which are competitive with private enterprise. . . ."

The Second Hoover Commission report on "Business Enterprise," filed in 1955, presented 22 recommendations designed to eliminate or decrease Government activities competing with private enterprise and urged the use of contract services to perform various activities being conducted by Government agencies.

In 1955, the Chairman of the Senate Committee on Government Operations introduced a bill⁵ to establish a policy on activities of the Government that compete with private enterprise. While this bill was pending before the committee, the Director of BOB advised

³ U.S. Congress, House, Committee on Government Operations, H. Rept. 1197, 83d Cong., 1st sess., 1953.

⁴ U.S. Congress, Senate, Committee on Government Operations, S. Rept. 2382, 83d Cong., 1st sess., 1953.

⁵ U.S. Congress, Senate, Commission on Government Operations, S. Rept. 1003, 84th Cong., 1st sess., 1955.

that the executive branch had a program underway for the review of activities so the committee postponed further action.

Between 1953 and 1960 the Senate Select Committee on Small Business conducted a continuing review of Government activities that were competing with small businesses and other private enterprise. Hearings on this subject were held in 1953, 1955, 1957, and 1960.

In 1964, the Subcommittee on Manpower Utilization of the House Committee on Post Office and Civil Service held hearings on the "Control of Labor Costs in the Department of Defense." The hearings were devoted mainly to three types of contract operations: "think factories," services formerly provided by in-house personnel, and contractor personnel working alongside and under the supervision of Government employees.

Later developments appear to have been strongly influenced by:

- Hearings and reports⁶ by the Manpower Subcommittee of the House Committee on Post Office and Civil Service, concerning the effect that contracting for services was having on career Government employees.
- A report from the Comptroller General in March 1964,⁷ concluding that use of contract personnel by the Air Force at a base in Japan was more costly than using Civil Service employees.
- An opinion from the General Counsel of the Civil Service Commission,⁸ based on the Air Force contract in Japan, holding that contracts under which Government personnel directly supervise contract employees are illegal.
- A DOD study⁹ of contract support services, completed in 1965, concluding that many service contracts were in conflict with Civil Service laws and were also more costly than in-house performance.

In 1967, the Senate Committee on Govern-

⁶ U.S. Congress, House, Committee on Post Office and Civil Service, report by the Subcommittee on Manpower, H. Rept. 129, 89th Cong., 1st sess., 1965.

⁷ U.S. Comptroller General, Report B-146823, *Excessive Costs Incurred in Using Contractor-Furnished Personnel Instead of Government Personnel by the Pacific Region of the Ground Electronics Equipment Installation Engineering Agency, Air Force Logistics Command.*

⁸ Letter from the U.S. Civil Service Commission, Office of the General Counsel, to the U.S. General Accounting Office, Feb. 12, 1965.

⁹ U.S. Department of Defense, *Contract Support Service Project*, Mar. 1965.

ment Operations held hearings on Government policy and practice with respect to contracts for technical services.¹⁰

The next hearings related to these issues held by the Special Studies Subcommittee of the House Committee on Government Operations in June 1967, focused mainly on NASA use of support service contracts.¹¹ GAO and the Civil Service Commission were critical of the extent to which NASA had relied on such contracts. NASA defended its practice on grounds of the need for rapid build-up and the mandate of the National Aeronautics and Space Act to make maximum use of the scientific and engineering resources of the United States.

The questions of legality and comparative cost were major issues. Further hearings by this subcommittee in early 1968 dealt with cost comparisons for support services¹² and resulted in recommendations that Circular A-76 be revised to include support services, but the recommendations were not adopted by BOB.

This lengthy history of congressional and executive branch efforts to develop and implement an effective "make-or-buy" policy is indicative of the complexities of the problem. We believe, as a first step toward its resolution, there should be a clear expression in law of the Government's policy for relying on the private sector for goods and services.

Implementation and Enforcement of Policy

Responsibility for implementation of Circular A-76 is assigned to the agencies and departments of the executive branch, most of which have issued implementing instructions. The circular also requires that all Government commercial and industrial activities¹³ be inventoried and reviewed to ensure that their continued operation is in accord with the policy and guidelines provided.

¹⁰ U.S. Congress, Senate, Senate Committee on Government Operations, *Government Policy and Practice with Respect to Contracts for Technical Services—Status Report*, 90th Cong., 2d sess., May 17, 1968.

¹¹ U.S. Congress, House, Committee on Government Operations, *Support Service Contracts*, hearings before a subcommittee on Government Operations, 90th Cong., 1st sess., June 21, 1967.

¹² U.S. Congress, House, Committee on Government Operations, *Cost Profile for Support Services*, hearings before a subcommittee of the Committee on Government Operations, 90th Cong., 2d sess., 1968.

¹³ Circular A-76 defines a "Government commercial or industrial

activity" as "one which is operated and managed by an executive agency and which provides for the Government's own use a product or service that is obtainable from a private source."

Many examples of Government commercial and industrial activity can be cited; the rationales for the creation of and continued operation of such activities are as diverse as the activities themselves. Government activities that provide goods or services for public use, such as money (bills and coins), electric power, printed products, information and educational services,¹⁴ and airports are excluded as not falling under the definition of a Government commercial or industrial activity.

In 1971, the Office of Management and Budget (OMB) requested a special report from the agencies on the status of their commercial and industrial activities. Information submitted in response to this request is shown in table 1.

The reports to OMB showed that:

- 2,899 activities (16 percent) had not been reviewed, although Circular A-76 required such reviews to be completed by June 30, 1968.
- With more than 15,000 activities reviewed, only 99 were discontinued or curtailed as a result of review.
- Of the 55 new starts proposed since October 31, 1967, 44 were approved, 9 were pending, and two were disapproved.

In early 1972, GAO reported that reviews of commercial and industrial activities by the military departments had not been effective.¹⁵ The following specific deficiencies were cited:

Except in a few cases where cost studies had been made, there were no explanations supporting local recommendations that in-house performance of activities be continued. Recommendations often were based on the reviewer's personal knowledge, and there was no evidence of the factors that had been considered.

Although the Air Force and the Navy spent \$1.7 billion for in-house, depot-level maintenance in FY '69, they did not review these activities as required by Circular A-76.

¹⁴ Information and educational services provided to the public by Government include: books, bulletins, and brochures on agricultural topics, boating safety, fire prevention, libraries, museums, zoos, and so on.

¹⁵ U.S. General Accounting Office, Report B-158665, *Better Controls Needed in Reviewing Selection of In-house or Contract Performance of Support Activities*, Mar. 17, 1972, pp. 1-2.

TABLE 1. COMMERCIAL AND INDUSTRIAL ACTIVITIES IN THE EXECUTIVE BRANCH

| Agency | No. of activities | Capital investment (Thousands of dollars) | Annual operating cost |
|---|-------------------|--|-----------------------|
| Department of Agriculture | 70 | 157,845 | 27,536 |
| Atomic Energy Commission | 4 | 14,173 | 9,124 |
| Civil Service Commission | 1 | 116 | 287 |
| Department of Commerce | 29 | 7,971 | 17,124 |
| Department of Defense | 6,556 | 9,011,134 | 5,483,700 |
| General Services Administration | 10,717 | 78,365 | 194,399 |
| Department of Health, Education, and Welfare | 55 | 13,983 | 27,952 |
| Department of the Interior | 720 | 334,618 | 63,922 |
| Department of Labor | 5 | 510 | 5,624 |
| National Aeronautics and Space Administration | 99 | 104,300 | 42,500 |
| Panama Canal Company | 11 | 43,690 | 47,578 |
| Department of State | 5 | 16 | 577 |
| Department of Transportation | 27 | 53,827 | 61,196 |
| Department of the Treasury | 31 | 43,634 | 376,525 |
| Tennessee Valley Authority | 19 | 54,882 | 450,794 |
| United States Information Agency | 3 | 4,247 | 1,403 |
| Veterans Administration | 264 | 57,386 | 24,418 |
| Total | 18,616 | 9,980,697 | 6,834,659 |

Source: Letter from the Office of Management and Budget, Procurement and Property Management Branch, to the Commission, Dec. 13, 1971.

Although the military departments should have completed the first three-year cycle of reviews by June 30, 1968 they were all far behind schedule. As of June 1971, many activities had not been reviewed for the first time.

The few cost studies made showed that savings could be realized by converting activities either to in-house or to contract performance. GAO believes that these studies are indicative of significant potential savings available in activities not yet reviewed.

DOD has included in its inventory and three-year review certain activities already being performed under contract. DOD regulations strongly suggest that decisions to contract out new activities and those being performed in-house be supported by cost comparisons to ensure that the most economical source is adopted. Since the philosophy of Circular A-76 favors contracting over in-house performance, it would appear desirable for DOD to maintain records of the costs incurred in making these studies so that these costs can be compared with the benefits of the program.

GAO reviewed the program at six military installations. Because there were no definitive guidelines as to the commercial and in-

dustrial activities to be included, some significant activities were omitted from the inventories of such activities. These omissions could result in failure to provide services in the best or most economical way. Individual activities which should be reviewed separately were combined in broad aggregations; such as "aircraft depot maintenance."

The Army installations visited had started new in-house activities which had not been subjected to the analysis required under Circular A-76 nor included in the inventory as required. Installation officials were not aware of the requirement for new-start approval. The military departments should have a system to ensure that new starts are submitted for approval.

Incorporation of GAO findings in this report should not be construed to mean that DOD has been less dedicated than other agencies in the implementation of the circular. We found nothing to indicate that any other agency had devoted as much time and effort as had DOD in making the required inventories of commercial and industrial activities.

We believe that a new approach and stronger implementation of the program is needed to achieve consistent and timely Government-wide application of the policies set forth in Circular A-76. A specified method for imple-

menting the policies, under the direction of a senior official in the Executive Office of the President, is proposed in Dissenting Recommendation 1 (see below). The entire Commission agrees (1) that stronger and more consistent implementation must be obtained and (2) that the method proposed in Dissenting Recommendation 1 would be *one* way of achieving that objective. However, the majority preferred not to specify a particular method in a formal recommendation, believing that the executive branch should have a free choice of methods in order to best accomplish the goal.

Cost Comparison Threshold

Recommendation 23. Revise BOB Circular A-76 to provide that Federal agencies should rely on commercial sources for goods and services expected to cost less than \$100,000 per year, without making cost comparisons, provided that adequate competition and reasonable prices can be obtained.¹⁴

Circular A-76 does not require a cost comparison whenever the products or services involved cost less than \$50,000 annually and there is reason to believe that adequate competition exists. Putting the cost comparison threshold at this level requires relatively costly administrative actions for fairly low dollar-value activities with little potential for significant savings. In furtherance of the policy of reliance on the private sector, the threshold should be increased to \$100,000.

Cost Comparison Guidelines for Existing Activities and New Starts

Circular A-76 lists five exceptions to the policy; four of these do not require a cost comparison. When one is required, the guidelines set forth in the following recommendation should be used.

Recommendation 24. Base cost comparisons on:

(a) Fully-allocated costs if the work concerned represents a significant element in the total workload of the activity in question or if discontinuance of an ongoing op-

eration will result in a significant decrease in indirect costs.

(b) An incremental basis if the work is not a significant portion of the total workload of an organization or if it is a significant portion in which the Government has already provided a substantial investment.¹⁵

The existing guidelines calling for the use of incremental cost comparisons have been a source of much controversy. Under BOB Bulletin 60-2, Government commercial and industrial activities were permitted on the basis of relative cost only when "the costs are analyzed on a comparable basis and the differences are found to be substantial and disproportionately large." Circular A-76 guidelines are based on relative economy of operation. With respect to cost comparisons, the Circular provides as follows in section 7(c)(3):

An activity should be continued for reasons of comparative costs only if a comparative cost analysis indicates that savings resulting from continuation of the activity are at least sufficient to outweigh the disadvantages of Government commercial and industrial activities. No specific standard or guideline is prescribed for deciding whether savings are sufficient to justify continuation of an existing Government commercial activity and each activity should be evaluated on the basis of the applicable circumstances.

These guidelines are interpreted differently by each agency; they include intangible factors as well as calculable out-of-pocket costs, and generally require use of cost-accounting data that are not available to many agencies.

Although relative cost is only one of the five criteria which justify exception to the policy expressed in Circular A-76, the implementing instructions of some agencies appear to place inordinate emphasis on it. For example, DOD instructions state:

DOD components will be equipped and staffed to carry out effectively and economically those commercial or industrial activities which must be performed internally in order to meet military readiness requirements. All other required products or services will be obtained in the manner least costly to the

¹⁴ See dissenting position, *infra*.

¹⁵ See dissenting position, *infra*.

Government (by contract, by procurement from other Government agencies, or from DOD commercial or industrial activities).¹⁸

It is generally agreed by Government and industry spokesmen that the method used in determining the cost of Government activities in some cases may bias cost comparisons in favor of in-house performance. In some situations, this bias can defeat the policy of Government reliance on private enterprise.

In criticizing the use of incremental costing, it is necessary to look at the alternative: fully-allocated costing of Government activities. One major problem in using the fully-allocated approach is that Government accounting records are not kept on a basis that readily permits identification and allocation of all indirect costs and depreciation, particularly costs covered by the budgets of different agencies.

Despite this problem, there have been examples which indicate that fully-allocated costing might be feasible. The AEC seems to have little difficulty in making fully-allocated cost studies of its activities. GAO, in specific studies such as the charges to the Communications Satellite Corporation¹⁹ for launching satellites, has been able to identify indirect costs and depreciation that should have been allocated to those tasks by NASA and the Air Force. In similar studies of user charges by the National Bureau of Standards,²⁰ the Food and Drug Administration,²¹ and the Immigration and Naturalization Service,²² GAO was also able to point out indirect and administrative costs which were properly allocable to the services being provided.

Some DOD activities, such as shipyards and support facilities that serve different activities, use an industrial fund accounting system.²³ While this system does not provide for com-

plete, fully-allocated costing, it does involve allocation of many elements of indirect cost.

Criteria should be established for making cost comparisons for commercial and industrial activities on either an incremental or fully-allocated cost basis. Our recommended guidelines will have to be supplemented and modified by the Office of Federal Procurement Policy if they are to be effectively administered.

New Starts

Recommendation 25. Increase the BOB Circular A-76 threshold for new starts to \$100,000 for either new capital investment or annual operating cost.

Recommendation 26. Increase the minimum cost differential for new starts to justify performing work in-house from the 10 percent presently prescribed to a maximum of 25 percent. (Of this figure, 10 percent would be a fixed margin in support of the general policy of reliance on private enterprise. A flexible margin of up to 15 percent would be added to cover a judgment as to the possibilities of obsolescence of new or additional capital investment; uncertainties regarding maintenance and production cost, prices, and future Government requirements; and the amount of State and local taxes foregone.) New starts which require little or no capital investment would possibly justify only a 5-percent flexible margin while new starts which require a substantial capital investment would justify a 15-percent flexible margin, especially if the new starts were high-risk ventures.²⁴

A "new start" is currently defined by Circular A-76 to mean either (a) a new Government commercial or industrial activity involving additional capital investment of \$25,000 or more or annual operating costs of \$50,000 or more; or (b) an expansion or renovation of an existing facility with dollar thresholds double the amounts listed for new activities. Circular A-76 provides for reviews of "new starts" after 18 months to determine whether continuance of in-house activities are warranted, and for reviews after that at least once every three years.

²⁴ See dissenting position, *infra*.

¹⁸ U.S. Department of Defense, DOD Directive 4100.15, *Commercial or Industrial Activities*, July 8, 1971.

¹⁹ U.S. General Accounting Office, Report B-168707, *Large Costs to the Government Not Recovered for Launch Services Provided to the Communications Satellite Corporation*, Oct. 8, 1971.

²⁰ U.S. General Accounting Office, Report B-115378, *Inequitable Charges for Calibration Services: Need for Accounting Improvements at National Bureau of Standards*, June 18, 1970.

²¹ U.S. General Accounting Office, Report B-164301(2), *Improvements Suggested in Accounting Methods Used in Establishing Fees for Reimbursable Testing and Related Services*, Dec. 12, 1969.

²² U.S. General Accounting Office, Report B-125051, *Need to Revise Fees for Services Provided by the Immigration and Naturalization Service and United States Marshals*, Oct. 7, 1969.

²³ U.S. Department of Defense, DOD Directive 7410.4, *Regulations Governing Industrial Fund Operations*, Jan. 2, 1970.

For purposes of compatibility with previous recommendations, and based on the same rationale, the above definition should be amended to cover any case where the new capital investment or additional annual operating cost is \$100,000 or more.

Circular A-76 stipulates that a new Government commercial or industrial activity will not be initiated on the grounds of relative economy unless the savings, compared to commercial performance, is greater than a specified differential. While the amount of this differential should vary in individual circumstances with the amount of investment and risk involved, the circular prescribes that it normally should be at least ten percent. Experience indicates that, once an in-house operation has been established, and a substantial start-up investment has been made, conversion to contract seldom occurs. In view of the importance of this original "new start" decision, we believe a higher differential is desirable to strengthen the general policy of reliance on private enterprise, although a certain amount of flexibility is needed to deal with factors such as risk and uncertainty.

Dissenting Position

A number of the Commissioners* do not fully support the concept presented as the Commission position. They do agree with the need for a statutory expression of policy as embodied in Recommendation 22 of the Commission's position but would provide for specific guidelines for implementing the policy. The dissenting Commissioners further believe that cost comparisons should not be required, but should their use continue, they suggest that the guidelines cover ongoing activities as well as new starts. Their recommendations and reasons therefor are discussed in the following paragraphs.

IMPLEMENTATION

While the report adequately points out the need for stronger implementation of the policy of reliance on the private sector, the Commission's recommendations do not adequately treat with existing Government activities. The dis-

*Commissioners Beamer, Gurney, Horner, and Joers.

senting Commissioners believe that strong implementation including a thorough review of ongoing activities is imperative, as these activities have greatly proliferated in recent years. It is felt that a specific recommendation is required since Executive policy has been in existence for many years but has not been effectively implemented.

Dissenting Recommendation 1. Designate a senior member of the Executive Office of the President to devote his full time to the implementation of the policy of reliance on the private sector. He should be assisted by an interagency task force whose members also would be full time for a period of one to two years or until the program is thoroughly implemented. This task force would:

- (a) Work with each principal agency to:
 - (1) Lay out a definitive time schedule covering the completion of the agency's inventory of commercial or industrial activities being performed in-house.
 - (2) Outline in order of priority the analyses to be conducted.
- (b) Maintain a review of the actions of each agency on the program and examine the studies made by the agency of its major activities in order to offer assistance and advice.

COST COMPARISONS

We cannot support the concept of using cost comparisons and offer the following recommendation in lieu of Commission recommendations 23, 24, 25, and 26.

Dissenting Recommendation 2. Require Federal agencies to rely on the private sector except for those cases where:

- (a) Such reliance would truly disrupt or significantly delay an agency program.
- (b) In-house performance is essential for the national defense.
- (c) The product or service is not and cannot be made available in the private sector and is available from a Federal source.

Take all practical steps to encourage and develop additional private sources in the unlikely event that sufficient competitive sources are not available in the private sector. Only

as a last resort consider in-house performance in comparison to the private sector.

Throughout our history there has been a general policy of reliance on the private sector as a source for most of the goods and services needed by the Government. As our social and economic system has become more complex and more specialized, there has been more and more need for Federal employment. This substantially larger Federal work force has led to increased Federal performance of duties that could just as easily be performed by private organizations.

It is clear that many management functions must be performed by Government employees. The Government must enhance the wealth-creation potential and performance of the Nation, provide for interstate and international commerce, ensure the national defense, perpetuate the integrity of the monetary exchange system, collect taxes needed to pay Federal expenses, and provide for other essential programs. There is always the strong temptation, however, for Federal employees to become deeply involved as participants in accomplishment, and higher rates of growth seem to be somewhat proportional to the size of Government.

Here again, it must be recognized that some Government programs have been carried out entirely with Government employees. Sometimes this is simply because a proposed program did not match any experience available in the private sector and sometimes because the program seemed to be better served by direct Government employment. Perhaps the best example of the latter case is national defense.

There is, however, a large and increasing number of services and products provided through Federal employment that are either readily available from the private sector or are so similar to those already available that the Federal "make or buy" decision has used a different basis than simple unavailability or inappropriateness of the private source.

The public policy manifested in Circular A-76 provides in a general statement for Government reliance on the private sector, but contains so many exceptions that the policy has been ineffective. One exception is that a Federal commercial or industrial activity may be authorized when "procurement from a com-

mercial source will result in higher cost to the Government." It further specifies that cost comparisons will be based on the total (or contract) cost of the commercial alternative and on an incremental (or marginal) estimate for Federal cost. This provision tends to maximize conflict.

Many of the difficulties experienced with procurement through the use of Federal employment are inherent in our public employment process. For example, all classes of Government employees have substantially more stability in their employment than those in the private sector. Much of this stability is provided through the Civil Service law in order to remove the questions of tenure and promotion from the instabilities of political fortunes. Thus, the rules of employment for the civil servant place heavy emphasis on longevity and numbers of people supervised as qualifications for promotion and increased responsibility. (The procurement work force is discussed in greater detail in Chapter 5.) These rules very effectively serve the purpose for which they were intended, but they also provide a strong motivation for senior employees to increase the size and scope of their organizations even if it is at the expense of competing with the private sector. Once an activity is under way, it is extremely difficult to curtail or terminate it.

Industrial and commercial organizations, on the other hand, are very accustomed to the ebb and flow of people as the needs for their products and services come and go. This is especially true in industries that normally serve the Government, since the cancellation or completion of a contract frequently requires the discharge or deployment of hundreds and sometimes thousands of people within very short periods of time.

This difference between the two methods of employment is perhaps the best reason for avoiding cost comparisons when deciding to "make or buy." In the first place, it is almost impossible to make a true cost comparison. For any commercial or industrial organization it is absolutely necessary that the payment for their products and services covers all of their costs. The so-called "incremental costing analogy" sometimes used to support the method of Federal cost determination is purely an analytical tool for an industrial organization to apply

at a single time to maximize the use of invested resources that cannot be recaptured in any other way. The inability of Government to make short-term decisions and to phase out operations completely invalidates this comparison.

The need to guard against ever-increasing growth in the size of Government is manifest in recent history. At present, nearly one-fifth of the civilian work force in our country is on the payrolls of Federal, State, and local governments,²⁵ while many of our world competitors are supporting a public payroll that is substantially less than half of that proportion. There are good reasons for this imbalance, considering our responsibilities in the world community, but the obvious tax consequences emphasize the overwhelming need to reduce this burden and simultaneously increase the tax base. Reducing the number of Federal employees also promises a second-order reduction in expenses in that it is highly likely that many of the products and services currently provided by the Government would be found to be less than essential if they did not have the appearance of being free.

Relative cost considerations can be minimized or eliminated in favor of reliance on the private sector, but the interests of current Federal employees must be considered. Federal policy since the 1930's has supported employee rights and collective bargaining. The practice of contracting work to private firms became an issue around 1960. While the National Labor Relations Board (NLRB) has ruled that this practice is subject to collective bargaining, conflicting decisions have left the extent of management obligations unclear.

Federal labor relations are controlled by Executive Order 11491, which states that decisions or issues subject to collective bargaining will be made by the National Labor Relations Council. The Council is currently considering a request from a Federal shipyard union to rule that the contracting out practice is subject to bargaining.

There is a moral obligation on the part of the Government toward employees who accepted employment with the understanding that work would continue to be available to them. Any decision to discontinue a Federal activity in favor of a commercial source should include

²⁵ *Business Week*, Sept. 9, 1972, p. 85.

maximum consideration for displaced employees. Where possible, deactivation should be a gradual phase-out process through attrition and transfer to other Federal activities. Full advantage should be taken of provisions in current Civil Service regulations to assist employees whose positions are discontinued, including "bumping" rights, transfer and relocation assistance, severance pay, and special retirement considerations. In addition, the contractor who will assume performance of the work should be encouraged to offer employment to any Federal employee willing to leave Federal service.

Any requirement to base a "make-or-buy" decision on a cost comparison between the private sector and a Federal in-house activity would be contrary to a strong policy of reliance on the private sector.

COST DIFFERENTIALS

If cost comparison policies are to be continued (which the Commission proposes and we do not favor), they should at least include guidelines for ongoing activities as well as new starts.

Dissenting Recommendation 3. Establish a 15-percent cost differential favoring the private sector over ongoing activities. Of this figure, ten percent would be in support of the general policy of reliance on the private sector.

The present guidelines suggest no differential for evaluating relative costs of an existing Government activity, but merely state that savings must be sufficient to outweigh the disadvantages of Government ownership and operation. This provides no assurance of consideration of contracting out and contributes to the relative permanence of in-house activities. A more positive provision with a specific minimum differential might contribute to more effective policy implementation while retaining consideration of relative economy.

The five-percent flexible margin included in the recommendations is to cover State and local taxes foregone. If the actual State and local taxes can be accurately determined, then that amount should be used even if it exceeds that five-percent margin.

GOVERNMENT-OWNED, CONTRACTOR-OPERATED FACILITIES

The Government sometimes contracts for a product or for management and technological skills (usually from industry) while owning the facilities used to produce the product or service. Such facilities are known as Government-owned, contractor-operated (GOCO) facilities and are neither pure in-house nor pure private sector activities. GOCOs are specifically excluded from Circular A-76, but are subject to BOB Circular A-49, "Use of Management and Operating Contracts," February 25, 1959.

GOCO facilities existed prior to World War II and DOD is still one of the largest owners of this type of resource.²⁶ GOCO facilities were established either to produce items that lacked commercial demand (for example, ammunition), or to provide services or facilities (for example, specialized testing facilities) too expensive for a single company to offer. DOD currently has 84 GOCO facilities, all operated by industrial firms.²⁷

AEC is the other large user of GOCO facilities. The Atomic Energy Act provides for Government ownership of facilities for the production of nuclear materials and authorizes AEC to make contracts for the operation of such facilities.²⁸ AEC has a different view of its GOCO operations than DOD and calls them "management contractors." The use of "management contractors" to operate AEC facilities is expressly authorized.²⁹ This concept began with the World War II project of the Manhattan Engineer District of the War Department, which combined the resources of industry and the academic community to successfully develop nuclear weapons. The participating organizations operated under flexible cost-plus-a-fixed-fee (CPFF) contracts and the spirit of cooperation achieved is not the ordinary buyer-seller relationship.

The same spirit of cooperation and mutual interest exists today between the AEC and its 40 management contractors. They operate 63 facilities employing 90,464 persons.³⁰ Major

AEC GOCO plants represent a capital investment of \$9.3 billion³¹ and annual operating costs of \$2.5 billion.³² They operate, for example, the uranium enrichment complex under the Oak Ridge Office; the production reactors and separation facilities at Richland, Washington, and in South Carolina; the AEC National Laboratories and other AEC-owned research facilities; and the AEC weapons production and test facilities. They provide miscellaneous construction services and operate many supporting facilities required for primary programs. An AEC management contract differs from other GOCO activities in that the AEC approach is oriented toward a long-term relationship and the accomplishment of an agency mission.³⁴

Commercial firms that have developed goods or services that compete with GOCO goods or services point out that while the original need was generally legitimate, there is no mechanism to discontinue their operations when the private sector can fulfill the need. They feel that a GOCO is more of an in-house activity than an industry operation since the contractor has virtually no risk or investment. These critics claim that a GOCO has a significant cost advantage over a competing industrial firm. To correct this situation, the Office of Federal Procurement Policy should consider strengthening Circular A-49 by supplying guidelines on the make-or-buy decision. The information presented at the hearings that established the Commission³⁴ and a recent GAO study³⁵ supply pertinent background data.

Some GOCOs could be useful to agencies other than the sponsoring agency. For example, the GOCO test complex of the Arnold Engineering Development Center (AEDC) has been made available to all potential users. Other facilities of this type should be industrially funded and made available to all potential users.

²⁶ *Ibid.*, p. 234.

²⁷ *Ibid.*, p. 227.

²⁸ O. S. Hiestand, Jr., and M. J. Florsheim, "The AEC Management Contract Concept," *Federal Bar Journal*, vol. 29, no. 2, spring 1969.

²⁹ U.S. Congress, House, Committee on Government Operations, *Government Procurement and Contracting*, hearings before a subcommittee of the Committee on Government Operations, on H.R. 474, "To Establish a Commission on Government Procurement," 91st Cong., 1st sess., 1969, part 2, p. 445 ff.

³⁰ U.S. Comptroller General, Report B-164105, *Procurement of Certain Products from Private Industry by the Atomic Energy Commission*, Oct. 22, 1969.

²⁶ Commission Studies Program.

²⁷ From annual reports of the military services in compliance with DOD Instruction 4155.5, *Inspection of Departmental Industrial and National Industrial Reserve Plants*.

²⁸ 42 U.S.C. 2061 (1970).

²⁹ S. Rept. 1211, 79th Cong., 2d sess., 1946.

³⁰ *Annual Report to the Congress of the Atomic Energy Commission for 1971*, Jan. 1972, p. 193.

CHAPTER 7

Timely Financing of Procurement

Efficient and economical procurement of goods and services requires thorough planning. Timing is the key factor in the planning process. The disruptions, inefficiencies, and waste caused by nonavailability of funds at the time they should be available are major impediments to efficiency and economy.

The record of regular appropriation acts over the ten-year period covering fiscal years 1964-1973 shows that of 129 regular appropriation acts approved by Congress only seven—one in 1964, two in 1966, two in 1967, one in 1968, and one in 1969—were approved prior to the beginning of the fiscal year on July 1. On the average, bills were 94 days late; the longest delay was 273 days, and 30 acts were passed 150 or more days after the fiscal year began.¹

The disruptions to the procurement process from such delays are so serious that we concluded the subject had to be dealt with, although fully recognizing that funding delays have a significance that goes far beyond the procurement process. However, our discussion is restricted to the effects of delayed funding on procurement. The validity of our suggestions as applied to related problems is for others to judge.

THE PROBLEM OF DELAYED FUNDING

Recommendation 27. Initiate effective measures to make procurement funds available

¹ Data for fiscal years 1964-1972 from *Congressional Record*, Apr. 18, 1972, p. S6119; data for fiscal 1973 from *Calendars of the United States House of Representatives and History of Legislation*, Oct. 18, 1972.

to the procuring activities in a timely manner.

(a) The executive branch should eliminate delays in the submission of authorization and appropriation requests.

(b) Congress should eliminate delays in its consideration of requests. Among the techniques which hold promise of providing substantial improvement, we believe each of the following deserves serious consideration by the Congress:

(1) Making greater use of authorization statutes covering periods of two years or more.

(2) Making greater use of authorizing legislation covering program objectives rather than annual segments of work.

(3) Making greater use of appropriations for a period longer than one fiscal year.

(4) Changing the fiscal year from July 1-June 30 to October 1-September 30.*

(c) The executive branch and its agencies should assure that apportionment, allocation, and allotment of appropriated funds are promptly made available to the procuring activities.

In directing our primary attention to the long series of delays in the passage of appropriation bills, we do not imply that this is the only funding problem nor do we intend to "point the finger" exclusively at Congress. Congress cannot deal effectively with either an authorization or an appropriation bill until authoritative proposals have been made by the executive branch. Moreover, many legislative stalemates cannot be overcome unless the ex-

*See dissenting position, *infra*.

executive branch proposes some viable alternative. Finally, in an area that so intimately involves the interrelationships between the legislative and executive branches and so greatly affects the operational capability of the executive branch, Congress seldom legislates entirely on its own initiative. The problem of late appropriations extends beyond Federal operations; through grant programs, it also extends to State and local government operations, including most school districts. As summarized by the late Senator Ellender:

I think this to be a very important subject and one worthy of attention by Congress and the executive branch. Over the last 20 years, it seems that a trend or pattern of procedure gradually developed whereby long delays in the approval of appropriation acts became the accepted order of the day. The pattern was marked by an increasing number of appropriation acts which, in each session of Congress, were not approved at the beginning of the fiscal year. The trend became more pronounced during the 1960's. Many Federal agencies have been forced to operate on continuing resolutions for long periods of time during each fiscal year of the last 10 or 12.

There is no question that this procedure is not in the interest of good government under our present system of financing. There can be little doubt that the question marks raised by long and unpredictable delays in the appropriations process are answered by considerable waste and inefficiency in the Government's operation.²

Although late appropriations have tended to become the rule rather than the exception, there is no easy way to adjust to them. Invariably, a certain number of appropriations are passed long after the beginning of the fiscal year, but since it cannot be predicted which appropriations will be late and how late they will be, there is no basis for effectively adjusting planning to meet the problem.

An ongoing function that remains unfunded at the beginning of a fiscal year is supported by a series of "continuing resolutions" that keep the function alive until the appropriation

is finally passed. The continuing resolutions permit the agencies to expend funds at one of three rates based on the legislative status at the time the resolution is enacted:

- Where neither chamber has yet acted on the appropriation request, the current rate (i.e., the rate for the prior year to that for which the budget applies) or the level of the new budget, whichever is lower.
- Where both chambers have passed different versions of the bill, the lower of the two rates approved.
- Where one chamber only has acted, the rate approved by that chamber or the current rate, whichever is lower.

Once a continuing resolution has been passed, later action by either one or both chambers does not constitute permission to change the rate of expenditure unless a new continuing resolution is passed by both chambers subsequent to such action.

Although continuing resolutions permit agencies to continue their ongoing functions, they do not accommodate evolving programs nor do they reflect reduced requirements that may result from unplanned curtailments in an appropriation act. Finally, continuing resolutions do not support any new operations.

The use of continuing resolutions tends to reduce the ability of Congress to expand, contract, or eliminate programs, since a substantial portion of the fiscal year elapses before final congressional action is taken. In a statement before the Joint Committee on Congressional Operations, the Assistant Secretary of Defense (Comptroller) discussed the impact of late appropriations on changing programs:

In addition to the Department's problems, we believe that present arrangements pose serious problems for the Congress. One result of the extensive delays in Defense bills is that, when Congressional decision points are reached, the ability to change Defense programs has been sharply diminished by the passage of time. The regular bills, enacted in the middle of the fiscal year, are subject to timing considerations. By that time, the Department has been operating for six months based on the continuing resolutions. Plans and work schedules are in being covering at least the next several months—this

² *Congressional Record*, Apr. 13, 1972, p. S6116.

involves deployments, combat operations, training rates, rebuild and transportation schedules, manpower programs, ship and aircraft operations, and so forth. At the same time contractors are at work producing goods and services for Defense. Industry manpower is engaged, parts orders and subcontracts have been let, and work is proceeding. Large parts of the Defense program are not subject to orderly change if decisions are delayed until the middle of the fiscal year.³

EXAMPLES OF INEFFICIENCIES CAUSED BY LATE FUNDING

Even the most routine procurements depend on ordering points that, in turn, depend on the rate of use and the delivery time. A delay in ordering frequently results in added expense for accelerated delivery, substitution of a more expensive or less efficient item, or the wasted expense incurred in stopping the work and restarting later.

Results for nonroutine procurements can be disastrously out of proportion to the item being procured. In one case, a six-month delay in fund availability delayed an atomic weapons test program for another three months because, when the funds did become available, it was too cold at the test site to pour concrete.⁴

The Department of the Army cited several problems that occur when delayed funding prevents the scheduled delivery of new equipment; such delays required old equipment to be kept longer than had been expected. The old equipment required repairs or even reconditioning to keep it going—an added expense that otherwise would have been avoided. Further expense resulted from the cost of transporting old equipment to depots for repairs and from paying overtime to shorten turnaround time at the repair depot.⁵

An example of an entire program delayed by a late appropriation was given in hearings before the House Appropriations Committee concerning Department of Defense (DOD) ap-

propriations for fiscal 1972.⁶ The delivery of missiles under the research and development phase of the procurement had been scheduled for completion by November 1, 1970. DOD planned to enter into a production contract on that date, well after the beginning of the fiscal year. However, the appropriation was not enacted until January 11, 1971, and the production contract could not be signed until January 18, 1971. To ensure continuity in the program and to prevent a break between the research and development and production phases of the program, the delivery of the missiles was stretched out. Had a break occurred, there would have been a loss of skilled personnel and a lack of continuity in the various support services (for example, utilities, guard, and custodial services). These actions, according to the testimony presented, increased the cost of the research and development and the production phases by more than four million dollars, but this was considered prudent in order to avoid even more costly alternatives.

The Bonneville Power Administration (BPA) representatives stated that operating under a continuing resolution hinders efficient program implementation because their activities are such that full advantage must be taken of favorable weather to assure availability of power. BPA finds that during the favorable construction season, delays in appropriations result in delays in awarding contracts.⁷

Contractors advised that late passage of appropriations forces them to work with short leadtimes, perform under difficult delivery schedules, reduce or curtail operations, and incur startup costs when the full operation is reinstated. On occasion, contractors spend their own money in order to meet contract delivery schedules. In this regard, one company representative advised that the impact of late appropriations was felt in three ways:⁸

1. We have been forced to work with extremely short leadtimes for bid and proposal preparation in many cases, and to perform tight, difficult and sometimes impossible delivery schedules.
2. Funding delays cause layoffs followed by

³ U.S. Congress, Joint Committee on Congressional Operations, *Hearings on The Federal Fiscal Year as It Relates to the Congressional Budget Process*, June 1971, p. 225.

⁴ Study Group 2, *Final Report*, Nov. 1971, p. 101.

⁵ *Ibid.*, pp. 97-98.

⁶ U.S. Congress, House, hearings before a subcommittee of the Committee on Appropriations, 92d Cong., 1st sess., part V, May 12, 1971, p. 200.

⁷ Study Group 2, *Final Report*, Nov. 1971, p. 100.

⁸ *Ibid.*, pp. 104-105.

associated startup problems and excessive administrative costs.

3. [Our company] has found it necessary to take excessive risks by spending its own monies in advance of contract receipt in order to assure meeting contract delivery schedule requirements.

The continuing resolutions passed by Congress only partially alleviate the impact. When, as often happens, the previous fiscal year's budget contains funds for only the initiation of a project or for an ascending rate of activity, the rate attained at the end of the fiscal year cannot be maintained while adhering to the previous year's overall funding level. The result is a stretchout or a complete stoppage of the project.

Continuing resolutions are interim actions, frequently on a month-to-month basis. Like any method of piecemeal or incremental funding, they are costly to administer. They require a repetitive expenditure of time and effort to process the limited funding actions and additionally, and perhaps more importantly, are completed only by expending efforts that should be devoted to other activities (for example, monitoring and directing the work itself). A DOD study describes some of the costly administrative workload resulting from incremental funding as a "paper mill," involving preparation and execution of multiple supplemental agreements or change orders for each contract in a program. In the office studied, the investigators found programs with as many as 60 contracts and cited examples of single contracts having to be modified six or more times. The investigating team concluded:

... the Air Force pays dearly for this method of contracting, not only is procurement effort diverted from its primary mission, but also in the intangibles of increased risk and program uncertainty, higher prices for long leadtime items, and other contract and overhead costs... These funding problems make the acquisition process most difficult... Furthermore, funding problems that lead to stretchouts (as evidenced in the Titan III CPIF contracts) vitiate and destroy the original and meaningful premises upon which the contract incentives were based. Subsequent attempts to preserve contract incentives in an environment of

stretchouts, incremental funding and resultant change orders, become exercises in futility.⁹

These examples cover only some of the adverse effects of delayed funding. Other effects include:

- Costly temporary expedients; for example, using higher-priced rentals (all kinds of equipment or space) because money to buy or execute long-term leases is temporarily delayed.
- Purchasing routine supplies more frequently and in smaller quantities (with added costs resulting from loss of quantity discounts and higher transportation costs).
- Inability to exercise options or complete award procedures on a procurement prior to the expiration date of the option or bid (necessitating readvertising and analysis of new proposals).
- Compressing time periods allowed for preparation of bids and proposals and lead-times to start work or make deliveries in an effort to recoup part of the time lost because of the funding delay.

All of these practices are expensive and wasteful when considered in the light of the hundred of thousands of actions¹⁰ to which they apply. The cumulative effect of even a small added cost on each would bring the dollar total to a very high level.

For the same reasons given by the Director of the Office of Management and Budget and the Legislative Reference Service,¹¹ we cannot accurately estimate the total impact of late appropriations on the procurement process: there are too many variables and their effect is spread over hundreds of thousands of individual procurements. It is impractical and too costly to design a reporting system that would enable one to add them up and obtain a total. Despite this inability to estimate the total ac-

⁹ U.S. Department of Defense, Procurement Management Review Program, *A Review of Procurement Operations in the Space and Missile Systems Organization (SAMSO)*, Dec. 1968.

¹⁰ There are nearly 16 million separate procurement transactions annually; since appropriation delays averaged approximately 90 days per year per appropriation bill (see *Congressional Record*, Apr. 13, 1972, pp. S6118-S6119), the number of transactions on which funding restrictions might produce waste and inefficiency could run as high as 4 million per year.

¹¹ See *Congressional Record*, Apr. 13, 1971, pp. S6116-S6117. Both of these agencies had been asked to provide estimates of the total cost of late appropriations, but neither was able to do so. Some of their examples indicate clearly the impact on other aspects of Government activity—Federal, State, and local.

curately, there is no disagreement that the waste and inefficiency are most serious. We believe that the impact on procurement alone involves some hundreds of millions of dollars annually.

ALTERNATIVES FOR CONSIDERATION

During hearings in June 1971, the Joint Committee on Congressional Operations considered three primary alternatives for expediting the budget process.¹²

Lengthening the Period of Appropriations

One alternative was to appropriate for construction programs on a full-funding basis and to appropriate for regular ongoing functions of Government for two years. This procedure would reduce the congressional committees' annual workload on a balanced basis, thereby permitting review and approval of fewer authorizations and budgets each year without a substantial loss in congressional control. Hopefully, this, in turn, would permit acting on all bills prior to the start of the fiscal year. We found that such procedures would alleviate some of the procurement problems, since planning periods could be based on a two-year rather than on a one-year cycle.

Changing the Authorization Process

A former Director of the Bureau of the Budget suggested the following changes in the authorization process:

- Authorizations should be made effective for longer periods of time, at least two years and preferably five years, or for an indefinite period. For example, in the case of construction projects requiring three or four years to complete, Congress could authorize the entire project at the outset.¹³
- A greater portion of the authorizing leg-

islation should be stated in program terms instead of in dollar amounts, leaving the annual amount of funds to be determined by Congress when it acts on the appropriations.

- Authorizing legislation which expires in one calendar year should be reviewed during the preceding year. In other words, renewals and extensions would be enacted in 1973 for authorizing legislation which expires in calendar year 1974.

- The rules of Congress should be amended to make it possible for appropriations to be considered when authorizations are not acted upon in a timely manner.

Many observers believe the root of the delay problem is in the authorization process, particularly the tendency to restrict authorizations to a single fiscal year or to a maximum dollar amount for the budget year, rather than consider them in terms of whole programs or integral segments of programs.

Many authorization provisions are in so-called "permanent" legislation, but during recent years there has been a growing tendency to require an annual enactment of an authorizing bill. The number of appropriations requiring annual authorization increased from 8.2 percent of the total in fiscal 1960 to 19.3 percent in fiscal 1972. The dollar amounts of appropriations requiring annual authorization for fiscal 1960 and 1972 were \$6 billion and \$32.9 billion, respectively.¹⁴ Specific annual authorization acts are now prescribed for DOD procurement of military aircraft, missiles, naval vessels, tracked combat vehicles, naval torpedoes, other weapons, research and development, and construction. Annual authorization requirements also have been extended to appropriations for NASA, AEC, Foreign Aid, the Coast Guard, and the National Science Foundation.

The objective of having both an authorization and an appropriations process in Congress seems to be to provide one forum in which the program aims and the means of accomplishing them can be reviewed and another forum in which the annual dollar expenditures can be evaluated and compared with competing needs. Contrary to this objective, the more the au-

¹² Note 3, *supra*.

¹³ See Part E for a further discussion of construction funding problems.

¹⁴ U.S. Congress, Joint Committee on Congressional Operations, *Changing the Federal Fiscal Year: Testimony and Analysis, First Report, 92d Cong., 1st sess., H. Rept. 92-614, p. 52.*

thorization process deals with annual increments of work—rather than with the entire program or integral segments of it—the more the two sets of hearings tend to concentrate on the same short-range questions and the less attention is given to overall objectives and longer-range implications. Agencies for which annual authorization is required must present their programs to four different congressional committees. They find that the presentations to both the authorizing and appropriation committees tend to concentrate on the same questions and issues and revolve around the dollar estimates for the budget year rather than providing a basis for evaluating basic objectives.¹⁵

The congressional committee having jurisdiction has a basic responsibility for what is to be undertaken and for such oversight as is needed to reassure Congress on such matters as program integrity, control, and methods of accomplishing the agreed-upon objectives. However, accomplishing these tasks need not depend on having annual expiration dates for the authorizations. Such alternatives as staggering the expiration dates for different programs but holding periodic program reviews could provide the authorizing committees with full control over these matters, without imposing the arbitrary limitations that result from having authorizations expire annually.¹⁶

¹⁵ Interestingly, the check-and-balance system represented by the congressional rules requiring authorizing legislation before funds can be appropriated seems to have originated as an answer to late appropriations earlier in our history:

The roots of this procedural distinction in the House of Representatives were planted by John Quincy Adams, who served in the House after he left the White House. He complained that appropriation bills had tacked on to them all sorts of legislative matters (called 'riders') which gave rise to dissensions and protracted debate in the House, "with the consequence that appropriation bills dragged their slow length along through half a year before they finally passed." His proposal was to require that appropriation bills be reported within 30 days after the commencement of each session.

From early debates on the subject there resulted a House rule which requires that before an appropriation is made, the expenditure first must be authorized by law. Thus, there is set up a dual legislative process. Authorization or policy is one enactment; funds to carry it out is another and separate enactment. (Herbert Roback, *Congressional Interest in Weapons Acquisition*, a paper read at the Program Managers Course, Army Logistics Management Center, Fort Lee, Va., July 1962, pp. 14-15.)

¹⁶ For example, the Legislative Reorganization Act of 1970, as implemented under the present House Rule XI, 29, requires the committees to conduct a review and study on a continuing basis of appropriation, administration, and execution of their jurisdictional laws. Each committee, whether House or Senate, is required to submit a biennial report on its review and study activities. There is no need, therefore, to regard the annual authorization as the only means to enable and ensure periodic program evaluations by the committees.

Also, it is imperative to distinguish between a continuing long-term activity and a one-time major project. In the latter case, there is seldom good reason for enacting authorizing legislation which does not permit completion of a usable product or achievement of a given end result. Thus, authorizations should treat either the project in full, or, at least, usable individual segments in a sequence which would produce usable results even though the remaining segments are not authorized. If such a project or integral segment extends over several years, the authorizing committee has other means, such as annual reports, and program reviews, for maintaining control over the project.

In the case of continuing activities, authorizations enacted a full year in advance (that is, in the legislative session prior to the session at which the appropriation would be considered) have two very distinct advantages. First, continuity of the program is maintained since such a system allows ample time for agencies to plan program adjustments desired by Congress, on a basis that causes far less disruption than the present system. Second, such a system eliminates the delay in considering appropriation bills because of a lack of authorization and makes it possible for the budget submissions to be much clearer, since the major elements of the program have been decided when the budget is being prepared.

In our opinion, adoption of suggestions along these lines would significantly benefit the procurement process; planning for procurement is best accomplished in terms of the natural phases of the work at hand. For many activities, these phases bear little or no relationship to a fixed period on the calendar.

Change Dates of the Fiscal Year

Under the fiscal year system, Congress receives, in January, the budget for the year beginning the following July. This leaves about six months for the congressional review and approval process.

Under one proposal to change to a calendar year, Congress would receive the budget in January for the year beginning the following January. This would, on the surface, appear to

permit a period of 12 months for congressional review and approval. However, as presented by the testimony on this proposal, if the new budget is to be based on actual data for the past year (to end in December) it could not be submitted until around April and half the added time would thus be dissipated.

This led to discussion of another alternative which would change the fiscal year from July 1-June 30 to October 1-September 30. On this basis a budget presented in January could contain actual data for the year ending on the preceding September 30, and Congress would have nine months instead of six months prior to the beginning of the budget year to consider and act on the proposals.

The improvement this could make in the cycle is obvious from data on dates of appropriations approvals over the last ten years.¹⁷ As mentioned earlier, only seven out of 129 bills were approved prior to July 1 for fiscal years 1964-1973, but 55 bills were approved prior to October 1; in five of the ten years, more than half of the appropriation bills were enacted prior to October 1.

DISSENTING POSITION

One Commissioner* does not concur with the

¹⁷ Note 1, *supra*.
*Commissioner Sanders.

recommendation to change the fiscal year (Recommendation 27(b)(4)). He subscribes to the conclusion reached by the Joint Committee on Congressional Operations¹⁸ that insufficient evidence exists to warrant changing the fiscal year.

SUMMARY

Unplanned funding delays—regardless of cause—lead to disruptions, substitute decisions, and temporary expedients that are both costly in themselves and inefficient in terms of the program objectives that procurement is supposed to serve. While procurement is not the only Governmental function affected, the problem affecting procurement is so serious that we consider its early solution imperative. Other considerations obviously are involved, but from examples we have seen of problems arising in other areas of Governmental activity, including the effects of late appropriations on State and local governments, school boards, and so on, the problem of late appropriations must be squarely faced and promptly resolved.

¹⁸ Note 14, *supra*.

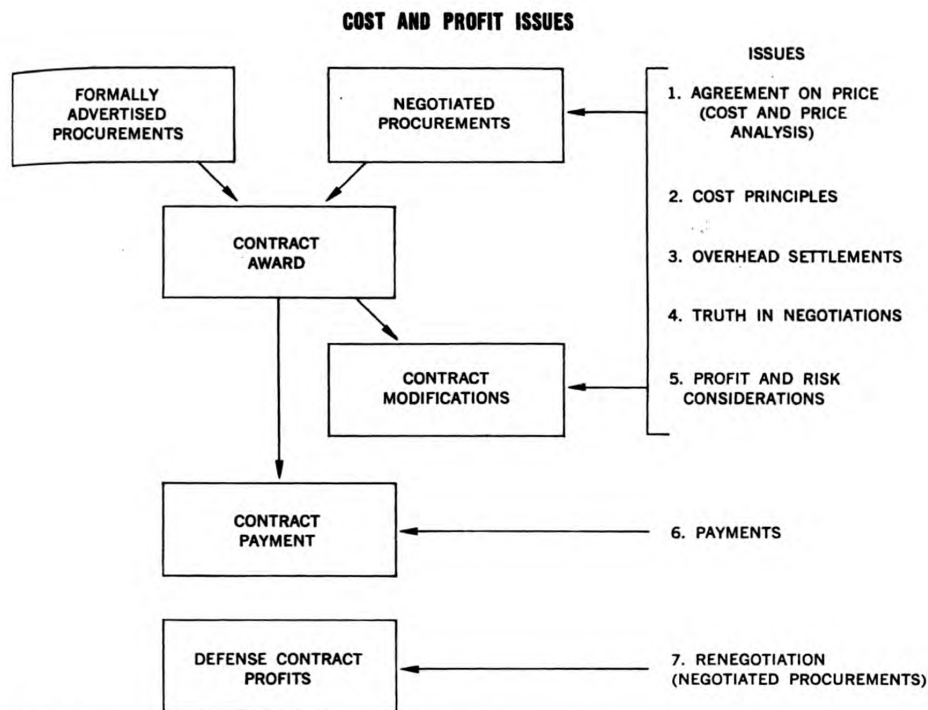
CHAPTER 8

Selected Areas in the Acquisition Process

COST AND PROFIT ISSUES

The negotiation of price agreements for negotiated procurements, including modifications to formally advertised contracts, usually involve cost and profit considerations. Figure 1 lists seven key cost and profit issues and shows

their relationship to major stages of formally advertised and negotiated procurements. Truth in negotiations and renegotiation involve statutory considerations covered in Part J, Chapter 4. This section covers the five other cost and profit issues.



Source: Commission Studies Program.

Figure 1

Negotiated Agreements on Price

Success in negotiating equitable price agreements requires, among other things, the ability to make sound judgments based on the amount, kind, and quality of available information, artfulness in bargaining, and time. If there is adequate price competition, the principal task is to determine which of several competing proposals will satisfy a requirement and be delivered on time for the lowest *total* cost. Further detailed price and cost analyses are usually unnecessary.

In noncompetitive situations, the objective of proposal analysis and negotiations is to achieve a price equivalent to one that would be obtained in open competition. Most offerors can be expected to propose prices they believe will afford them as much protection or profit as possible. The offeror first estimates what he believes will be the cost to perform, considering all uncertainties. He then presents the facts that best support his price proposal. The buyer, on the other hand, counters with an offer to buy at a price as low as he thinks the offeror can be persuaded to accept.

Techniques for the evaluation of proposals include (1) price analysis and (2) cost analysis.

Price analysis relates the proposed prices to the prices paid for an earlier procurement of comparable items and to current price trends in the competitive marketplace.

Cost analysis is often used to establish the basis for negotiating contract prices if price competition is inadequate or if the product or service has never been marketed. This type of analysis involves the detailed evaluation of the seller's proposal, including his assumptions, cost estimates, backup cost information, and other relevant data. Thus, cost analysis is an important tool in the negotiation of price agreements, and advancement in pricing techniques can be expected from refinements in its use.

Cost Principles

Recommendation 28. Establish Government-wide principles on allowability of costs.

Both estimated and actual costs are used in pricing various types of negotiated contracts or modifications to contracts. Cost principles are used to help judge whether or not costs are reasonable and allowable.

In cost analysis, cost principles help to identify various cost elements that can then be evaluated to determine their allowability. Factors considered in the evaluation are reasonableness, allocability, application of generally accepted accounting principles and practices appropriate to the circumstances, and limitations in the contract as to type or amount of cost.

Cost principles in the Armed Services Procurement Regulation (ASPR), Federal Procurement Regulations (FPR), and other agency regulations prescribe rules for the allowance of costs in the negotiation and payment for cost-reimbursement contracts. For example, these regulations forbid the recovery of interest, entertainment expenses, donations, and certain advertising costs. They also require use of cost principles in the pricing of fixed-price contracts and contract modifications whenever cost analysis is performed.

The tests of reasonableness and allocability are matters of interpretation, judgment, and agency policy and are the source of many disputes between Government and industry. The definitions of allocability in ASPR and FPR are identical.¹ The FPR definition is not mandatory for all civilian agencies. The Atomic Energy Commission (AEC), which performs most of its work in Government-owned, contractor-operated (GOCO) plants, has its own definition of allocability.² The difference is that AEC does not include the provision of the ASPR and FPR that a cost is allocable if it "is necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown."³ This variance has led to a difference in recognition of independent research and development (IR&D) and bid and proposal (B&P) costs.

The Department of Defense (DOD) Contract

¹ ASPR 15-201.4; FPR 1-15.201-4.

² U.S. Atomic Energy Commission, Office of the Controller, memorandum to all field offices, *Contract Cost Reimbursement Principles*, Mar. 2, 1971.

³ Note 1, *supra*.

tor's Weighted Average Share of Risk (CWAS) program, introduced in ASPR in 1966, is another example of variance in cost principles. It is based on the principle that a given profit center which has in excess of 65 percent (using a weighted scale) of fixed-price or commercial contracts should be exempt from a determination of "reasonableness" on specific cost elements delineated in ASPR 15-205. If such costs are not "reasonable" the contractor stands to lose more than the Government. No other agencies have adopted this system, yet this would seem to be sound for all agencies or for none. The contractor annually justifies his qualification for exemption, but it only applies to his dealings with DOD.

Other differences exist among the cost principles in agency procurement regulations. Many of them have persisted despite many attempts to attain consistency.⁴ There is no good reason for different treatment of identical cost items simply on the basis of differences in the agencies involved. The Office of Federal Procurement Policy should promulgate cost principles for use by all agencies.

Settlement of Overhead Costs

Recommendation 29. Establish procedures for a single, final overhead settlement binding on all Federal contracts at a given contractor location.

In formally advertised procurement, overhead allowability is not an issue in the initial award since it is assumed that reasonableness has been determined by market competition. However, overhead allowability can be involved in modifications to such contracts.

In negotiated contracts, allowability of overhead costs generally requires a specific agreement. In all Government agencies, final overhead settlements are reached either by negotiated settlement or by audit determination.

If the *negotiated settlement* method is used, a contractor's proposal covering indirect costs for a period of time, usually a year, is audited, and a report that includes audit recommendations on acceptable and unacceptable costs is

submitted to the contracting officer. Settlement negotiations follow and, depending on the overhead rate agreed on, contractor billings are adjusted.

Under the *audit determination* method, the Government auditor makes an after-the-fact final rate determination based on his review and evaluation of the reasonableness, allocability, and allowability of the cost involved in accordance with cost principles and contract terms. If the contractor and the auditor cannot agree on a final overhead rate, the contractor may appeal to the contracting officer and, if appropriate, to the agency board of contract appeals.

Under either method, final settlements seldom are made promptly, which results in long delays in closing-out completed cost-type contracts. The main reasons reported for the delays in final overhead settlements are:

- Differences in interpretation and application of Government cost principles
- Contractor appeals to contract appeal boards or to the courts
- Low priority accorded to overhead audit and settlement among contract actions.

The lack of uniformity in procedures and standards for overhead rate determinations may cause a contractor to have different determinations made for his contracts although cost elements are the same.

More consistency of treatment is needed in determining a contractor's final overhead rate. A single, final overhead rate that is binding for all Government contracts at a given contractor location should be required to eliminate the costly duplication of administrative procedures and reduce delays in the settlement of completed contracts.

Profit and Risk Considerations

Recommendation 30. Develop uniform Government-wide guidelines for determining equitable profit objectives in negotiated contracts. The Office of Federal Procurement Policy should take the lead in this inter-agency activity. The guidelines should em-

⁴ Study Group 7, *Final Report*, Feb. 1972, pp. 343 et seq.

phasize consideration of the total amount of capital required, risk assumed, complexity of work, and management performance.

Recommendation 31. Evaluate procurement negotiation procedures on a continuing basis to compare results obtained in completed contracts with original objectives. This evaluation should take place Government-wide.

Profit is the basic motive of business enterprise and the Government uses this motive to stimulate efficient contract performance. However, Government policies for negotiating profit levels and the cumulative effect of many other procurement policies and practices frequently lessen profit levels so that they no longer motivate.

Requirements for unlimited contractor liability clauses, use of inappropriate contract types, and promotion of price "auctions" among competitors are examples of regulations and practices that have shifted some of the risks of contract performance from the Government to the supplier. Although contractor risks on Government contracts have increased, profits as a percentage of sales have declined. At the same time there is no accepted alternative standard, such as profit as a function of capital employed, to measure profit.

The amount of profit that a contractor should be allowed to earn is controversial, but the principle that reasonable profits are necessary to maintain a viable industry is generally accepted.⁵ Companies that depend on Government contracts for business often cannot rely on other customers even when profits from Government contracts are considered too low. The implied option to drop unprofitable Government business is not a viable one for the supplier or for the Government. Highly specialized facilities, personnel, and product lines are factors that may prevent movement away from Government business.

In some extremely unprofitable situations the Government has taken extraordinary measures, such as loan guarantees, to preserve an essential supplier. In one case, the effectiveness of our national defense was at issue. The rela-

⁵ See Part J for discussion and recommendation regarding the Renegotiation Act.

tionship created by such extraordinary measures is far beyond profit motivations and other free enterprise principles. Nevertheless, most Government suppliers depend on realistic Government profit policies and procurement practices.

In 1963, DOD adopted a formula approach to compute "going-in" (or initially established) profit rates. DOD determined an initial profit by applying a percentage factor to various elements of cost. Percentage factors also were applied to the total cost based on the supplier's assumption of cost risk, his past performance, and his dependence on the Government for financial resources or property. The new policy and procedures were intended to stimulate effective and economical contract performance by the use of the profit motive. A report by DOD in 1971⁶ showed that the use of weighted guidelines increased going-in or initial profit rates, but that final profits were significantly less than those established in the initial agreement.

DOD is revising its method of computing going-in profit objectives to recognize capital employed as a basic element of profit policy; to remove the inequities of a cost-based weighted guidelines policy, and to encourage contractors to invest in facilities and equipment.⁷ The new system embodies return on investment (ROI) concepts that have been under study for several years.

NEED FOR UNIFORM PROFIT GUIDELINES

Regardless of the system used for computing going-in profits, they will not be realized unless procurement policies and practices conform to profit objectives. The current emphasis on maximum competition (including discussions with competing offerors that amount to price auctions,⁸ inadequate estimating and pricing, and the use of improper contract types) frequently prevents the establishment of realistic going-in profits. Agency controls that prevent

⁶ U.S. Department of Defense, *Profit Rates on Negotiated Prime Contracts, Fiscal Year 1971*.

⁷ U.S. Department of Defense, ASPR Case No. 70-41.

⁸ See "Government Property," *infra*, for discussion and recommendations pertaining to disposal of Government property and facilities.

⁹ See discussion in Chapter 3.

the exercise of management prerogatives, funding uncertainties that stretch out performance, and the disallowance of normal business expenses (such as bid and proposal and independent R&D costs) are some of the policies and practices that can limit potential profits.¹¹

Unlimited liability contract clauses add to supplier risk without offering additional profit considerations. "Anticliams clauses" minimize and control contractor claims by requiring early identification of constructive changes and by making the contractor responsible for defective specifications over which he had no control. Unless compensation for such risk is incorporated into the established profit objective, this "overreaching" by the Government results in an undue shift of risk to the contractor. This view is seldom shared by the "overreaching" agency.

Congress directed¹² the General Accounting Office (GAO) to study profits earned on negotiated contracts entered into by DOD, NASA, the Coast Guard, and AEC contracts to meet DOD requirements. GAO found¹³ that profits measured as a percentage of sales were significantly lower than those earned for comparable commercial work done by the 74 large DOD contractors included in the study. When profit was considered as a percentage of the total capital investment, the difference in profit percentages between defense and commercial work narrowed considerably.

The GAO report¹⁴ recognized the administrative problems involved in providing for consideration of total invested capital. The report recommended that the Office of Management and Budget (OMB) take the lead in inter-agency development of uniform Government-wide guidelines for determining profit objectives. The guidelines would emphasize the total amount of contractor capital required if effective competition is lacking. To develop these guidelines, OMB organized a Task Group in November 1971 consisting of personnel from AEC, DOD, GSA, and NASA. The Task Group has considered three or four approaches and has reviewed DOD policy development and test

implementation. The work of this group is continuing.

Any system of profit guidelines must be closely monitored to determine the profit being attained on completed contracts. Because of the added impact on profit of other procurement policies, we believe the task of developing and monitoring Government-wide profit guidelines is consistent with the role of the Office of Federal Procurement Policy.

Payments

Recommendation 32. Establish contract payment offices to make payments for all Federal agencies in each of the ten Federal regional areas. This could be accomplished by a lead agency designated to formulate standard procedures to implement this recommendation.

The methods and timeliness of the payment for work performed by prime contractors and subcontractors have a significant impact on realized profit. Inconsistencies among agencies in the processing of vouchers cause confusion in submitting vouchers for payment. The fact that the Government does not recognize interest as a contract cost¹⁵ makes late payment of vouchers a matter of great concern to contractors. A Government-industry study¹⁶ of contract financing found delays in progress payments that ranged from 3 to 22 days. In addition to recommending improvement in the promptness of payments, the subcommittee recommended that progress payments be made less frequently and that costs of materials and subcontracts be paid only when the prime contractor pays his bills. These recommendations became effective for DOD contractors on January 1, 1972.¹⁷ One industry executive¹⁷ estimated that when this policy is fully implemented prime contractors would be paying out

¹¹ U.S. Department of Defense, Defense Procurement Circular No. 97, Feb. 15, 1972, makes provision for interest payment on claims arising from disputes when settled in the contractor's favor.

¹² U.S. Department of Defense, Industry Advisory Council Subcommittee to Consider Defense Industry Contract Financing, June 11, 1971, p. 16.

¹³ U.S. Department of Defense, Defense Procurement Circular No. 94, Nov. 22, 1971.

¹⁴ Richard Mulligan, Controller, TRW Systems Group, quoted in *Government Contracts Service*, supplement 11-71, Procurement Associates, Inc., p. A-3.

¹⁵ Each of these subjects is discussed elsewhere in the report.

¹⁶ U.S. Congress, *Armed Forces Appropriation Authorization Act, FY 70*, Public Law 91-121, 91st Cong., Nov. 19, 1969.

¹⁷ U.S. General Accounting Office, Report B-159896, *Defense Industry Profit Study*, Mar. 17, 1971, pp. 15-17.

¹⁸ *Ibid.*, pp. 34-38, 41-45, 54-55.

about \$700 million a year ahead of progress payments. Interest on that amount would be about \$56 million. Thus, payment delays will become more critical.

Interim payment vouchers under cost-type contracts are handled in a variety of ways. For example:

- In DOD, all interim vouchers are submitted by the contractor directly to a DCAA audit office for provisional approval and to a disbursing office for payment.
- Under NASA Regulations, the contract auditor transmits provisionally-approved vouchers to the cognizant fiscal or financial management officer and issues NASA Form 456, "Notice of Contract Costs Suspended and/or Disapproved," through the cognizant contracting officer to the contractor.
- In other civilian agencies, there does not seem to be any uniformity in the processing. FPR 1-3.809(10)(c)(i) provides that "when the circumstances warrant, arrangements may be made for the contract auditor to examine contractor's reimbursement vouchers or invoices, and transmit those approved for payment to the cognizant contracting or disbursing officer." Agencies governed by FPR have instituted their own procedures, but these vary among agencies and sometimes within the same agency. The methods range from direct submission of vouchers to the finance office, to four levels of review before payment is made.
- Letters of credit have been used by civilian agencies to make advance payments to universities, other nonprofit organizations, and State and local governments under both contracts and grants using Department of the Treasury Circular 1075.¹⁸ This procedure may be used with for-profit contractors, but we found it was being used only for operating contractors at Government-owned facilities. Department of the Treasury Circular 1075 is being currently revised.

Under DOD and NASA procedures interim (not final) vouchers are processed and paid within 30 days, and generally within two weeks. The audit of these vouchers is mainly

¹⁸ FPR 1-30.104-1.

clerical. A detailed audit is performed only in exceptional cases. Other agencies, however, required 45 to 90 days and, in some cases, 120 days were needed. One agency had a backlog of 75,000 unpaid purchase orders under \$50.

The multiplicity of paying offices also causes delays. DOD has 500 disbursing offices in the United States, 27 of them in metropolitan Washington, D.C.¹⁹ Many contractors must forward their vouchers to several disbursing offices. Some contractors deal with as many as 45 DOD disbursing offices,²⁰ while any contractor who is also doing business with civil agencies must deal with another group of paying offices.

DOD has been studying the consolidation of its paying offices since 1965.²¹ A recommendation to establish a Defense Disbursing Service was not implemented although piecemeal improvements have been made, including the consolidation within DCAS at the 11 regions and a reduction from 13 to 2 Air Force Contract Management Division paying locations. These consolidations have improved efficiency, but they have done little to solve the industry problem.

The multiplicity of paying offices throughout the country is inefficient and costly for both the Government and the contractor. All contract payments for Government agencies should be processed by regional offices using standardized procedures.

CONTRACTOR-FURNISHED INFORMATION: PRODUCT DATA AND MANAGEMENT SYSTEMS

The Government often requires two kinds of information from contractors: product data on the product or service being provided and management information needed to monitor the performance of the contractor. Information requirements are spelled out in the contract. They vary from minimal product data in fixed-price contracts for standard commercial items

¹⁹ U.S. Department of Defense, *Joint Procurement Management Review of Assigned Contract Administration Responsibilities within the DOD*, Feb. 1969.

²⁰ Study Group 5, *Final Report*, Feb. 1972, p. 322.

²¹ U.S. Department of Defense, *Study of Disbursing Systems in Selected Areas of DOD*, Mar. 1966.

to extensive product data and management information for complex systems such as space vehicles, transportation systems, and nuclear powered ships.

The annual cost of acquiring product data and management information from contractors amounts to billions of dollars. The Blue Ribbon Defense Panel²² reported that the cost to the Department of Defense (DOD) for management system application and related reports alone was about \$4.4 billion in fiscal 1969.

Product Data

Recommendation 33. Establish standards and criteria for estimating costs and benefits of product data requirements. The need for product data should be determined on the basis of cost-benefit analyses. Selective after-the-fact reviews should be used as a basis for eliminating unnecessary requirements.

The Government needs data describing the product or service being furnished under a contract for a wide variety of purposes. Typical needs for even the simplest equipment include maintenance and operation manuals, replacement parts lists, and inspection or quality control data. If the product or service is complex or critical, the need for descriptive data tends to be urgent and voluminous. Although we do not question the legitimacy of these requirements, we believe that there is a tendency to acquire excessive or unnecessary data. We recognize that effective control of the quantity and cost of acquired data is an immensely difficult task. Nevertheless, the potential for vast savings clearly indicates the need for a continuing effort to minimize data requirements.

DOD has long recognized this potential for savings and has established a data management program. Prior to soliciting proposals for a new major program, a "data call" requests that the data needed from contractors be identified. The data call is directed to program management, engineering, training, maintenance,

operations, supply, and other units concerned with the program.

Planners must use an "authorized data list" to select the information they require. New or revised data requirements must be separately identified and approved by the program/project manager. Frequently, a special board reviews such requirements. When finally approved, the consolidated data requirements become part of the contract.

EARLY ACQUISITION OF DATA

Despite the notable progress of the DOD data call program and the continuing efforts of other agencies, unnecessary and costly acquisition of data persists. In requests for proposals (RFP) for items not yet designed, agencies routinely require preservation, packaging, and transportability plans; field and depot support plans; personnel subsystem development plans and other planning information. The value of such data at that point is questionable, as the data have little impact on a decision to select one contractor over another.

The Government frequently acquires data for future competitive procurements. This policy, although sound in intent, is impractical when the data acquired cannot be effectively used by competitors. Further, when agency officials do not have a sound basis for deciding what specific data should be acquired, the result is a costly exercise that fails to establish additional competitive sources.

One technique which can help to reduce data requirements is to defer the delivery of data until a firm requirement can be economically determined based on actual operational needs. Delivery can be required at any point during performance of the contract or within two years from either acceptance of all items (except for data) on the contract, or termination of the contract, whichever is later.

Another technique is to defer ordering data at the time the contract is initiated. Under this method, when firm data requirements are determined, they are negotiated separately with the contractor; a specific delivery date also is negotiated.²³

²² Blue Ribbon Defense Panel, *Report to the President and the Secretary of Defense on the Department of Defense*, July 1970, appendix E (Staff Report on Major Systems Acquisition Process), p. 45.

²³ ASPR 9-502(b)-(c).

A Harbridge House study of three prime contracts for the Air Force revealed that deferred delivery could have lowered total data costs by about 27 percent.²⁴

PRICING OF DATA

The Government does not have an effective policy for pricing data. Although individual agencies develop cost estimates, there is no program for establishing adequate criteria for identifying data costs.

In quoting the price for data, contractors usually include only the cost of data preparation and reproduction. Thus, their stated prices rarely represent the real costs of the data since such costs often are inextricably mixed with engineering or other program costs.

CONCLUSIONS

While DOD and other agencies urge the procurement of minimum essential data, costly and nonessential data continue to be acquired. The potential for significant savings is evident from the large expenditures for this purpose.

Early requirements for data compound the problem of estimating total program costs, often result in the acquisition of unneeded data, and are of little value in the source-selection process. The acquisition of reproducible data is inherently imperfect and may not be advantageous to the Government when all factors are considered. Deferring the procurement of data for up to two years after completion of a contract can effectively reduce data costs.

Standards and criteria for realistically estimating costs and benefits of data should be developed on a Government-wide basis. The need for data should be determined on the basis of cost-benefit analyses prepared and retained by the requestor for later validation and review.

²⁴ Harbridge House, Inc., *A Study of Requirements for Data and Management Control Systems in Three Engineering Development Programs*, Feb. 1970, p. VII-26.

Management Systems

Visibility of contractor operations frequently dictates the use of designated management systems for reporting specified contractual data. No single "management system"²⁵ exists and, in fact, no one system could produce all of the information and reports needed concerning a complex contract.

The lack of adequate criteria and standards for the imposition of management systems on contractors has resulted in a proliferation of agency systems which frequently require overlapping or duplicative information. These systems often are incompatible with the manner in which the work is performed, thus requiring a contractor to alter his existing systems or to implement separate systems to satisfy Government requirements. The uncoordinated or fragmented specification of management systems results in unnecessary frustration to both Government and industry personnel. More importantly, the excessive costs that may be incurred ultimately are passed on to the Government. As in the case of data acquisition, there is great potential for cost savings by minimizing requirements for management systems.

CRITERIA FOR MANAGEMENT SYSTEMS

Recommendation 34. Establish Government-wide criteria for management systems which are prescribed for use by contractors, including standards for determining mission-essential management data requirements.

GOVERNMENT NEEDS

Government program managers must know the details of their programs and be able to identify actual or potential problems. They are

²⁵ U.S. Department of Defense, DOD Instruction 7000.6, *Acquisition Management Systems Control*, Mar. 15, 1971, defines a management system as: "A documented method for assisting managers in defining or stating policy, objectives, or requirements; assigning responsibility; controlling utilization of resources; periodically measuring performance; comparing that performance against stated objectives and requirements; and taking appropriate action. A management system may encompass part or all of the above areas and will require the generation, preparation, maintenance, and/or dissemination of information by a contractor."

expected by their superiors, Congress, and the public to have instant, accurate information about all aspects of their programs. Congress also requires extensive information from agencies, much of which derives from that furnished by contractors. Despite the volume of information now furnished to Congress, it is the opinion of several congressional committee staffs²⁶ that additional or different information is still needed.

The Government program manager is continually frustrated by the lack of accurate and timely reporting by industry, even when management systems are specified in the contract and paid for by the Government. The contractor's ability to supply exactly what is required frequently is limited because his management methods and systems will not readily produce reports in the content and format specified.

CONTRACTOR PROBLEMS

Contractors have a difficult problem in attempting to satisfy various management system requirements simultaneously because the systems are not coordinated and frequently are incompatible. A contractor must have management systems and reports to run his business, but the information produced for his internal use often does not satisfy the management systems and reporting requirements imposed by the Government. Neither the Government nor industry is satisfied with the cost-benefit aspects of acquiring management information. Both feel that the costs involved are excessive and consume contract dollars that could be better used for other purposes.

Industry personnel generally acknowledge the need for and intent of management systems. They contend, however, that implementation of policy directives by procuring agencies does not always conform to the intent of the directed system and that the resulting benefits are not worth the cost. One contractor estimated that on a five-year contract, compliance with the required management systems pro-

²⁶ Study Group 9 (Reports and Management Controls), *Final Report*, Oct. 1971, p. 72.

visions of his contract would result in an additional cost of \$400,000 to \$500,000.²⁷ He attributed these costs principally to two features of the system: prescribed work-level reporting in unnecessary detail and added direct costs.

Despite myriad reports routinely submitted by contractors, the Government often levies one-time special requirements for information, including numerous telephone requests. Although such requests may be legitimate, their frequency suggests that much information in routine reports may not be required or may not be usable in the form presented. This highlights the need for the Government to limit information requirements to those which are essential. Moreover, consideration should be given to the contractors' internal management systems in order to integrate information requirements to the maximum practical extent.

DOD/INDUSTRY STUDY OF MANAGEMENT SYSTEM REQUIREMENTS

In 1966, a joint DOD/industry committee²⁸ was organized to examine ways of insuring effective management of defense programs while minimizing the degree of control over industry. As a result of this effort, the number of management systems used by DOD has been reduced from 1,200 to 129, excluding those specifically required by standard ASPR clauses. These systems are identified in the Acquisition Management Systems List (AMSL).²⁹ Despite the reduction in the number of systems, the services have found that systems in the AMSL and the accompanying implementing directive³⁰ do not adequately reflect DOD acquisition management policies. As a result, the list is not effective for either planning or control purposes.

The Assistant Secretary of Defense (Comptroller) authorized the Air Force, at its request, to field test suggested improvements in the program for controlling management sys-

²⁷ *Ibid.*, p. 260.

²⁸ DOD-CODSIA (Council of Defense and Space Industries Association) Advisory Committee for Management Systems Control.

²⁹ U.S. Department of Defense, DOD Manual 7000.6M, *Authorized Management Systems Control List*, July 1970.

³⁰ U.S. Department of Defense, DOD Instruction 7000.6, *Acquisition Management Systems Control*, Mar. 15, 1971.

tems.³¹ The test³² will explore the feasibility of defining management systems by generic categories rather than by documents per se, the use of planning guides in place of the AMSL, and the use of preprinted application checklists to trace decisions. The test also will correlate and tailor management systems and data requirements to provide an integrated list of required management documentation. Although the test has not been completed, we believe the concepts being explored are sound and offer the potential for materially improving the effectiveness of the acquisition of both management systems and related data products.

DOD PERFORMANCE MEASUREMENT FOR SELECTED ACQUISITION SYSTEMS

Indicative of the costs associated with current management systems are those associated with DOD Instruction 7000.2, Performance Measurement for Selected Acquisition.³³ This directive requires the use of Cost Schedule Control System Criteria (CSCSC) on all defense programs estimated to require more than \$25 million in research and development or \$100 million in production funds. It is intended as an overall mechanism to monitor contractors' costs and delivery schedules.

We found varying estimates of how much it costs contractors to comply with this one system. Individual contract proposals have included as much as \$4 million to establish it. Other estimates varied from 1 to 1 1/2 percent of the contract cost.³⁴ Some contractors were reluctant to quote figures because they could not segregate this additional cost from changes they were making voluntarily to meet their own needs. Whether such costs are separately identifiable makes little difference since the Government ultimately must pay for them.

The use of management systems by other executive agencies differ widely. NASA has requirements similar to those of DOD. GSA has

little need for complex management systems because of the predominant use of fixed-price contracts based on firm specifications. GSA's quality assurance system is basically one of inspection for compliance with specifications, and its financial operations are straightforward. The newer agencies (such as Health, Education, and Welfare; Housing and Urban Development; and Transportation) are still developing management systems as their programs expand. We observed increasing concern by contractors and Government agencies that these newer organizations might be developing management systems which are incompatible with contractor systems or with Government-prescribed systems already in force.

CONCLUSIONS

A major improvement in the procurement process, with attendant cost reductions, could be achieved by more effective control over selection and imposition of management systems on contractors. Although top-level Government officials have recognized the need for improvement in this area and progress has been made, more is needed.

The concepts currently being field tested by the Air Force are sound and should enable DOD to better define and selectively use management systems. This, in turn, should enhance its ability to ensure better integration of systems requirements which are more compatible with contractors' internal operations. We urge that this test be pressed to completion in order that further improvements to the management system program can be implemented at the earliest practical date. Experience with the revised DOD program should be closely analyzed for the feasibility of Government-wide application.

GOVERNMENT PROPERTY

For procurement purposes, Government property is limited to property owned³⁵ by the

³¹ U.S. Department of Defense, Assistant Secretary of Defense (Comptroller) Memorandum for Secretary of the Air Force, *Field Test of Proposed Improvements in the Management Systems Control Program*, Jan. 21, 1972.

³² *Ibid.*, Encl. 2.

³³ U.S. Department of Defense, DOD Instruction 7000.2, *Performance Measurement for Selected Acquisition*, Apr. 25, 1972.

³⁴ Note 26, *supra*, p. 257.

³⁵ In some cases the Government's interest is a leasehold interest rather than full ownership or title.

Government and provided to a contractor for use in the performance of Government contracts. Government property may be provided to contractors by two different methods: The Government may acquire the property and furnish it to a contractor; or the contractor may acquire the property and retain it under contract terms which vest title to the property in the Government immediately upon acquisition by the contractor. Under the Armed Services Procurement Regulation (ASPR), the two kinds of property are called "Government-furnished property" and "contractor-acquired property."³⁶ As the agency which furnishes the most property to industry, DOD is the agency with most experience of this kind.

Under the ASPR,³⁷ Government-owned property is categorized as material, special tooling, special test equipment, military property (for example, aircraft), and facilities (for example, production plants and equipment). It also includes such production aids as models, drawings, and reproduction data. Material includes property that may be incorporated in an end product or that may be consumed or expended in the performance of a contract (such as raw and processed materials, parts, components, small tools, and supplies).³⁸

Government Policy

The general policy of DOD is that contractors furnish all material required for the performance of Government contracts;³⁹ however, exceptions are made when it is in the Government's interest. The Government may have to acquire materials and components and furnish them to contractors (1) to assure uniformity and standardization among different producers; (2) in the case of long-lead components, to expedite production of the end product by starting component production before the contract for the end product is awarded; or (3) to take advantage of Government priorities under a controlled materials system during a period of defense emergency that causes materials

shortages. The Government may want to use up its stocks of materials and special tooling, special test equipment, or other equipment,⁴⁰ rather than acquire more.

In accordance with a current defense policy to "stay out of the facilities business,"⁴¹ providing new facilities to contractors is limited to situations involving existing Government-owned, contractor-operated (GOCO) plants, planned mobilization requirements, and other special cases where there is no practical alternative.⁴² Some equipment or plant improvements may be so specialized that their only possible use is for Government production. Because of the unpredictable nature of future Government requirements, contractors cannot always count on enough long-range business to fully amortize their investment in such special property. They, therefore, may be unwilling to provide it at their own expense and risk. In such cases, the Government may have no alternative but to finance the new facilities or to motivate the contractor to acquire the needed property.⁴³

A recent GAO report to the Congress⁴⁴ stated that in June 1971 DOD-furnished plant equipment had declined to \$4.1 billion from \$4.6 billion in December. The \$4.1 billion included \$2.2 billion worth of industrial plant equipment (IPE) such as lathes, milling machines, and drills. The \$1.9 billion balance was the value of other plant equipment such as machines costing less than \$1,000, furniture, vehicles, and computer equipment.

The report stated that, although in March 1970 the military services and the Defense Supply Agency (DSA) were directed to require contractors to submit plans to phase out their use of Government-owned facilities, the Deputy Secretary of Defense has permitted deferment of these plans at contractor plants where mobilization base requirements are being developed and where phase out would be contrary to Government interests or would create an economic hardship for the contractor. As of June 30, 1972, DOD had received all

³⁶ ASPR 13-201, 13-304(a), 13-306.1.

³⁷ In Mar. 1970, DOD initiated a program to phase out Government-owned facilities at contractor plants. Memorandum from the Assistant Secretary of Defense (I&L), Mar. 4, 1970, published as Item I, Defense Procurement Circular 80, June 22, 1970.

³⁸ ASPR 13-301(a) (i), (ii), and (iii).

³⁹ Study Group 9, *Final Report*, Dec. 1971, p. 143.

⁴⁰ U.S. Comptroller General, Report B-140589, *Further Improvements Needed in Controls Over Government-owned Plant Equipment in Custody of Contractors*, Aug. 29, 1972, p. 1.

³⁶ ASPR 13-101.2.

³⁷ ASPR 13-101.1.

³⁸ ASPR 13-101.4.

³⁹ ASPR 13-201, 13-301.

required plans, and 461 of the required 667 plans had been approved by December 1972.

Uniformity in Regulations

The bulk of Government property located with contractors is under the control of DOD, NASA, and AEC. As a result, their management in this field is far better developed, and their regulations are much more explicit and detailed, than those of agencies that have a relatively insignificant amount of Government property in the hands of contractors.⁴⁵ The ASPR has an entire section (part XIII) devoted to Government property, but the FPR has no similar part. However, the importance of Government property in emerging programs of other agencies is being recognized, and we understand that Government property coverage in FPR is being developed by GSA. In this connection, we refer to our recommendation in Chapter 4, for establishment of a single system of Government-wide coordinated procurement regulations which could include the requirement for uniform regulations on Government property.

Government property is a significant element of a contract and its cost. Accordingly, under the strict requirements of competitive bidding, the invitation for bid (IFB) must include all significant information concerning property to be furnished by the Government.⁴⁶ A bid is nonresponsive if it fails to comply with IFB instructions concerning Government property, or if it is conditioned on an authorization to use Government property.⁴⁷

Possessing Government-furnished property is deemed to give an offeror competitive advantage over one who does not possess Government-furnished property. To mitigate any competitive advantage that might arise from the use of Government-furnished property, DOD and NASA policy is to charge rent, or rent equivalents, in evaluating bids and proposals; and, in the case of special tooling and

special test equipment, by an evaluation of residual value. Theoretically, an offeror without Government-furnished property can bid on a par with one who possesses such property.⁴⁸

Motivating Contractor Investment in Facilities

Recommendation 35. Provide new incentives to stimulate contractor acquisition and ownership of production facilities, such as giving contractors additional profit in consideration of contractor-owned facilities and, in special cases, by guaranteeing contractors full or substantial amortization of their investment in facilities specially acquired for Government production programs.

Every reasonable effort should be made to minimize Government provision of new production facilities for the performance of Government contracts. To the extent possible, contractors should provide such facilities at their own expense. We recognize that it is unlikely that contractors will always be willing and able to do so. In some cases, the Government will, in its own interest, have to provide facilities because of special mobilization requirements or because of the uncertainty that Government business will continue long enough for the contractor to amortize his investment in full.

Provision of facilities by the Government can and should be minimized by motivating contractors to provide their own facilities. For example, in recognition of the added investment and risk involved in the ownership of facilities,⁴⁹ contractors who provide special facilities at their own expense should be permitted to earn a higher profit than is allowed to contractors that use Government facilities. Also, if there is doubt in special cases as to the duration and extent of a Government procurement program that requires new production facilities, consideration could be given to a special cancellation charge, or similar arrangements to reimburse the contractor for any losses in-

⁴⁵ William G. Roy, *Government-Furnished Property*, 1972, p. 1.

⁴⁶ See ASPR 13-202; 13-305.2(d)(2); 2-201(a)(13)-(14); and 3-501(b)(11)-(12).

⁴⁷ 40 Comp. Gen. 701 (1971); 38 Comp. Gen. 508 (1959); Comp. Gen. Dec. B-149486, Sept. 5, 1962. See also Goodwin, *Government-Owned Property*, Government Contracts Monograph No. 6, George Washington University, 1963, p. 5.

⁴⁸ ASPR, sec. XIII, part 5; NASA PR, part 13, subpart 5.

⁴⁹ DOD allows this recognition under its Weighted Guidelines for Profit, ASPR 3-808.5(e)(1).

curring in disposal as compared to the non-amortized portion of his investment.⁵⁰

Negotiated Sale of Government Equipment

Recommendation 36. Enact legislation to authorize negotiated sale of surplus elephantine tools (such as heavy machine tools) and of equipment which is "excess to Government ownership but not to Government requirements," with adequate protection to the Government for its future needs when competition is not feasible. While the lack of such authority now appears to be a problem only for the Department of Defense, to provide for future contingencies the legislation should cover all agencies.

Although the current DOD policy is to get out of the facilities business, its efforts to do so have been hampered by lack of authority to negotiate sales to the contractor in possession of elephantine tools and equipment that are excess to Government ownership but are still needed on a part-time basis to fulfill Government needs. If a contractor owned the equipment and therefore could use it for non-Government work, the cost to the Government could be materially reduced.

Legislation to authorize negotiated sales in such cases has been before Congress for several years. Recently the House passed a bill⁵¹ to provide for the disposal of Government-owned equipment by negotiated sales.⁵² The bill:

- Restricts the procurement of production equipment for the purpose of furnishing it to contractors, unless it is necessary for mobilization requirements, it is determined by the Small Business Administration to be necessary to assist small businesses, or it is needed to meet essential needs for supplies or services that cannot be met by any other practical means.
- Authorizes the negotiated sale of certain production equipment to using contractors

⁵⁰ To a limited extent such arrangements are embraced in the present ASPR provisions for multi-year contracting, under which a cancellation charge is paid the contractor in the event the full multi-year program is not completed. ASPR 1-322.1(a).

⁵¹ H.R. 13792, 92d Cong., 2d sess., 1972.

⁵² Reported in *Government Contracts Surveyed*, Sept. 1, 1972, p. 16.

under terms which require the purchaser to maintain the equipment in good working order and available for use on Government contracts on a priority basis. (It is this second factor which DOD considers most important.)

Comprehensive studies have shown that in many instances Government-owned equipment is needed in its present location to meet current and projected military requirements, but that Government ownership would not be necessary if the equipment could be sold in a way which would insure its availability on a priority basis for use on Government contracts. H.R. 13792 would permit such sales. The bill stipulates that a fair market value shall be established by experienced GSA appraisers and that a sale shall not be made at less than fair market value. To facilitate surveillance of the program, the bill provides that the details and circumstances of the negotiated sales shall be reported promptly to Congress. Contracts for such sales would require that, for a period agreed upon, the property or its replacement will be available for defense needs on a priority basis.

Equipment now eligible for sale cost about \$450 million and has a current market value of from \$150 to \$200 million. It is held by about 485 contractors, approximately 35 percent of whom are small businesses.⁵³ Transfer of title without change of possession will:

- Relieve the Government of administrative burdens and costs for management, control, maintenance, and protection
- Add property to State and local tax rolls in jurisdictions which now tax personal property
- Give the contractor greater flexibility in managing and using the property
- Give the contractor an incentive to modernize and improve the property to meet all production needs with benefits to the Government in the form of better contract performance and lower contract costs.

In the case of elephantine tools, even though

⁵³ Based on Department of Defense survey. See testimony of Barry J. Shillito, Assistant Secretary of Defense (I&L), before House Armed Services Investigating Subcommittee, H.A.S.C. No. 92-60, 92d Cong., 1st sess., Oct. 7, 1971, pp. 14798-14795.

the equipment is truly surplus and is not needed by the Government, the alternative of a negotiated sale is necessary to provide greater assurance that the Government receives a fair price for the equipment. In an advertised sale, any bidder other than the contractor in possession would have to incur the costs of dismantling, shipping, and re-assembling the tools elsewhere. This gives the contractor in possession an overwhelming competitive advantage and relieves him of the normal market pressures to bid the full in-place value of the equipment. In such cases, authority to negotiate would allow the Government disposal officer to use competitive negotiations, formal advertising, or both, to produce the highest return for the Government.

SUBCONTRACTING

Subcontractors are an integral part of the Government procurement process and are essential to its effective operation. They perform many of the services and furnish much of the material required to perform prime contracts (direct Government contracts) either under contract to prime contractors or to higher-tier subcontractors. In 1970, an estimated 50 cents out of every DOD prime contract dollar went to subcontractors. An earlier DOD review showed that the top 10 prime contractors subcontracted an average of 54 percent of their contract dollars.⁵⁴

In many procurements, no single prime contractor has the ability or capacity to perform all the technical operations or to produce all the materials required for the end product. The organization needed to develop and produce a major system, for example, requires capabilities in many technical fields, as well as large and diverse physical facilities, which seldom exist within any single organization. The Apollo program provides an example of the degree to which subcontractors are involved in Government procurement activities. Of the more than 20,000 companies included in the program, only a handful were prime contrac-

⁵⁴ U.S. Comptroller General Report B-169434, *Need to Improve Effectiveness of Contractor Procurement System Reviews*, Aug. 18, 1970, p. 4. Reliable data on the amount of subcontracting by prime contractors with civilian agencies are not available.

tors; the remainder were subcontractors. In construction, the prime contractor rarely has the manpower skills and equipment needed to perform all of the contract work.⁵⁵

Although the statutes and regulations give little attention to subcontracts, many agency requirements and practices have significant impact on subcontractors. For example, defective specifications, contract changes, and terminations can have very serious implications for subcontractors. Because there is a lack of privity of contract,⁵⁶ subcontractors usually cannot seek redress directly from the Government contracting agency. Thus, there is some truth to the observation that the subcontractor is "the forgotten man in Government procurements."⁵⁷

Many subcontract problems result from problems that affect the procurement process as a whole, such as unnecessary statutory restrictions, complex procurement regulations, variation in agency requirements, social and economic program requirements, and profit and risk policies. Subcontractors often are small businesses that have the usual problems of a small business. Since our recommendations address the basic issues in Government procurement, they generally cover subcontractor problems. However, having a dynamic, healthy family of subcontractors is so essential to the Nation's industrial base that it is important to highlight some of their concerns.

Flowdown of Contract Requirements

While subcontractors usually are subject to the same contractual obligations as prime contractors, they often do not receive the same benefits. Many prime contracts provide for advance and progress payments, but subcontracts seldom do. In addition, subcontractors sometimes are required to indemnify a prime contractor in areas where the prime contractor has no similar obligation to the Government.

Although many flowdown problems (prob-

⁵⁵ See Part E for a more detailed discussion.

⁵⁶ Privity of contract is the legal connection or relationship which exists between two or more contracting parties.

⁵⁷ U.S. Congress, House, Committee on Government Operations, *Government Procurement and Contracting*, part 7, hearings on H.R. 474, May 1969, p. 1832 (statement of Prof. Harold C. Petrowitz).

lems arising from the flow of requirements down through the tiers of subcontracts) result from actions of the prime contractor, others are the direct result of Government requirements. There are numerous contract clauses specified by Government procurement regulations that prime contractors must include in subcontracts, often without any change in wording; for example, the Notice and Assistance Regarding Patent and Copyright Infringement Clause,⁵⁸ and Contract Work Hours Standards Act Overtime Compensation Clause.⁵⁹ Some other standard prime contract clauses require that clauses "substantially conforming thereto" be incorporated into subcontracts; for example, those concerning military security requirements,⁶⁰ and safety precautions for ammunition and explosives.⁶¹ Other clauses are silent as to their applicability to subcontracts but are applicable by operation of statute or regulation; for example, the Walsh-Healey Public Contracts Act⁶² and Priorities Allocations and Allotment Clause.⁶³

Some clauses make no reference to their applicability to subcontracts but impose obligations on prime contractors which cannot be fulfilled unless similar provisions are incorporated into subcontracts; for example, those regarding changes⁶⁴ and United States products (Military Assistance Program).⁶⁵ Some standard clauses are written solely for use in subcontracts; for example, the Subcontract Termination Clause⁶⁶ and the Subcontract Termination Clause—Cost Reimbursement Type.⁶⁷

The Government should clarify the extent to which prime contract clauses apply to subcontractors and the manner in which they are to be applied and interpreted. Our recommendation to establish a coordinated Government-wide system of procurement regulations would provide a mechanism for accomplishing this.

Further, we believe it desirable to establish criteria for the guidance of prime contractors with respect to terms and conditions

appropriate for particular subcontract situations. The development of a set of standard subcontract terms and conditions which prime contractors could use, as appropriate, would help avoid overimplementation of prime contract requirements.

Low Thresholds on Social and Economic Programs

The social and economic programs implemented through the procurement process create subcontract as well as prime contract problems. These problems are discussed in detail in Chapter 11 and in Parts D and E. Of particular concern are the low dollar thresholds at which these programs come into operation. At the time such social and economic program requirements were enacted, many subcontracts were exempt, but inflation and other factors have all but dissipated those exemptions. As noted in Chapter 11, we believe consideration should be given to raising the dollar thresholds for application of the social and economic programs implemented through the procurement process.

Inconsistency in Subcontract Review and Approval

Later in this chapter we point out that there is no uniform subcontract approval policy applicable to all agencies. This causes duplication of Government review efforts, unnecessary contractor processing costs, and unnecessary Government administrative costs.

The different subcontract approval policies also have an impact on subcontractors by creating delays in their work and by subjecting them to variations in agency requirements, particularly where their work pertains to programs of several agencies. Our recommendation to establish a Government-wide policy for the review and approval of contractor purchasing systems and transactions, together with repeal of the statutory subcontract advance notification requirements, would mitigate subcontractor problems in this area.

* ASPR 7-103.23.
 * ASPR 7-103.16.
 * ASPR 7-104.12.
 * ASPR 7-104.79.
 * ASPR 7-103.17.
 * ASPR 7-104.18.
 * ASPR 7-103.2.
 * ASPR 7-104.43.
 * ASPR 8-706.
 * ASPR 8-708.

Truth in Negotiations Act

The Truth in Negotiations Act¹⁰ (Public Law 87-653) requires the submission of cost and pricing data by subcontractors under negotiated defense contracts if the price of their subcontracts or any changes or modifications thereto are expected to exceed \$100,000. It also requires certification that all such data are accurate, complete, and current. Similar requirements are imposed by FPR on subcontractors performing under civilian agency prime contracts.

Subcontractors are concerned with the implementation of these requirements, and particularly that both contracting agencies and prime contractors often require essentially complete cost and pricing data for subcontracts of less than \$10,000. Allegations exist that many prime contractors go beyond the requirements of the act and require subcontractors to indemnify them against loss of profit resulting from defective subcontractor data.

In Part J we recommend the extension of the Truth in Negotiations Act to contracts of all Government agencies and the development of consistent implementation policies. The statute serves a useful purpose, although there are difficulties in the language of the act which cause problems. Overimplementation of reports and certifications under the act are not good substitutes for adequate analysis and negotiation at either the prime contract or subcontract level. These matters should be considered carefully in developing Government-wide policies concerning this statute.

Patents and Technical Data

The problems of subcontractors with respect to patents and technical data are, in general, quite similar to the problems of prime contractors. Our recommendations in these areas are contained in Part I.

Our studies identified some special problems for subcontractors. Some prime contractors apparently require subcontractors to indemnify the Government against infringement. Most agencies permit prime contractors to publish

¹⁰ 10 U.S.C. 2306f (1970).

data generated under their contracts, but this right is not always passed on to subcontractors. Although prime contractors may not be specifically required to obtain background patent and data rights from their subcontractors, some do so anyway. Technical data of subcontractors is not always given the same protection accorded technical data of prime contractors and subcontractors complained that some prime contractors refuse to accept technical data with any restrictive legend, even when ASPR would permit use of the "limited rights" legend.

These situations are inequitable and contracting agencies should try, where possible, to avoid ambiguity in subcontract requirements. However, we do not believe it is desirable or feasible to establish across-the-board mandatory requirements regarding prime contractor/subcontractor relationships in patent and data areas. The acceptance of our recommendations for the uniform implementation of the Presidential Statement of Government Patent Policy and for uniform policies and clauses concerning rights in technical data and treatment of data submitted with proposals, publications, and copyrights in data would benefit subcontractors as well as prime contractors.

Quality Assurance

Government requirements for quality assurance create additional problems for subcontractors because agencies impose different quality assurance specifications upon prime contractors. The requirements of these specifications then flow down through the prime contractor-subcontractor chain, often with differences in interpretation at every level. In addition, contractors and subcontractors usually have their own requirements (imposed by company policies) for quality determinations, quality system requirements, and quality rating systems. The result can be the imposition of quality assurance requirements on subcontractors which are greater than those required by Federal specification and a wide diversity of quality assurance programs within a single plant, possibly for similar or identical products. Companies with subcontracts from several

prime contractors may have surveys of their operations for identical or essentially similar products or services performed by several prime contractors or higher-tier subcontractors.

Improvements in the development and implementation of Government quality assurance programs, while desirable, involve many complex factors. The procuring agency having program responsibility for a project is best able to determine the kind of quality assurance program required by its project. We believe this matter deserves in-depth consideration by the Office of Federal Procurement Policy with a view to consolidating the various Government quality assurance specifications into a single specification. This office should establish consistency in the interpretation of quality assurance requirements and should minimize, to the extent possible, the diversity of such requirements and number of plant surveys imposed on subcontractors.

Termination of Subcontracts

Termination clauses in procurement regulations require prime contractors and subcontractors to settle termination claims of their immediate subcontractors with the Government reserving the right to approve or ratify such settlements. Procuring agencies may authorize prime contractors to settle subcontractor claims of \$10,000 or less without approval or ratification, and in some cases, they may increase the authorization to \$25,000. Subcontractor termination claims can require processing through several tiers of subcontractors up to the prime contractor, and, where the amount of the claim exceeds the settlement authority of the prime contractor, on to the procuring agency. All of these higher contracting levels have to approve lower-tier claims, and each level can require additional detail and justification.

The \$10,000 subcontract termination settlement authorization is one of long standing which has been so eroded by inflation and other factors that most termination settlements exceed the \$10,000 authority. As a result, the majority of subcontract termination settlements require approval by procuring agencies.

Where such approval is required, the time necessary for settlement is increased significantly, many settlements taking more than a year to process.

We have recommended increases in the small purchase procedure authorization. We believe the Office of Federal Procurement Policy should examine subcontract termination settlement authorization levels and determine whether higher levels should be established on a Government-wide basis.

Disputes

The handling of disputes arising under subcontracts has been a matter of longstanding controversy. Although such disputes often are related to Government actions or inactions, the lack of contract "privity" between a subcontractor and the Government generally has barred direct legal recourse against the Government. Most agencies bar the inclusion of a disputes provision in subcontracts that would permit subcontractors to use the boards of contract appeals to resolve disputes with the Government. Subcontractors, however, can obtain access to the boards when the prime contractor will sponsor their claims and the claims are redressable under the prime contract.

This sponsorship approach often works imperfectly. Although the Government's legal rights and liabilities are governed by the terms of the prime contract, inadequate Government specifications, change orders, delays in making Government property available, and many other Government actions can and do affect subcontractor costs. Requiring the subcontractor to seek relief through the prime contractor can result in conflict of interest situations and inhibit the ability of the subcontractor—the real party in interest—to obtain a speedy resolution and adequate relief.

Although inequities can exist under the present sponsorship approach, it does not appear to have as many drawbacks as a system which would permit direct recourse against or access to the Government. Establishing a subcontractor right to direct recourse against the Government, or permitting the use of agency

administrative procedures and forums for resolving subcontractor claims, would create management responsibility problems, particularly with regard to fixed-price prime contracts. Not all disputes affecting subcontractors involve matters for which the Government is responsible, and there is no reason why the Government should assume responsibility for deciding purely private matters. Even if restricted to matters involving the Government, direct access could increase the workload of agency personnel and dilute the responsibility of prime contractors to manage their contract work.

Therefore, we do not recommend changes with respect to the rights and procedures for handling subcontractor claims.⁹⁹ At the same time, we do consider this matter to be an important aspect of a good procurement system and believe that the agencies should pay special attention to how their prime contractors approach sponsorship of subcontractor claims.

We have made a number of recommendations in Part G which, although primarily aimed at Government-prime contractor disputes, also would benefit subcontractors. Included are recommendations to:

- Establish regional Small Claims Boards of Contract Appeals to resolve quickly and economically claims not exceeding \$25,000
- Pay interest on successful contract claims
- Encourage negotiated settlements of disputes through the use of an agency informal review conference
- Upgrade the agency boards of contract appeals
- Allow claimants the option of direct access to the courts for the resolution of their claims.

The disputes-resolving system will continue for the most part to require prime contractor sponsorship of subcontractor claims against the Government, but once such sponsorship is gained, subcontractors as well as prime contractors will find the system more flexible and better suited to their needs.

⁹⁹ See Part G for additional analysis of subcontractor claims.

Bid Shopping

Concerns about "bid shopping"¹⁰⁰ by prime contractors as well as by higher-tier subcontractors have been expressed by members of Congress and industry. Some agencies have initiated efforts to curtail such practices by special contract clauses. This general subject is covered in Part E.

Conclusions

In many respects the problems of subcontractors in Government procurement are the same as those of prime contractors. In some areas they are exacerbated because the subcontractor must deal with Government as well as prime contractor requirements. Although the Government has a real stake in how subcontracting is done, there are valid reasons why Government should make a distinction between its responsibilities and obligations to prime contractors and subcontractors.

It is neither desirable nor possible for the Government to regiment all of the relationships, practices, and procedures between contractors, their subcontractors, and lower-tier subcontractors, suppliers, and other business entities furnishing supplies and services for Government contract work. However, we believe many of our recommendations would eliminate or minimize the kinds of special problems now experienced by subcontractors in doing Government work. For example, our recommendation to establish a system of Government-wide coordinated procurement regulations would provide the mechanism and authority for:

- Obtaining clarity and consistency in the requirements for flowdown of clauses and obligations to subcontractors
- Standardizing and establishing consistent requirements for the review and approval of subcontracts
- Providing consistent application of cost principles and the cost and pricing data re-

¹⁰⁰ As used herein the term "bid shopping" refers to the efforts to use the lowest bid already received on a subcontract as leverage to gain an even lower bid.

quirements of the Truth in Negotiations Act.

Other recommendations to permit greater use of multi-year procurement, to have the Government act as a self-insurer for loss of or damage to defective supplies, and to provide indemnity protection against catastrophic accidents would improve the subcontractor situation by providing greater stability of operations and by eliminating the fear of certain types of losses which could be economically disastrous.

Additional recommendations, which would benefit subcontractors as well as prime contractors by reducing administrative costs and by providing greater certainty on Government work, include the establishment of: standards and criteria for estimating costs and benefits of data requirements and for prescribing management controls, Government-wide principles for allowability of costs, uniform profit policies, and raising the jurisdictional amount of the Renegotiation Act.

We believe the implementation of the recommendations discussed above would alleviate the problems of subcontractors under the Government procurement system.

REVIEW OF CONTRACTOR PROCUREMENT SYSTEMS AND TRANSACTIONS

Recommendation 37. Establish a Government-wide policy for the review and approval of cost-type prime contractor procurement systems and transactions.

Contractor procurement includes subcontracting of work to be performed as well as acquisition of materials and services required to do contract work. Both types of procurement actions are generally referred to as subcontracts.

The requirements for review and approval of contractor procurement systems and transactions stem primarily from agency policies, although there are statutory requirements for advance notification of certain transactions under cost-type contracts. While there is a relationship between the various purposes for reviewing contractor purchasing systems and

transactions, the factors to be considered are sometimes different.

Depending on the type of prime contract, the Government's interest in subcontracts may involve deciding whether subcontracting will be permitted, how subcontracts are made, and what they will cost. A contractor's purchasing system, for example, may be an important consideration in the selection process. It also may be important after award in determining what types—and amounts—of transactions must be submitted for review and approval by the contracting officer. When the selection of a contractor over his competitors involves, for example, consideration of his facilities and personnel, the Government has a natural desire to control subcontracting. In other contract situations, construction, for example, it is generally understood that much of the work will be subcontracted. Even here there is often an interest in how and to whom subcontracts are awarded.

Subcontracts for supplies and services can affect performance of the contract work or agency program schedules. In cost-type contracts in particular, subcontracts impact the total cost to the Government and involve the procuring agency in issues with respect to fair treatment of those participating in Government work.

Both the Armed Services Procurement Act (ASPA)⁷¹ and the Federal Property and Administrative Services Act (FPASA)⁷² require that cost-type contracts shall contain a provision for advance notification to the procuring agency by the contractor of any cost-plus-a-fixed-fee subcontract and of any fixed-price subcontracts in excess of \$25,000 or five percent of the estimated cost of the prime contract. This requirement originated in a 1948 Senate amendment to ASPA and reflected growing concern in Congress over the importance of subcontracting in Government procurement.

Building on this statutory base, both ASPR and FPR have evolved requirements for the review and approval of contractor procurement transactions. ASPR requires advance notification and consent (approval)⁷³ of subcontracts

⁷¹ 10 U.S.C. 2306(e) (1970).

⁷² 41 U.S.C. 254(b) (1970).

⁷³ DOD generally uses the term "consent" in lieu of "approval" (ASPR 23-200).

| TYPE OF SUBCONTRACT | TYPE OF PRIME CONTRACT | | | | | |
|--|--------------------------------|---------------------------------|-------------------------------|-------------------------------|----------------------------|--------------------------------|
| | FIRM FIXED-PRICE ESCALATION | ALL OTHER FIXED-PRICE CONTRACTS | COST REIMBURSEMENT-SUPPLY | COST REIMBURSEMENT-R&D | TIME & MATERIAL LABOR HOUR | FACILITIES |
| | ASPR 7-104.23 ASPR 23-201.1 | ASPR 7-104.23 ASPR 23-201.1 | ASPR 7-203.8 ASPR 23-201.2 | ASPR 7-402.8 ASPR 23-201.2 | ASPR 7-301.10 | ASPR 7-762.38 ASPR 7-703.26 |
| FIXED-PRICE SUBCONTRACTS | | | | | | |
| A. SUBCONTRACTS INVOLVING R&D AS ONE OF ITS PURPOSES | | | | | | |
| B. SUBCONTRACTS BETWEEN \$25,000 AND \$100,000 OR 5% OF ESTIMATED CONTRACT COST | | | | | | |
| C. SUBCONTRACTS OVER \$100,000 | | | | | | |
| D. SUBCONTRACTS WITH SINGLE SUBCONTRACTOR FOR RELATED ITEMS, AGGREGATING \$100,000 | | | | | | |
| E. SUBCONTRACTS FOR INDUSTRIAL FACILITIES REGARDLESS OF VALUE | | | | | | |
| F. SUBCONTRACTS OVER \$1,000 FOR SPECIAL TEST EQUIPMENT | | | | | | |
| COST REIMBURSEMENT, TIME & MATERIAL, LABOR HOUR SUBCONTRACTS | | | | | | |
| A. ALL SUBCONTRACTS | | | | | | |
| B. SUBCONTRACTS INVOLVING R&D AS ONE OF ITS PURPOSES | | | | | | |
| C. SUBCONTRACTS OVER \$10,000 | | | | | | |
| D. SUBCONTRACTS WITH SINGLE SUBCONTRACTOR FOR RELATED ITEMS, AGGREGATING \$100,000 | | | | | | |
| E. SUBCONTRACTS FOR INDUSTRIAL FACILITIES REGARDLESS OF VALUE | | | | | | |
| F. SUBCONTRACTS OVER \$1,000 FOR SPECIAL TEST EQUIPMENT | | | | | | |

KEY: X BDD REQUIREMENT Δ STATUTORY REQUIREMENT (G.D.E. STUCC) \square BDD REQUIREMENT WAIVED WHERE CONTRACTORY PROGRAM BUDGET HAS BEEN EXHAUSTED

FOOTNOTES:
 ① BASED ON REVISION NO. 11 TO THE 1949 EDITION OF ASPR
 ② MODIFIED REQUIREMENTS FOR CERTAIN COST SHARING AND CERTAIN CFFR CONTRACTS NOT SHOWN - SEE ASPR 23-201.1 (3).
 ③ CONSENT ONLY APPLICABLE TO INDIVIDUAL SUBCONTRACT CATEGORIES B, E, M, F. WAIVER ONLY APPLICABLE TO INDIVIDUAL SUBCONTRACT CATEGORIES B, E, M, F. WAIVER ONLY APPLICABLE TO INDIVIDUAL CONTRACTS WHICH OTHERWISE MEET FIXED-PRICE SUBCONTRACT CATEGORY B.
 ④ CONSENT ONLY APPLICABLE TO INDIVIDUAL SUBCONTRACT CATEGORIES B, E, M, F. WAIVER ONLY APPLICABLE TO INDIVIDUAL CONTRACTS WHICH OTHERWISE MEET FIXED-PRICE SUBCONTRACT CATEGORY B.
 ⑤ CONSENT REQUIRED FOR ALL SUBCONTRACTED WORK EXCEPT RAW MATERIALS AND COMMERCIAL STOCK ITEMS.
 ⑥ STATUTORY REQUIREMENT APPLIES TO CFFR SUBCONTRACTS.
 ⑦ CONSENT REQUIRED FOR ALL SUBCONTRACTED WORK EXCEPT RAW MATERIALS AND COMMERCIAL STOCK ITEMS.

Figure 2

Source: Commission Studies Program.

under some fixed-price prime contracts, as well as under cost-type and time-and-material contracts. It prescribes contract clauses and identifies types of subcontracts and monetary amounts which are subject to control and provides criteria for use by the contracting officer in giving consent (approval) to proposed subcontracts.⁷⁴ FPR contains criteria for the inclusion of subcontract advance notification and approval provisions in some contracts. It also contains factors to be considered in the evaluation of subcontracts submitted to the procuring agency. It does not prescribe subcontract notification or approval clauses and, except for the statutory requirement, does not specify types of subcontracts or monetary amounts which are subject to control.⁷⁵

Both ASPR and FPR provide for review and approval of contractor purchasing systems as a partial substitute for review and approval of individual transactions; however, only ASPR provides specific criteria and guidance concerning the method and extent of such reviews and the effects of an approved system on the treatment of individual transactions. Figure 2 shows the general DOD requirements for advance notification or consent of contractor procurement transactions and shows the differences in requirements between an approved and unapproved system.

DOD has instituted a contractor procurement system review (CPSR) concept. This concept is based on a review of a contractor's total procurement system to evaluate the efficiency and effectiveness of the methods and procedures used in acquiring supplies and services. It is used generally for contractors who are expected to have yearly sales to the Government in excess of \$5 million under cost-type and time-and-material contracts, fixed-price with escalation contracts, or noncompetitive negotiated contracts regardless of contract type. Such reviews examine the degree of price competition obtained, pricing policies and techniques, methods of evaluating subcontractor responsibility, treatment accorded affiliates and other firms having a close relationship with the contractor, and attention given to the management of major subcontract programs. The ultimate responsibility for granting approval rests with

the contracting office; however, the reviews are usually conducted by procurement management analysts and may be evaluated by a Contractor Procurement System Review Board which makes recommendations to the contracting officer. The program also provides for annual and special reviews after a contracting officer's initial approval.

Our studies indicate that the reviews are handled differently by the Army, Navy, Air Force, and Defense Contract Administration Services (DCAS). In DCAS and the Air Force the reviews are made through an ad hoc team approach, consisting of field procurement management analysts with support from professional specialists such as auditors and quality assurance personnel. The Army conducts reviews with special teams, and the Navy retains the responsibility at the procuring activity level. DCAS, which has the largest program, had 140 of 171 contractors with approved systems as of December 1971.⁷⁶

Most of the civilian agencies are beginning to examine procurement systems evaluation techniques as a substitute for the review and approval of individual transactions. However, NASA has policies similar to DOD, and normally utilizes DOD to conduct such reviews.⁷⁷ AEC also has established criteria for the review and approval of cost-type contractor procurement policies and methods.⁷⁸

A 1970 GAO report on the DOD contractor procurement system review program found that the concept is generally sound but that the program was not being implemented effectively.⁷⁹ The report included recommendations for (1) improving the planning and performance of the reviews; (2) developing standards for approval or disapproval of systems; (3) better utilization of reports within Government; (4) expanding the criteria to include more contractors; and (5) performing annual in-depth re-

⁷⁴ Defense Contract Administration Services, *Contractor Procurement System Review Program Annual Report 1971*, Apr. 26, 1972, p. 9.

⁷⁵ NASA PR 23.100 et seq.

⁷⁶ AECPR 9-59.000 et seq. Pursuant to the authority contained in 602(d)(13) of the Federal Property and Administrative Services Act, AEC has waived the statutory requirements for advance notification of subcontracts under cost-type contracts when the prime contractor's procurement system and methods have been reviewed and approved, AECPR 9-3.901(b).

⁷⁷ U.S. Comptroller General, Report B-169434, *Need to Improve Effectiveness of Contractor Procurement System Reviews*, Aug. 18, 1970, p. 9.

⁷⁸ ASPR 23-200 et seq.

⁷⁹ FPR 1-3.900 et seq.

views on a more selective basis. Most of the GAO recommendations for improving the program have been adopted and others are under consideration.

Overall, the DOD CPSR concept is sound and has benefits both for the Government and its contractors. The concept has a strong potential for improving the efficiency of procurement and for reducing the administrative costs and burdens associated with review and approval of individual transactions. Its utility is greatest in very large contracts, particularly where the contractor is heavily engaged in Government work.

The CPSR concept is not intended to be a complete substitute for the review and approval of all individual transactions. When properly used, it can be equally or more effective than approval of individual transactions where the primary Government interests are the adequacy of competitive methods and equal treatment of prospective subcontractors. Having an approved procurement system before beginning work on a contract contributes to better Government/contractor relationships and helps to minimize work delays caused by the necessity of submitting individual transactions for review and approval by the contracting agency. An approved procurement system also can facilitate review and approval of individual transactions since many of the elements of interest to the Government will have been satisfied by the approved system.

A Government-wide policy would facilitate contract administration for the Government and its contractors by eliminating duplicate reviews of contractor procurement systems where more than one agency is involved. It also would facilitate interagency use of Government contract administration and audit services

at contractor locations. There is no logical reason why uniformity in policies and requirements for review and approval of subcontracting transactions should not be sought.²⁴

Since most review and approval requirements pertain to cost-type prime contracts, we have limited our recommendations for development of Government-wide policies to these contracts. We recognize there may be a need to require reviews and approvals in other than cost-type contracts, such as those with contractors with mixed cost centers.

The present statutory requirement for advance notification of subcontracts under cost-type contracts underscore the importance of adequate attention to contractor procurement; however, we believe this requirement is unduly restrictive and imposes an unnecessary administrative burden. Also, due to inflationary trends over the years, the monetary amount specified by statute in 1948 now affects many more procurements than was initially intended. We believe adoption of a comprehensive program for subcontract approval such as CPSR, with guidelines for review and approval of individual transactions established Government-wide will benefit all parties and will be less costly than the variable methods now used. In developing a sound, economical system, it will be important that the executive branch have the flexibility needed to adjust both monetary amount and type of approval requirements as appropriate. Accordingly, the language in 10 U.S.C. 2306(e) and 41 U.S.C. 254(b) with respect to advance notification of subcontracts under cost-type contracts should be repealed as we recommended in Chapter 3.

²⁴ Consideration should also be given to greater use of other contractor systems approvals such as quality control, property control, and cost estimating.

CHAPTER 9

Procurement of Professional Services

This chapter deals with the problems of contracting for professional services. These services relate to such fields as accounting; management, economic, market, and systems analyses; program evaluation; industrial engineering; and operations research. The product furnished generally is a report which sets forth findings and recommendations for solutions to problems, suggestions for improving operations, evaluations of program results, suggestions for alternative means to achieve agency objectives, etc. The discussion excludes architect-engineer (A-E) services, which are discussed in Part E because of their close interrelationship with construction.

For some time, Government agencies have engaged professional firms to perform such services in order to supplement "in-house" capabilities. The types of firms engaged are companies, partnerships, or corporations—both profit and nonprofit. Early in our work, we were advised that the use of such professional firms had increased significantly in the past 10 to 15 years and that many problems are adversely affecting their use.

Scope of Professional Services

While we found that precise or comprehensive data on the use of professional services was not available from official sources, we did obtain many indicators of their magnitude and importance.

Table 1 is a summary of data (based on 1967 statistics) compiled by The National Council of Professional Services Firms in Free Enterprise on "private, for-profit firms, engaged in consulting, design, analysis, and research work."

The Council estimated that about one-third of the activity of this "industry" is devoted to the Federal sector. On this basis, professional services, excluding A-E services, performed annually by "for-profit" organizations amounted to \$1.8 billion.¹ Universities, foundations, and other nonprofit organizations that perform very similar projects are not included in these data.

¹ The Council data do not include amounts spent on basic research and R&D for major systems and other hardware.

TABLE 1. DATA ON PROFESSIONAL SERVICE FIRMS

| Type of service | No. of firms | Total revenue (billions) | Percent of revenue |
|--|--------------|--------------------------|--------------------|
| Architect-engineer | 6,300 | \$3.60 | 40 |
| Computer software (analysis and programming) | 1,800 | 2.70 | 30 |
| Management consulting and social sciences | 2,000 | 1.35 | 15 |
| Systems analysis | 250 | 1.08 | 12 |
| Research and development (mainly laboratories) | 100 | 0.27 | 3 |
| Total | 10,450 | \$9.00 | 100 |

Source: Memorandum of interview by representatives of the General Accounting Office with officials of The National Council of Professional Services Firms in Free Enterprise, Oct. 4, 1972.

The Evaluation Research Industry

One of the newest developments has been the emergence of what is now known as the evaluation research industry. The Bureau of Social Science Research, in May 1972, published a study of *The Competitive Evaluation Research Industry*. This study finds that a specialized industry "of imperfectly known magnitude and boundaries has grown up to serve this demand for social program evaluation research."

The study points out that the percentage of total Federal outlays for human resources programs doubled between 1955 and 1971 and that accompanying this trend has been an increasing acceptance of the principle that these programs should be "subject to explicit, systematic, independent, professional evaluation." The Bureau reports that many statutes specifically allocate funds for program evaluation—and that "one percent of the total budget appears to be a figure popular with the Congress."

An analysis by the General Accounting Office of legislation during 1967–1972 identified 23 acts and five bills that require program evaluation. Examples of these are:

- Each title of the Economic Opportunity Act specifies detailed methods of evaluation, including cost-benefit analysis, use of control groups, and standards for evaluation. It is estimated that in fiscal 1973 the Office of Economic Opportunity will spend more than \$8 million on evaluation studies.
- The HEW budget for fiscal 1973 requests approximately \$51 million to finance its evaluation activities. This includes \$33 million for evaluations of health services, \$10 million for education programs, \$4 million for social and rehabilitation services, and \$3 million for child development. It is reported that about 45 percent of HEW's contract studies are performed by for-profit firms, 50 percent by universities and nonprofit organizations, and the rest by public sector organizations.
- Funding authorizations appear in the Public Health Service Act Amendment of 1968, the Elementary and Secondary Education Amendment of 1967, Head Start Supporting Services, and the Older Americans Act Amendments of 1969.

Evaluation studies are of major importance in agencies which deal with health and safety, education, housing, and economic opportunity programs. Almost all other agencies have some requirement for these or similar services and the problems identified below generally appear throughout the executive branch.

Contracting for Professional Services

Recommendation 38. The procurement of professional services should be accomplished, so far as practicable, by using competitive proposal and negotiation procedures which take into account the technical competence of the proposers, the proposed concept of the end product, and the estimated cost of the project, including fee. The primary factors in the selection process should be the professional competence of those who will do the work, and the relative merits of proposals for the end product, including cost, sought by the Government. The fee to be charged should not be the dominant factor in contracting for professional services.

Professional services rarely can be acquired by formal advertising or the competitive techniques used in buying hardware, since detailed specifications or performance criteria against which to judge competing proposals do not exist. Rather, competitors are compared on the basis of qualitative factors which usually are characterized by the knowledge, skills, and experience of the individuals who propose to perform the services. Hence competitive selection requires evaluation and judgment by agency officials and necessitates the use of competitive negotiation procedures.

Negotiation for these specialized services is authorized by the Armed Services Procurement Act and the Federal Property and Administrative Services Act² and would be continued by our recommendations in Chapter 3.

² Personal or professional services: 10 U.S.C. 2304(a)(4); 41 U.S.C. 252(c)(4).

The services of educational institutions: 10 U.S.C. 2304(a)(5); 41 U.S.C. 252(c)(5).

Experimental, developmental, and research work: 10 U.S.C. 2304(a)(11); 41 U.S.C. 252(c)(11). (Continued on next page.)

The procedures followed are like those used for other competitively negotiated contracts; that is, a request for proposal (RFP) is issued and the requirement is announced in the *Commerce Business Daily*. Written proposals are presented by all interested offerors, negotiations are conducted, and an award is made.

Our study identified a number of problems which result in unnecessary costs, discourage participation by many qualified firms, and result in products of low utility. The remainder of this chapter discusses these difficulties and suggests ways to minimize them.

Inadequacies in Requests for Proposals (RFPs)

The RFP is intended to describe the agency's needs and to invite contractors to submit proposals stating how they would fulfill the needs if awarded a contract. We found that the language of many RFPs is vague and ambiguous thereby substantially reducing the likelihood that the services rendered will be useful and raising serious doubts as to whether the agency's managers will be ready to act on the study results. Such language makes it difficult for prospective contractors to respond intelligently to an RFP and for the agency to select a suitably qualified firm.

Representatives of consulting firms universally complained about the large number of proposals they must prepare in the effort to obtain contracts. The preparation of proposals is a costly process that adds to the overhead of competing firms and increases the cost to the Government. Solicitation of 16 to 20 firms is not unusual and, in one instance, an agency sent RFPs to 250 firms. We determined that a bidder's cost in preparing a proposal might constitute as much as 25 percent of the contract amount and, in some cases, the total cost of preparing proposals by all bidders exceeds the contract amount. Proposal costs are so significant that many potential competitors are reluctant to bid before first trying to obtain hard intelligence regarding the likelihood of

the contract being let and the genuineness of the competition.

Cumbersome and costly RFP procedures produce undesirable consequences. First, competition is reduced because only a small number of organizations can sustain the overhead costs of keeping a cadre of proposal writers on the payroll. Second, the procedure fosters "brochuremanship" which may result in proposals high on promises but low on performance. They also tend to weaken confidence in the integrity of the procurement process, especially when it is recognized that the cost of preparing proposals ultimately is added to the indirect or overhead costs paid by the Government.

CONCLUSIONS

To overcome these wasteful aspects of present RFP procedures, means must be found to promote competition and avoid favoritism while assuring that the contractors selected are fully qualified to meet the Government's needs.

In part, these problems are generated by the existing requirement to solicit a "maximum" number of sources. In Chapter 3, we recommend a change in the basic procurement statute to require that only an "adequate" number of sources be solicited. We also recommend in Chapter 3 revised criteria for the use of sole-source procurement. We believe these revisions should be accomplished by including appropriate guidelines in the procurement regulations as follows:

- Agency officials must clearly define the tasks to be performed in requests for proposals.
- If many firms can furnish the contemplated professional service, the agency should be authorized to obtain brief preliminary data on their capabilities, availability, and desire to perform the work and, on the basis of this information, to select an appropriate number of firms, perhaps three to eight, to prepare detailed proposals. In this connection the Office of Federal Procurement Policy could assist agencies in developing lists of prospective bidders.

Procurement of studies or surveys other than those negotiated under the three exceptions above: 10 U.S.C. 2304(a)(10); 41 U.S.C. 252(e)(10).

- In unusual circumstances, only one firm may have the demonstrated capability to provide the needed services. In such cases, it should be recognized that it is proper for an agency to negotiate with that firm on a sole-source basis.

Failure to Balance Qualitative Factors and Price

We found that agencies need guidance on how to balance the quality of the technical proposal against the price proposal in order to select the firm that presents the optimum balance between quality and price. Placing undue emphasis on initial price tends to degrade the quality of the proposals, encourage buy-ins, and discourage some of the best qualified firms from bidding. This problem is discussed elsewhere in this report and specifically in Part B with respect to the Acquisition of Research and Development. The same considerations are present in the types of specialized services covered in this chapter.

CONCLUSIONS

In order of importance, the factors normally to be considered in contracting for professional services should be: (1) technical competence of the proposers, (2) proposed plan of performance, and (3) estimated cost. The criteria for evaluation should be set forth in the RFP, and the primary basis of rating technical competence should be the qualifications of the key people who will perform the work. Key personnel should be named in the proposal and in the contract. The estimated cost should be only one factor in contracting for specialized services.

Underutilization of Contract Results

During our interviews, both industry and Government officials expressed concern over

the failure to implement the results presented in many of the studies performed under professional services contracts. For example, one industry representative noted that a newly appointed agency official requested proposals to study a problem that had been studied no fewer than 12 times in the past ten years. In each of the prior studies, the same solution had been proposed but not implemented. In another case, an agency's internal review team examined 53 professional service contracts costing more than \$10 million. The results from contracts representing two-thirds of this cost were not utilized because of personnel turnover, poorly conceived RFPs, reorganization, poor performance by the contractor, or lack of involvement by persons in decisionmaking positions.

CONCLUSIONS

Guidelines and agency regulations should require assignment of qualified agency personnel to oversee performance of professional service contracts, to be responsible for evaluating results of the services performed, and to take action on resulting findings or recommendations. If action is not taken, the agency records should reflect the reasons therefor.

Inappropriate Use of Professional Service Contractors

Another major problem concerns the use of professional services contracts when they are not really justified or relevant.

An official of the Office of Management and Budget,³ in assessing the use of management experts within Government, has cited the following "inappropriate situations":

- As a substitute for developing essential in-house competence
- As the fashionable thing to do

³ Statement of Alan A. Dean, Deputy Assistant Director for Organization and Management Systems, OMB, in a lecture delivered on Dec. 6, 1971, and published as "Improving Management for More Effective Government," 50th Anniversary Lectures, of the United States General Accounting Office 1921-1971.

- As a means of circumventing personnel ceilings
- As a technique for avoiding decisionmaking.

The Blue Ribbon Panel which studied the management practices of the Department of Defense in 1970 found, in respect to contract studies, that:

There is no effective control of contract studies within the Department. While each study must be justified to get funding, there does not appear to be, at any point, an effective mechanism for establishing a relative need for the study, or for determining the extent to which the subject area has been studied previously. It appears from reviewing completed studies, that many of them are not objective analyses to provide inputs to the decision process but are rather performed to support positions known to be held by the contract organizations.

The following recommendations of the Blue Ribbon Panel on this point should stand as a model that other agencies should consider:

- Establish procedures to review and validate requirements for contract studies.
- Establish a central control record of contract studies to include subject, purpose, cost, significant finding, and an assessment of the quality of the work and the utility of the product.
- Establish procedures for contracting for

studies to provide adequate safeguards to assure that the Department gets a product that is relevant and responsive to the requirement; assure a close working relationship between the contracting officer and the technical representative; and develop criteria for selecting contractors that will assure competent and objective support to the Department.*

Summary

Improvements in the acquisition of professional services are important, not only because of the growing size of these procurements but also because such services, properly employed, are essential to effective program administration. Moreover, the analyses and recommendations flowing from these professional services contracts frequently are the basis for sizeable additional expenditures of Federal funds.

Our recommendation and other suggested actions should bring about the desired improvements. However, they should be supplemented by periodic reviews of agency practices and procedures by the Office of Federal Procurement Policy in order to assure that the problems noted are being corrected and that further actions are initiated where necessary.

* Blue Ribbon Defense Panel, *Report to the President and the Secretary of Defense on the Department of Defense*, July 1970, pp. 158-160.

CHAPTER 10

Field Contract Support

GOVERNMENT-WIDE CONTRACT SUPPORT

Recommendation 39. Establish a program to coordinate and promote interagency use of contract administration and contract audit services; and use, to the fullest extent possible, for comparable contract support requirements, the services of those Federal agencies charged with performing designated support services for the general public at contractors' facilities.

Several Federal agencies maintain extensive field organizations to provide contract support. Other agencies provide in-plant inspections of products intended for public use. To the extent of their capabilities, these agencies should be used to provide field contract support services for all Federal agencies.

Field contract support services may include one or many steps in the administration of contracts, such as pre-award surveys, plant clearance, industrial security, equal employment opportunity contract compliance reviews, small business assistance, price and cost analyses, production surveillance, safety, property administration, quality assurance, transportation, contractor payment, contract audit, and contract termination.

At present, many agencies fail to take full advantage of available field contract support. These failures are attributable to two main causes: (1) interagency use of field contract support is not mandatory and (2) there is no focal point in the executive branch for coordinating field contract support.

In the Department of Defense (DOD), the Defense Contract Administration Services

(DCAS) and the Defense Contract Audit Agency (DCAA) have reduced the number of activities and personnel needed to administer DOD contracts. Although DCAS and DCAA can perform similar services for civilian agencies, they are being used to do so only to a limited extent.

Civilian agency use of DCAS generally has been limited to sporadic quality-assurance requirements. There has been a greater tendency to use the services of DCAA; it currently does work for about 22 Government agencies.¹ Many agencies, however, still make their own contract audits or, in some cases, have them made by commercial auditors. NASA, however, regularly uses the services of DCAS and DCAA, and the services have proven to be reliable and effective.²

Some agencies do not use inspection services available from other Government agencies, and contractors often complain that there is much duplication of agency inspection. For example, the Department of Agriculture (USDA) and the Food and Drug Administration (FDA) are required by law to inspect and grade food for the public or as a reimbursable service to the food industry. When Government agencies contract with the segment of the food industry served by USDA and FDA inspectors, they usually do not use these inspection services.

A Government-wide program for interagency field contract support would provide a means for maximizing the use of present resources and minimizing the demands on suppliers. To be fully effective, the program must

¹ U.S. Department of Defense, *DCAA Annual Report, Fiscal Year 1971*, p. 8.

² Study Group 5, *Final Report*, Feb. 1972, p. 326.

operate under uniform procedures and have strong central direction.

DOD CONTRACT SUPPORT

Transfer all DOD Plant Cognizance to DCAS

Recommendation 40. Transfer all plant cognizance now assigned to the military departments to the Defense Contract Administration Services with the exception of those plants exempted by the Secretary of Defense (for example, GOCO plants and Navy SUPSHIPS).

With the establishment of DCAS in 1965, DOD improved the effectiveness of the field contract support provided to its procuring activities. These internal improvements in DOD operations have had a salutary effect on industry: much of the duplication at contractors' facilities has been minimized or eliminated, thus showing a single DOD "face" to industry. Nevertheless, further economies can be realized. A first step toward these goals involves the transfer of additional plant cognizance responsibilities to DCAS.

The DOD plan³ for centralized contract management excludes certain types of contracts and organizations from DCAS central management. These exclusions are:

- Basic research contracts to which field personnel could contribute little
- Research contracts with educational institutions under exclusive cognizance of the Office of Naval Research (ONR)
- Government-owned, contractor-operated (GOCO) plants (primarily arsenal operations involving ammunition and chemicals under cognizance of the Army)
- Navy Supervisors of Shipbuilding (SUPSHIPS) whose activities relate exclusively to shipbuilding and fleet operations
- Construction.

DCAS commenced operations with a limited but ambitious charter. The contract manage-

ment offices taken over by DCAS represented about 50 percent of total DOD contract expenditures and more than 60 percent of the contract administration resources.⁴ Minimal progress has been made toward bringing the 51 major plants initially excluded under the cognizance of DCAS. As shown in table 1, 39 plants are still controlled by the military departments.

As originally conceived, the program would assign plant cognizance to the DOD agency with the preponderance of contract activity at a particular plant. In this way, the assigned agency would administer *all* DOD contracts placed in the plant, regardless of their origin. Although the program includes flexibility to reassign plant responsibility among the military services and DCAS, this generally has not been done.

In most cases, when a military service awards a new contract for a major weapon system, the responsibility for contract administration automatically comes under the service currently cognizant in the contractor's plant. This situation appears to prevail regardless of the mix or amount of work being performed by the contractor or for whom it is being performed. Although some plant reassignments have been made, the net result has been perpetuation of the status quo (see table 1). Little progress has been made toward the ultimate goal of transferring all plant cognizance functions to DCAS.

The division of plant cognizance functions between the military services and DCAS perpetuates the problems of nonuniform policies and procedures, duplication, and overlap. The three military services and DCAS each has its own set of policies and procedures covering field contract support. They all stem from the same authority, the Armed Services Procurement Regulation (ASPR), but they are not uniform since agency interpretations and methods of implementation differ. The adverse effects are clear. Industry must cope with four different sets of procedures, all intended to accomplish the same functions, administered by four separate organizations. The problem is acute for a multidivision contractor doing business with more than one DOD organization and is further aggravated if the contrac-

³ U.S. Department of Defense, Office of the Secretary of Defense, *Project 60 Report on Contract Management*, 1963.

⁴ *Ibid.*

TABLE 1. DOD PLANT COGNIZANCE ASSIGNMENTS, MARCH 1972

| | Army | Navy | Air Force | DCAS | Total |
|-------------------|------|------|-----------|------|-------|
| November 12, 1964 | 10 | 17 | 24 | 41 | 92 |
| 1965-1972 | | | | | |
| Transferred out | 7 | 4 | 7 | 2 | 20 |
| Transferred in | 2 | 2 | 2 | 14 | 20 |
| Established new | 0 | 0 | 0 | 4 | 4 |
| Dissolved | 0 | 0 | 0 | 23* | 23* |
| Net March 1972 | 5 | 15 | 19 | 34 | 73 |

*Represents discontinuance of plant residencies. In most cases responsibility for support of a particular plant was reassigned to a DCAS district or area office.

Source: (1) *DOD Directory of Contract Administration Services Components* (DOD 4105.59H), Mar. 1972.
(2) Commission Studies Program.

tor is also doing business with civilian agencies.³

The military services are wary of the erosion of their technical control and direction over major weapon system programs. We understand this concern and fully support the program manager's prerogative to position required technical personnel in the contractor's facilities. However, many tasks performed in field offices are important to the success of a program but are not of continuing concern to the program manager. Performance of these tasks by a field contract support team complements program personnel assigned to a contractor's facility.

DCAS has been a major asset for DOD and industry and can, if expanded, service the plants now under cognizance of the military services, improve DOD contract administration, and reduce costs.

Separate DCAS from DSA

Recommendation 41. Remove the Defense Contract Administration Services organization from the Defense Supply Agency and establish it as a separate agency reporting directly to the Secretary of Defense.

When DCAS was formed, the Secretary of Defense placed DCAS under the Defense Supply Agency (DSA). The selection of DSA, rather than one of the services, was a reason-

³ The proliferation of regulations is discussed in detail in Chapter 4.

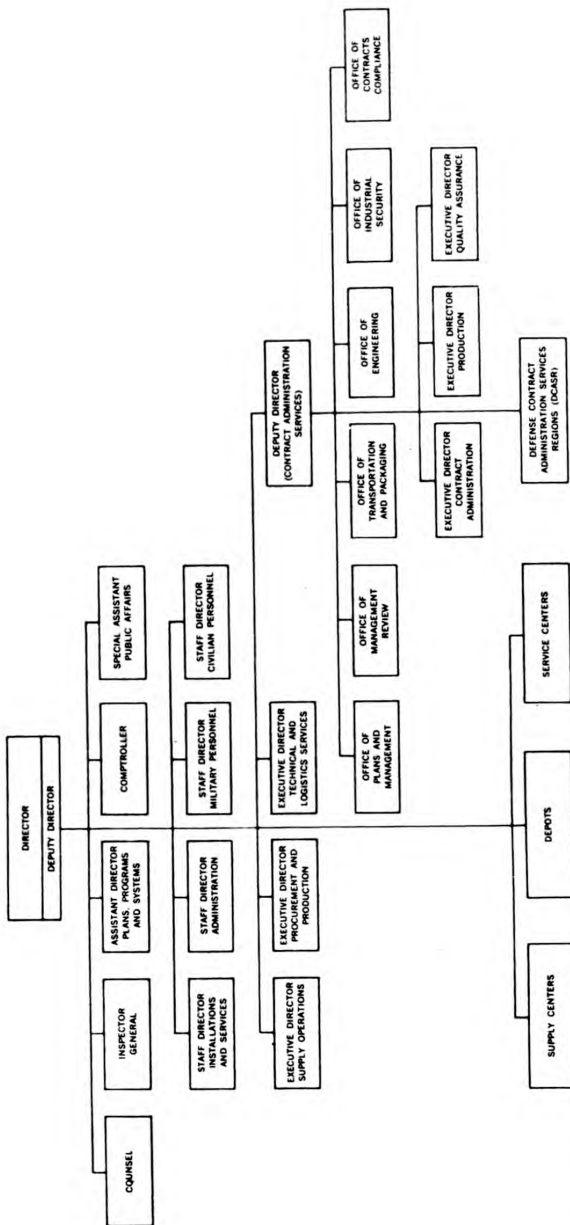
able assignment since DSA was already jointly staffed and had a defensewide mission.

Federal and industry officials generally agree that DCAS performs its mission effectively. However, many procuring agencies are reluctant to assign contracts to DCAS and some agencies that do assign work to DCAS fail to use the full range of its available services. The reasons given generally relate to DCAS' location in DSA and concerns that by reason of its location DCAS would not give sufficient emphasis or priority to their needs.

Whether these concerns are real or imagined, the assignment of a contract administration and a wholesale supply mission to DSA inhibits the attainment of the full benefits of central management of contract support. Requiring two major mission elements to compete for resources and management attention within a single organizational framework creates problems involving priority of management attention.

Locating DCAS in DSA was influenced by the potential economies inherent in attaching the new organization to an established administrative base. DCAS and DSA would share headquarters support services such as personnel, public affairs, counsel, administrative support, comptroller, manpower use, and systems planning. Although the two functions were to be accorded equal organizational status with a Deputy Director of Supply and a Deputy Director for Contract Administration Services, this has not been done. The Deputy Director of DCAS reports to the Director/Deputy Director of DSA in the same manner as the Executive

DEFENSE SUPPLY AGENCY



Source: Commission Studies Program.

Figure 1

Directorates of the DSA headquarters (see figure 1).

A more forceful, integrated, and responsive DOD contract support program would result if DCAS were a separate agency reporting directly to the Secretary of Defense. As a separate agency, DCAS would have the status and independence that the military departments consider necessary to provide them with fully responsive support.

Consolidate DCAS and DCAA into a Single Agency

Recommendation 42. Consolidate the Defense Contract Administration Services and Defense Contract Audit activities into a single agency reporting directly to the Secretary of Defense.*

Organizationally two different approaches were taken when DCAS and DCAA were established. DCAS was placed under an existing organization (DSA), but DCAA was established as a separate agency. Allegedly, the necessity to preserve the auditor's "independence" was the overriding reason for affording DCAA separate status. This reason evidently was considered to outweigh the advantages of bringing together, in a single organization, all the skills needed to support the contracting officer. Regardless of the reason, the organizational separation of DCAS and DCAA continues to cause unnecessary friction.

Interface problems between DCAS and DCAA have persisted since their establishment. Contract administrators and buying office personnel resent the fact that auditors enjoy a separate command channel. They believe that this independent status often prevents the auditor from performing in an "advisory" role as a member of the contracting officer's team. Rather, they feel that the auditor often "judges" the procurement decisions of the contracting officer.

Contract administration and buying personnel resent the situation that permits the auditor to submit a dissenting report through an

audit organization to the Secretary of Defense level. Relatively few actions have, in fact, reached the Office of the Secretary of Defense for decision. It was clear, however, that the mere existence of this mechanism, whether used or not, is a constant source of irritation.

DCAA, however, believes that the roles and relationship of auditors to contracting officers (including administrative contracting officers [ACOs] are defined in the ASPR and FPR; and it is clearly the province of the contracting officer to make the ultimate judgments in reaching reasonable and prudent contract pricing decisions. DCAA believes that if auditing were to be organizationally responsible to officials charged with making pricing decisions, its effectiveness would be reduced. Similar views were expressed by audit personnel in the civilian agencies. However, we noted that *contract auditing* in these agencies is not separated from the *internal audit* function. These auditing organizations, as independent arms of the agency heads, are responsible for auditing internal agency operations as well as contractors. This contrasts with DCAA whose mission is limited to the review of contractors' records and does not include the review of Federal agency performance. DCAA is not an inspector general or an agency charged with investigating fraud.

Individual industry representatives and associations have publicly criticized the organizational separation of auditing from the other field contract support functions within DOD. They point out that the existing structure presents yet another Government agency that contractors must deal with in pricing, overhead determinations, accounting system reviews, etc. They believe this arrangement places an unnecessary and costly burden on industry and seriously inhibits the Government's goal of achieving "unified team action" in providing contract support to its procuring agencies. We found through extensive interviews and questionnaires that these views were shared by a broad cross section of industry.

A succession of ad hoc committees and task forces have studied the issues and made recommendations to resolve the problems involved. The 1969 Logistics Management Insti-

*See dissenting position, *infra*.

tute (LMI) report⁶ evaluating the contract audit-contract administration interface suggested that the existing organizational framework be improved or that DCAA and DCAS be merged into a single organization reporting to the Secretary of Defense. LMI recommended the latter alternative as the one more likely to produce a workable and lasting solution.

Subsequently, the Deputy Secretary of Defense designated a task group composed of top DOD officials to review and evaluate the recommendations of the LMI study. The task group unanimously concluded that DCAA and DCAS should not be merged, but recommended a number of actions designed to achieve closer coordination between the two agencies and to clarify regulations and directives on their respective roles and missions.⁷

In 1970, to implement the task group's suggested improvements, the Deputy Secretary of Defense directed the establishment of a second task group. In July 1971, this group proposed a number of recommendations that were approved by the Deputy Secretary of Defense.⁸ These recommendations included changes in regulations, physical collocation of contract administration services and auditing offices, improved procedures for requesting field pricing assistance and resolving differences, and establishment of a working level group to be known as the Contract Administration and Audit Advisory Forum. ASPR Revision 11 of April 28, 1972, partially implemented these changes by directing contracting officers to send all requests for field pricing assistance to the ACO/Plant Representative.

Thus far these attempts to resolve audit-contract administration interface problems within the existing organizations have not been fully effective. Despite the many statements that contract administration and audit are equally important advisory functions, their organizational separation continues to result in overlap,

duplication, and friction. We are concerned that these problems still persist despite the vast amounts of energy already devoted to their resolution.

Opponents of a DCAS and DSA merger contend that the auditor traditionally and necessarily must be independent of the operations he is auditing. When placed in the proper context, this is a sound management principle. For example, an agency's *internal audit* organization audits all internal operations, including procurement. To prevent the exertion of undue influence by the several levels of operating management and to lend objectivity, the auditing organization is separate from the operating elements and reports directly to the agency head. Thus, the auditor is "independent" of the operations he is auditing.

Contract audit, however, has a different role. This role was described succinctly by the Director of DCAA during the congressional hearings that led to the establishment of this Commission:

... In order to set the stage, and to be sure that the Agency's place in the general scheme of things is clearly understood, I would like to make the following statements:

First, substantially all of our work is in support of some phase of procurement or contract administration.

Second, *we audit no enterprise or activity except Government contractors; we do not audit or examine any internal Government function or activity.*

Third, *our reports and recommendations are advisory to procurement and contract administration officials.* It is intended, where there is to be a negotiation or a determination of costs, either with respect to costs incurred or prices proposed, that our reports should bring to the attention of the contracting officer or negotiator those costs claimed or proposed which are either:

- (i) Unallowable or not allocable under the contract provisions or the contract cost principles, or

⁶ Logistics Management Institute, *Report on the Contract Audit/Contract Administration Interface*, LMI Task 68-17, Mar. 1969.

⁷ U.S. Department of Defense, Office of the Assistant Secretary of Defense (Comptroller) Memorandum for Deputy Secretary of Defense, *Logistics Management Institute (LMI) Study Covering "The Contract Audit/Contract Administration Interface"*—March 1969, Jan. 16, 1970.

⁸ U.S. Department of Defense, Office of the Deputy Secretary of Defense, Defense Contract Advisory Council Task Group, *Report on DOD Contract Audit/Contract Administration Operating Improvements*, July 12, 1971.

⁹ U.S. Congress, House, Committee on Government Operations, *Government Procurement and Contracting*, hearings before a subcommittee of the Committee on Government Operations on H.R. 474 "To Establish a Commission on Government Procurement," 91st Cong., 1st sess., 1969.

- (ii) Of such nature that they may be acceptable in whole or in part, but the decision needs to be based on knowledge and/or skill possessed by the contracting officer or negotiator, or their engineering and other technical assistants.

Fourth, the contract auditor has very little authority, as such; only the responsibility to provide for others a professional type of service which is vital to the conservation and protection of public funds . . . [Italics supplied]

The foregoing clearly indicates that contract auditing exists to provide a professional advisory service to procuring agencies in the placement and administration of contracts. This is also the goal of the field contract administration services organization. DCAA does not audit the internal operations of any Government activity. In this sense, it is not engaged in the traditional internal audit function—nor would it be if DCAA were merged with another organization. In terms of independence, the contract auditor is completely separate, as he must be, from the contractors whom he audits. Here again, this independent status would be preserved if DCAS and DCAA were combined.

A great number of combined skills must be brought to bear in order to support the contracting officer. Toward this end, the professional independence of engineers, lawyers, production specialists, quality assurance technicians, and others is necessarily subordinated. Contract auditing should not be an exception. Although contract auditors might appear to suffer from loss of status if DCAS and DCAA were to be combined, this is largely a problem of attitudes that is not any more serious than the existing problem.

Sound management practices recognize the advantages of grouping mutually supporting activities in a single organization. The contract auditing function is a mutually supporting skill that belongs in DCAS. This arrangement would promote a single line of responsibility between procuring and field support activities and would provide a much clearer and more responsive channel to DOD contractors.

These benefits, together with the potential

cost savings that would accrue from consolidating DCAS and DCAA, outweigh the possibility that the objectivity and independence of contract auditing would be eroded.

DISSENTING POSITIONS

A number of Commissioners* do not support the consolidation of DCAS and DCAA into a single agency. Their views on this recommendation are as follows:

The majority opinion is that the Defense Contract Administration Services and the Defense Contract Audit Agency activities should be consolidated into a single agency reporting directly to the Secretary of Defense. The majority believes that the contract administration community generally represents the fact that audit personnel enjoy a separate command channel and can submit a dissenting report through audit channels. They also believe that a merger of the two organizations would result in savings by eliminating duplicate staff functions and through space and administrative savings.

GAO, in a report to the Chairman, Select Committee on Small Business (B-166470, April 21, 1969), on a similar proposed merger stated its views that, regardless of the type of organization ultimately decided upon, the DCAA auditor should continue to have complete independence in determining the scope and depth of the review necessary for reporting his findings and conclusions concerning a contractor's incurred and estimated costs.

The Secretary of Defense believes that it is not in the public interest or the interest of the Department of Defense to destroy the independence of the DCAA or to change the organizational arrangement under which DCAA reports directly to the Secretary of Defense. In 1969 the Logistics Management Institute proposed a merger of DCAS and DCAA which was rejected by the Department of Defense. Both the Senate and House Appropriations Committees expressed strong opposition to this proposal.

GAO believes that the consolidation of DCAS and DCAA would inevitably result

*Commissioners Chiles, Hollifield, Staats, and Webb.

in a diminution of the independence of the auditor. Undoubtedly consolidation would place the DCAA auditor under the supervision and control of DCAS personnel. This could result in restrictions placed on the auditor and decrease the confidence that the public and the Congress have in the contract negotiation and administration process.

There is little evidence of adverse effects on the procurement process that result from DCAA operating as an independent agency or of the savings that would be realized by the proposed consolidation. Further, whether or not DCAA and DCAS should be consolidated has little effect on the procurement process. It is primarily an internal coordination and management problem which should be resolved by the Secretary of Defense.

Commissioner Webb adds the following comments to the dissenting position:

While my dissent from the majority opinion on the consolidation of DCAA with DCAS is primarily based on my view that the independence of both internal and contract audit functions should be clearly preserved, there is another basic reason for my dissent. All through the studies for the Government Procurement Commission we have found a very real need for senior officials of Government agencies to give more attention to ways and means through which they can furnish better leadership to improve

procurement activities and to encourage and support procurement personnel in ways that will accomplish a substantial upgrading in both the capability and motivation of the men and women who are assigned responsibility in this area.

In my private business activities and governmental service, I have found that senior officials in a complex organization can build into the structure an important self-policing function through the use of senior officials, reporting at the highest level, to administer an independent audit function. Procurement personnel gain a strong feeling of support and motivation from the assurance that suspected irregularities relating to procurement will be given attention by very senior officials. This is of great importance to the quality of their performance. An added element of effectiveness for the leadership role of senior executives is frequently obtained from utilizing the independent audit capability to emphasize, through the way the audit work is planned and conducted, those basic policies and patterns of work which are considered most important. Senior executives such as the Secretary of Defense and Deputy Secretary simply cannot assume that procurement personnel will maintain the high level of performance which is needed without their direct and visible leadership to this end and the utilization of the most effective forms of organizations to make that leadership effective.

CHAPTER 11

National Policies Implemented Through the Procurement Process

The magnitude of the Government's outlays for procurement and grants creates opportunities for implementing selected national policies. The opportunities lie in the disciplining effect which the Government can exert on its contractors and grantees. It can require, for example, that suppliers maintain fair employment practices, provide safe and healthful working conditions, pay fair wages, refrain from polluting the air and water, give preference to American products in their purchases, and promote the rehabilitation of prisoners and the severely handicapped. However, the pursuit of these opportunities also creates problems in the procurement process.

The enormity of the dollar figure involved (\$57.5 billion¹ for direct procurement and \$39.1 billion² for grants in fiscal 1972) makes the procurement process appear to be an attractive vehicle for achieving social and economic goals. The procurement process also draws attention because its flexible regulatory system makes it readily adaptable to the implementation of diverse policies. However, its effectiveness in accomplishing such goals is perhaps overrated; for example, even though a large share of the Government procurement dollar is spent for commercial products, sales to the Government amounted to less than two percent of the Nation's total commercial sales in 1967.³

¹ See Appendix D.

² U.S. Office of Management and Budget, *Special Analyses of the United States Government, Fiscal Year 1973*, table P-9, Federal Aid to State and Local Governments, p. 254.

³ 1967 *Census of Business*, vol. III, Wholesale Trade Subject Reports, table I, Wholesale Trade Sales by Class of Customer, 1969.

⁴ 4-1, indicates sales to the Government constitute about 1.6 percent of the total sales in wholesale trade.

The problems engendered by use of the procurement process in the implementation of national goals are that procurement becomes more costly and time-consuming with the addition of each new social and economic program. The cumulative effect of programs already imposed on the procurement process and the addition of those contemplated could overburden it to the point of threatening breakdown. At the very least, the imposition of national goals and objectives on the procurement process, as beneficial as they may be, add numerous obligations and administrative complexities for Government contracting officers. Legitimate questions arise as to how much of the extra costs and other burdens of social and economic programs should be absorbed in the procurement process and how much should be supported by more explicit means.

The procurement process is only one means, and in the main a supplemental one, for achieving social and economic objectives. The Government grants tax benefits, licenses, and privileges; makes direct grants of money and equipment; and uses other instruments to achieve national purposes by encouraging certain types of conduct and discouraging others.

The cost burden in extra time and money of pursuing nonprocurement objectives through the procurement process cannot be precisely measured, although we can say with certainty that these costs are significant. For some programs, incremental costs of administration can be identified, as when a line item is requested for administration of fair employment prac-

tices⁴ or for contract awards to minority enterprises.⁵ They can also be identified when, as in the case of the Noise Control Act,⁶ specific amounts are authorized for the payment of price differentials in the purchase of low-noise-emission products.⁷ In other cases, costs are absorbed within the procurement process itself, without any ready means to identify them.

In a larger sense, it may be cost-effective for the Government and society at large to use the leverage of the procurement process for achieving selected national objectives. It is doubtful that such achievement is cost-effective for the procurement process itself. Herein lies the dilemma. We do not believe this dilemma can be resolved by simply disengaging the procurement process from the whole complex of other objectives attached to it through many decades. However, there are limits to the number of such objectives that the procurement process can support, and both Congress and the Executive should consider the consequences for procurement each time a law is passed or an Executive order is issued which mobilizes the procurement process for some other purpose—regardless of the worthiness of that purpose.

Our mandate is to improve the procurement process, not to assess the value or relative importance of all the nonprocurement objectives associated with that process. However, our statutory charter directs us to consider the problem of conforming Government procurement policies and programs, wherever appropriate,

to other established Government policies and programs. Our studies in this area necessarily have been limited because of the wide-ranging impact of procurement on everything else that the Government does or supports.⁸ Our recommendations recognize the dilemma mentioned earlier. We do not propose to divorce the procurement process from other national objectives. We do believe, however, that more deliberate attention and analysis should be given to the nonprocurement obligations placed on the procurement process and to the consequences that are adverse to efficient and economic performance.

Nature and Scope

One of the earlier attempts to bring about social change through the procurement process was the enactment of the Eight Hour Laws, a series of statutes setting standards for hours of work.⁹ The eight-hour day was first extended to workers employed by contractors and subcontractors engaged in Federal projects in 1892. In 1905 an Executive order by President Theodore Roosevelt prohibited the use of convict labor on Government contracts,¹⁰ thereby implementing through the procurement process an 1887 statute prohibiting the hiring-out of convict labor. A list of several social and economic programs implemented through the procurement process is set forth in table 1. Each of these programs results in the addition of a clause or clauses to Federal contracts or in the requirement for a certification, notification, or some other administrative procedure related to obtaining bids or proposals. Some problems associated with the most significant of these programs are summarized in table 2.

⁴ Budget figures for fiscal 1972 indicated that the procurement agencies budgeted approximately \$24 million for the enforcement of nondiscrimination in employment. This figure does not reflect the time and effort of procurement personnel, who have implementation responsibilities, or of contractors, whose costs are ultimately borne by the Government.

⁵ The fiscal 1972 budget of the Small Business Administration contained \$8 million for "business development expense," that is, the price differential paid small business enterprises over what the goods or services could be obtained for elsewhere. (U.S. Congress, House, Select Committee on Small Business, hearings on Government Minority Small Business Programs before the Subcommittee on Minority Small Business Enterprise, 92d Cong., 2d sess., 1972, vol. 2, p. 395.)

⁶ Public Law 92-574.

⁷ Section 15 of the act provides for the prequalification and certification of low-noise-emission products and also provides that the Government is to acquire certified low-noise-emission products for its use in lieu of other products if the Administrator of General Services determines that the procurement costs of low-noise-emission products are not more than 125 percent of the retail price of the least expensive products for which they are substitutes. It authorizes appropriation of \$1 million for fiscal 1973 and \$2 million for each of the two succeeding fiscal years for the payment of price differentials and to carry out the purposes of section 15.

⁸ Our detailed studies have been limited to statutes, Executive orders, or other pronouncements which are implemented solely or principally through the procurement process. Many other social and economic measures which are of general application also have an impact on the procurement process in that procuring agencies are required to take action to assure that such measures are not violated in connection with their procurements. The current wage and price controls are an example.

⁹ These confusing and overlapping work standard statutes were superseded on Aug. 13, 1962, by the Work Hours Act of 1962, 76 Stat. 357.

¹⁰ Executive Order 325A, *An Order Forbidding the Hiring of Prisoners by Contractors to the U.S. Government*, May 18, 1905.

An awareness of the potential of the Government contract as a means for promoting social and economic objectives developed during the depression of the 1930's. In the face of high unemployment and depressed wages, Congress enacted the Buy American Act¹¹ and most of the labor standards legislation relating to public contracts, including the Davis-Bacon Act,¹² the Walsh-Healey Public Contracts Act,¹³ and the Copeland "Anti-Kickback" Act.¹⁴ While the Buy American Act, with its procurement preference for domestically-made products, sought to protect American industry and promote jobs, the labor standards legislation was aimed largely at protecting workers from exploitation by unscrupulous employers. This period also produced the Federal Prison Industries Act¹⁵ and the Wagner-O'Day Act¹⁶ which established preferences for products produced by Federal prisoners and by the blind.

The exigencies of war mobilization also have given impetus to the use of the Government contract for accomplishing objectives other than procurement. Executive orders requiring nondiscrimination in employment by Government contractors are among measures which originated during World War II when maximum use of the Nation's manpower and resources was a chief concern.¹⁷ This concern also gave birth to the program begun in 1952 for placing Government contracts in labor surplus areas.¹⁸ Certain of these programs gained new emphasis in the late 1960's as part of the broader Government effort to provide more jobs in the inner cities. In 1967, the procurement preference for "areas of persistent or substantial labor surplus" was expanded to include a new preference category, "sections of concentrated unemployment or underemployment," aimed at reducing urban unemployment.¹⁹ Similarly, although Section 8(a) of the Small Business Act²⁰ is aimed at small business generally, it has become the instrument of

a special Government program to create and upgrade minority-owned business firms.

The 1960's was also a period of expanded labor-related legislation designed to close some of the gaps in the legislation of the 1930's. An amendment to the Davis-Bacon Act in 1964 broadened the prevailing wage concept to include certain fringe benefits as well as actual wages.²¹ The Service Contract Act of 1965²² extended to service employees of contractors the wage and labor standard policies established by the Davis-Bacon Act and the Walsh-Healey Public Contracts Act. Like the Walsh-Healey Act, this law also required safe and sanitary work conditions for service employees. In 1969, the Contract Work Hours Standards Act was amended to give the Secretary of Labor authority to promulgate safety and health standards for workers on construction contracts.²³

Today, the procurement process increasingly is being recognized as a means of implementing Government policies. New and diverse national programs are being grafted upon the process at a rapid pace. For example, it was recently used to help meet the employment needs of Vietnam veterans by requiring Government contractors and subcontractors to list employment openings with appropriate State employment service offices²⁴ and to promote training opportunities in construction crafts by requiring the employment of apprentices and trainees on Federal construction projects.²⁵ New proposals are currently being advanced to incorporate into the process the Nation's efforts to mitigate air and water pollution.²⁶

Other social and economic measures that will be implemented through the procurement process are the Noise Control Act of 1972 and the Vietnam Veterans Readjustment Assistance Act of 1972.²⁷ The Noise Control Act estab-

¹¹ Act of July 2, 1965, Public Law 88-349, 78 Stat. 238.

¹² Public Law 89-286, 79 Stat. 1084. The purpose of the bill as set forth in S. Rept. 798, 89th Cong., 1st sess., Sept. 30, 1965, was "to provide labor standards for . . . the only remaining category of Federal contracts to which no labor standards protection applies."

¹³ Public Law 91-54.

¹⁴ Executive Order 11598, 3 CFR 161 (Supp. 1971).

¹⁵ Statement by the President on "Combating Construction Inflation and Meeting Future Construction Needs," Mar. 17, 1971 (6 Weekly Comp. of Pres. Doc. 376 (1970)), art. III, sec. B.4.

¹⁶ In particular, see the Clean Air Act, 42 U.S.C. 1857 et seq. (1970) and Executive Order 11602 of June 29, 1971, pursuant thereto, 3 CFR 167 (Supp. 1971); the Water Quality Improvement Act of 1970, 33 U.S.C. 1151, 1151 note, 1155, 1156, 1158, 1160-1172, 1174 (1970).

¹⁷ Public Law 92-540.

¹⁸ 41 U.S.C. 10a-10d (1970).

¹⁹ 40 U.S.C. 276a-276a-5 (1970).

²⁰ 41 U.S.C. 35-45 (1970).

²¹ 18 U.S.C. 874; 40 U.S.C. 276c (1970).

²² 18 U.S.C. 412a (1970).

²³ 41 U.S.C. 46-48 (1970).

²⁴ Executive Order 8802, 3 CFR 957 (1938-1943 Comp.).

²⁵ Defense Manpower Policy No. 4, 32A CFR 33 (1972).

²⁶ *Ibid.*

²⁷ 15 U.S.C. 637(a) (1970).

TABLE 1. SOCIAL AND ECONOMIC PROGRAMS

| <i>Program</i> | <i>Authority</i> | <i>Purpose</i> |
|--|--|---|
| Buy American Act* | 41 U.S.C. 10a-10d | To provide preference for domestic materials over foreign materials |
| Preference for United States Manufacturers | 22 U.S.C. 295a | To provide preference for domestic manufactures in construction of diplomatic and consular establishments |
| Preference for United States Manufacturers | 16 U.S.C. 560a | To restrict U.S. Forest Service from purchasing twine manufactured from materials of foreign origin |
| Preference for United States Products (Military Assistance Programs)* | 22 U.S.C. 2354(a) | To require the purchase of U.S. end products for the military assistance program |
| Preference for United States Food, Clothing, and Fibers (Berry Amendment)* | Public Law 91-171, sec. 624 | To restrict the Department of Defense from purchasing specified classes of commodities of foreign origin |
| Officials Not to Benefit* | 41 U.S.C. 22 | To prohibit members of Congress from benefiting from any Government contract |
| Clean Air Act of 1970 | 42 U.S.C. 1857h-4 | To prohibit contracting with a company convicted of criminal violation of air pollution standards |
| Equal Employment Opportunity* | Exec. Order 11246, Exec. Order 11375 | To prohibit discrimination in Government contracting |
| Copeland "Anti-Kickback" Act* | 18 U.S.C. 874, 40 U.S.C. 276c | To prohibit kickbacks from employees on public works |
| Walsh-Healey Act* | 41 U.S.C. 35-45 | To prescribe minimum wage, hours, age, and working conditions for supply contracts |
| Davis-Bacon Act* | 40 U.S.C. 276a-1-5 | To prescribe minimum wages, benefits, and work conditions on construction contracts in excess of \$2,000 |
| Service Contract Act of 1965* | 41 U.S.C. 351-357 | To prescribe wages, fringe benefits, and work conditions for service contracts |
| Contract Work Hours and Safety Standards Act* | 40 U.S.C. 328-332 | To prescribe eight-hour day, forty-hour week, and health and safety standards for laborers and mechanics on public works |
| Fair Labor Standards Act of 1938 | 29 U.S.C. 201-219 | To establish minimum wage and maximum hours standards for employees engaged in commerce or the production of goods for commerce |
| Prohibition of Construction of Naval Vessels in Foreign Shipyards | Public Law 91-171 (DOD Appropriation Act of 1970), title IV | To prohibit use of appropriated funds for the construction of any Navy vessel in foreign shipyards |
| Acquisition of Foreign Buses | Public Law 90-500, (DOD Appropriation Act of 1969), sec. 404 | To restrict use of appropriated funds to purchase, lease, rent, or otherwise acquire foreign-manufactured buses |
| Release of Product Information to Consumers | Exec. Order 11566 | To encourage dissemination of Government documents containing product information of possible use to consumers |
| Prohibition of Price Differential | Public Law 83-179, sec. 644 | To prohibit use of appropriated funds for payment of price differential on contracts made to relieve economic dislocation |
| Required Source for Jewel Bearings* | ASPR 7-104.37 | To preserve a mobilization base for manufacture of jewel bearings |

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| <i>Program</i> | <i>Authority</i> | <i>Purpose</i> |
|--|---|---|
| Employment Openings for Veterans* | Exec. Order 11598, 41 CFR 50-250, ASPR 12-1102 | To require contractors to list suitable employment openings with State employment system to assist veterans in obtaining jobs |
| Covenant Against Contingent Fees* | 41 CFR 1-1.500-509 | To void contract obtained by broker for a contingent fee |
| Gratuities* | 32 CFR 7.104-16 | To provide Government with right to terminate if gratuity is given to a Government employee to obtain contract or favorable treatment |
| International Balance of Payment* | ASPR 6-805.2, FPR 1-6.8 | To limit purchase of foreign end products and services for use abroad |
| Prison-made Supplies | 18 U.S.C. 4124 | To require mandatory purchase of specific supplies from Federal Prison Industries, Inc. |
| Preference to U.S. Vessels* | 10 U.S.C. 2631, 46 U.S.C. 1241 | To require the shipment of all military and at least half of other goods in U.S. vessels |
| Care of Laboratory Animals* | ASPR 7-303.44 | To require humane treatment in use of experimental or laboratory animals |
| Required Source for Aluminum Ingot* | ASPR 1-327, FPR subpart 1-5.10 | To eliminate excess quantity of aluminum in the national stockpile |
| Small Business Act* | 15 U.S.C. 631-647; see also 41 U.S.C. 252(b) and 10 U.S.C. 2301 | To place fair portion of Government purchases and contracts with small business concerns |
| Blind-made Products | 41 U.S.C. 46-48 | To make mandatory purchase of products made by blind and other handicapped persons |
| Duty-free Entry of Canadian Supplies* | ASPR 6-605 | To further economic cooperation with Canada and continental defense |
| Use of Excess and Near Excess Currency* | ASPR 6-000 et seq., FPR 1-6.804-806 | To provide preference in award to bidders willing to be paid in excess or near-excess foreign currency |
| Purchases in Communist Areas* | ASPR 6-401 et seq. | To prohibit acquisition of supplies from sources within Communist areas |
| Nonuse of Foreign Flag Vessels Engaged in Cuban and North Vietnam Trade* | ASPR 1-1410 | To prohibit contractor from shipping any supplies on foreign flag vessel that has called on Cuban or North Vietnamese port after specific dates |
| Labor Surplus Area Concerns* | Defense Manpower Policy No. 4, 32A CFR 33 (Supp. 1972) | To provide preference to concerns performing in areas of concentrated unemployment or underemployment |
| Economic Stabilization Act of 1970 | 12 U.S.C. 1904 note | To stabilize prices, rents, wages, salaries, dividends, and interest |
| Humane Slaughter Act* | 7 U.S.C. 1901-1906 | To purchase meat only from suppliers who conform to humane slaughter standards |
| Miller Act* | 40 U.S.C. 270a-d | To require contractor to provide payment and performance bonds on Government construction contracts |
| Convict Labor Act* | Exec. Order 325A, ASPR 12-201 et seq. | To prohibit employment on Government contracts of persons imprisoned at hard labor |
| Vietnam Veterans Readjustment Act | Public Law 92-540 | To give employment preference to disabled veterans and veterans of the Vietnam era |

*Indicates that the program has resulted in the issuance of a standard contract clause.
Source: Commission Studies Program.

TABLE 2. SUMMARY OF PROBLEMS ASSOCIATED WITH SOCIAL AND ECONOMIC PROGRAMS

| Act | Original enactment date | Agencies sharing responsibility with procuring activity | Problems |
|---|-------------------------|---|---|
| Davis-Bacon Act (40 U.S.C. 276a-1 to 276a-5) | 1931 | Department of Labor; Comptroller General | <ul style="list-style-type: none"> ● Low dollar threshold. ● Ambiguity or lack of definition of important terms, including "site of work," "public work," "construction, alteration, or repair" versus "maintenance." ● Ambiguity of enforcement responsibility. ● Improper determinations of prevailing wage rates. ● Excessive reporting requirements. |
| Walsh-Healey Public Contracts Act (41 U.S.C. 35-45) | 1936 | Department of Labor; Comptroller General | <ul style="list-style-type: none"> ● No wage determinations made since 1964. ● Fair Labor Standards Act of 1938 and Occupational Safety and Health Act of 1970 overlap and make much of act unnecessary. ● Inhibition of use of 4-day, 10-hour work week. ● Prohibition of use of convict labor is contrary to current rehabilitation policies. ● Reports required cause administrative burdens. Total impact minor. |
| Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) | 1934 | Department of Labor | <ul style="list-style-type: none"> ● Unrealistically low dollar threshold. |
| Miller Act (40 U.S.C. 270a-d) | 1935 | Comptroller General | <ul style="list-style-type: none"> ● Technically qualified small contractors, including minority contractors, may have equipment, expertise, and desire to perform but lack credit rating sufficient to be bondable. ● Bonding costs to Government are substantial. ● Nonuniform practices as to (a) whether agencies may waive bonding requirement for cost-type contractors, and (b) requiring bonds from fixed-price subcontractors of cost-type prime contractors. |
| Buy American Act (41 U.S.C. 10a-d) | 1933 | | <ul style="list-style-type: none"> ● Nonuniform regulations and procedures make administration of act confusing to suppliers. ● Definition of "domestic" allows inclusion of up to 50 percent of foreign components (by cost) in a domestic end product and makes purchase of foreign components (only) as replacement parts difficult. ● Suppliers' certifications of percentage of foreign components in an end product are difficult for procurement personnel to verify. ● Act applies to all contracts regardless of amount. |
| Convict Labor (Executive Order 325A) | 1905 | | <ul style="list-style-type: none"> ● Changing attitudes in rehabilitation programs cast doubt on currency of law, particularly since |

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| Act | Original enactment date | Agencies sharing responsibility with procuring activity | Problems |
|---|-------------------------|---|---|
| Labor Surplus (Defense Manpower Policy No. 4) | 1952 | Office of Emergency Preparedness; Department of Labor | <p>under another statute Federal prisoners may work for pay in local communities under work release programs.</p> <ul style="list-style-type: none"> ● Prohibition against payment of price differentials for award to labor surplus area concerns prohibits total set-asides and complicates procedures. ● Program conflicts with small business program. ● Contractor may be subject to review by several compliance agencies, particularly when he operates in more than one industry. ● Complaint may result in contractor being investigated both by OFCC and EEOC for the same alleged violation. ● Pre-award solicitations and requirements are numerous, confusing, and cause delay. |
| Equal Opportunity (Executive Order 11246) | 1965 | Department of Labor (Office of Federal Contract Compliance); Designated "Compliance Agencies" | <ul style="list-style-type: none"> ● Wage determinations are often improperly made by using "median rates or slotted rates" as prevailing rates. ● The act is often extended to cover professional engineering and technical employees although it applies only to service employees. ● Rates applicable to the area of the procuring activity are applied if the place of performance is unknown. ● Recent amendments may reduce competition between potential service contractors and have an inflationary effect. ● Even the unrealistically low \$2,500 threshold for wage determinations appears to have been eliminated by recent amendments. |
| Service Contract Act (41 U.S.C. 351-357) | 1965 | Department of Labor; Comptroller General | |

Source: Commission Studies Program.

lishes a Government policy of purchasing low-noise-emission products and permitting a price differential to be paid for such products. The Vietnam Veterans Readjustment Assistance Act of 1972 requires Government contracts and subcontracts thereunder to contain provisions requiring that employment preference be given to disabled veterans and to veterans of the Vietnam era.

Thus, conditions attached to Government contracts are designed to carry out a variety of objectives or policies such as:

- Establishing fair wages and working conditions
- Promoting domestic business and the domestic economy
- Eliminating unemployment and providing training and job opportunities
- Establishing fair employment practices
- Promoting minority business concerns
- Rehabilitating prisoners and the handicapped
- Protecting the environment
- Effective use of resources
- Humane treatment of animals.

Reexamination Needed

Recommendation 43. Establish a comprehensive program for legislative and executive branch reexamination of the full range of social and economic programs applied to the procurement process and the administrative practices followed in their application.

Although the objectives of the various social and economic programs implemented through the procurement process are commendable, there is a need to reexamine them as the result of changes in social objectives, current economic requirements, and the passage of new laws. For example, the prohibition against the use of convict labor by Government contractors reflects national policy at the turn of this century.²⁸ Protecting jobs by flatly prohibiting competition from convict labor, however, tends to be inconsistent with current trends in Federal and State penal systems that emphasize

²⁸ Note 10, *supra*.

rehabilitation programs such as work-release arrangements. The Davis-Bacon Act, which was enacted to solve a problem during a period of economic depression, recently has been cited as a cause of inflation and allegedly operates as a restraint on meeting the increased demands for skilled labor. The Walsh-Healey Act requirements for the payment of minimum wages determined by the Secretary of Labor have been rendered inoperative by Department of Labor reaction to judicial decisions; and its overtime pay requirements and safety provisions largely have been superseded by other laws. The child labor provisions of the act discriminate against females and have been administratively modified by regulation. The act's requirement that contractors be regular manufacturers or dealers is also an objective of the basic procurement statutes.

Apart from a reexamination for continued relevancy,²⁹ there also is a need to provide a continuing means for evaluating the impact on the procurement process when new social and economic objectives are established. Over the years the number of such objectives implemented through procurement has increased steadily; nevertheless, there is little evidence that consideration is given to the cumulative effect of existing requirements or that full recognition is given to the possible impact of new ones. This is partly the result of the diverse responsibilities of the congressional committees and the various agencies in the executive branch. There is no central place where each can obtain an overview of the effects its requirements will have on the procurement process.

Conflicts Among Objectives

The existing pattern of social and economic objectives implemented through the procurement process discloses a number of conflicts in priorities. Although some statutes establish clear preferences,³⁰ many provide no guidance

²⁹ See Part J for a discussion of the consolidation of existing labor laws affecting procurement.

³⁰ For example, the Wagner-O'Day Act and the act establishing the Federal Prison Industries, Inc., make it mandatory on Federal agencies to purchase products produced by the blind and other severely handicapped, and also those produced by prisoners, in place of those available through commercial sources. The choice between

for resolving the conflicts.³¹ In such cases the contracting agencies are forced to contend with the conflicts and provide some accommodation to all.³² The latter situations, particularly, create significant problems for the contracting agencies and give rise to protests or other complaints. The complicated scale of set-aside preferences established under the procurement regulations for the small business and labor surplus area programs is a good example.

Under Defense Manpower Policy No. 4, preferential treatment is provided to areas of high unemployment by setting aside portions of procurements for negotiation with qualifying firms. The intention is to relieve economic distress and create jobs by directing Government contracts into such areas or to firms agreeing to perform a substantial portion of the production on those contracts in or near such areas. The small business set-aside program, in contrast, emphasizes preferential treatment for a different category of business firms. It permits normal competitive bidding and award procedures on procurements reserved exclusively for such firms.

Under the regulations, labor surplus set-asides are given priority over small business set-asides, so that when a contracting officer initiates a procurement he must consider first the possibility of a labor surplus set-aside, and then that of a small business set-aside. Within labor surplus areas, however, small businesses are given preference.

Another example is the use of Section 8(a) of the Small Business Act for assisting minority enterprises; this use also results in a conflict with other small business set-aside programs and has been the subject of legal challenges.³³

promoting the rehabilitation of prisoners and providing employment opportunities for the handicapped is resolved by legislation in favor of Federal prisoner rehabilitation. The agency purchasing an item or service must look first to the Federal Prison Industries' schedule of products and then to the schedule of products made by the blind and other severely handicapped.

³¹ For a review of the use of the procurement process in the furtherance of social and economic goals and particularly of conflicts between such goals see Roback, "Government Procurement as a Means of Enforcing Social Legislation," 6 *National Contract Management Journal* 13 (1972).

³² In newly established procedures, the Department of Defense now makes total small business set-asides with a portion thereof reserved for small business firms which also qualify as labor surplus area concerns. See Defense Procurement Circular No. 102 (July 31, 1972).

³³ *Kleen-Rite Janitorial Services, Inc. v. Laird*, U.S. Dist. Ct., Dist. of Mass., Civil Action No. 71-1968-W; *Ray Bailie Trash Hauling,*

Administrative Consequences

The social and economic programs implemented through the procurement process add many complicating factors. Agencies must determine the applicability of the programs to a proposed contract, determine the compliance status of the apparent successful bidder prior to award, and obtain and incorporate wage determinations in bid solicitations. Implementation of many of the programs requires special regulations and the addition of personnel to conduct investigations, make reports, and keep records.

The administrative problems are compounded by the division of authority between procurement and regulatory agencies. For example:

- The Secretary of Labor has a voice in agency contractor selections since under the Walsh-Healey Act he decides who is a "manufacturer or regular dealer" and is eligible for a Government contract.
- In the labor surplus area program, policy is the function of the Office of Emergency Preparedness; areas of eligibility are defined by the Department of Labor; and set-asides are made by the various procurement agencies.
- The Small Business Administration can conclusively determine that a small business firm has the capability to perform a contract where a procuring agency would otherwise reject its bid or proposal.
- Under the Section 8(a)³⁴ minority contracting programs, Government agencies enter into contracts with the Small Business Administration which in turn subcontracts the work to firms owned by disadvantaged persons.
- The Clean Air Act amendments of 1970 involve the President, the Administrator of the Environmental Protection Agency, and the procuring agencies in the process of adapting the procurement process to further the act's objectives.
- Some of the labor standard laws divide enforcement between the Department of La-

Inc., et al. v. Thomas S. Kleppe, Administrator, Small Business Administration, et al., U.S. Dist. Ct., Southern Dist. of Florida, Case No. 71-1030-Cir-JLK; *Pacific Coast Utilities Service, Inc. v. Laird*, U.S. Dist. Ct., Northern Dist. of Calif., Case No. C-71-1035.

³⁴ 15 U.S.C. 637(a).

bor, the procuring agencies, and the General Accounting Office causing cumbersome interplay of reporting procedures and different interpretations of responsibilities.³⁵

- Enforcement of the equal employment clause is divided between the Office of Federal Contract Compliance (OFCC) in the Department of Labor and designated compliance agencies which have major procurement responsibilities. Charges of discrimination in employment are often investigated by OFCC, the Equal Employment Opportunity Commission, and State agencies.

The administrative discretion permitted by the Buy American Act has resulted in inconsistent administration among agencies, particularly between the civilian and military agencies. In evaluating foreign bids on supply contracts, civilian agencies add a six-percent evaluation factor to the bid price including duty, except that where the low domestic bidder is a small business or labor surplus area concern a 12-percent evaluation factor is substituted.³⁶ On the other hand, military agencies normally use an evaluation factor of either 50 percent of the foreign bid price exclusive of duty or six percent of the bid price inclusive of duty, whichever results in the greater evaluated price.³⁷ Where the low domestic bid is from a small business or labor surplus area concern a 12-percent³⁸ factor is substituted for the six-percent factor. This disparity in evaluation procedures is confusing and a matter of concern to suppliers who sell to both military and civilian agencies.

A reexamination of the administrative practices followed in the implementation of social and economic programs would reveal whether the implementation of the programs was consistent with the purposes of the programs. For example, under the Service Contract Act prevailing wage determinations have been extended to cover professional employees although the act purports to cover only service employees; wage rates prevailing at the location of the procuring agency have been imposed although the act requires that wage rates prevailing in the area

³⁵ See Part E for a discussion of these problems in connection with the Davis-Bacon Act.

³⁶ FPR 1-6.104-1.

³⁷ ASPR 6-104.4.

³⁸ *Ibid.*

of the work be applied; "median," "slotted," and construction trade rates are sometimes used as prevailing rates although it is possible that no service employees are being paid such rates.⁴⁰

Dollar Threshold for Applying Social and Economic Programs

Recommendation 44. Raise to \$10,000 the minimum level at which social and economic programs are applied to the procurement process.

Currently there is considerable variance in the dollar levels at which the various social and economic programs apply to procurements. The Walsh-Healey Act, labor surplus area program, and equal employment opportunity program (Executive Order 11246) all apply above the \$10,000 level. The Davis-Bacon Act, Miller Act, and Copeland "Anti-Kickback" Act apply to construction contracts exceeding \$2,000. The Service Contract Act applies to service contracts of any dollar amount. The Buy American Act and the Convict Labor Laws apply regardless of the dollar level of the contracts. Many of these thresholds were established more than 30 years ago and inflation and other factors have all but dissipated the exemptions they provided when first enacted. The varying threshold levels require special procedures for Government procurement personnel and for its contractors; this increases administrative costs and the possibility of error in the application of the social and economic clauses.

The Department of the Interior previously proposed legislation which would raise the

³⁹ Slotting is a practice whereby rates applicable to one classification are applied to another classification having some minor degree of similarity in duties. For example, the electrician wage rates might be applied to a janitor who changes light bulbs.

⁴⁰ Other matters considered in connection with the administration of the Service Contract Act which have apparently been resolved by the recent amendments enacted by Public Law 92-473 (Oct. 9, 1972) are the disadvantage to which incumbent service contractors are put when no wage determinations are made in connection with rebidding contracts, and the loss of fringe benefits suffered by employees when service contractors are changed annually. The amendments create other problems, however, in that they apparently now require wage determinations for contracts below \$2,500; they have established policies for all service contracts which can have no application to contracts which are not being rebid; and they make a successor contractor responsible to employees for fringe benefits accrued but not used while working for predecessor contractors.

threshold of the Davis-Bacon Act to \$25,000 on the basis that price increases subsequent to 1935 have made the current threshold out of date and the cost of administering contracts under \$25,000 outweighs the benefits intended. The General Services Administration agreed with the proposed \$25,000 threshold⁴¹ as did the Department of Labor.⁴² Of the agencies queried in our study program, the majority favored a threshold of \$25,000, though suggestions ranged from \$15,000 to \$100,000.

The Comptroller General has proposed an increase in the Davis-Bacon threshold to an amount between \$25,000 and \$100,000. This proposal is aimed at reducing the Department of Labor's workload with respect to wage determinations. According to the Comptroller General, a reduction in the number of wage determinations required would permit the Department (1) to make more thorough investigations, (2) to conduct more frequent detailed onsite wage surveys, and (3) to resolve more adequately protests or problems that may arise in arriving at factual determinations without appreciably affecting the wage stabilization objectives of the act.⁴³

The Copeland "Anti-Kickback" Act is a companion to the Davis-Bacon Act and should have a threshold corresponding to the Davis-Bacon Act.

A survey by the General Accounting Office has disclosed that the cost of Miller Act bonds is substantial⁴⁴ and that defaults are few. An increase in the act's threshold would increase competition in Government construction contracts by permitting contractors who cannot obtain bonds to bid.

The Service Contract Act always has required wage and fringe benefit determinations to be made for contracts exceeding \$2,500 but allowed the Secretary of Labor to make "reasonable variations, tolerances and exemptions" from the act. In practice, such determinations

seldom have been made for small dollar contracts. In fiscal years 1968 through 1970, wage determinations were issued for about 35 percent⁴⁵ of the contracts for which they were requested. Thus, in about 65 percent of the cases contracting agencies did not receive a wage determination but were required to wait 30 days before advertising for bids. The Department of Labor has stated that it does not have sufficient staff to make appropriate determinations in areas from which it lacks adequate information.⁴⁶ An increase in the threshold of the act to a more realistic level would minimize, if not eliminate, much unproductive delay in waiting for wage determinations that are never issued and still leave most service contract employees covered. Recent amendments to the act will gradually increase the range of contracts that must include wage and fringe benefit determinations; after fiscal 1977, they apparently will be required for every service contract, regardless of amount.

Foreign procurement constitutes a small proportion of total procurement and the bulk of foreign products purchased represents end items or materials not available in the United States. On that basis, we believe that the cost of administering the Buy American Act on contracts not exceeding \$10,000 is unjustified.

Elsewhere in this report⁴⁷ we recommend raising the ceiling on small purchases from \$2,500 to \$10,000, a step which could save the Government millions of dollars in administrative costs each year. That change will not be fully effective, however, if the present thresholds for social and economic requirements implemented through the procurement process are retained. These requirements add administrative costs by necessitating additional time for making awards, increased requirements for contract provisions, and more personnel for their implementation.

In a meeting with representatives of organized labor, we were advised of Labor's strong opposition to any increase in the thresholds of labor laws implemented through the procurement process. The union representatives contended that such thresholds should be lowered

⁴¹ Letter from A. F. Sampson, Commissioner Public Buildings, GSA, to George P. Shultz, Director, Office of Management and Budget, Mar. 17, 1971.

⁴² Report, U.S. Comptroller General, B-146842, *Need for Improved Administration of the Davis-Bacon Act Noted Over a Decade of General Accounting Office Reviews*, July 14, 1971, p. 37.

⁴³ *Ibid.*, pp. 36-37.

⁴⁴ Estimated by the Comptroller General at between \$16.5 and \$20 million in fiscal 1970; between \$20 and \$24.5 million in fiscal 1971; and between \$23 and \$28 million in fiscal 1972. (U.S. Comptroller General, Report B-168106, *Survey of the Application of the Government's Policy on Self-Insurance*, June 14, 1972, pp. 51, 54, 56.)

⁴⁵ Study Group 2, *Final Report*, vol. III, p. 1311.

⁴⁶ Letter from Leo R. Werts, Assistant Secretary for Administration, Department of Labor, to Elmer B. Staats, Comptroller General, Oct. 9, 1970.

⁴⁷ Chapter 3.

rather than increased. Notwithstanding, we believe that the cost and administrative effort required by social and economic programs that are imposed on low-dollar procurements cannot be justified by the results obtained.

Need to Increase Cost Visibility

Recommendation 45. Consider means to make the costs of implementing social and economic goals through the procurement process more visible.

It is basic Government procurement policy to obtain products and services of the needed quality at the lowest reasonable price available. This policy does not always require acceptance of the lowest bid or proposed cost but does emphasize the public policy of minimizing expenditures of tax revenues. The pursuit of social and economic objectives through the procurement process often contradicts this basic policy to minimize cost. The labor standards that impose minimum wage and other working condition requirements on contractors increase the costs of Government purchases by placing a competitive floor under the labor factor in bids and proposals. The Buy American Act and related measures that give procurement preference to domestic producers in many cases exclude lower prices from foreign producers or those possible with foreign-made components which could be incorporated into domestic articles.

Higher costs also stem from implementation and administration of social and economic programs. These costs cannot be measured with any sort of precision unless they are specifically identified, as in the Section 8(a) minority small business program. The business development expense commitments made by SBA under that program between July 1, 1971, and February 29, 1972, amounted to \$2,242,143.21.⁴⁸ At present much of the incremental cost of social and economic programs is hidden within the budgets of the procuring agencies that cover both in-house costs of administration and increased

contractor performance costs in the form of higher overhead and prices. A recent informal survey of the Office of the Secretary of Defense, Army, Navy, Air Force, and Defense Supply Agency estimated that the equal employment, small business, and Section 8(a) programs alone cost them \$396,024,000 per year.⁴⁹

We fully recognize that it is extremely difficult, if not impossible, to measure precisely the value of certain of the social and economic programs in order to compare this value with their cost. How does one place a value on the elimination of inner city riots, the protection of the environment, the prevention of substandard labor conditions, or the retention of an American source for possible strategic materials or products? We do believe, however, that a reasonable assessment can and should be made of the costs these programs impose on the procurement process and of the results of the programs in order to determine if the procurement process is an effective and appropriate vehicle for their implementation.

One possible means that has been suggested for measuring the cost of certain of the social and economic programs is to provide statutory authority, where necessary, for agencies to pay premium prices to contract with firms in order to support social and economic programs. This would exempt the agencies from the requirement to deal with the lowest bidder if necessary to attain social and economic objectives. Such an approach would require modifications to current legislation.⁵⁰

There is a great need to recognize the impact that social and economic programs have on the procurement process, the individual and cumulative cost of such programs, and the effectiveness of the procurement process as a means of promoting such goals.

⁴⁸ Presentation by Captain L. E. Hopkins, SC, USN, Chairman, Armed Services Procurement Regulation Committee, at a Procurement Conference, Sept. 27-29, 1972. In his presentation Captain Hopkins pointed out that the departmental inputs on both the direct cost estimate of \$14,799,000 and the indirect cost estimate of \$381,225,000 consisted of variable mixes and cost projection. In a recent interview Captain Hopkins emphasized that the cost figures were "guess-estimates" or "ballpark" figures.

⁵⁰ For example, the Department of Defense Appropriation Act consistently contains a prohibition against the payment of a price differential on contracts made for the purpose of relieving economic dislocation. A similar prohibition appears in Defense Manpower Policy No. 4, 32A CFR 33 (Supp. 1972).

⁴⁹ U.S. Congress, House, Select Committee on Small Business, hearings on *Government Minority Small Business Programs* before the Subcommittee on Minority Small Business Enterprise, 92d Cong., 2d sess., vol. 2, p. 399 (1972).

Sanctions for Violation

Recommendation 46. Revise current debarment policies to provide for uniform treatment for comparable violations of the various social and economic requirements and to establish a broader range of sanctions for such violations.

A number of the social and economic laws implemented through the procurement process expressly authorize or direct debarment of a contractor who fails to comply with the requirements of those laws imposed through his contract;⁵¹ for example, Davis-Bacon Act, Walsh-Healey Act, and Service Contract Act. Others do not; for example, Executive Order 325A (convict labor), Defense Manpower Policy No. 4 (labor surplus area), and Miller Act. The Copeland "Anti-Kickback" Act does not itself provide for debarment but the regulations under it do. Executive Order 11246 authorizes debarment for violation of the equal employment opportunity requirements contained in Government contracts.

The standards for imposition of debarment and the period of debarment vary with the different social and economic programs. Under some programs an inadvertent violation of the requirements can lead to debarment; others require an "aggravated or willful" violation. The older laws provide for the debarment of contractors or subcontractors when they are found in violation of those laws by some administrative official such as the Comptroller General, Secretary of Labor, or an agency head. The newer laws such as the Water Control Amendments of 1972⁵² and Executive Order 11602⁵³ (which provides for administration of the Clean Air Act⁵⁴ with respect to Federal contracts) require conviction of a violation of the act as a minimum basis for debarment. The Noise Control Act of 1972⁵⁵ contained similar debarment provisions as passed by the Senate, but all debarment provisions were deleted by the House before it passed the act.⁵⁶

⁵¹ See Part G for a full discussion of debarment procedures and problems.

⁵² Public Law 92-500.

⁵³ 3 CFR 167 (Supp. 1972).

⁵⁴ 42 U.S.C. 1857 (1970).

⁵⁵ Public Law 92-574.

⁵⁶ The Senate accepted the deletion but its Public Works Committee will review the need for such debarment provisions and if appropriate will recommend their addition at a later time. (*Congressional Record*, Oct. 18, 1972, p. S18645.)

Some debarment provisions specify the period of debarment. Others specify a maximum period or an indefinite period that will end when the contractor demonstrates compliance with program requirements. The indefinite debarment period reflects the current trend.

Debarment is a severe sanction and can have serious economic consequences to contractors and their employees. If imposition of the sanction also results in termination or cancellation of existing contracts, ongoing procurement actions and agency programs may be affected. This can deter effective implementation of the socioeconomic objective, since both the procuring agency and the enforcement agency may be reluctant to take actions that may cause delays and increased costs. These situations would occur less frequently if the social and economic programs provided a more uniform and broader range of sanctions that could be applied according to the severity and nature of the violation. Such sanctions could distinguish between "aggravated and willful" and inadvertent violations, provide for fines instead of termination of contracts or debarment for lesser violations, and provide for reinstatement of contract eligibility upon demonstrated compliance.

In the absence of express statutory or Presidential directives, the grounds for debarment contractors have been restricted to criminal acts related to contracting, serious violations of contract provisions, or conditions affecting the responsibility of a contractor to perform.⁵⁷

The nonstatutory grounds for debarment are established by the ASPR and FPR and at present are essentially the same. During our studies it was suggested that the grounds for debarment of contractors should be enlarged to include violations of other Federal laws; for example, violations of the National Labor Relations Act (NLRA). Representatives of organized labor cited one situation where a company violated the NLRA on numerous occasions yet continued to receive Government contracts. The NLRA, of course, proscribes certain actions by both employers and unions and establishes sanctions for violations of the act. Whether those sanctions should include debarment from Government contract work raises questions of overall national labor relations policies. As such we

⁵⁷ See Part G for a discussion of nonstatutory grounds for debarment of contractors.

believe they involve matters beyond the mandate given this Commission by Congress. However, Congress, either through its appropriate committees or the proposed Office of Federal Procurement Policy, may wish to determine whether there is a need to strengthen the sanctions imposed under other statutes or to extend the grounds for debarment from Government contract work in order to achieve the objectives of these statutes. Any evaluation of the feasibility of imposing debarment as a sanction for the violation of Federal law generally would have to consider such difficult questions as how apparent violations would be detected and how and by whom determinations of violations would be made. There would also be a need to consider the enormous administrative problems, effort, and cost involved in extending such sanction to the millions of Federal contracts, grants, and grants-in-aid each year.

Other Issues Raised by Organized Labor

During our studies, representatives of organized labor noted that Government procurement from an employer during a strike or representation campaign can adversely affect his employees' assertion of their rights under the NLRA and alleged that there had been cases when Government procurement from a contractor was increased for this purpose. Of course, by withholding contracts during such events the Government would also adversely affect an employer's capacity to exercise his rights under the NLRA.

We strongly believe that contracting agencies should not take sides in the employee-employer relationships of their contractors and should not use the power of procurement either for or against the parties involved in a labor dispute.

CHAPTER 12

Procurement From Small Business

For 30 years, the Federal Government has recognized that small business must play an important role in supplying Government needs. Accordingly, we devoted much effort to studies of the problems small business firms encounter in contracting with the Government and to solutions that will help to strengthen the role of small business in meeting essential national needs.

Historical Development

At the beginning of World War II, the Government recognized the need to increase its reliance on small business. Full mobilization disclosed that the industrial capacity of small business was not being used. Not only were some small industries unable to contribute fully to the war effort, they often could not obtain manpower and raw materials for essential civilian production. Many small firms faced the prospect of going out of business, because Government agencies created to administer war production favored large corporations that had proven management and technical capability and the capacity for mass production. This situation was corrected by the small business programs of the War Production Board (WPB)¹ and the Smaller War Plant Corporation (SWPC).²

After the war the Government took steps to strengthen small business participation in the Federal marketplace. One of these steps, the Armed Services Procurement Act of 1947, states that:

¹ Executive Order 9024, Jan. 16, 1942.

² Public Law 77-608, ch. 404, sec. 4; 56 Stat. 353.

It is the policy of Congress that a fair proportion of the purchases and contracts . . . be placed with small business concerns.³

A similar statement appears in the Federal Property and Administrative Services Act of 1949.⁴

The Defense Production Act of 1950⁵ provides that small business concerns should "be encouraged to make the greatest possible contribution toward achieving the objectives of the Act," one of which is to maintain an industrial mobilization base. A 1951 amendment⁶ to the Defense Production Act established the Small Defense Plants Administration (SDPA); then, in 1953, the Small Business Administration (SBA) was created by the Small Business Act which states that:

The essence of the American economic system of private enterprise is free competition . . . The preservation and expansion of such competition is basic not only to the economic well-being, but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed.⁷

SBA originally had a temporary existence of two years,⁸ but its franchise was extended periodically until 1958,⁹ when it became a permanent agency.

³ 10 U.S.C. 2301 (1970); the "fair proportion" concept is discussed later in this chapter.

⁴ 41 U.S.C. 252(b) (1970).

⁵ Public Law 81-774, ch. 932; 64 Stat. 815.

⁶ Public Law 82-96, ch. 275, sec. 110(a); 66 Stat. 139.

⁷ Public Law 83-168, title II, ch. 282; 67 Stat. 232.

⁸ Public Law 83-168, ch. 282, sec. 221(a); 67 Stat. 240.

⁹ Public Law 85-536, as amended; 72 Stat. 384; 15 U.S.C. 631-647 (1970).

The Role of Small Business in Government Procurement

Small business participates in Government procurement by:

- Improving and broadening the competitive base
- Providing innovative technology
- Lowering procurement costs
- Performing a vital role in industrial mobilization
- Dispersing procurement funds industrially and geographically.

Small business procurement policy is set forth in broad terms in the Small Business Act and other procurement statutes, but implementation of the general intent of Congress is left to SBA and the procuring agencies. Although SBA and the procuring agencies advocate small business participation in the Federal marketplace, they do not always agree on how much is possible or how to measure performance. Procurement officials, who are required to seek maximum performance at the lowest reasonable price, also are required to give special treatment to small firms. These goals are not always compatible.

DEFINING SMALL BUSINESS AND FAIR PROPORTION

Variations in the definition of "small business" from industry to industry and from year to year persistently have perplexed small businessmen and procurement officials. Moreover, there has been no set definition of "fair proportion" in determining how many Government contracts should be channeled to small business.

Small Business

In 1942, a member of one congressional committee accurately predicted that failure to find a usable definition of small business would lead to difficulty in formulating small business programs.¹⁰ In the 1940's two attempts by Con-

¹⁰ U.S. Congress, House, Committee on Banking and Currency, hearing on S. 2250 and H.R. 6975, 77th Cong., 2d sess., p. 39.

gress to define small business were unsuccessful.^{11, 12} In 1953, Congress abandoned its attempt to define small business through legislation. Accordingly, the Small Business Act states:

It shall be the duty of the Administration . . . to determine within any industry the concerns, firms, persons, corporations, partnerships, cooperatives, or other business enterprises which are to be designated small business concerns for the purpose of effectuating the provisions of this Act.¹³

PROBLEMS

Many definitions of small business have been offered, but none has gained popular acceptance. The variety of definitions has confused and handicapped small firms in obtaining Government contracts. Because definitions vary, the applicability of small business assistance programs has not always been clear.

SBA originally defined a small business as one with less than 500 employees. Many representatives of small business testified at congressional hearings that this criterion did not meet the needs of certain industries. They pressed for industry-by-industry standards, and SBA obliged by making exceptions to the standard. These included an increase in the permissible number of employees and dollar quotas (annual revenues) for service industries.

SBA recently established a new size policy that states:

. . . there is a segment of each industry wherein concerns by reason of their size are in the competitive disadvantage. Therefore, the definition of small business for each industry should be limited to that segment of the industry struggling to become or remain competitive.

Smaller concerns often are forced to compete with middle-sized as compared with very large concerns. In consideration of this fact, the standard for each industry should be established as low as reasonably possible.

¹¹ Public Law 78-458, ch. 8, sec. 204(c); 68 Stat. 788.

¹² Public Law 80-759, sec. 18(a); 60 Stat. 625.

¹³ Public Law 85-636, sec. 8(b)(6); 15 U.S.C. 632 and 637(b)(6) (1970).

It should be lowered in any case where the SBA determines that a few concerns . . . have . . . gained undue competitive strength. . . .

. . . concerns which . . . have grown to a size which exceeds the applicable small business size standard should compete for Government contracts not reserved for small business concerns or should seek commercial markets in the same or related fields. Under such circumstances small business concerns should not rely on continuing assistance under the Small Business Act from the cradle to the grave, but should plan for the day on which they become other than small business and should be able to compete without assistance.¹⁴

Issuance of this policy did not enable SBA to resolve the problem. On September 21, 1971, the SBA Administrator stated, "What is a small business? I can't exactly say . . . Nobody can."¹⁵

CONCLUSIONS

The definition of small business has changed and should continue to change to accommodate programs established by Congress and SBA. Procurement agencies should use definitions and standards provided by SBA. SBA, rather than the procuring agencies, is and should continue to be responsible for establishing the definition.

Fair Proportion

Each year the legislative and executive branches spend much time, energy, and money to assure that small businesses receive adequate consideration when the Government buys goods and services. This activity centers around the concept of "fair proportion" as defined in the Small Business Act:

It is the declared policy of the Congress that the Government should aid, counsel, assist

¹⁴ U.S. Congress, Senate, Select Committee on Small Business, *Review of Small Business Administration's Programs and Policies—1971*, 92d Cong., 1st sess., Oct. 5, 1971, pp. 26-27.

¹⁵ U.S. Congress, House, Select Committee on Small Business, *Organization and Operation of Small Business Administration*, hearings, 92d Cong., 1st sess., Sept. 21-22, 1971, p. 53.

and protect insofar as possible the interests of small business in order to ensure that a fair proportion of the total purchases and contracts or subcontracts be placed with small business enterprises.¹⁶

PROBLEMS

In evaluating small business assistance programs it has been a common practice to use the ratio of contract awards to small business as derived from procurement statistics, even though there have been no studies to indicate that such data provide a valid and reliable measure of fair proportion. Moreover, it has been common to compare the fair proportion statistics of one year with those of preceding years without compensating for the procurement mix, the capability of small business to supply what the Government bought, how the Government made its purchases, which agencies made the purchases, and other factors that influenced contract awards.

A comparison of DOD military procurement data for fiscal years 1965 and 1966 illustrates the danger of relying solely on statistics. In fiscal 1965, the small business share of DOD contracts increased to 19.6 percent from 17.2 percent in fiscal 1964. It increased to 21.4 percent in fiscal 1966.¹⁷ In 1965 and 1966, DOD increased its purchases of items normally produced by small business. However, these statistics do not show whether the percentage rise from one year to the next indicates a "fairer" proportion or a "less fair" proportion for small business.

CONCLUSIONS

Fair proportion can be a rigidly defined or a fluid concept. A rigid definition, such as awarding a fixed percentage of Government procurement to small business, would not be in the Government's interest, even though the percentage might be adjusted from year to year. We believe fair proportion should be recognized as a working concept that expands or contracts from year to year with the types of

¹⁶ Public Law 85-536, sec. 2(a); 15 U.S.C. 631(a) (1970).

¹⁷ U.S. Department of Defense, Office of the Secretary, *Military Prime Contract Awards and Subcontract Payments or Commitments, July 1970-June 1971*, p. 25.

procurement by the Government, state of the economy, and fluctuations of particular industries. It should support and create a small business capability to meet the Government's needs and should express congressional intent to develop small business opportunities in Government procurement.

SMALL BUSINESS ASSISTANCE PROGRAMS

The Government aids small business by providing disaster relief, financial and management assistance, and preferential treatment and counseling in Government contracting. Preferential treatment and counseling programs are implemented through the procurement process by such techniques as the following:

- *Set-asides* restrict all or portions of solicitations for certain goods and services to small businesses.
- *Certificates of Competency* provide a small business firm with a separate evaluation of its capability to perform a contract after the procuring agency determines that it lacks the credit or capacity necessary to fulfill the contract successfully.
- *Small business subcontracting* promotes the use of small business firms as subcontractors to Government prime contractors and major subcontractors.
- *Counseling* acquaints small business with the how, what, and where of dealing with the Government.

Recommendation 47. Establish new standards for annually measuring the performance of procuring agencies and their prime contractors in using small business. Standards for measuring performance, including the sound use of set-aside techniques, should assess progress made in assisting small businesses to obtain a fair proportion of awards—not just statistical percentages.

Unrefined statistics are inadequate standards for measuring the success of Government programs for assisting small business. Such data are not based on thorough, objective analyses of small business awards and what causes

awards to fluctuate. For example, the long-standing use of the percentage of total procurement to show the success of the small business program is not an accurate indicator, since it does not consider such variable factors as the change in mix of products and services for which small business can reasonably compete.

Set-asides

The small business set-aside program is designed to strengthen the industrial base by providing competitive opportunities for small business. A set-aside restricts a procurement partially or totally to competition among small business firms.

Set-asides are of two types: (1) "joint determinations" or "joint set-asides" made under the Small Business Act¹⁸ that require the joint decision of SBA and the procuring activity and (2) unilateral set-asides made by the procuring agency alone under its authority to negotiate during periods of national emergency.¹⁹

A total set-aside restricts the entire procurement to small business.²⁰ A partial set-aside restricts only part of the procurement to small business. To qualify for partial set-asides, the procurement must be severable into two or more production runs. All bidders compete on the unrestricted portion, and small firms whose bids on this portion are within 130 percent of the highest award price are offered the restricted portion at the highest price paid on the unrestricted portion.²¹

In addition to total or partial set-asides, classes of procurement or portions of selected items or services may be set aside for small business. For example, some procuring agencies set aside for small business all construction contracts of \$500,000 or less.

A new DOD combined set-aside procedure takes precedence over all other DOD set-asides. It involves a total small business set-aside with

¹⁸ Public Law 88-536, ch. 15; 72 Stat. 395; 15 U.S.C. 644 (1970).

¹⁹ 10 U.S.C. 2304(a)(1); 70 Stat. 128; Public Law 81-152, ch. 288; 63 Stat. 393; 41 U.S.C. 252(c)(1) (1970).

²⁰ ASPR 1-707.1(c); SBA Standard Operating Procedure 60-02, p. 13.

²¹ ASPR 1-706.6; FPR 1-1.706-6; SBA Standard Operating Procedure 60-02, pp. 13-14.

a portion further restricted for small business firms in "labor surplus areas."²²

PROBLEMS

Set-asides affect a relatively small portion of DOD military procurements, but they are important to the small business community because they account for a large part of DOD awards to small firms.²³ DOD awarded small business about \$5.8 billion in military prime contracts in fiscal 1972.²⁴ Of this amount, \$1.6 billion resulted from set-asides. These set-asides represented more than one-fourth of the small business awards, but only 4.5 percent of the total DOD prime contract awards (excluding intragovernmental procurement).²⁵

Set-asides pose a dilemma for Government procurement officials. The Government is expected to maximize competition and obtain the lowest reasonable price (other factors considered). Because competition for products and services in the set-aside program is restricted to small business, prices to the Government may be higher than those prevailing in a fully competitive market. Moreover, some program officials complain that set-asides delay the procurement process.²⁶

SBA, small business associations, and individual small business firms continually call for more set-asides. Congress responds by urging the procuring agencies to increase their awards to small business. These pressures often cause short-term agency response but do little to enhance the long-range goal of maintaining a viable and competitive small business community.

Many procurement officials contend that the set-aside program has become a "numbers game" in which improving the competitive position of small business is secondary to the statistical record.²⁷ This is particularly true when it appears that procuring offices "satisfy" the directed or implied quota that constitutes a "fair proportion" by setting aside procure-

ments that under ordinary circumstances would be won by small business in open competition.

CONCLUSIONS

Set-asides allow small businesses to compete in segments of the Federal marketplace. However, the set-aside program would be more effective if procuring agencies would establish set-asides in procurement areas where small businesses have been unable to compete successfully for Government contracts. This would permit procurement officials to concentrate on areas offering "real" rather than "paper" accomplishments. Small business firms would benefit by obtaining set-aside contracts in areas where they had not previously been competitive. Such action would counter over-emphasis on statistics and would support the long-range goal of a viable and competitive small business industrial base.

Certificate of Competency

If a procuring agency rules that a small business firm lacks capacity or credit to perform a contract, the agency must submit the case to SBA. SBA determines the firm's competency²⁸ as to capacity and credit. A favorable ruling by SBA is commonly termed a Certificate of Competency (COC).

Under the Small Business Act,²⁹ Government procurement officers:

... are directed to accept such certification [from SBA] and are authorized to let such Government contracts to such concern or group of concerns without requiring it to meet any other requirement with respect to capacity and credit.

PROBLEMS

SBA representatives report that since 1954 the COC program has resulted in more than

²² Defense Procurement Circular 102, July 31, 1972.

²³ U.S. Department of Defense, Office of the Secretary, *Military Prime Contract Awards and Subcontract Payments or Commitments, July 1971-June 1972*, p. 48.

²⁴ *Ibid.*, p. 47.

²⁵ *Ibid.*, p. 48. (Percentage calculated by the Commission.)

²⁶ Study Group 2, *Final Report*, Nov. 1971, pp. 287-327.

²⁷ *Ibid.*, p. 312.

²⁸ Public Law 85-536, sec. 8(b) (7); 72 Stat. 887; 15 U.S.C. 637(b) (7) (1970).

²⁹ 72 Stat. 891; 15 U.S.C. 6687 (1970).

TABLE 1. SAVINGS RESULTING FROM THE COC PROGRAM

| Fiscal year | Savings (in millions) | Fiscal year | Savings (in millions) |
|-------------|--------------------------|-------------|--------------------------|
| 1954-1961 | \$15.7 | 1967 | \$3.0 |
| 1962 | 5.3 | 1968 | 4.2 |
| 1963 | 2.2 | 1969 | 4.0 |
| 1964 | 2.2 | 1970 | 4.9 |
| 1965 | 3.9 | 1971 | 5.0 |
| 1966 | 3.9 | 1972 | 5.6 |

\$60 million in savings to the Government.³⁰ This figure was arrived at by subtracting the low bid of the small business firm that received the COC from that of the next highest bidder that would have received the award if the COC had not been issued. Individual fiscal year savings are shown in table 1.³¹ According to SBA, the total savings are about equal to the amount appropriated for all SBA procurement assistance programs during this period.³²

Although the COC program has yielded lower contract prices, many agency officials state that the administrative burden it places on the procuring agency offsets much of the savings.³³ They claim that once a COC has been issued, the procuring agency and SBA carefully watch the progress of and often provide substantial assistance to the COC contractor to assure successful completion of the contract.³⁴

Procurement officials claim that the SBA bias in favor of small business could result in issuance of a COC that would endanger a vital agency mission. These officials contend their first concern is to award contracts to firms which can clearly meet the agency's needs rather than to assist a small firm whose ability to perform is doubtful.

ALTERNATIVES

Several alternatives have been proposed to the COC program. Defense Supply Agency

³⁰ Letter from U.S. Small Business Administration to the Commission, Oct. 27, 1972.

³¹ *Ibid.* (Data rounded by the Commission.)

³² *Ibid.* These SBA procurement assistance programs include set-aside contracts, subcontracting, certificates of competency, property sales, and 8(a) contracting.

³³ Study Group 6, *Final Report*, Dec. 1971, p. 195.

³⁴ Study Group 2, *Final Report*, Nov. 1971, p. 337.

(DSA) representatives suggested that SBA participate in the procuring agency's pre-award surveys. SBA and the small firms with whom this was discussed rejected the idea. They believe it might make SBA a party to the contracting officer's decisions on capacity and credit, thereby largely negating SBA's ability to make an independent COC decision. A second alternative would be to rescind SBA's COC authority on the grounds that an insignificant number of COCs are issued, and a third would be to continue the program in its present form.

CONCLUSIONS

The number of contracts awarded under COCs represents an insignificant share of the total number of Government contracts. However, it is clear that when looking solely at SBA operating costs, there are savings. Neither the number of COC contracts nor the amount of savings is a sound basis for judging the COC program. The question is whether or not the COC program has contributed to the goal of maintaining a viable small business industrial base. Because the COC program has encouraged small businesses to compete for Government contracts, it should be continued in its present form.

Small Business Subcontracting

Recommendation 48. Test mandatory small business subcontracting on a selected basis to determine its feasibility.

In 1961, Public Law 87-305 established the Government's small business subcontracting

program.³⁵ The act provided for cooperation between SBA, DOD, and GSA to develop a small business subcontracting program to ensure that:

- Small business firms are given fair consideration as subcontractors
- SBA will be consulted by procuring agency prime contractors and subcontractors concerning small business subcontracting opportunities.
- SBA will have access to the procuring agency's subcontracting records.

The small business community expected Public Law 87-305 to increase its share of Government subcontracts; however, the results do not indicate that any increase occurred. At the time of enactment, DOD surveyed 378 large contractors and found that small business received about 38 percent of the subcontracts awarded under military prime contracts. Two years later, with 617 large contractors reporting, the small business share of subcontracting showed no appreciable improvement.³⁶

In May 1963, to stimulate the Federal small business subcontracting program, SBA formulated a corollary program called the "voluntary subcontracting program." This program was immediately accepted by 29 major prime contractors. As of October 27, 1972, 68 major contractors were participating in the program.³⁷

Under the voluntary subcontracting program, SBA representatives periodically review prime contractors' subcontracting programs and operations. To determine areas of possible

subcontracting, they analyze detailed statistics on all awards over \$10,000. They chart the trend of individual plants on subcontract actions, subcontract awards, percentage of subcontracting opportunities offered to small business, percentage of subcontracts awarded to small business, and the "capture rate" (ratio of awards made to opportunities offered). Instances of "no known small business sources" are cataloged and analyzed on an interregional basis in an effort to bring additional small business sources to the attention of prime contractors.

PROBLEMS

Small businesses annually receive 35 to 43 percent of DOD military subcontract dollars. The percentage is even more significant when subcontracts for which small businesses cannot compete are taken into account, but this percentage has declined over the past few years. In fiscal 1967, the small business subcontracting percentage of military awards peaked at 43.3 percent. As shown in table 2, this percentage has declined in each succeeding year, and by 1971 it was down to 34.8.

When Federal procurement expenditures decline, large contractors become concerned about maintaining their work force and operating their facilities to capacity. As a result, the large prime contractors tend to "make" rather than "buy"; and, when they do buy, first consideration often goes to firms that can offer subcontracts in return.³⁸ A 1970 survey of 27 large contractors found:

³⁵ Public Law 87-305; 75 Stat. 667; 15 U.S.C. 637(d) (1970).

³⁶ Note 17, *supra*, p. 61.

³⁷ Note 30, *supra*.

³⁸ Note 26, *supra*, p. 377.

TABLE 2. DOD MILITARY SUBCONTRACTING TOTALS

| Fiscal year | No. large contractors reporting | Total amount subcontracted* (billions) | Small business percentage of total subcontracting |
|-------------|---------------------------------|--|---|
| 1967 | 816 | \$15.5 | 43.3 |
| 1968 | 886 | 15.2 | 42.7 |
| 1969 | 946 | 14.9 | 40.6 |
| 1970 | 939 | 11.9 | 36.7 |
| 1971 | 865 | 9.5 | 34.8 |
| 1972 | 766 | 9.9 | 34.8 |

*Rounded by the Commission.

Source: U.S. Department of Defense, Office of the Secretary, *Military Prime Contract Awards and Subcontract Payments or Commitments, July 1971-June 1972*, p. 62.

. . . a clear trend toward limiting competition . . .

Expense, trust, risk and familiarity . . . emerge as pressures constraining against exclusive reliance on the competitive selection of subcontractors.³⁹

The decline of the total value and percentage of small business subcontracting under Government contracts is a potentially serious problem. If the decline continues, the Government will lose indispensable sources of goods and services needed to maintain a broad and viable industrial base.

A mandatory subcontracting program might reverse the decline in small business subcontracting opportunities. The Department of the Navy has successfully tested such a program under a contract for the MK 56 mine. In this test the contractor was required to place first-tier subcontracts equal to 25 percent of the total contract price with small firms; to identify proposed first-tier small business subcontractors; to describe the subcontracted items; and to estimate in dollars the value of the subcontracts. The Navy reported that this subcontracting requirement did not increase prime contract costs, that the prime contractor awarded more than the prescribed 25 percent, and that the mandatory provision did not diminish overall competition.⁴⁰

Limited testing does not prove that the program would be successful on a larger scale, particularly if the mandatory percentage were raised to 34.8 percent or 43.3 percent as was accomplished without mandatory subcontracting (see table 2, column 4).

CONCLUSIONS

Despite the potential drawbacks, the need for greater subcontract awards to small business merits a thorough test of the mandatory subcontracting concept.

³⁹ Raymond G. Hunt, et al., "Federal Procurement: A Study of Some Pertinent Properties, Policies and Practices of a Group of Business Organizations," *National Contract Management Journal*, fall 1970, pp. 263, 299.

⁴⁰ Note 26, *supra*, p. 392.

Counseling

To sell a product or service to the Government, the seller must understand Federal procurement procedures. The Government, recognizing that its procurement organizations and operations are often complicated, offers "counseling" to the businessman. Counseling generally consists of explaining to the businessman what goods and services a specific procurement agency buys, whether or not a specific procurement is related to his product line, which procurement offices might buy his product, and how to be placed on an agency bidders' list.

Counseling is especially important for small business firms; since they usually have limited resources, they are at a disadvantage in pursuing sales opportunities. Congress recognized this in the Small Business Act, which states: "the Government should aid, *counsel* and protect . . . the interests of small business concerns . . ." ⁴¹ [Italics supplied.]

The procurement agencies are primarily responsible for counseling small businesses on Government procurement. Any procurement official can provide such counseling, but it is a primary responsibility of a "small business specialist," who works for the agency and is usually located in or near the agency's procurement offices. Small business specialists also are located in the Defense Contract Administration Services regions to provide field assistance to small business contractors located within a particular geographic area.

SBA also provides procurement counseling to small businessmen through its field offices and its Procurement Center Representatives (PCRs) located at major procurement centers.

PROBLEMS

Small business advocates believe that agency small business specialists do not represent them adequately since the specialists are closely aligned with the interests of the agencies that employ them. They believe that only the PCRs actively promote small business interests. Although they are ombudsmen for small business, small business specialists must

⁴¹ Note 16, *supra*.

also promote the interests of their agency. PCRs, on the other hand, are employed by SBA and owe no allegiance to the procuring agency.

Representatives of the House Small Business Committee believe the rise and fall in the volume of small business set-asides can be attributed directly to the "policing" effect of the PCR presence in the procuring agency. They also believe that PCR services are needed to establish set-asides and to increase the small business share of Government procurement.⁴²

CONCLUSIONS

Both small business specialists and the PCRs are needed to maintain liaison between small business and the procuring agencies. The relationships among the small business specialist, the PCR, and the procuring agency should not be modified.

BENEFITS TO SMALL BUSINESS FROM COMMISSION RECOMMENDATIONS

Interagency Coordination

Recommendation 49. Initiate within the executive branch a review of procurement programs with guidance from SBA and the Office of Federal Procurement Policy with the objective of making small business participation in Government procurement more effective and assuring that small businesses have a full opportunity to compete for Government contracts.

The ultimate value to be derived by small business from our recommendations depends largely on close liaison between SBA and the Office of Federal Procurement Policy. Such liaison would encourage timely development of innovative techniques to maintain a viable small business base. It would provide a clear Government-wide focus on the role of small business in contracting with the Government

⁴² U.S. Congress, House, a report of Subcommittee 6 to the Select Committee on Small Business. H. Rept. 91-1608, 91st Cong., 2d Sess., 1970, *Small Business in Government Procurement—Before and After Defense Cutbacks*, p. 9.

and a mechanism for achieving for small business the benefits we foresee from the many recommendations for improving the procurement process presented elsewhere in this report. A discussion of the expected benefits to small business from some of these recommendations follows.

Office of Federal Procurement Policy

Establishment of a central Office of Federal Procurement Policy in the executive branch to provide leadership in procurement policy and related matters⁴³ will provide an effective high-level forum for small business interests and a focal point to consider the views of the small business community on procurement policy. This office can be of special benefit to small business by unifying the efforts of procurement offices in the promotion of programs of interest to small firms. Also, the promotion of uniformity, consistency, and simplification of procurement policy will be especially helpful to small business.

Modernize Procurement Statutes

Providing a common statutory basis for procurement policies and procedures applicable to all executive agencies by consolidation of the Armed Services Procurement Act (ASPA) and title III of the Federal Property and Administrative Services Act (FPASA)⁴⁴ will reduce administrative cost and simplify business dealings with the Government. During our studies many small businessmen stated that the elimination of divergent policies and procedures would encourage them to participate in Government procurement.

System of Coordinated Procurement Regulations

A system of Government-wide coordinated and uniform procurement regulations under a central office should be especially appealing to

⁴³ Part A, Chapter 2, Recommendation 1.

⁴⁴ Part A, Chapter 3, Recommendation 2.

small business.⁴³ Giving the small businessman a system of uniform regulations will help to reduce the number of problems arising from differing policy interpretations by different procurement officials. Small businessmen are especially critical of procurement regulations. They find it difficult in dealing with different agencies to adjust their pricing, negotiating, and contracting practices to the variable requirements and regulations of different agencies. Small business usually lacks the legal talent, manpower, and time to interpret and follow the myriad of existing regulations; greater consistency in procurement regulations would relieve much of this burden.

Legal and Administrative Remedies

The recommended changes in the disputes-resolving process will aid small firms by removing some of the rigidity in the process.⁴⁴ The proposed system of remedies is more flexible and better suited to the needs of small business than existing procedures. It includes recommendations to establish regional Small Claims Boards of Contract Appeals to resolve claims not exceeding \$25,000 quickly, fairly, and economically; to pay interest on successful contract claims; to encourage the negotiated settlement of disputes through the use of an informal agency review conference; to upgrade the agency boards of contract appeals; and to allow claimants the option of direct access to the courts for the resolution of their claims. These changes will be especially helpful to the small firm which lacks the financial and personnel resources required for protracted litigation.

Small Purchase Authority

Increasing the statutory ceiling to \$10,000 on procurements for which simplified procedures are authorized⁴⁵ will facilitate contracting in the price range where small business is most competitive. Based on DOD experience,

⁴³ Part A, Chapter 4, Recommendation 10.

⁴⁴ Part G, Chapters 2 and 3, Recommendations 1-20.

⁴⁵ Part A, Chapter 3, Recommendation 7.

about half of the dollars for awards of less than \$10,000 go to small business firms.⁴⁶ Raising the limit from \$2,500 to \$10,000 and permitting the use of simplified procurement procedures would have the immediate effect of making small business contracting less burdensome and more attractive to small firms.

Specifications

Our recommendation that development of new Federal specifications for commercial-type products be limited to those that can be specifically justified, including use of total cost-benefit criteria, and be reevaluated every five years⁴⁷ will mitigate a problem that burdens small businessmen. It is usually most difficult for a small business to gather all the specifications and standards referred to in an invitation for bid or request for proposal. Many times the specification for a simple item incorporates a seemingly endless number of others by reference. With fewer specifications, more small businessmen will be encouraged to respond to solicitations.

Multi-year Contracts

Authorizing all executive agencies to enter into multi-year contracts with annual appropriations⁴⁸ will permit small firms to become more competitive for contracts requiring substantial startup costs and capital outlays. Usually such expenditures are more burdensome to small than to big business. The ability to amortize such costs over longer periods should be helpful to small firms in competing for service and support contracts in the firm's geographic area.

Government Self-insurance

We are recommending that the Government act as a self-insurer for loss of or damage to

⁴⁶ Note 23, *supra*, p. 22.

⁴⁷ Part D, Chapter 3, Recommendation 3.

⁴⁸ Part A, Chapter 3, Recommendation 8.

Government property resulting from any defect in items supplied by a contractor and finally accepted by the Government; that this policy apply to subcontractors on the same basis as to prime contractors; and, where items delivered by a contractor to the Government are resold by the Government to a third party, that the latter be granted no greater rights against the contractor or its subcontractors than the Government would have if it had retained the property.⁵¹ Adoption of this recommendation would relieve small business of the purchase of costly insurance against potentially disastrous losses.

Unsolicited Proposals

Elimination of restraints which discourage the acceptance of unsolicited proposals⁵² will encourage small research and development firms to submit innovative ideas to the Government and afford them increased opportunities to obtain contracts. Proposals for research are normally requested only when an agency identifies a need and then only from known sources, which limits the chances for small innovative firms to acquire Government business. Our recommendation should change this practice.

Total Economic Cost

Providing for consideration of administrative, operational, life-cycle, and other significant costs in the establishment and use of procurement and distribution systems⁵³ is expected to give independent distributors and retailers the opportunity to obtain more contracts than is now possible. Interagency support policies have tended to limit the use of innovative and efficient local suppliers. Mandatory centralized interagency support may prevent local sources, including small businesses,

from providing products and services although they would be competitive if total costs of procurement, distribution, and handling were considered. Application of a total economic cost concept will be particularly beneficial to small vendors in competing for local supply and service contracts.

Government-wide Contract Support

Small business would reap considerable benefits from a Government-wide program for interagency use of field contract administration, contract audit, and inspection services.⁵⁴ Such a program would maximize the use of Government and contractor resources and minimize duplicate demands on small business. Some agencies perform support functions already available from other agencies thus causing small business to complain that there is much duplication of agency contract support activities at their facilities.

Major Systems Procurements

One of our proposals for improving the acquisition of major systems calls for soliciting small firms which do not own production facilities if they have (1) personnel experienced in the development and production of major systems and (2) contingent plans for later utilization of the required equipment and facilities.⁵⁵ Small businesses have traditionally been excluded from competing on major system programs due to a lack of equipment and facilities. Adoption of our recommendation would enable and encourage entry of smaller firms into such competition. While they could not expect to be awarded a production contract requiring complex and costly facilities, small firms could certainly benefit by submitting a winning solution in a major system competition.

⁵¹ Part H, Chapter 2, Recommendation 1.

⁵² Part B, Chapter 4, Recommendation 7.

⁵³ Part D, Chapter 4, Recommendation 6.

⁵⁴ Part A, Chapter 10, Recommendation 39.

⁵⁵ Part C, Chapter 4, Recommendation 4.

Appendixes

- A. Public Laws 91-129 and 92-47
- B. Data on Study Groups
- C. Commission Support Staff
- D. Estimated Government expenditures for procurement and grants
- E. Data on the procurement work force
- F. Steps in the procurement process
- G. Historical development of the procurement process
- H. List of recommendations, Parts A-J
- I. Acronyms

APPENDIX A

Public Laws 91-129 and 92-47



Public Law 91-129
91st Congress, H. R. 474
November 26, 1969

An Act

To establish a Commission on Government Procurement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF POLICY

SECTION 1. It is hereby declared to be the policy of Congress to promote economy, efficiency, and effectiveness in the procurement of goods, services and facilities by and for the executive branch of the Federal Government by—

- (1) establishing policies, procedures, and practices which will require the Government to acquire goods, services, and facilities of the requisite quality and within the time needed at the lowest reasonable cost, utilizing competitive bidding to the maximum extent practicable;
- (2) improving the quality, efficiency, economy, and performance of Government procurement organizations and personnel;
- (3) avoiding or eliminating unnecessary overlapping or duplication of procurement and related activities;
- (4) avoiding or eliminating unnecessary or redundant requirements placed on contractor and Federal procurement officials;
- (5) identifying gaps, omissions, or inconsistencies in procurement laws, regulations, and directives and in other laws, regulations, and directives, relating to or affecting procurement;
- (6) achieving greater uniformity and simplicity whenever appropriate, in procurement procedures;
- (7) coordinating procurement policies and programs of the several departments and agencies;
- (8) conforming procurement policies and programs, whenever appropriate, to other established Government policies and programs;
- (9) minimizing possible disruptive effects of Government procurement on particular industries, areas, or occupations;
- (10) improving understanding of Government procurement laws and policies within the Government and by organizations and individuals doing business with the Government;
- (11) promoting fair dealing and equitable relationships among the parties in Government contracting; and
- (12) otherwise promoting economy, efficiency, and effectiveness in Government procurement organizations and operations.

Commission on
Government
Procurement.
Establishment.

83 STAT. 269
83 STAT. 270

ESTABLISHMENT OF THE COMMISSION

SEC. 2. To accomplish the policy set forth in section 1 of this Act, there is hereby established a commission to be known as the Commission on Government Procurement (in this Act referred to as the "Commission").

MEMBERSHIP OF THE COMMISSION

SEC. 3. (a) The Commission shall be composed of twelve members, consisting of (1) three members appointed by the President of the Senate, two from the Senate (who shall not be members of the same political party), and one from outside the Federal Government, (2) three members appointed by the Speaker of the House of Representatives, two from the House of Representatives (who shall not be members of the same political party), and one from outside the Federal Government, (3) five members appointed by the President of the

Pub. Law 91-129 - 2 - November 26, 1969

Appointment
by President.

United States, two from the executive branch of the Government and three from outside the Federal Government, and (4) the Comptroller General of the United States.

(b) The Commission shall select a Chairman and a Vice Chairman from among its members.

Quorum.
Vacancies.

(c) Seven members of the Commission shall constitute a quorum.

(d) Any vacancies in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

DUTIES OF THE COMMISSION

Study of
procurement
procedures.

SEC. 4. (a) The Commission shall study and investigate the present statutes affecting Government procurement: the procurement policies, rules, regulations, procedures, and practices followed by the departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the executive branch of the Federal Government; and the organizations by which procurement is accomplished to determine to what extent these facilitate the policy set forth in the first section of this Act.

Report to
Congress.

(b) Within two years from the date of enactment of this Act, the Commission shall make a final report to the Congress of its findings and of its recommendations for changes in statutes, regulations, policies, and procedures designed to carry out the policy stated in section 1 of this Act. In the event the Congress is not in session at the end of such two-year period, the final report shall be submitted to the Clerk of the House and the Secretary of the Senate. The Commission may also make such interim reports as it deems advisable.

83 STAT., 270
83 STAT., 271

COMPENSATION OF MEMBERS OF THE COMMISSION

Travel ex-
penses, etc.

SEC. 5. (a) Members of the Commission who are Members of Congress or who are officers or employees of the executive branch of the Federal Government, and the Comptroller General, shall receive no compensation for their services as members of the Commission, but shall be allowed necessary travel expenses (or in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence not to exceed the rates prescribed in sections 5702 and 5704 of title 5, United States Code), and other necessary expenses incurred by them in the performance of duties vested in the Commission, without regard to the provisions of subchapter I, chapter 57 of title 5, United States Code, the Standardized Government Travel Regulations, or section 5731 of title 5, United States Code.

80 Stat. 498;
Ante, p. 190.

5 USC 5701-
5708.

Travel ex-
penses, etc.

(b) The members of the Commission appointed from outside the Federal Government shall each receive compensation at the rate of \$100 for each day such member is engaged in the actual performance of duties vested in the Commission in addition to reimbursement for travel, subsistence, and other necessary expenses in accordance with the provisions of the foregoing subsection.

POWERS OF THE COMMISSION

Hearings.

SEC. 6. (a) (1) The Commission, or at its direction any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise the

Subpena.

November 26, 1969 - 3 - Pub. Law 91-129

attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member. Subpenas may be issued under the signature of the Chairman or Vice Chairman and may be served by any person designated by the Chairman or the Vice Chairman.

(2) In the case of contumacy or refusal to obey a subpoena issued under paragraph (1) of this subsection by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Attorney General of the United States, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

Court orders.

(b) The Commission is authorized to acquire directly from the head of any Federal department or agency information deemed useful in the discharge of its duties. All departments and agencies of the Government are hereby authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission to the extent permitted by law. All such requests shall be made by or in the name of the Chairman or Vice Chairman of the Commission.

Cooperation of Federal agencies.

(c) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual shall receive compensation at a rate in excess of the maximum rate authorized by the General Schedule. In addition, the Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates for individuals not in excess of \$100 per diem.

Compensation of personnel.
83 STAT. 271
83 STAT. 272

80 Stat. 443, 467.
5 USC 5101, 5331, 5332
note.
80 Stat. 416.

(d) The Commission is authorized to negotiate and enter into contracts with private organizations and educational institutions to carry out such studies and prepare such reports as the Commission determines are necessary in order to carry out its duties.

Contract authority.

GOVERNMENT DEPARTMENTS AND AGENCIES AUTHORIZED TO AID COMMISSION

SEC. 7. Any department or agency of the Government is authorized to provide for the Commission such services as the Commission requests on such basis, reimbursable or otherwise, as may be agreed between the department or agency and the Chairman or Vice Chairman. All such requests shall be made by or in the name of the Chairman or Vice Chairman of the Commission.

83 STAT. 272 Pub. Law 91-129 - 4 - November 26, 1969

TERMINATION OF THE COMMISSION

Ante, p. 270. SEC. 8. One hundred and twenty days after the submission of the final report provided for in section 4 of this Act, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are hereby authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this Act.

Approved November 26, 1969.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 91-468 (Comm. on Government Operations) and No. 91-613 (Comm. of Conference).

SENATE REPORT No. 91-427 accompanying S. 1707 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 115 (1969):

Sept. 23: Considered and passed House.

Sept. 26: Considered and passed Senate, amended, in lieu of S. 1707.

Nov. 12: Senate agreed to conference report.

Nov. 13: House agreed to conference report.

GPO 37-139



Public Law 92-47
92nd Congress, H. R. 4848
July 9, 1971

An Act

85 STAT. 102

To amend the Act of November 28, 1969, to provide for an extension of the date on which the Commission on Government Procurement shall submit its final report.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 4 of the Act of November 26, 1969 (83 Stat. 271; 41 U.S.C. 251, note), is amended to read as follows:

“(b) The Commission shall make, on or before December 31, 1972, a final report to the Congress of its findings and its recommendations for changes in statutes, regulations, policies, and procedures designed to carry out the policy stated in section 1 of this Act. In the event the Congress is not in session at the time of submission, the final report shall be submitted to the Clerk of the House and the Secretary of the Senate. The Commission may also make such interim reports as it deems advisable.”

Approved July 9, 1971.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 92-145 (Comm. on Government Operations),
SENATE REPORT No. 92-231 (Comm. on Government Operations),
CONGRESSIONAL RECORD, Vol. 117 (1971):
May 17, considered and passed House.
June 24, considered and passed Senate.

GPO 48-138

STUDY GROUP 3 (REGULATIONS)

Studied the regulations and the regulatory process governing Federal procurement, with emphasis on the role and structure of regulations as a management mechanism, how they are developed, and whether they are serving their purpose.

Chairman

Wayne M. Wallace Control Data Corporation

Vice Chairman

Leroy J. Haugh Office of the Assistant Secretary of Defense (Installations and Logistics)

Members

| | |
|-----------------------|---|
| Robert C. Bryan | Department of Agriculture |
| Russell Y. Cooke, Jr. | Sperry Rand Corporation |
| Norman V. Gomes | Jet Propulsion Laboratory |
| Irving Liberman | Defense Supply Agency |
| John H. Mitchell | Hercules, Incorporated |
| John E. Preston | General Accounting Office |
| Floyd R. Sherman | General Services Administration |
| William J. Wilken | National Aeronautics and Space Administration |

STUDY GROUP 4 (LEGAL REMEDIES)

Analyzed the remedies and disputes-resolving processes which are available to the Government, prime contractors, subcontractors, and prospective contractors.

Chairman

Russell Fairbanks Rutgers University School of Law

Vice Chairman

Moody R. Tidwell, III Department of the Interior

Members

| | |
|---------------------|---|
| Andrew L. Bain | Singer-General Precision, Inc. |
| Eugene Brownell | Kurz and Root |
| John A. Erlewine | Atomic Energy Commission |
| Donald A. Giampaoli | Associated General Contractors of America |
| Irving Jaffe | Department of Justice |
| John A. McIntire | Department of the Navy |
| John A. McWhorter | King and King, Attorneys-at-Law |
| William Munves | Department of the Air Force |
| Paul Shnitzer | General Accounting Office |
| Richard Speidel | University of Virginia |
| Lawrence P. Stitch | International Business Machines Corporation |
| John A. Stichnoth | Union Carbide Corporation |

STUDY GROUP 5 (ORGANIZATION AND PERSONNEL)

Reviewed the manner in which Federal agencies are organized and staffed to carry out their procurement mission. Also examined the qualifications of procurement personnel and developed ways to increase proficiency and promote career development of the procurement work force.

Chairman

Allen A. Kaufmann Litton Industries, Incorporated

Robert D. Lyons

*Vice Chairman*Office of the Assistant Secretary of Defense
(Installations and Logistics)Thomas Anderson
Arthur E. Epperson
Harvey M. Kennedy*Members*Charles J. Kenny
John C. King
Robert A. Nolan
Frank J. Walcovich
Douglas J. WishartDefense Contract Administration Services
General Accounting Office
National Aeronautics and Space Administration
U.S. Civil Service Commission
Honeywell, Incorporated
General Services Administration
Atomic Energy Commission
Martin Marietta Corporation

STUDY GROUP 6 (PRE-CONTRACT PLANNING)

Considered how and where the Government should increase competition for its contracts, including professional services, and how best to fairly and economically select contractors. In addition, evaluated patent policy, contract types and clauses, specifications and standards, technical risk analysis, and planning procedures.

Chairman

Roman C. Braun

Atomic Energy Commission

Vice Chairman

Jarold C. Valentine

Martin Marietta Corporation

*Members*Howard D. Clark, Sr.
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Edward H. Koch
Joseph W. Lund
Richard A. Martin
Robert A. McKay
Samuel B. MesnickLTV ElectroSystems, Incorporated
General Services Administration
National Security Industrial Association
Westinghouse Electric Corporation
Department of the Navy
General Accounting Office
Texas Instruments, Incorporated
Atomic Energy Commission
Department of the Air Force

STUDY GROUP 7 (COST AND PRICING INFORMATION)

Studied factors that influence the establishment of price, such as the estimating of unknowns and technical uncertainties, risk analysis, inflationary trends, warranty provisions, funding limitations, cost accounting standards, cost allowability principles, and Truth in Negotiations Act.

Chairman

J. Grant Macdonnell

Northrop Corporation

*Vice Chairmen*Richard M. Randall
Richard P. WhiteMcDonnell Douglas Astronautics Company
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Honeywell, IncorporatedEdward J. Kirkham
Paul R. Kittle, Sr.
John W. Leinhardt
Paul McErlean
Joseph A. Nocera
Donald W. O'Bryan
Robert L. Palmer

STUDY GROUP 8 (NEGOTIATIONS AND SUBCONTRACTING)

Evaluated the conduct of negotiations, including the allocation of risks and benefits. Additionally, problems of the Government contracting authority in the negotiation process, constraints on business judgment, and the degree of latitude granted the Government negotiator were examined.

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|------------------|-------------------------------------|
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| Carl S. Grossman | Defense Contract Audit Agency |
| John Hemlick | Department of the Army |
| Carl J. Mitchell | General Services Administration |
| Warren D. Orr | Lockheed Missiles and Space Company |

STUDY GROUP 9 (REPORTS AND MANAGEMENT CONTROLS)

Studied the authority, generation, and use of procurement reports and management control systems.

| | |
|----------------------------------|---|
| | <i>Chairman</i> |
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| | <i>Vice Chairman</i> |
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| Stanley I. Sachs | Westinghouse Electric Corporation |
| A. Anthony Scarpa | Department of the Army |
| Comdr. Patrick D. Sullivan, USN | Defense Supply Agency |
| John F. Wood | International Business Machines Corporation |

STUDY GROUP 10 (CONTRACT AUDIT AND ADMINISTRATION)

Addressed such contract administration matters as adherence to contract schedules, quality assurance, control over contractual changes, and timeliness in the closeout of completed contracts. Also evaluated the effectiveness with which specific contractual provisions are administered, i.e., payments, suspension of work, terminations, inspection and testing, and the audit of contractors' records.

| | |
|----------------------|--|
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| David W. Johnson | Department of the Navy |
| Robert P. Meahl, Jr. | General Accounting Office |
| Ronald G. Tormey | Colt Industries |
| Troy R. Willson | Mason and Hangar-Silas Mason Co., Incorporated |

**STUDY GROUP 13 (COMMERCIAL PRODUCTS,
ARCHITECT-ENGINEER SERVICES, AND CONSTRUCTION)**

| | |
|-------------------|------------------------------|
| | <i>Chairman</i> |
| Robert J. Brown | Atomic Energy Commission |
| | <i>Vice Chairman</i> |
| William H. Norton | J. T. Baker Chemical Company |

STUDY GROUP 13A (COMMERCIAL PRODUCTS)

Studied the procurement of equipment, material, and services generally available through established commercial sources. Emphasis was placed on an evaluation of total costs, including item price, acquisition system costs, and cost of the product in use.

| | |
|--------------------------------|-------------------------------------|
| | <i>Chairman</i> |
| Col. George Ostrowski, USAF | Department of the Air Force |
| | <i>Vice Chairman</i> |
| Francis E. Daigle | General Electric Company |
| | <i>Members</i> |
| Francis C. Bryan | John Sexton and Company |
| Roy C. Chisholm | General Services Administration |
| John W. Egan | A. T. Kearney Company, Incorporated |
| G. Kent Godwin | Department of Agriculture |
| Raymond L. Harshman | Small Business Administration |
| Dr. Claire R. Miller | Honeywell, Incorporated |
| John J. Mitchell | Department of State |
| John J. Shea | Veterans Administration |
| Lt. Col. Walter B. Sloan, USAF | Defense Supply Agency |

STUDY GROUP 13B (ARCHITECT-ENGINEER SERVICES)

Examined procedures unique to architect-engineer services and the possibilities for increasing competition in this area of contracting.

| | |
|-----------------------|----------------------------------|
| | <i>Chairman</i> |
| Leo A. Daly, Jr. | Leo A. Daly Company |
| | <i>Vice Chairman</i> |
| Thomas L. Peyton, Jr. | General Services Administration |
| | <i>Members</i> |
| Roger S. Long | Department of the Navy |
| Robert J. Piper | The Perkins & Will Corporation |
| Roy L. Poore | Department of the Army |
| Billy T. Sumner | Barge, Waggoner, Sumner & Cannon |
| Travis Thompson | Atomic Energy Commission |

STUDY GROUP 13C (CONSTRUCTION)

Evaluated the entire construction procurement cycle, from planning to occupancy, including variations between Government and commercial practices.

| | |
|----------------------------------|------------------------------|
| | <i>Chairman</i> |
| Robert J. Fitz | Department of the Army |
| | <i>Members</i> |
| H. N. Hockensmith | Brown and Root, Incorporated |
| Charles F. Palmetier | Department of the Interior |
| Robert S. Penter | Bechtel Corporation |
| Comdr. Joseph L. Reese, Jr., USN | Department of the Navy |
| William P. Snyder | Atomic Energy Commission |

**SOURCE OF STUDY GROUP PARTICIPANTS LOANED
TO THE COMMISSION ON GOVERNMENT PROCUREMENT**

| Study Group | Full time | | | Part time | | | Total |
|--|-----------|-----------|-----------|------------|------------|-------------|--------------|
| | Govt. | Industry | Other * | Govt. | Industry | Consultants | |
| 1. Utilization of resources | 5 | 5 | 0 | 1 | 5 | 6 | 22 |
| 2. Controls over the procurement process | 9 | 2 | 0 | 0 | 3 | 1 | 17 |
| 3. Regulations | 6 | 4 | 0 | 4 | 0 | 0 | 14 |
| 4. Legal remedies | 7 | 3 | 5 | 6 | 1 | 0 | 26 |
| 5. Organization and personnel | 7 | 3 | 0 | 22 | 4 | 4 | 46 |
| 6. Pre-contract planning | 6 | 4 | 1 | 20 | 13 | 5 | 54 |
| 7. Cost and pricing information | 8 | 5 | 0 | 3 | 10 | 0 | 27 |
| 8. Negotiations and subcontracting | 5 | 3 | 0 | 4 | 14 | 5 | 34 |
| 9. Reports and management controls | 5 | 4 | 0 | 4 | 5 | 0 | 18 |
| 10. Contract audit and administration | 7 | 4 | 0 | 1 | 5 | 1 | 18 |
| 11. Research and development | 7 | 3 | 3 | 1 | 3 | 12 | 32 |
| 12. Major systems acquisition | 8 | 8 | 2 | 34 | 34 | 16 | 104 |
| 13. Commercial products, architect-engineer services, and construction | 1 | 1 | 0 | 0 | 0 | 0 | 2 |
| 13A. Commercial products | 7 | 4 | 0 | 0 | 6 | 0 | 18 |
| 13B. Architect-engineer services | 4 | 3 | 0 | 4 | 6 | 0 | 17 |
| 13C. Construction | 4 | 2 | 0 | 5 | 0 | 0 | 11 |
| Statutes * | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| Total | 96 | 58 | 11 | 109 | 109 | 52 | 462 * |

* Includes participants from universities, foundations, and industry, professional, and trade associations.

* Major effort was performed by the staff of the Commission.

* There were also approximately 270 attorneys in the Commission's Volunteer Legal Network, many of whom provided legal research papers or assisted the Study Groups.

**DISCIPLINES REPRESENTED ON
STUDY GROUPS**

| Disciplines | Full-time participants |
|---------------------------|------------------------|
| Academic | 6 |
| Administration/management | 22 |
| Audit/accounting | 15 |
| Engineering | 32 |
| Finance | 8 |
| Legal | 16 |
| Procurement | 66 |
| Total | 165 |

**SUMMARY OF PUBLIC MEETINGS HELD
BY STUDY GROUPS**

| | |
|--|-------|
| Thirty-six public meetings were convened in 18 cities. | |
| Number of Study Groups that held public meetings | 6 |
| Total attendance | 1,035 |
| Total number of speakers | 142 |

SUMMARY OF STUDY GROUP VISITS

| | Number of locations visited | Total number of visits |
|---|-----------------------------|------------------------|
| Government: | | |
| Civil agencies | 270 | 712 |
| Department of Defense | 236 | 625 |
| Financial, industrial, and other profitmaking organizations | 341 | 471 |
| Industry, professional, and trade associations | 77 | 109 |
| Colleges and universities | 34 | 49 |
| Federally funded research and development centers | 14 | 35 |
| Miscellaneous | 26 | 46 |
| Total | 998 | 2,047 |

Study Groups visited installations located in 255 cities in 40 states and the District of Columbia. Approximately 12,000 people participated in the interviews conducted by the study groups.

APPENDIX C

Commission Support Staff*

Gearline C. Adams
 Sue W. Adkins
 Deborah R. Babcock
 William L. Banks
 Claudia F. Barnes
 Sharon A. Beechko
 Carol C. Bell
 Pauline T. Bischoff
 Susie A. Bowles
 Helen T. Bradley
 Janet K. Brickey
 Phyllis Britt
 Catherine A. Burleson
 Phyllis M. Byrne
 Claire B. Cann
 Nola Casieri
 Marylyn L. Clark
 Geraldine B. Clifton
 James C. Cochran
 Theresa D. Coleman
 Dorothy E. Collins
 Martha A. Cook
 Carol B. Cunningham
 Mildred B. Dangelowicz
 Jane I. DeNeale
 Madeline C. Devan
 Donald L. Disier
 Janet P. Donovan
 Dorothy J. Douglas
 Sue H. Dye
 Delores Edmonson
 Joyce R. Edwards
 Jane M. Ellett
 Vance C. Ellis
 Dorothy L. Evans
 Michael E. Evans
 Martha A. Fairhead
 Michael R. Flowers
 Donald P. Frazee
 Barbara P. Friend
 Gloria M. Goodwin

Mary M. Gray
 Richard C. Guay
 Rebecca A. Gute
 Josephine V. Haley
 Mabel Hall
 Belita K. Hardesty
 Sandra M. Harris
 Richard D. Heironimus
 Nancy A. Hiner
 Louis O. Hinton
 Lucy J. Itterly
 Clifton M. Jackson
 Cloria Jackson
 Katherine G. Jahnel
 Cynthia D. Johnson
 Helen B. Johnson
 Shirley S. Johnson
 Juanita S. Jones
 Kathleen Kelly
 Randolph W. King
 Marykathryn Kubat
 Wanda J. Lamb
 Rose A. Lawrence
 John E. Levan
 Carolyn A. Levere
 James L. Lyles
 Bonnie Lucas
 Mary C. McIntire
 Alice H. Mason
 Jean R. Mathis
 Benjamin O. May
 Margaret A. Molesworth
 Nancy C. Morrison
 Patricia A. Newton
 Mary A. Nikolic
 Ella F. Owens
 Betty J. Pass
 Margaret L. Pavell
 Diane R. Perkins
 Carolyn L. Petty
 Joyce M. Pool

Steven L. Preister
 Bernadette W. Price
 Virginia Puffenbarger
 Frances K. Raftery
 Barbara A. Rauth
 Juanita A. Richards
 Vivian D. Richardson
 Gwendolyn D. Rivers
 Sandra J. Robertson
 Gene L. Romesburg
 Margaret M. Schuler
 Natalie H. Schuman
 Nancy S. Shade
 John M. Shannon
 Mildred D. Sher
 Janey L. Shine
 Catherine A. Smith
 O. Diane Southard
 Janice E. Stanfield
 Shirley A. Staton
 Raymond C. Stevenson
 Constance B. Stewart
 Laura C. Swartz
 Joyce F. Tanner
 Vernetta Tanner
 Virginia L. Thaxton
 Betty M. Thompson
 Carol L. Thompson
 Lucy E. Toland
 Jean A. Tressler
 Vivian E. Tyler
 Arleen W. Vandemark
 Bernadette M. Washington
 Muriel J. White
 Katherine S. Wilson
 Mignon J. Wilson
 Marian R. Winkler
 Jean A. Wood
 Jeannie C. Yeats
 Mazie O. Young
 Sophie M. Zawistoski

*Numbers of personnel and periods of service varied to meet demands of Study Groups.

APPENDIX

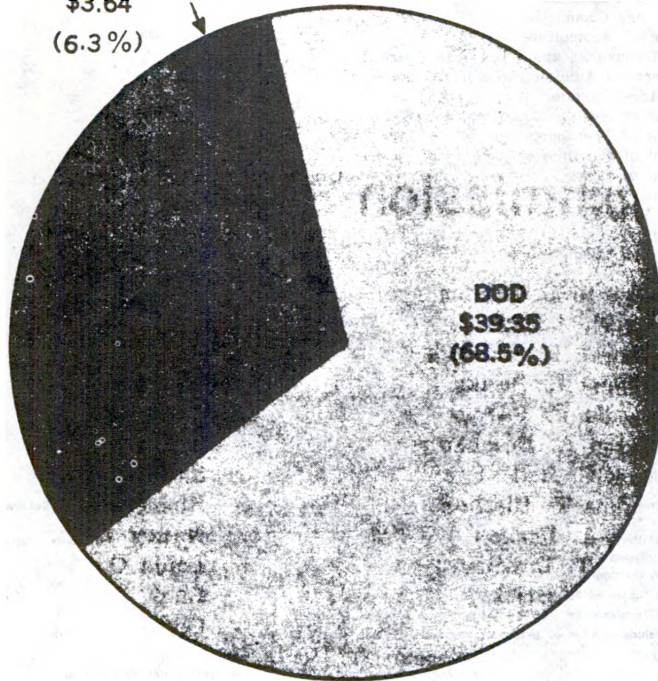
ESTIMATED TOTAL GOVERNMENT PROCUREMENT

FISCAL YEAR 1972

(\$ BILLIONS)

**OTHER
PROCUREMENTS**

**\$3.64
(6.3%)**



Does not include salaries of personnel engaged in procurement activities.

Estimated Government Expenditures For Procurement and Grants

*Total Estimated Government Procurement by Executive Agencies
Fiscal 1972
(Billions of dollars)*

| <i>Agency</i> | | <i>Total</i> |
|--|------|--------------|
| Department of Defense * | | 39.35 |
| Civilian executive agencies ^b | | |
| Atomic Energy Commission | 2.88 | |
| Department of Agriculture | 2.62 | |
| National Aeronautics and Space Administration | 2.48 | |
| General Services Administration | 1.31 | |
| Veterans Administration | 0.74 | |
| Department of Health, Education, and Welfare | 0.72 | |
| Department of Transportation | 0.70 | |
| Department of the Interior | 0.65 | |
| Department of Labor | 0.38 | |
| Department of Housing and Urban Development | 0.25 | |
| Tennessee Valley Authority | 0.23 | |
| Department of State | 0.20 | |
| Department of Commerce | 0.17 | |
| Department of the Treasury | 0.16 | |
| Other agencies | 1.00 | 14.49 |
| Other expenditures which should be classified as procurement | | |
| Executive printing by GPO * | 0.18 | |
| Blind-made products * | 0.02 | |
| Government bills of lading ^d | 1.05 | |
| Government transportation requests ^d | 0.38 | |
| Commercial utilities and communications * | 1.50 | |
| Rents paid by GSA * | 0.51 | 3.64 |
| Total estimated Government procurement ^e | | 57.48 |

* U.S. Department of Defense, Office of the Secretary of Defense, *Military Prime Contract Awards and Subcontract Payments and Commitments, July 1971-June 1972*; and Commission Studies Program.

^b U.S. General Services Administration, Office of Finance, *Procurement by Civilian Executive Agencies, Period July 1, 1971-June 30, 1972*; and Commission Studies Program.

^c Estimated by the Commission.

^d Information furnished by GAO and Commission Studies Program.

^e Information furnished by GSA and Commission Studies Program.

^f Does not include salaries of personnel engaged in procurement activities.

*Federal Aid Expenditures for Grants and Shared Revenues **
(Billions of dollars)

| <i>Fiscal 1971 (actual)</i> | <i>Fiscal 1972 (est.)</i> | <i>Fiscal 1973 (est.)</i> |
|-----------------------------|---------------------------|---------------------------|
| 29.8 | 39.1 | 43.5 |

* U.S. Office of Management and Budget, *Special Analyses of the United States Government, Fiscal Year 1972*, table P-8, Federal Aid to State and Local Governments, p. 254.

APPENDIX E

Data on the Procurement Work Force

THE PROCUREMENT WORK FORCE
HIGHLIGHTS, 1971

SIZE

ESTIMATED TOTAL —80,000
POSITIONS REPORTED—61,000
POSITIONS ANALYZED—57,000 (THOSE ANSWERING QUESTIONNAIRES)

DEPARTMENTAL DISTRIBUTION

76%—DEPARTMENT OF DEFENSE
24%—ALL OTHER DEPARTMENTS

GOVERNMENT PROCUREMENT REFERENCE

(CIVILIAN STAFF)

NONE, OR LESS THAN 1 YEAR — 8%
1-5 YEARS —26%
OVER 5 YEARS—66%
OVER 50% WILL BE ELIGIBLE TO RETIRE BY END OF 1980—OBVIOUSLY FROM THE MOST EXPERIENCED GROUP

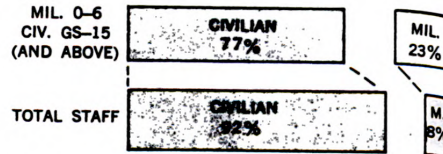
AVERAGE EDUCATION

(CIVILIAN STAFF)

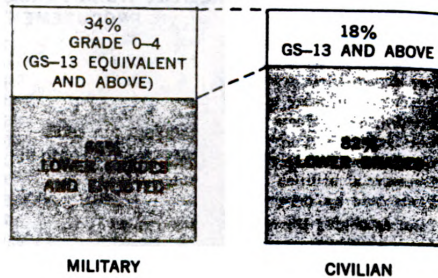
HIGH SCHOOL, PLUS 3 MONTHS COLLEGE

Source: Commission Studies Program (based on responses to Commission questionnaires).

MANAGEMENT LEVEL MIX



DISTRIBUTION OF
HIGHER LEVEL CIVILIAN AND MILITARY
PROCUREMENT POSITIONS



COMPOSITION OF THE FEDERAL GOVERNMENT PROCUREMENT
WORK FORCE, BY AGE

| Age | Civilian | Percent | Military | Percent | Total | Percent |
|--------------|----------|---------|----------|---------|--------|---------|
| 20 and under | 12 | — | 61 | 1.4 | 73 | 0.1 |
| 21—25 | 1,206 | 2.3 | 749 | 17.3 | 1,955 | 3.4 |
| 26—30 | 3,093 | 5.8 | 1,060 | 24.5 | 4,153 | 7.2 |
| 31—35 | 4,324 | 8.1 | 721 | 16.7 | 5,045 | 8.7 |
| 36—40 | 5,934 | 11.1 | 838 | 19.4 | 6,772 | 11.8 |
| 41—45 | 7,215 | 13.5 | 449 | 10.4 | 7,664 | 13.3 |
| 46—50 | 11,235 | 21.1 | 279 | 6.4 | 11,514 | 20.0 |
| 51—55 | 10,845 | 20.4 | 143 | 3.3 | 10,988 | 19.1 |
| 56—60 | 6,176 | 11.6 | 24 | 0.5 | 6,200 | 10.8 |
| 61—65 | 2,674 | 5.0 | 4 | 0.1 | 2,678 | 4.6 |
| 66—70 | 579 | 1.1 | — | — | 579 | 1.0 |
| Total | 53,293 | 100.0 | 4,328 | 100.0 | 57,621 | 100.0 |

Source: Commission Studies Program (based on responses to Commission questionnaires).

**COMPOSITION OF THE FEDERAL GOVERNMENT PROCUREMENT
WORK FORCE, BY HIGHEST LEVEL OF EDUCATION**

| <i>Level of education</i> | <i>Civilian</i> | <i>Percent</i> | <i>Military</i> | <i>Percent</i> | <i>Total</i> | <i>Percent</i> |
|--|-----------------|----------------|-----------------|----------------|---------------|----------------|
| Less than high school | 2,073 | 3.9 | 38 | 0.9 | 2,111 | 3.7 |
| High school | 20,864 | 38.9 | 891 | 22.0 | 21,755 | 37.8 |
| Post high school | 1,513 | 2.8 | 16 | 0.4 | 1,529 | 2.6 |
| At least 30 semester hours of college credit | 4,228 | 7.9 | 211 | 5.2 | 4,439 | 7.7 |
| At least 60 semester hours of college credit and/or a junior college certificate (AA) (AS) | 3,812 | 7.1 | 154 | 3.8 | 3,966 | 6.9 |
| At least 90 to 120 semester hours of college credit | 2,787 | 5.2 | 108 | 2.7 | 2,895 | 5.0 |
| Bachelor's degree | 14,529 | 27.1 | 1,572 | 38.8 | 16,101 | 27.9 |
| Law degree (LLB, JD, etc.) | 1,104 | 2.1 | 82 | 2.0 | 1,186 | 2.1 |
| Master's degree | 2,183 | 4.1 | 923 | 22.8 | 3,106 | 5.4 |
| Doctor's degree | 475 | 0.9 | 58 | 1.4 | 533 | 0.9 |
| Total | 53,568 | 100.0 | 4,053 | 100.0 | 57,621 | 100.0 |

Source: Commission Studies Program (based on responses to Commission questionnaires).

**COMPOSITION OF THE FEDERAL GOVERNMENT
PROCUREMENT WORK FORCE, BY YEARS OF GOVERNMENT
PROCUREMENT EXPERIENCE**

| <i>Government procurement experience</i> | <i>Civilian¹</i> | <i>Percent</i> | <i>Number of persons</i> | | <i>Total</i> | <i>Percent</i> |
|--|-----------------------------|----------------|-----------------------------|----------------|---------------|----------------|
| | | | <i>Military²</i> | <i>Percent</i> | | |
| None or less than one year | 4,303 | 8.0 | 391 | 9.6 | 4,694 | 8.2 |
| 1—5 years | 13,809 | 25.8 | 2,428 | 60.0 | 16,237 | 28.2 |
| 6—10 years | 13,078 | 24.5 | 659 | 16.3 | 13,737 | 23.8 |
| 11—15 years | 8,593 | 16.0 | 339 | 8.4 | 8,932 | 15.5 |
| 16—20 years | 7,609 | 14.2 | 190 | 4.7 | 7,799 | 13.5 |
| 21—25 years | 3,739 | 7.0 | 34 | 0.8 | 3,773 | 6.5 |
| 26—30 years | 2,041 | 3.8 | 9 | 0.2 | 2,050 | 3.6 |
| 31 years and over | 396 | 0.7 | 3 | — | 399 | 0.7 |
| Total | 53,568 | 100.0 | 4,053 | 100.0 | 57,621 | 100.0 |

¹ Government procurement experience in a civilian capacity.

² Government procurement experience in a military capacity.

Source: Commission Studies Program (based on responses to Commission questionnaires).

APPENDIX F

Steps in the Procurement Process

There is no simple uniform set of detailed actions for each step in the procurement process (as depicted in figure 1). The process differs according to the agency conducting the procurement; the goods or services required; the size, type, and complexity of the procurement; the economic interests and concerns of the public in a given transaction; and the laws and procedures that apply in each case. Part A covers some general considerations in the procurement process; Parts B through J cover issues relating to specific types of procurement and detailed legal considerations.

Policy Development

Policy development and implementation are eventually expressed through a legal and administrative structure which provides the foundation for procurement activities. Statutes and regulations dealing with national policy objectives, such as social goals, also are implemented through the procurement process and form a part of this foundation.

Work Force

The key to successful conduct of procurement within an agency is the procurement work force. The agency's contracting officers and other professional specialists are members of the procurement team. If a need is special or complex, the team may include project managers, scientists, engineers, lawyers, accountants, price analysts, and other specialists whose services may be required at one or more steps of the procurement (for example, identifying the need; planning; contractor solicitation and selection; contract negotiation; and contract administration).

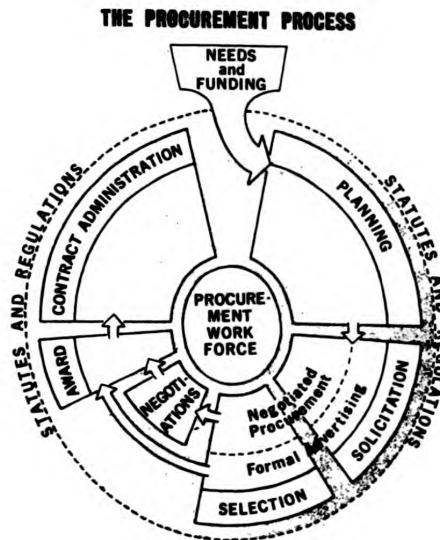


Figure 1

Needs

A need for a simple commercial item may result from the normal depletion of stock. The mechanics for satisfying such a requirement may be routine to the extent that computers are used to determine desired quantities and delivery schedules and to initiate purchase requests. Satisfaction of a need for a yet-to-be-developed major system (involving research, development, testing, production, construction, installation, training, operation, and maintenance) requires complex planning and procurement considerations. All decisions to contract for needs must be supported by congressional appropriations.

Some needs can be met through: (a) procurement of commercial items, (b) use of "in-house" or intragovernment resources, or (c) acquisition of special items from private sector suppliers. Under (b) or (c) above, it may be necessary to modify a product, develop a new product, or even develop new technology.

Planning

FORMS OF COMPETITION

The basic forms of procurement include (1) advertising, (2) competitive negotiations, and (3) negotiations with a sole-source. One of the three forms must be decided on prior to contractor solicitation and selection.

TYPE OF CONTRACT

Selection of the type of contract best designed to fulfill a procurement goal is a basic planning factor. Contract types vary according to the degree of risk assumed by the contractor and the amount of profit incentive offered for achieving the Government's objectives. At one end of the spectrum is the firm-fixed-price (FFP) contract in which the contractor agrees to deliver the supplies or services for a specified price which includes profit. At the other end is the cost-plus-a-fixed-fee (CPFF) contract, in which profit is fixed in the form of a specified fee and the contractor is reimbursed for his allowable costs. Selection of contract type is influenced by factors such as the financial liability of the Government, the adequacy of cost information furnished by the contractor, the nature of the work, associated risks, and current market conditions.

COST ESTIMATES

Cost estimates are needed for initial and subsequent planning and frequently must be revised at several stages of a procurement. The quality of an estimate depends on the time

available to prepare it, the amount and kind of data available, the precision used in defining the object to be estimated, the extent of technical and economic uncertainties, and the skill of the estimator.

Estimates are used in making cost-benefit analyses; in deciding whether to continue a program; in revising requirements; in evaluating alternative or competitive courses of action; in budgeting to obtain funding; and in apportioning funds. Estimates are also used to prepare independent judgments before solicitation of proposals and to establish negotiating positions and goals after receipt and analysis of proposals.

Solicitation

A solicitation document should reflect all key decisions made in the initial planning. An invitation for bid (IFB) is used to solicit competitive sealed bids. A request for proposal (RFP) is used to solicit competitive and sole-source proposals.

An IFB must be precise because bidders are required to bid on exactly what is set forth. Deviations from the requirements of the IFB usually disqualify the bidder. RFPs permit more flexibility and judgment in making business decisions.

Generally, IFBs are sent to a large number of firms. Any firm that requests an IFB may obtain one. When other competitive procedures are used, agencies generally select the firms to which an RFP will be sent; however, additional firms may request an RFP and submit a proposal.

Selection and Award

FORMAL ADVERTISING

The formal procedures for the public opening and recording of responses to invitations for bids (IFBs) involve: preparation of abstracts of all bids received; public examination of all bids; and, where required, a

decision as to the disposition of any late bids or modifications received.

All bids are reviewed for possible mistakes, exceptions, and missing information. A formal determination must be made of the responsiveness of all bidders to the requirements of the IFB and the low-responsive bidder identified. A positive determination then must be made of the low-responsive bidder's capability to perform on the contract. Following these determinations, the contract can be awarded.

NEGOTIATED PROCUREMENT

Responses to competitive requests for proposals (RFPs) are received at a specified time, but there is no public opening or abstracting. However, procedures do call for an elaborate review of proposals received. Initially it must be determined that offerors have complied fully with the requirements of the RFP. A business evaluation is made of prospective suppliers by the contracting officer and the specialists supporting the contracting officer in determining the offeror or offerors with whom to negotiate.

Negotiations with the selected offeror or offerors may include details regarding the work to be accomplished, terms and conditions of the contract, and its price. Cost and profit considerations are primary factors in the process by which the prices of negotiated contracts, or modifications thereto, are established. The Government's requirement for cost and pricing information includes a determination of whether the prices are reasonable and well-defined. Other factors that must be considered are: contract type; nature of the work (research, development, production, services);

technical uncertainties; risk factors; social and economic considerations; inflationary trends; warranty provisions; funding limitations; and competitive pressures—all of which affect the cost and price of a product or service. Following successful negotiation of these considerations, a contract is awarded to the bidder proposing the most advantageous offer to the Government, price and other factors considered.

Contract Administration

Contract administration involves the actions necessary to assure compliance with the terms and conditions of the contract. Typical activities include: negotiation of overhead rates; determining allowability of costs; review of contractor management systems; pre-award surveys; proposal evaluation; cost/price analysis; production surveillance; inspection and testing, and responsibility for Government-furnished property and facilities. A significant amount of resources are devoted to the quality assurance function which consists of the actions taken to ensure that goods and services meet specified technical requirements.

Another important aspect of contract administration is contract audit which provides accounting and financial advisory service in connection with the negotiation, administration, and settlement of contracts and subcontracts. Examples of significant contract audit functions are audits required by the Truth in Negotiations Act, analysis of contractor vouchers, and prenegotiation reviews of contractor cost proposals.

APPENDIX G

Historical Development of the Procurement Process**RECURRING ISSUES IN PROCUREMENT HISTORY**

Many problems relating to the Federal Government's procurement of goods and services have been with us since the beginning of the Nation. The evolution of the procurement process has been strongly influenced by several recurring issues: Who will be in charge? What methods will best encourage competition? How can excessive profits be prevented and reasonable prices be ensured? How can accountability to the public be attained? What is the role of the public vs. the private sector in supplying Federal needs? Can socio-economic goals be attained by means of the procurement process?

MILITARY ACTIVITY AS NATURAL TURNING POINTS

The most significant developments in procurement procedures and policies have occurred during and soon after periods of large-scale military activity.

The Revolutionary War Period

During the Revolutionary War, purchasing activity was characterized by sharp and primitive practices, untrained purchasing officials, profiteering, poor supplies, and deficient management.

The Second Continental Congress took control of the Army in June 1775 and appointed a commissary-general to purchase provisions. Colonists rarely accepted Continental currency, thus creating the greatest business difficulty at that time.

One of the earliest problems in selecting between public and private sources for meeting

Government needs occurred in 1776. Because of a lack of interest by private enterprise, General Washington asserted that he would manufacture needed supplies himself and, on January 16, 1777, he ordered the erection of facilities for casting cannon at Yorktown, Pennsylvania.

In July 1777, General Washington wrote of the scarcity of food, soap, and other necessities, and Congress directed the Board of War to contract for these items. On March 2, 1778, Congress approved the permanent appointment of a Quartermaster General. Purchasing commissaries were paid 2 percent of the money disbursed by them.

To discourage embezzlement and to stabilize the purchasing service, Congress provided, in 1778, that purchasing commissaries be salaried at \$100 per month and six daily rations. Thomas Jefferson successfully sponsored legislation for the bonding of incumbents. Not until 1808 was an "officials not to benefit" law passed.

Inflation and scarcities persisted in 1779, and Congress, in despair, threw the burden of feeding and clothing the Army on the States. This plan proved a fiasco and was abolished. By the summer of 1781, conditions began to improve as executive power became more centralized.

Financier Robert Morris arranged for feeding the Army by letting contracts for delivery of rations. Disputes were to be referred to arbitrators. Deficient rations could be replaced by Congress at contractors' expense.

Washington, aware of the value of harmonious Government-contractor relationships, wrote to Robert Morris on January 8, 1783, "I have no doubt of a perfect agreement between the Army and the present contractors; nor of the advantages which will flow from the consequent harmony."

Early Purchasing Under the Constitution

The Constitution contained no specific provisions for contracting but, as the Supreme Court has confirmed (*United States vs. Tingey*, 39 U.S. 114 [1831]), the implied power of the executive to enter into contracts is inherent in the concept of sovereignty. However, to withdraw money from the Treasury, under Section 9, Article I, of the Constitution, appropriations must be made by Congress. Through the years, Congress has imposed many requirements or limitations on this implied executive contracting power.

With the ratification of the Constitution, the militia and the standing Army required food and other essentials. The first Congress had set the pattern of procurement, including the establishment of executive departments (Foreign Affairs, War, Treasury, and Post Office) and the making of appropriations for those agencies, including provisions for light-houses and other facilities.

Alexander Hamilton, as the first Secretary of the Treasury, is generally credited with having given the initial impetus to centralized Federal purchasing. While today there are some 4,000 procurement-related statutes, it was on May 8, 1792, that the Second Congress passed the first law regulating Federal procurement, providing that all purchases for the Army were to be made by the Department of the Treasury. In 1798, Congress required all outstanding contracts to be deposited in the Treasury, a function to be inherited many decades later by the General Accounting Office (GAO).

Centralized purchase by the Department of the Treasury was shortlived, and in 1798 and 1799 some of its duties were transferred to the Navy and War Departments. Hamilton's dream of centralized procurement suffered additional setbacks when, on March 28, 1812, under the stress of war with England, Congress established the Quartermaster General's Office¹ broadening the purchasing authority of the Army.

With progressive expansion of the Government, various agencies gradually introduced the practice of obtaining supplies they needed by funding them through their own budgets.

¹ 2 Stat. 696.

Nineteenth Century: Advertising Established

Between 1829 and the Civil War, no major procurement legislation was introduced. Faults in the system largely persisted until 1860 and 1861, when Congress enacted a law requiring advertising for purchases, except for matters of "public exigency." Earlier versions of this law had been enacted since 1809, although a number of advertising exemption laws were passed between 1809 and 1841. An 1842 law on stationery and printing procurements required advertising, sealed bids, and default security; an 1843 law required an abstract of bids; and an 1852 law provided for advertising 60 days before the opening of public bids.

Advertising for competitive bids became generally mandatory during this period, although the Civil War, with its specification difficulties, profiteering, and other problems demonstrated that in some situations negotiation is the most practical method of procurement. The 1860 advertising law, as amended in 1910, became known as "Section 3709 of the Revised Statutes." Except during the Spanish-American War, the Filipino insurrection, and World Wars I and II, this statute applied until 1948 for the military departments, NASA (NACA in the original law), and the Coast Guard; until 1949 for the General Services Administration (GSA) and delegated agencies; and until 1965 for other executive agencies. This law still applies to agencies not in the executive branch.

EARLY TWENTIETH CENTURY REFORMS

The Dockery Commission

In 1893, a joint Senate and House Commission (named for its chairman, Representative Dockery of Missouri) was established to make certain studies, including one of procurement. It was a prototype of the Hoover Commission and the Commission on Government Procurement.

The commission reported that there had been no attempt to standardize specifications or quantities purchased by the various agen-

cies. Based on the commission recommendation, Section 3709 of the Revised Statutes was amended in 1894 to provide for review of all agency purchase proposals by a newly created Board of Awards with representatives of the Department of the Treasury, Interior, and Post Office. The board was advisory only, however, and largely powerless to deal with unstable prices, nonstandard specifications, and duplication of functions.

The Keep Commission

President Theodore Roosevelt, on June 2, 1905, appointed the Keep Commission (named for its chairman, an Assistant Secretary of the Treasury), which conducted a year-long study pointing out deficiencies such as lack of standardization and widely differing prices for similar articles. The Keep Commission recommended the establishment of a General Supply Committee to assure coordination and standardization of supplies.

Thereafter, the Board of Awards, in 1908, appointed a committee for the creation of a "General Schedule of Supplies," consisting of 23 members from the executive agencies.

This period also is noted for the first uses of the procurement process for socioeconomic reform; for example, restrictions on use of Federal convict labor by Congress in 1887 and by Executive Order in 1905; restricted hours of work (8-hour laws) in 1892 and 1912. One of the early statutory price restrictions, enacted in 1897, limited the per ton price of armor plate to \$300, a restriction which proved unworkable and was repealed in 1900.

A Statutory General Supply Committee Established

By Executive Order 1071 in 1909, President Taft directed that all supplies contained in the General Schedule would be purchased by Federal agencies under contract made by the General Supply Committee.

In 1910, Congress created a statute-based

General Supply Committee as a substitute for the earlier one appointed by the Board of Awards. For Federal establishments in Washington, the law required advertised procurements by the Secretary of the Treasury. Internal and external developments in 1914, however, tended to relegate the General Supply Committee to the background when the ramifications of World War I had engulfed the United States.

WORLD WAR I

The War Industries Board

The War and Navy Departments handled vast amounts of military and civilian goods. Throughout World War I, the General Supply Committee, under the Treasury Department, continued to issue its General Schedule of Supplies—indefinite-quantity term contracts.

On July 28, 1917, the War Industries Board was established and, by Executive Order 2868, May 28, 1918, was made a separate agency under President Wilson. The board was given control over war materials, finished products, priorities, labor, and prices. Many procedures were eliminated or relaxed. At war's end, however, the War Industries Board was dissolved.

Problems and Procedures

Contracting procedure in World War I leaned heavily to cost-type contracts, including cost-plus-a-percentage-of-cost contracts, later outlawed. "Profiteering" and "influence peddling" were highly publicized at this time. Congress enacted excess-profits taxes in 1917, although "profiteering" was practiced and strongly condemned in Washington's time. To curb influence peddling, President Wilson directed the use of the "covenant against contingent fees," which is now required by statute and regulations. The war was over before some of the wartime procurement problems were solved.

POST-WORLD WAR I DEVELOPMENTS

Reconversion

Dominating the post-World War I period were the problems of reconversion to peacetime production and the use of enormous amounts of surplus materials through reissue by the General Supply Committee. Military procurements continued to be made by the War and Navy Departments.

Organizational Developments

Both the Bureau of the Budget (BOB) and GAO were created from their Treasury Department predecessors by the Budget and Accounting Act of 1921. Under this law, GAO received its charter to audit expenditures and settle claims against the United States.

On July 27, 1921, the first Director of the Bureau of the Budget, with President Harding's approval, created the Federal Coordinating Service, with a number of "coordinating" boards. Particularly relevant to procurement were the Federal Purchasing Board, the Interdepartmental Board of Contracts and Adjustments, and the Coordinator for Purchase.

Congress strengthened the General Supply Committee in 1929 by conferring on the Secretary of the Treasury authority to procure and distribute supplies for consolidated Federal requirements in Washington, D.C., and optionally for "field services." The law also created the General Supply Fund of the Department of the Treasury, later transferred with broadened authority to GSA for financing purchasing and supply operations. This law laid the groundwork for a centralized purchasing and distribution system and revitalized the General Supply Committee.

Return to Peacetime Procedures

The end of the war brought a return to formal advertising and standard peacetime procurement procedures. The standardization of forms was started in the 1920's under the

Interdepartmental Board of Contracts and Adjustments of the Federal Coordinating Service, a function to be later transferred to the Treasury Department by Executive Order 6166 in 1933 and to GSA under the Federal Property and Administrative Services Act of 1949.

THE GREAT DEPRESSION

Establishment of the Procurement Division, Department of the Treasury: Centralization for Economy

The depression that followed the 1929 stock market crash stimulated the establishment of an improved procurement system through cuts in Federal expenditures. Under the Economy Act of June 20, 1932, President Roosevelt issued Executive Order 6166 in 1933, reorganizing certain executive agencies, creating the Procurement Division of the Department of the Treasury, and abolishing the General Supply Committee.

Under the order, the determination of procurement policies and methods and certain related functions were transferred to the Department of the Treasury. The Procurement Division was authorized, upon Department of the Treasury order with approval of the President, to perform any procurement, warehousing, or distribution functions desirable in the interest of economy. The earlier Federal Coordinating Service was abolished and its procurement-related functions, including prescribing of standard forms, transferred to the Procurement Division. The Army Corps of Engineers retained its responsibilities. It is interesting to note that a similar centralization of procurement authority had been contemplated by President Hoover, but under the Department of the Interior.

Not since Alexander Hamilton's era had procurement been so centralized. The work of the Procurement Division was further expanded by the Emergency Relief Program. On June 10, 1939, President Roosevelt approved a Department of the Treasury order stating that the Procurement Division would thereafter undertake all civil procurement for use in Washington, D.C., "or in the field." In

the months which followed, the Procurement Division did gradually assume purchasing responsibilities for some Federal agencies.

Special Procurement Programs

Various special programs were also added to the centralized procurement system: the Red Cross purchasing program for refugee relief abroad; the Stockpiling Act for purchasing strategic materials; consolidated procurement of defense housing equipment; lend-lease purchasing; and other special programs.

Socioeconomic Uses of Procurement During the Depression

The depression years saw the first concerted Federal attempts to promote socioeconomic goals through procurement. Efforts to promote some of these goals through the power of Congress over taxes and over interstate commerce had failed in the Courts. Congress thereupon passed laws to support wages and improve employment conditions on Federal contracts. These included the Davis-Bacon Act, setting minimum wages on construction; the Walsh-Healey Act, upgrading wages and conditions of employment on supply contracts and prohibiting the use of convict labor; the Miller Act, requiring payment bonds to protect subcontractors and material men on construction jobs; and the Copeland Act, preventing pay kickbacks on construction work.

Federal procurement of products made by workshops for the blind was ordered by Congress in 1938 (expanded in 1971 to products made by other handicapped persons).

The depression years also saw Congress enacting profit limitations on the aircraft and shipbuilding industries (Vinson-Trammell Act of 1934), and promoting employment by giving preference to domestic sources for Federal purchases under the Buy American Act.

DEVELOPMENTS IN THE 1920's RELEVANT TO THE LATER DEVELOPMENT OF AERONAUTICS, RESEARCH AND DEVELOPMENT, AND SYSTEMS PROCUREMENT

Some of the problems in the 1950's, 1960's, and 1970's relating to use of private versus Federal sources for research and development, methods of assuring effective competition, and overlapping designs are traceable to the growth of the aviation industry in the post-World War I period.

Though World War I demonstrated the importance of the airplane in the postwar years, the aviation industry declined at such a rate that in 1923 an investigative committee predicted its disappearance if remedial actions were not taken.² The decline was caused by the small market for aircraft and the lack of a comprehensive Federal policy to stimulate the industry's growth. The Air Corps Act of 1926 initiated a flexible five-year program of Federal purchasing.

The Postwar Aviation Industry: Factual Background

An historical perspective on the aviation industry shows the critical importance of the Air Corps Act of 1926. In the eight years prior to 1916, the Government purchased only 59 airplanes.³ American entry into World War I initiated a crash program of production. During the 21-month American participation in the war, aircraft production swelled to 9,742 airplanes and 14,765 engines.⁴ However, the armistice reduced the aviation industry to chaos. Within months, more than a hundred million dollars worth of contracts was cancelled.⁵ Ninety percent of the industry underwent liquidation.⁶

During the early 1920's, the commercial

² This report of the Lassiter Board was referred to by the Hon. Fred. M. Vinson in the *Congressional Record*, June 29, 1926, p. 12819.

³ See note 2, *supra*, p. 12320.

⁴ Mings, *The Birth of an Industry*, in G. R. Simonson, ed., *The History of the American Aircraft Industry*, p. 44.

⁵ See note 4, *supra*, p. 45.

⁶ See note 2, *supra*, p. 12321.

aviation market was still in an embryonic state. The first practical demonstration of the commercial potential of aircraft was provided by air mail in 1918.⁷ Within a few years, this service covered the continent; however, figures available from 1926 suggest that American industry lagged behind its European counterpart.⁸ Only 433,648 pounds of air mail were transported within the United States at a cost of \$6.45 per pound, whereas European airlines carried 2,512,460 pounds at a cost of \$3.90 per pound. Air cargo freight service within the United States amounted to only 3,555 pounds. Only 5,782 passengers made use of American aircraft, which sharply contrasts with the 150,095 passengers transported throughout Europe. Safety risks, the lack of Federal regulation, and the prohibitive costs of insurance contributed to the low number of passengers. Between the armistice and 1925, more than 300 persons were killed and 500 injured in flying accidents.⁹ In 1924 alone, the injury ratio for private commercial flying amounted to one fatality for every 13,500 miles flown.¹⁰

Federal competition exacerbated the deplorable condition of the aviation industry.¹¹ In the postwar years, the Government allotted substantial funds for the production and development of aircraft. During the 1920-24 period, total aviation expenditures for the Army and Navy air services amounted to about \$424 million,¹² the bulk of which was consumed in operational costs. Of the annual expenditures of approximately \$84 million, only 10 percent was devoted to purchasing new airplanes and parts and remodeling older aircraft.¹³ During this period, the \$30 million devoted to research work maintained a Federal aviation industry larger than the entire civil industry.¹⁴ An excerpt from the Lambert Report of 1925 suggests the effect of Federal programs:

The Air Services have no standard procurement policy. They have not sufficiently rec-

⁷ See note 4, *supra*, p. 49.

⁸ *Final Report of the War Department Special Committee on the Army Air Corps*, 1934, p. 78.

⁹ S. Rept. 2, 69th Cong., 1st sess., 1926, p. 2.

¹⁰ *Ibid.*

¹¹ H. Rept. 1668 (Lambert Report), 68th Cong., 2d sess., 1925, p. 15.

¹² *Ibid.*, p. 3.

¹³ *Ibid.*

¹⁴ *Ibid.*, pp. 3-4.

ognized the principle of proprietary rights. They have not spent their money with a view to continuity of production in the industry. They have constantly competed with the industry. They have spent a large part of their appropriations attempting to do the things that ought to be left to private capital, all with the result that the aircraft industry is languishing . . . The decline in industrial aircraft is due not only to a lack of orders but also to a lack of a continuing policy . . .¹⁵

The net results of the Government-sponsored production program were hardly commensurate with the expenditures. Figures available from 1924 reveal that the Government possessed only 1,592 operational airplanes.¹⁶ This figure is deceptive, since more than 40 percent of these airplanes were so seriously handicapped that they were unsuited for use in a war emergency.

The Air Corps Act of 1926: Remedial Legislation

The Air Corps Act of 1926 was the major congressional attempt to stimulate the aviation industry.¹⁷ The act addressed itself to improving the Army air service, but its ambitious construction program and innovative procurement policy promised to benefit the private aviation industry as well.¹⁸ Under the act, the Government was to begin a five-year program of aircraft procurement (a projected 1,800 airplanes) for the military departments. The act included authorization for the replacement of up to 400 obsolete craft per year. The program would cost \$200 million.

Section 10 of the Air Corps Act was the keystone of a new procurement policy for air-

¹⁵ *Ibid.*, p. 15.

¹⁶ *Ibid.*, p. 22.

¹⁷ Act of July 2, 1926, ch. 721, sec. 9, 44 Stat. 784. The author takes note that in Mar. 1926, Congress enacted into law the Commercial Aviation Act of 1926, Act of Mar. 17, 1926, ch. 344, 44 Stat., 568. This act granted the Secretary of Commerce general powers to foster civil air navigation. It subjected civilian aviation to Federal regulation. The prime objective of the act was to improve the safety record of private aviation. It did not have the immediate impact on the aviation industry that the Air Corps Act had.

¹⁸ This act incorporated the language of two earlier bills (H.R. 12471 and H.R. 12472) which had been introduced into the 69th Congress to encourage the development of aviation.

craft design and construction. It substantially revised a prior procedure that had proven itself too inflexible. It was tailored to encourage expansion of the aircraft industry, to provide incentive and protection for creative design work, and to allow the Government to secure quality aircraft at a reasonable cost.

A Flexible Procurement Policy

World War I had induced the Government to depart from its tradition of procurement by formal advertisement on a fixed-price basis. The postwar years witnessed a return to this method of procurement.¹⁹ However, the aircraft industry had not yet achieved such a level of standardization^{20, 21} that it could follow the same procedure that governed the procurement of other supplies.

The Air Corps Act introduced a new flexibility into the procurement process. The military departments were authorized to make use of a design competition in contracting for aircraft, parts, or accessories.²² The act required the advertisement of such a competition and the publication of detailed specifications of the kind and quantity of aircraft desired. A formal merit system, expressed in percentage points, was to be applied to the designs submitted.

The Secretary of War or the Secretary of the Navy enjoyed discretion to award a contract "on such terms and conditions he may deem most advantageous to the Government."²³ Performance rather than price was to be the controlling factor.²⁴ However, if the designer was unable to deliver the finished product, the Secretary was authorized to purchase the design, if reasonable terms were agreed upon. Where a price was in dispute, the Secretary could retain the design, advertise for bids, and contract for construction in accordance with the design. Appropriate measures provided compensation for the designer.

¹⁹ von Baur, "Fifty Years of Government Contract Law," *Federal Bar Journal*, 29:318 (1970).

²⁰ See note 2, *supra*, p. 12320.

²¹ *Ibid.*, p. 12321.

²² 44 Stat. 785, ch. 721, sec. 10.

²³ 44 Stat. 786, ch. 721, sec. 10(g).

²⁴ See note 2, *supra*, p. 12321.

Under the act, new authority was conferred on the military departments to purchase experimental designs either in the United States or abroad,²⁵ with or without competition. Contracts for the construction of such aircraft were to be let competitively only to manufacturers located within the Continental United States.²⁶

In addition, the act conferred new authority to contract for production in quantity where a design had reached the working model stage.²⁷ Under prior law, the Secretary of War or the Secretary of the Navy was unable to contract with the manufacturer who had developed the model. He was required to write up the specifications of the model and advertise to the entire industry for construction bids. Since developmental costs were included in any bid, the original manufacturer would often lose the contract for construction.

Protection of Design Rights

Prior to the Air Corps Act, the Secretary of War could not compensate designers whose ideas the government appropriated in the interests of national defense.^{28, 29} This act established two channels through which a designer might obtain compensation. The designer was given a statutory right to initiate a cause of action in the Court of Claims.³⁰ Since such litigation might prove unduly burdensome, a board of patents and designs was established for the military departments with authority to pay up to \$75,000 for any design in which the Government claimed ownership or non-exclusive right of use.³¹

Protection of the Government's Interest

The Air Corps Act also prescribed certain control devices to insure that the Government would receive safe and efficient equipment at

²⁵ 44 Stat. 787, ch. 721, sec. 10(k).

²⁶ 44 Stat. 787, ch. 721, sec. 10(j).

²⁷ 44 Stat. 788, ch. 721, sec. 10(g).

²⁸ See note 2, *supra*, p. 12322.

²⁹ H. Rept. 1395, 69th Cong., 1st sess., 1926, p. 2.

³⁰ 44 Stat. 786-7, ch. 721, sec. 10(i).

³¹ 44 Stat. 788, ch. 721, sec. 10(r).

reasonable cost. The Government reserved the right to inspect the plant and audit the books of any contractor furnishing or constructing aircraft.³² The Secretary of the appropriate department was required to report to Congress all operations under the act,³³ including the names and addresses of all persons awarded contracts and the prices of the contracts. Penal sanctions were also incorporated into the act to prevent any collusion which would deprive the Government of the benefit of full and free competition.³⁴

WORLD WAR II: PROCUREMENT ORGANIZATION AND CONTROL OF POLICY

As the world prepared for war, officials recognized that peacetime practices would not suffice and that the Federal structure for mobilizing and using resources would require drastic changes. In 1940, President Roosevelt declared a "threatened national emergency" and established the Office for Emergency Management in the Executive Office of the President. One of its functions was the clearing of Army and Navy contracts.

After several earlier actions relating to coordination and clearance of Army and Navy contracts, President Roosevelt created the Office of Production Management, and Federal purchasing was placed under central control in its Purchase Division. With the advent of war, however, these functions were shifted to the new War Production Board (WPB), with its extraordinary powers over production and procurement.

Executive Order 9024 of January 14, 1942, gave full responsibility to the Chairman of the War Production Board to direct war procurement and production; determine policies, plans, and procedures of agencies engaged in procurement, production, construction and conversion, requisitioning, plant expansion, and financing; and allocate supply priorities. The Army and Navy Munitions Board reported to the President through the chairman, and the chairman's decisions were to be final.

³² 44 Stat. 787, ch. 721, sec. 10(l).

³³ 44 Stat. 787, ch. 721, sec. 10(m).

³⁴ 44 Stat. 788, ch. 721, sec. 10(p).

One of the first WPB directives established policies for war procurement, including a requirement for negotiated contracts. Contracting by formal advertising was prohibited unless specially authorized, and there is no record of any such authorizations. WPB dealt with allowable costs; financing of facilities, contract forms, and clauses (including a uniform termination clause); and use of price-revision clauses.

In practice, however, the development of most of the specific policies, clauses, and procedures devolved on the War and Navy Departments, which issued extensive regulations, implemented by the "Technical Service" and "Bureau" procedures. The Munitions Board and, at the top of the structure, WPB were coordinating offices.

Some of the principal organizations conducting and controlling war purchasing were: Army—Quartermaster Corps, Ordnance Corps, Signal Corps, Medical Corps, Chemical Corps, Engineers Corps, and Air Corps; Navy—Bureau of Ships, Bureau of Ordnance, Bureau of Yards and Docks, and Bureau of Supplies and Accounts. Other major purchasing activities were carried out by the Department of the Treasury, the Department of Agriculture, and the Maritime Commission.

Title II of the First War Powers Act: Negotiation of Contracts

Legislation in 1939 and 1940 authorized limited negotiation. However, on December 18, 1941, Congress enacted the First War Powers Act, which, in title II, as implemented by Executive Order 9001, authorized contracting without regard to laws relating to the making, performance, amendment, or modification of contracts. Negotiation was thus authorized. Prohibited were use of cost-plus-a-percentage-of-cost contracting or contracts in violation of profit-limitation laws.

This broad negotiating authority and ability to disregard other legal restrictions invalidated prior authority. Yet competition was actively sought and wartime experience demonstrated the wisdom of informal procedures.

Excessive Profits

As the war progressed, various congressional committees, particularly the House Naval Affairs Committee and the Senate "Truman" Committee, uncovered instances of unreasonable profits. The earlier 1934 Vinson-Trammel Act profit limitations on aircraft and naval vessels had been suspended in 1940 with the reintroduction of the World War I-originated excess profits tax. In a related matter, the Supreme Court handed down a 1942 decision in the Bethlehem Shipbuilding case upholding the validity of a World War I contract providing for unusually high profits. These events led to the passage, in 1942, of the Renegotiation Law⁵⁵ authorizing renegotiation of particular contracts to eliminate excessive profits. The Revenue Act of 1942⁵⁶ extended individual renegotiation to renegotiation of all contracts, allowed income and excess-profit taxes to be credited in renegotiation, and authorized exemptions for specific categories of contracts and subcontracts. The Revenue Act of 1943⁵⁷ improved the criteria for determining excessive profits and set up a War Contracts Price Adjustment Board to replace individual department boards. It is interesting to note that industry dissatisfaction with criteria for determining excessive profits has continued and was one of the major problems identified for this Commission's consideration.

Small Manufacturing Concerns

To achieve effective and fair use of all resources, the Office of Small Business Affairs was set up in November 1940 under the National Defense Advisory Commission, later to become part of the Office of Production Management. Its task was to subdivide defense contracts, preferably among smaller business enterprises.

On June 11, 1942, the Smaller War Plants Corporation was created, with capital stock, to assist in mobilizing the productive capacity of small concerns. This corporation was author-

⁵⁵ 56 Stat. 245, Sixth Supplemental National Defense Appropriation Act, Apr. 28, 1942, sec. 403.

⁵⁶ 58 Stat. 982, Oct. 21, 1942.

⁵⁷ 58 Stat. 78, Feb. 25, 1944.

ized to subcontract Federal prime contracts to small manufacturers. The same authority was given to the Small Defense Plants Administration under the Korean Conflict Defense Production Act of 1950 (1951 Amendments).

World War II Procurement Policies and Procedures

Besides the use of negotiation (and the WPB prohibition on formal advertising of March 3, 1942) and advance payments, other major aspects of World War II procurement included a broad use of cost and pricing analyses and an extensive use of price-revision clauses and other pricing devices, such as voluntary price reductions and company pricing agreements. When necessary, of course, cost-type contracts were used.

On major items, letter orders and letters-of-intent were used to cope with the problem of inadequate leadtime for detailed negotiations. Mandatory orders were available, but rarely used. Priorities in military and civilian use of materials were under the strict control of WPB and other agencies. Some property was seized under WPB's requisitioning procedures, with later agreements on price in the Court of Claims determining just compensation. Other major achievements were the expedited procedure under the Contract Settlement Act of 1944 and the Wartime Army-Navy Joint Termination Regulations and related surplus property-disposal regulations. Nondiscrimination-in-employment provisions were first used in Federal contracts in World War II on the orders of the President (Executive Order 8802, June 24, 1941) as essential to full manpower mobilization. This policy has been reaffirmed by every President since that time.

POST-WORLD WAR II: THE COLD WAR

The Armed Services Procurement Act of 1947

As the end of the war approached and the

First War Powers Act was due to expire, WPB, with representatives from various Federal agencies, studied desirable peacetime procurement methods. The conclusion was reached that, as in the war period, legislation was needed to authorize negotiated procurement and pricing and special contract types. Legislation was drafted to reintroduce prewar formal advertising, but to allow negotiation where advertising would be unrealistic.

Congress did recognize the need for more flexible peacetime procedures. As enacted, the Armed Services Procurement Act of 1947 stated that contracts were to be formally advertised, but that agencies were authorized to negotiate under 17 justifiable exceptions. Many of these represented modifications of prior interpretations of the earlier law or, in some cases, clarifications or expansions of previously interpreted authority. This latter category included public exigency; purchases within the open-market limitation of \$1,000; personal or professional services; items procured for use outside the United States; medical supplies; resale supplies; perishable or nonperishable subsistence; experimental, developmental, or research work; classified projects; and items for which it is "impracticable to obtain competition."

Additional exceptions included negotiation during a national emergency, national defense priorities in the event of national emergency or in the interest of rapid mobilization, required standardization and interchangeability of parts, cases requiring a substantial initial investment or extended period of preparation for manufacture, services by educational institutions, cases where bid prices after advertising are unreasonable, or contracts otherwise authorized by law.

The act continued the First War Powers Act prohibition against cost-plus-a-percentage-of-cost contracts and required economic justification for contracts other than fixed-price contracts. The law also required use of the "covenant against contingent fees," a rule against paying employees on a contingent-fee basis for obtaining Federal contracts, except for bona fide employees with commercial selling agencies. The Armed Services Procurement Act (as did the later Government-wide title III of the Federal Property and Administrative

Services Act of 1949) continued the policy of using Federal procurement to award small businesses a "fair share" of contracts.

Certain First War Powers Act Provisions Extended and Made Permanent

After enactment of the Armed Services Procurement Act, there was some uncertainty about the continued application of title II of the First War Powers Act. Following the outbreak of hostilities in Korea in 1951, Congress extended and subsequently reextended the act until 1958. At that time, the provisions of the act were continued or merged into Public Law 85-804, thus making that authority a semi-permanent measure effective during periods of national emergency³⁸ for specified agencies and authorizing, among other things, amendments without consideration.

Extension of Profit Limitations: The Renegotiation Act of 1951

The profit limitations on military aircraft and naval vessels in the Vinson-Trammel Act of 1934 had given way to excess-profits taxes in 1940 and early forms of renegotiation from 1942 through 1948. The cold war, with its high military expenditures, led to further extensions of renegotiation, including the Renegotiation Act of 1951, which has been extended every two years since, including its latest two-year extension through June 30, 1973, as provided by Public Law 92-41. The law also substituted the Court of Claims for the Tax Court as the forum for appeals from the Renegotiation Board's excess-profits determinations.

³⁸ The "national emergency" declared by President Truman on Dec. 16, 1960, is still in effect. Executive Order 10789, Nov. 14, 1960, prescribes regulations under the act and designates the agencies authorized to use this authority. Executive Order 11610, July 22, 1971, amended the earlier order to broaden contractor indemnification for certain risks.

FIRST AND SECOND HOOVER COMMISSIONS

First Hoover Commission 1947-1949

The Commission on Reorganization of the Executive Branch, the First Hoover Commission, made many recommendations for improving the structure of the executive branch. One recommendation was for the establishment of a strong central organization to provide Federal services such as supply and procurement, records management, and building management. Congress thereupon enacted the Federal Property and Administrative Services Act of 1949, creating the General Services Administration (GSA). Control of procurement policy and, to a limited extent, certain procurement operations was conferred upon GSA, along with a rather complex set of exemptions for certain agencies and activities. The Bureau of Federal Supply of the Department of the Treasury was abolished.

The commission also recommended extending the negotiation provisions of the Armed Services Procurement Act of 1947 to all agencies. In effect, this was accomplished by title III of the Federal Property and Administrative Services Procurement Act of 1947, except for two categories of exceptions contained only in the latter act, that is, the need for a facility for mobilization and requirements involving substantial investment or long leadtime. Title III negotiating authority was granted to GSA with the right to redelegate to other agencies. The law was later amended to extend title III directly to all executive agencies.

The commission also recommended that supply activities of the military and civil agencies be coordinated through a Supply Policy Committee. This was substantially effected by GSA and DOD. The Hoover Commission Supply Task Force recommended participation of the Office of the President in this coordination process. The Hoover Commission also recommended centralization of purchases and stores distribution to eliminate the many duplications of facilities and promote savings. This recommendation was effected to a considerable extent through the establishment of the GSA-DOD National Supply System, described elsewhere in this report, and the Federal Supply

Service, working cooperatively with other agencies.

The recommendation for the development of standard forms of contracts and bid documents was also substantially effected through the establishment of the Federal Procurement Regulation (FPR) and various forms occasionally issued for Government-wide use. DOD has similarly standardized many military forms.

Second Hoover Commission 1953-1955

The Second Hoover Commission recommended regrouping certain DOD functions including logistics and research and development, under Assistant Secretaries. This was effected in the DOD Reorganization Act of 1958.

The commission also recommended the establishment of a separate civilian agency reporting to the Secretary of Defense to administer common supplies and services, including commercial items. While this recommendation was not fully carried out, the Defense Supply Agency (DSA) and component organizations, like the Defense Contract Administration Services (DCAS), were established under the control, direct or indirect, of the Secretary of Defense and, with GSA, carry out many of the Hoover Commission's recommendations under the National Supply System.

The commission's Task Force on Procurement recommended that the Secretary of Defense create a civilian position in his office for planning and review of military procurement requirements. The establishment of the Office of the Assistant Secretary for Installations and Logistics and the Office of Director of Defense Research and Engineering were partially in response to this. Other joint review mechanisms have since been established.

In coordination with other executive agencies and the Comptroller General, the commission also recommended steps to remove needless legal and administrative procedures in awarding military contracts. The Armed Services Procurement Regulation Committee, in coordination with GSA and GAO, have attempted to meet this goal with varying degrees of success.

Effective contract-pricing policy for DOD was recommended. This was undertaken in revisions of the Armed Services Procurement Regulation (ASPR), especially through the issuance of the DOD Pricing Manual, the conduct of periodic DOD Pricing Conferences, and other methods.

Streamlining the contract administration system was recommended by the commission. This was partially accomplished by "Project 60," establishing DCAS as a component agency of DSA. The military departments, however, still retain some contract administration functions, and retain plant cognizance of prime contractors for certain major systems.

Other recommendations included evaluation of existing coordinated purchasing assignments, additional purchase coordination efforts, and consideration of the mobilization aspect of coordinated purchasing. Some changes in assignments have resulted in more centralized procurement by DSA and GSA and in reorganization of military procurement organizations.

The Second Hoover Commission also recommended policies to strengthen the contracting officer's effectiveness. Later changes in the regulations sought to do this by assigning career personnel to key positions. DOD took certain steps to promote career development. Also recommended was the establishment of a procurement policy council with the Assistant Secretary of Defense, Supply and Logistics, assuming a greater degree of authority over military procurement. The Office of the Assistant Secretary of Defense "for Installations and Logistics" was reorganized adding a Deputy Assistant Secretary for Procurement. The Office of the Director of Defense, Research and Engineering, was established under the Secretary of Defense to coordinate research and development activities.

In its report on business enterprise, the Second Hoover Commission endorsed the policy of eliminating Government-operated services and functions that compete with private enterprise. This was in accordance with earlier executive branch policies, congressional committee conclusions, and the commission's own charter.

Since the Second Hoover Commission's recommendations on procurement, there have

been many directives issued, organizational arrangements revised, and changes in procedures made. At the start of this study, however, many of the problems identified by the Second Hoover Commission were still persisting in varying degrees.

CONTROL OF GOVERNMENT PROCUREMENT

Government-wide GSA Procurement Policy Role: Dominant Role of DOD

In title II of the Federal Property and Administrative Services Act of 1949, GSA was given authority over procurement policies and methods of all executive agencies. It also received authority to perform general procurements, coordinated with affected agencies. Appeals from GSA decisions in this field were to be referred to the President. Exceptions to this authority were given primarily under Section 602(d) of this act to certain agencies and programs, including DOD, Atomic Energy Commission (AEC), National Aeronautics and Space Administration (NASA), Central Intelligence Agency (CIA), Tennessee Valley Authority (TVA), and others. The language of the exceptions tended to be limiting, but the technique of strengthening central control through statement of intent in the legislative history had only limited success. Initially, DOD was directed by President Truman not to except itself from GSA policy direction, but this was revoked by President Eisenhower, who proposed arrangements for voluntary cooperation in this area. Neither Presidential instruction had a significant effect on the relative roles of DOD and GSA.

Interagency Task Force to Simplify Procurement Procedures

At President Eisenhower's direction in 1956 following the suggestions of the President's Cabinet Committee on Small Business, GSA Administrator Franklin Floete established the Interagency Task Force for Review of Govern-

ment Procurement Policies and Procedures to increase small business participation. Some simplifications of procurement procedures occurred; for example, Public Law 85-800, raising the Armed Forces Procurement Act's and the Federal Property and Administration Services Act's open-market, simplified-purchase level from \$1,000 to \$2,500, and allowing progress payments limited to small concerns in advertised contracts. Efforts to raise the threshold for application of the Davis-Bacon Act to \$10,000 were unsuccessful, although Congress did substitute a certification for the more cumbersome sworn-affidavit requirement for payrolls.

In 1959, also as a result of the task force studies, GSA established the Federal Procurement Regulations (FPR), "developed cooperatively" with the Department of Defense, exempting DOD from mandatory compliance except for standard forms, clauses, and specifications and regulations which might originate from higher authority. These Government-wide regulations concern policies, procedures, standard forms, and clauses of general applicability, although the title II issuing authority is subject to the partial exemptions largely found in Section 602(d) of the amended Federal Property and Administrative Services Act of 1949. The FPR also established an "FPR system" in which all agency procurement regulations were to be published, with uniform format and numbering, in a single title (41) of the Code of Federal Regulations. This system is partially operative today, with most agencies publishing a version of their regulations in title 41. DOD ASPR regulations and military department regulations for implementing procurement, although still published separately from other regulations in title 32 of the U.S. Code, are similar in format and numbering to the FPR.

Specialized negotiated procurements and policies governing them, such as for research and development and major systems, for the most part remain under the control of separate agencies. GSA's authority in such areas is unclear.

Because of the size, dollar volume, and diversity of types of procurement, DOD has taken the lead in policy initiation and revision during the 1950's and 1960's. For the most

part, its policies continue to be substantially adopted by other regulatory agencies. Most Government-industry dialogue, as a practical matter, is carried on through the ASPR process for developing regulations. Most of the FPR is thus adopted or adapted from the ASPR.

During this period the FPR expanded into areas which lent themselves to Government-wide regulatory coverage. Most civil agencies followed or incorporated the FPR. However, because of limitations on GSA authority and other constraining factors, the FPR was limited in coverage. Civil agencies augmented the FPR with their own special regulations, not always fully consistent with GSA. NASA developed, with GSA's consent, an independent set of procurement regulations based primarily on the ASPR, but with special emphasis on research and development and related operational missions.

The Departments of Health, Education, and Welfare; Interior; Commerce; Agriculture; Transportation; Housing and Urban Development; and the Veterans Administration are some of the civilian agencies that follow the FPR and augment it as needed. Some of these agencies, such as the Department of Transportation, have developed extensive procurement regulations, due in part to the absence of coverage in the FPR. Much of the supplementary material is taken verbatim or adapted from the ASPR.

National Supply System

In conventional purchasing and distribution during the 1960's, GSA, DOD, and especially DSA worked closely together to further develop a "national supply system" and to promote more centralized purchasing.

GSA, DSA, and other defense agencies thus began additional centralized buying of certain commodities for defense agencies and for the entire Government. Procurement of certain common-use items for the military departments, like paint and handtools, was transferred to GSA. Purchases of other commodities, like electronics, fuels, and lubricants, were controlled by DOD. Some of these actions were spurred on by the continuing interest of

congressional committees, especially the Government Operations Committees and the Joint Economic Committee, as illustrated by the latter's 1960 hearings on "Economic Aspects of Military Procurement and Supply." The committee dealt with lagging implementation of Hoover Commission recommendations and the economic objectives of the Federal Property and Administrative Services Act of 1949. More recently, complaints by Federal agencies which use the commodities and by local business organizations have led the commission to examine the extent to which the Government's centralized supply and distribution system partially duplicates more economical commercial systems. Another area of commission study is the effect of the extension of the Federal purchasing and distribution system for use by grantees under multibillion dollar grant programs. The complaint was that this is an unwarranted intrusion of the Federal Government into the private sector.

Department of Defense: Organization for Procurement Policy and Operations

The Department of Defense was established as an executive department by the National Security Act Amendments of 1949 to succeed the "National Military Establishment" created by the National Security Act of 1947. Creation of the new department was, of course, a major step in the unification of the Armed Forces, following the creation of the Air Force as a separate service 2 years earlier.

The goals of procurement unification in the new department were not immediately realized, and the need for centralized policy control led finally to the enactment of Section 638 of the Defense Appropriation Act of 1953.³⁹ Under that law, officers and agencies of DOD were prohibited from using funds "for procuring, producing, warehousing or distributing supplies, or for related functions . . ." except under regulations issued by the Secretary of Defense.

The reorganized Office of Assistant Secretary of Defense for Supply and Logistics (later Installations and Logistics) assumed broad au-

³⁹ 10 U.S.C. 2202 (1970).

thority over procurement policy. The Office of Director of Defense Research and Engineering was established to manage research, development, testing, and evaluation of weapons, designs, and engineering.

Defense agencies have assumed procurement duties previously performed by the military departments (for example, the Defense Contract Audit Agency, the Defense Supply Agency, and, within it, the Defense Contract Administration Services). There is now one Armed Services Procurement Regulation, in place of separate regulations for each service; a unified Armed Services Board of Contract Appeals; and a central directive system for treating issues in procurement policy.

Army Procurement Organization

During World War II, Army procurement was managed by the "technical services," including the Chemical Corps, the Signal Corps, the Transportation Corps, the Ordnance Corps, the Quartermaster Corps, the Corps of Engineers, and the Medical Corps. Between World War II and 1962, the trend was toward regionally dispersed centralized procurement and procurement management.

In a major reorganization in the summer of 1962, the Army Materiel Command (AMC) was created. The procurement functions of the technical services were transferred to AMC (except for construction, which remained with the Corps of Engineers, and common-use, commercial items of the Quartermaster Corps, which, for the most part, went to the new Defense Supply Agency).

Weapons and related military material are currently procured by AMC through the seven "commodity commands": Aviation Materiel, Electronics, Munitions, Missile, Weapons, Tank-Automotive, and Mobility Equipment. Another major command is Test and Evaluation.

Navy Procurement Organization

At the end of World War II, the bulk of the Navy's procurement dollars were being spent

by the technical bureaus in Washington. This centralized purchasing continued after the war, although additional authority was delegated to Navy field-purchasing offices.

In May 1966, Navy Systems Commands were formed, replacing the technical bureaus. The Office of Naval Material, formerly a staff organization, became the Naval Material Command (NMC) with subordinate commands responsible directly to it. NMC in turn reported to the Chief of Naval Operations. The subordinate Navy Systems Commands are Ships, Air, Ordnance, Electronics, Supply, and Facilities Engineering. NMC is currently charged with setting procurement policy for the various commands and the Navy generally.

Air Force Procurement Organization

Upon separation of the Air Force from the Army in 1947, the Air Materiel Command (AMC) was at Wright-Patterson Air Force Base, and a Procurement and Production Directorate was formed at Headquarters, U.S. Air Force, to establish policy and supervise AMC's procurement operations.

Early in the 1950's, when selected classes of procurement were assigned to the geographically-aligned Air Materiel Areas, decentralization of procurement operations began.

In 1961, AMC and the previously established Air Research and Development Command were reorganized and redesignated the Air Force Logistics Command and the Air Force Systems Command. The Logistics Command has responsibility for logistical support of operational systems, and the Systems Command has responsibility for research and development and systems acquisition.

A major realignment of procurement occurred in the Air Force July 1, 1969 when several Air Force commands, in addition to AFLC and AFSC, were designated procuring activities and all Air Force commands and separate agencies were given unlimited procurement authority.

PROCUREMENT IN THE 1950's AND THE 1960's

The Impact of the Technological Age: The Advent of Major Systems Procurement

A major era in Federal procurement began in the 1950's and 1960's. Technology in general, and rocketry, solid-state electronics, and aerospace and military technology in particular, experienced a quantum jump in sophistication and complexity, creating a new set of needs and goals. Aeronautics, electronics, and atomic energy in World War II, and even aeronautical developments of World War I, could be said to represent major technological advances, just as did the naval ironclads of the Civil War. However, with the exception of the development of the atom bomb, earlier technological developments had much less influence on international politics, the national economy, and society in general.

It was this period that saw the birth of a new social consciousness, the spawning of a wide spectrum of socioeconomic programs, and efforts to apply the new techniques of engineering and systems analysis and development to such programs.

While the Government's needs for commercial products grew apace with its size, it was the development of procurement programs for military and aerospace systems which required new techniques and complex contractual and organizational arrangements on an unprecedented scale. Skills were blended in combinations which created new and perhaps unorthodox relationships between the Government and private enterprise. The new organizational patterns were strange to many who were more comfortable with the earlier and clearer lines of demarcation.

Undoubtedly, these novel relationships influenced the growth of regulations and the demand for controls—management, fiscal, organizational, conflicts-of-interest, and others—in response to the huge potential for waste, mismanagement, and inefficiency. The cost and possible self-defeating character of these pyramiding controls attracted only secondary interest at the time of their evolution.

This period witnessed a great outpouring of economic, political, and philosophical commen-

tary on the weaknesses of the procurement process and the programs to which it was being applied. In many cases, complaints about the system itself were closely tied to differences over the wisdom of the programs being supported.

Increased Use of Negotiation and of Cost-type Contracts: Need for Motivation

The 1950's were characterized by a trend towards increased use of negotiated and cost-reimbursement contracts, particularly for research and development work and for work involving the acquisition of major weapons and aerospace systems. Certain congressional studies and the 1962 "Bell Report" (named for BOB director David Bell, chairman of the Interagency Study Group designated by President Kennedy) dealt particularly with research and development, the use of cost-type contracts, and the relative roles of public and private research laboratories, including non-profit organizations. All these studies led to the conclusion, among others, that cost-type contracting lacked necessary controls and motivation to keep costs down.

These studies, particularly the Bell Report, emphasized the need for "incentive-type"—cost-reimbursement and fixed-price—contracts. Cost-reimbursement incentive contracts provided for reimbursement of costs and for adjustment of fees up or down based on the contractor's achievements in cost, performance, and schedule. Fixed-price incentive contracts permitted contractors to earn increased or decreased fees within a ceiling price, based on accomplishments; an actual loss could result if costs exceeded the ceiling.

In major systems acquisition, the 1960's saw the development of systems evolution in sequential steps during which the system was increasingly defined and limited efforts were made to have competition maintained. A technique adopted during this period was the "total package procurement," which sought to join development and initial production work under a single contract to reduce the likelihood of competing contractors underestimating

costs and attempting to "buy in" to a major program during the development phase.

Movement to Increase Competition

Because of the concern over the increasing dollar value of "negotiated" as distinguished from "advertised" procurement under the Armed Services Procurement Act,⁴⁰ pressure was growing to increase competition. Two-step formal advertising was developed and other methods were used, such as the use of component breakout procedures, improved source selection procedures, and adoption of contractor performance-evaluation programs.

Hearings on military procurement were held in 1959 by the Senate Armed Services Committee on a group of bills, S. 500, S. 1383, and S. 1875, with emphasis on the "Saltonstal Bill," S. 500. Much testimony was heard, but no action taken. The bill would have given competitive negotiation equal status with formal advertising and removed statutory inhibitions on use of incentive-type contracts.

In 1962, Public Law 87-653 was enacted amending the Armed Services Procurement Act to require "oral or written discussions" with all firms "within a competitive range" and also requiring, in negotiated contracts exceeding \$100,000, the use of a contract clause providing for price reductions for defective pricing data and full disclosure of all "current, complete, and accurate" cost and pricing data. This latter provision has become known as the Truth in Negotiations law. The same law also tightened the requirements for justifying the use of "negotiation exceptions" in lieu of the preferred formal advertising.

Shift of Risk: Profit Guidelines

Because of the pressure to increase competition, DOD issued instructions which were designed to shift the risk of bearing unexpected costs to contractors to the fullest extent possible.

⁴⁰ See, for example, *Economic Aspects of Military Procurement and Supply*, Joint Economic Committee Print, Oct. 1960, p. 24. "Exception Becomes the Rule." Also, see Armed Services Committee Report 1960, 86th Cong., "Report on Procurement," Aug. 23, 1960.

ble. This was accompanied by a policy of increased compensation through weighted profit guidelines. A major shift to the use of fixed-price contracts and formal advertising led, in the 1960's and 1970's, to an unparalleled number of claims. In response to this, anticlaims clauses have been developed.

Pricing

A principal activity in the 1960's was the effort to improve pricing. The 1962 Truth in Negotiations Amendment to the Armed Services Procurement Act, Public Law 87-653, focused attention on this area. Many "defective pricing data" cases were disclosed by GAO. These led to increasingly detailed implementing regulations.

Apart from attempts to avoid submitting costs which were not "current, accurate, and complete," enormous effort went into improving pricing and negotiation techniques and their related training programs. Often, pricing problems resulted from short leadtime.

The relative roles of pricing personnel and "advisory" auditor reports came under continuing consideration as a conceptual and organization problem.

Profit

During the late 1960's, there were many congressional hearings and other expressions of concern directed at profits considered excessive by some and inadequate by others. The various methods of measuring profits came under review, including reexamination of the return-on-investment basis as possibly being entitled to more weight in calculating profit objectives.

Concerns over profiteering are not new, of course. World War I profits were still scandalous as the country prepared for World War II. Profiteering was rampant in the Revolutionary and Civil Wars.

Senate hearings of 1961 and 1962 dealt with the pyramiding of profits in the early missile programs. More recent GAO studies

conducted during the period of this Commission's study (for a relatively small proportion of contracts) disclosed rather high profits measured by return on capital invested. Of course, contractor performance, risks assumed, amount of research and development involved, and return on sales are also factors to consider. From a historical standpoint, however, the role of profit measured by return on invested capital has become increasingly significant in policy development. Studies prior to and during this Commission's study disclosed that "extracontractual motivations" (long-term standings, social approval, rewarding social relationships, and other factors) may be more important than short-term profits. All this bears on prior assumptions about the extent to which the profit factor could successfully motivate improved performance or greater cost efficiency under incentive contracts.

Cost Accounting Standards

Divergent practices in accounting for costs between direct and indirect procurement, Federal and non-Federal business, and estimates and cost performances all led to demands for greater uniformity. The Uniform Cost Accounting Standards Amendment to the Defense Production Act set up a Cost Accounting Standards Board under the Comptroller General of the United States.

Growth of Social and Economic Uses of the Procurement Process

The 1950's and 1960's were characterized by intensified use of procurement for social and economic ends, a use which, as described earlier, had its impetus in the depression of the 1930's. During World War II, the equal employment opportunity program was intensified, and enforcement techniques became more effective.

Similarly, small business and surplus labor area assistance and preference programs were intensified. Congress enacted the Small Busi-

ness Act of 1953, creating the Small Business Administration, and made it a permanent agency in 1958. The labor standards laws of the 1930's for construction (Davis-Bacon Act) and supply contracts (Walsh-Healey Act) were extended to employees of service contractors with regard to wages, hours, and safety and health conditions (Service Contract Act). Safety and health standards were also extended to construction workers (Contract Work Hours Standards Act), and Davis-Bacon Act wage coverage for construction workers was broadened to include fringe benefits.

The Federal contract appeared increasingly attractive as a device for implementing socioeconomic programs, particularly as an executive branch alternative to lengthy legislation. Thus, Federal procurement was enlisted in programs relating to discrimination against women and the aged, humane animal slaughter, safety and health regulations, hard-core unemployment, the disadvantaged and minority enterprises, geographic distribution of Federal work, gold-flow controls, wage and price controls, and environmental pollution (Clean Air Act and President Nixon's Executive Order 11602).

While the cost of administering and carrying out these programs is, for the most part, not directly appropriated by Congress, implied sanction comes through the regular appropriations process which funds all contractual costs, from planning through end product, and through administrative funding of the costs of procurement and management. Direct sanctions are present, of course, for those programs specifically mandated by Congress.

Developments in the Procurement of Major Weapons and Other Systems

In the 1950's and 1960's, major emphasis was given by Congress and the Executive Branch to the problems of procuring weapons, aerospace, and other major systems.

The technological crisis came to the fore in the 1950's. Reductions in defense research and development dating from the end of World War II came to a stop, and funds were poured into the development of missiles, high-performance aircraft, nuclear weapons,

and the space program. Cold war crisis attitudes, heightened by the Korean conflict and continued international uncertainties, led to a recognition of the need for a permanently high level of military readiness and a broader technological base.

The "Permanent" Defense Industry

Thus, the United States began to develop, for the first time in its history, a "permanent" defense industry. The "arsenal system," which had developed when private enterprise turned away from military production, was no longer adequate; the free enterprise system was considered more efficient. The trend toward a permanent defense industry attracted a significant number of industries producing primarily for national defense. Some broad-based, commercially-oriented concerns created separate defense divisions.

In this environment the traditional free market system in which sellers could come and go was drastically changed. Because of the size of investments and the great technical and financial uncertainties, new marketing procedures were needed. Special Federal investments in plants and equipment, and funding techniques such as progress payments under risk-limiting, cost-type contract reimbursement procedures, altered the earlier relationships of Government and private enterprise.

Along with these developments came increasing Federal involvement in the performance of the work and in the review of the management systems used by contractors.

The principle which developed was that if the Government must provide primary sources of operating capital and the physical plant, and must underwrite the risk, then it should have a substantial voice in the procedures used by defense contractors.

Government Engagement in Business Activities vs. Reliance on Private Enterprise: New Emphasis in the 1950's and 1960's

Which Federal needs should be met by contracting with private enterprise and which

should be done in-house? This question faced our Government as far back as the Continental Congress and has remained an issue throughout our history. It may be noted that although both public and private sources were employed to produce military hardware in the Revolutionary War, the fledgling Government provided for its own needs only when there was a lack of interest on the part of private enterprise.

On the other hand, agencies created early in our history tended to rely on in-house facilities (for example, Postal Service, Department of the Treasury, Department of Justice), whereas more recent agencies tend toward contracting (for example, AEC, NASA, Housing and Urban Development, Environmental Protection Agency). Prior to World War II, the military departments relied heavily on in-house sources, such as arsenals and naval shipyards, but expansion and growing complexities brought increased reliance on the private sector.

For some 40 years, special and standing congressional committees and groups such as the Second Hoover Commission conducted extensive studies of the proper extent of Federal involvement in business activities. Congressional studies during the depression years spotlighted the World War I carryover business operations of the Government. More recently, the Appropriations Committees, Armed Services Committees, Government Operation Committees, and Small Business Committees studied and conducted hearings on the subject throughout the 1950's. The Second Hoover Commission report in May 1955 recommended that the Government's direct business operations be narrowed. The Senate Government Operations Committee sponsored legislation to that end in 1955, but was forestalled by executive branch policy directives, particularly those of the Bureau of the Budget (BOB Bulletin 55-4 of January 15, 1955, and 57-7 of February 5, 1957).

In the 1963-68 period, the Government Operations Committees and the House Committee on Post Office and Civil Service conducted hearings on the use of Federal and contract manpower, the effects of Civil Service ceilings, the use of military personnel to perform civilian work, and the use of contractor

personnel to work alongside Federal personnel, particularly in skilled or technical services. DOD and NASA implementations of BOB Circular 60-2 of September 21, 1959, and A-76 of August 3, 1966, and August 30, 1967, were studied. The later hearings were also correlated with various opinions and rulings by the Civil Service Commission and the Comptroller General concerning the propriety of contracting for personnel to supplement Civil Service work and the related questions of the necessary degree of supervision of contract personnel and the comparative costs of Federal and contract personnel.

In general, industry has been critical of the Government's moving certain operations in-house. On the other hand, Federal Employee Union representatives have criticized the contracting out of functions which, but for Civil Service personnel ceilings, presumably would be performed by Federal personnel.

Neither industry nor Federal employee groups have been content with the distribution of assignments between the private and public sectors. Many, but not all, of the differences revolve around the proper implementation of BOB Circular A-76 of 1966 and 1967, which sets forth the criteria under which the Government fills its needs through its own resources or through private industry.

Advent of Federally-initiated, Privately-operated Organizations

During the 1950's and 1960's, certain problems suggested that neither the Government nor private industry was best suited to perform certain functions. For example, inflexibilities in the Civil Service system constrained Federal agencies from obtaining needed scientific and technical skills. Organizational conflicts of interest developed when contractors were used to write specifications for systems for which they would compete.⁴¹ These problems led Federal agencies to sponsor the creation and financial support of various types

⁴¹ The growth of research and development programs and the technical and evaluative assistance needed by Federal procurement activities in the development of major systems led to concern over conflicts of interest by organizations and individuals used to assist in design development and evaluation work.

of nonprofit organizations, neither purely Federal nor purely private. Included were Federally-owned or financed, privately-operated centers for scientific or operations research; for strategic analysis; for systems analysis; for systems engineering evaluation, development, or integration; and for "think tank" studies of various types. The "Bell Report," referred to earlier, concluded that while Government should continue to rely heavily on private contracts, both public (in-house) and private research programs had their place, and their use should be based on relative efficiency, with management of research retained in Federal hands.

Characteristically, these hybrid organizations are privately operated, sometimes university-affiliated. They operate under agency-approved, flexible controls. Reconsideration of their proper role has been underway for some time by various agencies and congressional committees.

Adoption of Statutes and Rules on Conflicts of Interest

A number of laws dealing with conflicts of interest have been enacted through the years and made a part of the Criminal Code. For example, the "official not to benefit" law (18 U.S.C. 431), barring members of Congress from sharing in Federal contracts, was originally enacted in 1809. Other Federal and former Federal employees are similarly restricted from submitting claims, receiving dual compensation, or influencing or benefitting from Federal contracts (18 U.S.C. 201-219 and 437-422, and Executive Order 11222 of May 8, 1965, and implementing Civil Service and agency regulations).

In the 1950's and 1960's, the complexity of major systems procurements required the assistance of profit and nonprofit organizations in developing and evaluating systems specifications and performance. The high-level interagency committee appointed by President Kennedy in 1961, which issued the "Bell Report," recommended agency codes of conduct to prevent conflicts of interest by non-Federal organizations engaged in research and development and systems evaluation work.

Current complaints relate either to over-application or purposelessness of the restrictions or, in some cases, to the continued potential for conflict.

"Cost Overruns" and "Buy-Ins"

Cost overruns are not new, but in the 1960's and 1970's, they attracted public awareness to an extent uncharacteristic of previous times. For example, the cost increases in the C-5A transport probably have no historical equal. Yet overruns have been characteristic of most new technological efforts, public or private. World War I cost increases in armaments and naval vessels, for example, were notorious in their time. The NC4 airplane of 1919, important in early aviation history, had a 40 percent cost increase over Curtiss and Navy estimates and design problems as well.

A 1970 GAO study of 57 major systems revealed 38 systems with an estimate of a 30 percent increase from the point of contract award (50 percent from planning estimates)—\$62.8 billion versus the original \$49 billion. While the percentage of increase may not be new or may be even less than in earlier times, the staggering dollar amount has become even more unacceptable.

Cost increases have been ascribed, among other things, to planning deficiencies and organizational rivalries, abnormal inflation, changes in design, underestimates to "buy-in," overoptimism by program advocates, and premature commitment to production with insufficient technical validation. In March 1971, DOD-selected procurement reports for 45 systems amounting to \$110 billion accounted for "cost growth" in the following categories: technical changes, 20 percent; delivery schedule extensions, 17 percent; abnormal economic fluctuations, 18 percent; incorrect estimates, 29 percent; and other causes, 16 percent. Thus, some patterns of cost growth causes have been emerging.

Performance deficiencies and schedule slippages may often be expressed in terms of "dollars to correct," and both will likely contribute to cost overruns. Contractor buy-ins and Federal program optimism lead to underestimates and have been the subject of public

concern even though they do not bring about actual inefficiency. A system can be efficiently produced, meet performance requirements, be on schedule, and yet register major cost overruns if underestimates are the basis of comparison.

Strengths and Weaknesses in Systems Procurement in the 1950's and 1960's

While the technical success of weapons systems in the 1950's was noteworthy—closing the “missile gap”—the management of weapons systems procurement during this period was less successful. Some of the deficiencies were related to inadequate purchasing methods, information systems, and cost controls, particularly on overhead and manpower costs. Cost estimating came under criticism because of severe underestimates. Whether the result of underestimates or of overexpenditures, increases in cost-over-original estimates involved huge sums of money.

The 1960's were characterized by efforts to centralize decision making and solve management problems. One approach to improve motivation was to adopt policies which increase the contractor's risk and provide commensurate rewards through profit guidelines.

Incentive and fixed-price contracts were used to accomplish this. Because of the size and technical uncertainties in the new systems, the general consequence of this approach was substantial disillusionment, particularly with the concept of tying research and development to production and pricing them together (“total package procurement”).

In the early 1970's, the pendulum had started to swing back to more Federal risk assumption through cost-type contracting for development until prototypes and other proofs show the feasibility of committing for production. Under more recent DOD directives, concurrent development and production is to be avoided in favor of more “proving-out” time and contracts which postpone substantial production risks until technical and financial uncertainties are better resolved.

CONTROL OF GOVERNMENT PROCUREMENT AT THE START OF THE 1970's

The First Hoover Commission envisioned a strong central organization to provide control over procurement, supply, public buildings, public records, and property use and disposal. Despite the many compromises inherent in the law, there is no doubt that in enacting the Federal Property and Administrative Services Act of 1949, which set up GSA, Congress expected to carry out these recommendations.

In the areas of public building, public records, and property disposal, observers would largely agree that the objectives had been met.

More than 20 years later, however, it would appear that control over the procurement process, its organizations, its personnel, and its policy has fallen short of expectations. Perhaps an independent, non-cabinet-level establishment in the Executive Branch could achieve no more. Some uniformity has been achieved. In the area of computers and general-purpose automatic data processing equipment, Congress, by Public Law 89-306 (1965) (the “Brooks Bill”), gave GSA total control over procurement and use of this equipment; yet funding and staffing problems have not permitted full use of the available authority, and affected agencies have found problems in the manner of its implementation. Thus, the diffusion of authority is not the sole limiting factor.

It has been stated in this study that no organization is fully in charge of this activity that involves so much money and so many people, and has such important economic implications. This in no way detracts from the efforts of the people who labored to make this system work. The FPR staff and the ASPR Committee staff did, in fact, cooperate within the confines of their respective organizational structures. But the fuller results envisioned by the Hoover Commission and Congress were not achieved. Alternatives for a simplified regulatory system were examined. Nevertheless, like Topsy, the regulations “just grew,” relatively free from top-level review. The sheer volume of regulatory material and the frequency of changes had become impossible to comprehend or coordinate.

ESTABLISHMENT OF THE COMMISSION ON GOVERNMENT PROCUREMENT

Originally proposed in 1966, preliminary hearings were held by the 89th and 90th Congress on the need for a comprehensive study of Federal procurement. H.R. 474, the bill that eventually led to Public Law 91-129 establishing this Commission, was introduced in the 91st Congress by Congressman Chet Holifield on January 3, 1969. Testimony from more than 100 witnesses filled 10 volumes of hearings on H.R. 474 and the companion bill, S. 1707, introduced by Senator Henry M. Jackson.

Alternative studies by the Executive Branch or congressional committees were considered, but a legislatively-created commission with a bipartisan, 12-member body from the Legisla-

tive Branch, the Executive Branch, and the public was the mechanism finally adopted. The Comptroller General of the United States was made a statutory member.

Creation of the Commission was generally favored, although some in Government and industry were concerned with the magnitude and complexity of the study and the sensitivity with which the Commission would have to approach many problems. Nevertheless, opposition faded away and both the public and private sectors made noteworthy investments of talent and know-how in the study effort.

In any event, the foregoing represents some of the historical events, circumstances, trends, and concerns confronting the Commission as it undertook its study of the procurement process.

APPENDIX H

List of Recommendations—Parts A–J

PART A

GENERAL PROCUREMENT CONSIDERATIONS

Chapter 2

Policy Development and Implementation

1. Establish by law a central Office of Federal Procurement Policy in the Executive Office of the President, preferably in the Office of Management and Budget, with specialized competence to take the leadership in procurement policy and related matters. If not organizationally placed in OMB, the office should be established in a manner to enable it to testify before committees of Congress. It should develop and persistently endeavor to improve ways and means through which executive agencies can cooperate with and be responsive to Congress.

Chapter 3

The Statutory Framework

2. Enact legislation to eliminate inconsistencies in the two primary procurement statutes by consolidating the two statutes and thus provide a common statutory basis for procurement policies and procedures applicable to all executive agencies. Retain in the statutory base those provisions necessary to establish fundamental procurement policies and procedures. Provide in the statutory base for an Office of Federal Procurement Policy in the executive branch to implement basic procurement policies.

3. (a) Require the use of formal advertising

when the number of sources, existence of adequate specifications, and other conditions justify its use.

(b) Authorize the use of competitive negotiation methods of contracting as an acceptable and efficient alternative to formal advertising.

(c) Require that the procurement file disclose the reasons for using competitive methods other than formal advertising in procurements over \$10,000, or such other figure as may be established for small purchase procedures.

(d) Repeal statutory provisions inconsistent with the above.

4. Adjust the statutory provision on solicitations and discussions in competitive procurements other than formal advertising in the following manner:

(a) Extend the provision to all agencies.

(b) Provide for soliciting a competitive rather than a "maximum" number of sources, for the public announcement of procurements, and for honoring the reasonable requests of other sources to compete.

(c) Promulgate Government-wide regulations to facilitate the use of discussions in fixed-price competitions when necessary for a common understanding of the product specifications.

(d) Require that evaluation criteria, including judgment factors to be weighed by the head of an agency when he is responsible for contractor selection, and their relative importance, be set forth in competitive solicitations involving contracts which are not expected to be awarded primarily on the basis of the lowest cost.

5. When competitive procedures that do not involve formal advertising are utilized, establish that agencies shall, upon request of an

unsuccessful proposer, effectively communicate the reasons for selecting a proposal other than his own.

6. Authorize sole-source procurements in those situations where formal advertising or other competitive procedures cannot be utilized, subject to appropriate documentation; and, in such classes of procurements as determined by the Office of Federal Procurement Policy, subject to the determination being approved at such level above the head of the procuring activity as is specified in agency regulations.

7. Increase the statutory ceiling on procurements for which simplified procedures are authorized to \$10,000. Authorize the Office of Federal Procurement Policy to review the ceiling at least every three years and change it where an appropriate formula indicates the costs of labor and materials have changed by 10 percent or more.

8. Authorize all executive agencies to enter into multi-year contracts with annual appropriations. Such contracts shall be based on clearly specified firm requirements and shall not exceed a five-year duration unless authorized by another statute.

9. Repeal the current statutory requirement that the contractor provide the procuring agency with advance notification of cost-plus-a-fixed-fee subcontracts and subcontracts over \$25,000 or five percent of the prime contract cost.

Chapter 4

The Regulatory Framework

10. Establish a system of Government-wide coordinated, and to the extent feasible, uniform procurement regulations under the direction of the Office of Federal Procurement Policy, which will have the overall responsibility for development, coordination, and control of procurement regulations.

11. Establish criteria and procedures for an effective method of soliciting the viewpoints of interested parties in the development of procurement regulations.

Chapter 5

The Procurement Work Force

12. Reevaluate the place of procurement in each agency whose program goals require substantial reliance on procurement. Under the general oversight of the Office of Federal Procurement Policy, each agency should ensure that the business aspects of procurement and the multiple national objectives to be incorporated in procurement actions receive appropriate consideration at all levels in the organization.

13. Clarify the role of the contracting officer as the focal point for making or obtaining a final decision on a procurement. Allow the contracting officer wide latitude for the exercise of business judgment in representing the Government's interest.

14. Clarify the methods by which authority to make contracts and commit the Government is delegated to assure that such authority is exercised by qualified individuals and is clearly understood by those within the agencies and by the agencies' suppliers of goods and services.

15. Assign to the Office of Federal Procurement Policy responsibility for:

- (a) Developing and monitoring, in cooperation with the procuring agencies and the Civil Service Commission, personnel management programs that will assure a competent work force.
- (b) Defining agency responsibilities and establishing standards for effective work force management and for development of a Government-wide personnel improvement program.
- (c) Developing and monitoring a uniform data information system for procurement personnel.

16. Establish a recruiting and trainee program to assure development of candidates for procurement positions in all agencies, at all levels, and in all required disciplines. Special attention should be given to college recruitment to obtain young workers capable of being trained through experience and additional formal education to provide the managerial staff required a decade from now.

17. Establish a better balance between employee tenure and promotion rights and long-range needs of the agencies.

18. Establish grade levels together with job prerequisites to reflect the authority and responsibility vested in procurement personnel.

19. Establish a rotation program to provide selected future procurement management personnel with a variety of related job experiences and individual assignments throughout the Government and in various locations.

20. Structure career development, promotion, and reduction-in-force programs to reflect a longer-range viewpoint of what is best for the overall needs of the agency and of the Government.

21. Establish a Federal Procurement Institute which would include undergraduate and graduate curricula, procurement research programs, executive seminar programs, and other academic programs.

Chapter 6

The Government Make-or-Buy Decision.

22. Provide through legislation that it is national policy to rely on private enterprise for needed goods and services, to the maximum extent feasible, within the framework of procurement at reasonable prices.

23. Revise BOB Circular A-76 to provide that Federal agencies should rely on commercial sources for goods and services expected to cost less than \$100,000 per year, without making cost comparisons, provided that adequate competition and reasonable prices can be obtained.

24. Base cost comparisons on:

(a) Fully-allocated costs if the work concerned represents a significant element in the total workload of the activity in question or if discontinuance of an ongoing operation will result in a significant decrease in indirect costs.

(b) An incremental basis if the work is not a significant portion of the total workload of an organization or if it is a significant portion in which the Government has already provided a substantial investment.

25. Increase the BOB Circular A-76 threshold for new starts to \$100,000 for either new capital investment or annual operating cost.

26. Increase the minimum cost differential for new starts to justify performing work in-house from the 10 percent presently prescribed to a maximum of 25 percent. (Of this figure, 10 percent would be a fixed margin in support of the general policy of reliance on private enterprise. A flexible margin of up to 15 percent would be added to cover a judgment as to the possibilities of obsolescence of new or additional capital investment; uncertainties regarding maintenance and production cost, prices, and future Government requirements; and the amount of State and local taxes foregone.) New starts which require little or no capital investment would possibly justify only a 5-percent flexible margin while new starts which require a substantial capital investment would justify a 15-percent flexible margin, especially if the new starts were high-risk ventures.

Dissenting Position

Dissenting Recommendation 1. Designate a senior member of the Executive Office of the President to devote his full time to the implementation of the policy of reliance on the private sector. He should be assisted by an interagency task force whose members also would be full time for a period of one to two years or until the program is thoroughly implemented. This task force would:

(a) Work with each principal agency to:

(1) Lay out a definitive time schedule covering the completion of the agency's inventory of commercial or industrial activities being performed in-house.

(2) Outline in order of priority the analyses to be conducted.

(b) Maintain a review of the actions of each agency on the program and examine the studies made by the agency of its major activities in order to offer assistance and advice.

Dissenting Recommendation 2. Require Federal agencies to rely on the private sector except for those cases where:

(a) Such reliance would truly disrupt or significantly delay an agency program.

(b) In-house performance is essential for the national defense.

(c) The product or service is not and cannot be made available in the private sector and is available from a Federal source.

Take all practical steps to encourage and develop additional private sources in the unlikely event that sufficient competitive sources are not available in the private sector. Only as a last resort consider in-house performance in comparison to the private sector. (Offered in lieu of Commission recommendations 23, 24, 25, and 26.)

Dissenting Recommendation 3. Establish a 15-percent cost differential favoring the private sector over ongoing activities. Of this figure, ten percent would be in support of the general policy of reliance on the private sector.

Chapter 7

Timely Financing of Procurement

27. Initiate effective measures to make procurement funds available to the procuring activities in a timely manner.

(a) The executive branch should eliminate delays in the submission of authorization and appropriation requests.

(b) Congress should eliminate delays in its consideration of requests. Among the techniques which hold promise of providing substantial improvement, we believe each of the following deserves serious consideration by the Congress:

(1) Making greater use of authorization statutes covering periods of two years or more.

(2) Making greater use of authorizing legislation covering program objectives rather than annual segments of work.

(3) Making greater use of appropriations for a period longer than one fiscal year.

(4) Changing the fiscal year from July 1–June 30 to October 1–September 30. [One Commissioner dissents.]

(c) The executive branch and its agencies should assure that apportionment, allocation, and allotment of appropriated funds are

promptly made available to the procuring activities.

Chapter 8

Selected Areas in the Acquisition Process

28. Establish Government-wide principles on allowability of costs.

29. Establish procedures for a single, final overhead settlement binding on all Federal contracts at a given contractor location.

30. Develop uniform Government-wide guidelines for determining equitable profit objectives in negotiated contracts. The Office of Federal Procurement Policy should take the lead in this interagency activity. The guidelines should emphasize consideration of the total amount of capital required, risk assumed, complexity of work, and management performance.

31. Evaluate procurement negotiation procedures on a continuing basis to compare results obtained in completed contracts with original objectives. This evaluation should take place Government-wide.

32. Establish contract payment offices to make payments for all Federal agencies in each of the ten Federal regional areas. This could be accomplished by a lead agency designated to formulate standard procedures to implement this recommendation.

33. Establish standards and criteria for estimating costs and benefits of product data requirements. The need for product data should be determined on the basis of cost-benefit analyses. Selective after-the-fact reviews should be used as a basis for eliminating unnecessary requirements.

34. Establish Government-wide criteria for management systems which are prescribed for use by contractors, including standards for determining mission-essential management data requirements.

35. Provide new incentives to stimulate contractor acquisition and ownership of production facilities, such as giving contractors additional profit in consideration of contractor-owned facilities and, in special cases, by guaranteeing contractors full or substantial amortization of

their investment in facilities specially acquired for Government production programs.

36. Enact legislation to authorize negotiated sale of surplus elephantine tools (such as heavy machine tools) and of equipment which is "excess to Government ownership but not to Government requirements," with adequate protection to the Government for its future needs when competition is not feasible. While the lack of such authority now appears to be a problem only for the Department of Defense, to provide for future contingencies the legislation should cover all agencies.

37. Establish a Government-wide policy for the review and approval of cost-type prime contractor procurement systems and transactions.

Chapter 9

Procurement of Professional Services

38. The procurement of professional services should be accomplished, so far as practicable, by using competitive proposal and negotiation procedures which take into account the technical competence of the proposers, the proposed concept of the end product, and the estimated cost of the project, including fee. The primary factors in the selection process should be the professional competence of those who will do the work, and the relative merits of proposals for the end product, including cost, sought by the Government. The fee to be charged should not be the dominant factor in contracting for professional services.

Chapter 10

Field Contract Support

39. Establish a program to coordinate and promote interagency use of contract administration and contract audit services; and use, to the fullest extent possible, for comparable contract support requirements, the services of those Federal agencies charged with performing designated support services for the general public at contractors' facilities.

40. Transfer all plant cognizance now as-

signed to the military departments to the Defense Contract Administration Services with the exception of those plants exempted by the Secretary of Defense (for example, GOCO plants and Navy SUPSHIPS).

41. Remove the Defense Contract Administration Services organization from the Defense Supply Agency and establish it as a separate agency reporting directly to the Secretary of Defense.

42. Consolidate the Defense Contract Administration Services and Defense Contract Audit activities into a single agency reporting directly to the Secretary of Defense. [Four Commissioners dissent.]

Chapter 11

National Policies Implemented Through the Procurement Process

43. Establish a comprehensive program for legislative and executive branch reexamination of the full range of social and economic programs applied to the procurement process and the administrative practices followed in their application.

44. Raise to \$10,000 the minimum level at which social and economic programs are applied to the procurement process.

45. Consider means to make the costs of implementing social and economic goals through the procurement process more visible.

46. Revise current debarment policies to provide for uniform treatment for comparable violations of the various social and economic requirements and to establish a broader range of sanctions for such violations.

Chapter 12

Procurement from Small Business

47. Establish new standards for annually measuring the performance of procuring agencies and their prime contractors in using small business. Standards for measuring performance, including the sound use of set-aside techniques, should assess progress made in assisting small businesses to obtain a fair

proportion of awards—not just statistical percentages.

48. Test mandatory small business subcontracting on a selected basis to determine its feasibility.

49. Initiate within the executive branch a review of procurement programs with guidance from SBA and the Office of Federal Procurement Policy with the objective of making small business participation in Government procurement more effective and assuring that small businesses have a full opportunity to compete for Government contracts.

PART B

ACQUISITION OF RESEARCH AND DEVELOPMENT

Chapter 2

Federal Objectives and Organizations

1. Conduct R&D procurement primarily to meet agency missions, but whenever possible be responsive to the needs of other Federal agencies and activities.

2. Allocate a limited amount of funds to each Federal laboratory to be used at the discretion of the laboratory director to initiate R&D projects in support of any national objective. Some of these projects might lie outside the normal mission of the laboratory.

3. Encourage, through the Office of Science and Technology, every Federal agency that has an R&D program in direct support of its missions and objectives to generate an associated program in long-range basic research and advanced studies and to support it at a level appropriate to the agency's needs.

Chapter 3

Performers of Research and Development

4. Strengthen in-house capabilities to support technology advancement in the private sector, and specifically the procurement-related

technical and management capabilities in laboratories by:

(a) Clarifying the assigned roles of the laboratories;

(b) Providing training and temporary assignment of technical manpower to intra-agency and interagency program management offices and regulatory bodies;

(c) Undertaking test and evaluation (T&E) of conceptual design, hardware, and systems that are proposed, designed, and built by private sources; and

(d) Maintaining technical competence by continuing to conduct basic and applied research and development projects.

5. Continue the option to organize and use FFRDCs to satisfy needs that cannot be satisfied effectively by other organizational resources. Any proposal for a new FFRDC should be reviewed and approved by the agency head and special attention should be given to the method of termination, including ownership of assets, when the need for the FFRDC no longer exists. Existing FFRDCs should be evaluated by the agency head periodically (perhaps every three years) for continued need.

6. Monitor the progress of the NSF/NBS experimental R&D incentives program and actively translate the results of this learning into practical agency application.

Chapter 4

Procurement Policy

7. Eliminate restraints which discourage the generation and acceptance of innovative ideas through unsolicited proposals.

8. Eliminate cost sharing on R&D projects, except in cases where the performer of the project would clearly benefit, e.g., through economic benefits on commercial sales. Decisions with respect to the placement of R&D contracts or grants should not be influenced by potential involvement in cost sharing.

9. Eliminate recovery of R&D costs from Government contractors and grantees except under unusual circumstances approved by the agency head.

10. Recognize in cost allowability principles that independent research and development (IR&D) and bid and proposal (B&P) expenditures are in the Nation's best interests to promote competition (both domestically and internationally), to advance technology, and to foster economic growth. Establish a policy recognizing IR&D and B&P efforts as necessary costs of doing business and provide that:

(a) IR&D and B&P should receive uniform treatment, Government-wide, with exceptions treated by the Office of Federal Procurement Policy.

(b) Contractor cost centers with 50 percent or more fixed-price Government contracts and sales of commercial products and services should have IR&D and B&P accepted as an overhead item without question as to amount. Reasonableness of costs for other contractors should be determined by the present DOD formula with individual ceilings for IR&D and B&P negotiated and trade-offs between the two accounts permitted.

(c) Contractor cost centers with more than 50 percent cost-type contracts should be subject to a relevancy requirement of a potential relationship to the agency function or operation in the opinion of the head of the agency. No relevancy restriction should be applied to the other contractors.

Dissenting Position 1

Dissenting Recommendation 10. Recognize in cost allowability principles that IR&D and Bid and Proposal expenditures are in the Nation's best interests to promote competition (both domestically and internationally), to advance technology, and to foster economic growth. Establish a policy recognizing IR&D and B&P efforts as necessary costs of doing business and provide that:

(a) IR&D and B&P should receive uniform treatment, Government-wide, with exceptions treated by the Office of Federal Procurement Policy.

(b) Allowable projects should have a potential relationship to an agency function or operation in the opinion of the agency head. (These will be determined in the negotiation

of advance agreements with contractors who received more than \$2 million in IR&D and B&P payments during their preceding fiscal year.)

(c) Agency procurement authorization and appropriation requests should be accompanied by an explanation as to criteria established by the agency head for such allowances as well as the amount of allowances for the past year.

(d) A provision should be established whereby the Government would have sufficient access to the contractor's records for its commercial business to enable a determination that IR&D and B&P costs are allowable.

(e) In all other cases, the present DOD procedure of a historical formula for reasonableness should be continued.

(f) Nothing in these provisions shall preclude a direct contract arrangement for specific R&D projects proposed by a contractor.

Dissenting Position 2

[One Commissioner believes that in addition to the prime and dissenting recommendations advanced above, additional mechanisms exist which if explored adequately may offer reasonably acceptable solutions to the IR&D dilemma. [See Chapter 4 for full text of his views.]

Chapter 5

Procurement Procedures

11. Encourage the use of master agreements of the grant and contract types, which when executed should be used on a work order basis by all agencies and for all types of performers.

12. When a potential organizational conflict of interest exists and use of a hardware exclusion clause is proposed, require a senior official of the procurement agency to examine the circumstances for benefits and detriments to both the Government and potential contractors, and reach and justify his decision to contract with either no restraint, partial restraint, or strict hardware exclusion provisions.

PART C**ACQUISITION OF MAJOR SYSTEMS****Chapter 3***Needs and Goals for New Acquisition Programs*

1. Start new system acquisition programs with agency head statements of needs and goals that have been reconciled with overall agency capabilities and resources.

(a) State program needs and goals independent of any system product. Use long-term projections of mission capabilities and deficiencies prepared and coordinated by agency component(s) to set program goals that specify:

- (1) Total mission costs within which new systems should be bought and used
- (2) The level of mission capability to be achieved above that of projected inventories and existing systems
- (3) The time period in which the new capability is to be achieved.

(b) Assign responsibility for responding to statements of needs and goals to agency components in such a way that either:

- (1) A single agency component is responsible for developing system alternatives when the mission need is clearly the responsibility of one component; or
- (2) Competition between agency components is formally recognized with each offering alternative system solutions when the mission responsibilities overlap.

2. Begin congressional budget proceedings with an annual review by the appropriate committees of agency missions, capabilities, deficiencies, and the needs and goals for new acquisition programs as a basis for reviewing agency budgets.

Chapter 4*Exploring Alternative Systems*

3. Support the general fields of knowledge that are related to an agency's assigned responsibilities by funding private sector sources and Government in-house technical centers to do:

- (a) Basic and applied research

(b) Proof of concept work

(c) Exploratory subsystem development.

Restrict subsystem development to less than fully designed hardware until identified as part of a system candidate to meet a specific operational need.

4. Create alternative system candidates by:

(a) Soliciting industry proposals for new systems with a statement of the need (mission deficiency); time, cost, and capability goals; and operating constraints of the responsible agency and component(s), with each contractor free to propose system technical approach, subsystems, and main design features.

(b) Soliciting system proposals from smaller firms that do not own production facilities if they have:

- (1) Personnel experienced in major development and production activities.
- (2) Contingent plans for later use of required equipment and facilities.

(c) Sponsoring, for agency funding, the most promising system candidates selected by agency component heads from a review of those proposed, using a team of experts from inside and outside the agency component development organization.

5. Finance the exploration of alternative systems by:

(a) Proposing agency development budgets according to mission need to support the exploration of alternative system candidates.

(b) Authorizing and appropriating funds by agency mission area in accordance with review of agency mission needs and goals for new acquisition programs.

(c) Allocating agency development funds to components by mission need to support the most promising system candidates. Monitor components' exploration of alternatives at the agency head level through annual budget and approval reviews using updated mission needs and goals.

6. Maintain competition between contractors exploring alternative systems by:

(a) Limiting commitments to each contractor to annual fixed-level awards, subject to annual review of their technical progress by the sponsoring agency component.

(b) Assigning agency representatives with relevant operational experience to advise competing contractors as necessary in developing performance and other requirements for each candidate system as tests and tradeoffs are made.

(c) Concentrating activities of agency development organizations, Government laboratories, and technical management staffs during the private sector competition on monitoring and evaluating contractor development efforts, and participating in those tests critical to determining whether the system candidate should be continued.

Chapter 5

Choosing a Preferred System

7. Limit premature system commitments and retain the benefit of system-level competition with an agency head decision to conduct competitive demonstration of candidate systems by:

(a) Choosing contractors for system demonstration depending on their relative technical progress, remaining uncertainties, and economic constraints. The overriding objective should be to have competition at least through the initial critical development stages and to permit use of firm commitments for final development and initial production.

(b) Providing selected contractors with the operational test conditions, mission performance criteria, and lifetime ownership cost factors that will be used in the final system evaluation and selection.

(c) Proceeding with final development and initial production and with commitments to a firm date for operational use after the agency needs and goals are reaffirmed and competitive demonstration results prove that the chosen technical approach is sound and definition of a system procurement program is practical.

(d) Strengthening each agency's cost estimating capability for:

- (1) Developing lifetime ownership costs for use in choosing preferred major systems
- (2) Developing total cost projections for the number and kind of systems to be bought for operational use

(3) Preparing budget requests for final development and procurement.

8. Obtain agency head approval if an agency component determines that it should concentrate development resources on a single system without funding exploration of competitive system candidates. Related actions should:

(a) Establish a strong centralized program office within an agency component to take direct technical and management control of the program.

(b) Integrate selected technical and management contributions from in-house groups and contractors.

(c) Select contractors with proven management, financial, and technical capabilities as related to the problems at hand. Use cost-reimbursement contracts for high technical risk portions of the program.

(d) Estimate program cost within a probable range until the system reaches the final development phase.

Chapter 6

System Implementation

9. Withhold agency head approval and congressional commitments for full production and use of new systems until the need has been reconfirmed and the system performance has been tested and evaluated in an environment that closely approximates the expected operational conditions.

(a) Establish in each agency component an operational test and evaluation activity separate from the developer and user organizations.

(b) Continue efforts to strengthen test and evaluation capabilities in the military services with emphasis on:

- (1) Tactically oriented test designers
- (2) Test personnel with operational and scientific background
- (3) Tactical and environmental realism
- (4) Setting critical test objectives, evaluation, and reporting.

(c) Establish an agencywide definition of the scope of operational test and evaluation to include:

- (1) Assessment of critical performance

characteristics of an emerging system to determine usefulness to ultimate users

- (2) Joint testing of systems whose missions cross service lines
- (3) Two-sided adversary-type testing when needed to provide operational realism
- (4) Operational test and evaluation during the system life cycle as changes occur in need assessment, mission goals, and as a result of technical modifications to the system.

10. Use contracting as an important tool of system acquisition, not as a substitute for management of acquisition programs. In so doing:

- (a) Set policy guidelines within which experienced personnel may exercise judgment in selectively applying detailed contracting regulations.
- (b) Develop simplified contractual arrangements and clauses for use in awarding final development and production contracts for demonstrated systems tested under competitive conditions.
- (c) Allow contracting officials to use priced production options if critical test milestones have reduced risk to the point that the remaining development work is relatively straightforward.

11. Unify policymaking and monitoring responsibilities for major system acquisitions within each agency and agency component. Responsibilities and authority of unified offices should be to:

- (a) Set system acquisition policy.
- (b) Monitor results of acquisition policy.
- (c) Integrate technical and business management policy for major systems.
- (d) Act for the secretary in agency head decision points for each system acquisition program.
- (e) Establish a policy for assigning program managers when acquisition programs are initiated.
- (f) Insure that key personnel have long-term experience in a variety of Government/industry system acquisition activities and institute a career program to enlarge on that experience.
- (g) Minimize management layering, staff reviews, coordinating points, unnecessary procedures, reporting, and paper work on both the

agency and industry side of major system acquisitions.

12. Delegate authority for all technical and program decisions to the operating agency components except for the key agency head decisions of:

- (a) Defining and updating the mission need and the goals that an acquisition effort is to achieve.
- (b) Approving alternative systems to be committed to system fabrication and demonstration.
- (c) Approving the preferred system chosen for final development and limited production.
- (d) Approving full production release.

PART D

ACQUISITION OF COMMERCIAL PRODUCTS

Chapter 2

The Marketplace

1. Improve the system for collection and dissemination of statistics on procurement by commodity and agency to meet congressional, executive branch, and industry needs.

Chapter 3

Requirements

2. Provide a positive means for users to communicate satisfaction with their support system as a method of evaluating its effectiveness and ensuring user confidence.

3. Require that development of new Federal specifications for commercial-type products be limited to those that can be specifically justified, including the use of total cost-benefit criteria. All commercial product-type specifications should be reevaluated every five years. Purchase descriptions should be used when Federal specifications are not available.

4. Assign responsibility for policy regarding the development and coordination of Federal specifications to the Office of Federal Procurement Policy.

Chapter 4

Acquisition

5. Encourage agencies to use headquarters procurement staff personnel in the conduct of on-the-job training of field procurement personnel to (a) implement techniques adapted to specific field activity needs and (b) identify possibilities for procurement innovation and transfusion.

6. Provide statutory authority and assign to the Office of Federal Procurement Policy responsibility for policies to achieve greater economy in the procurement, storage, and distribution of commercial products used by Federal agencies. Until statutory authority is provided and until such responsibility is assigned to the Office of Federal Procurement Policy, the following actions should be taken:

(a) Establish reasonable standards to permit local using installations to buy directly from commercial sources if lower total economic costs to the Government can be achieved. However, decentralization of items for local purchase should not be permitted to affect adversely centralized procurement and distribution management required for purposes such as mobilization planning, military readiness, and product quality assurance.

(b) Develop and implement on an orderly basis industrial funding of activities engaged in interagency supply support of commercial products and services, to the fullest practical extent, so that (1) determination and recoupment of the true costs for providing such products and services will be facilitated, and (2) efficiency in the use of resources will be fostered.

(c) Evaluate continuously the efficiency, economy, and appropriateness of the procurement and distribution systems on a total economic cost basis at all levels, without prejudice to mobilization reserve and other national requirements.

7. Require that consideration be given to the direct procurement of products made in the United States from sources available to overseas activities when such sources are cost-effective.

8. Authorize primary grantees use of Federal sources of supply and services when:

(a) The purpose is to support a specific grant program for which Federal financing exceeds 60 percent,

(b) The use is optional on the grantee, the Government source, and, in the case of Federal schedules or other indefinite delivery contracts, on the supplying contractor, and

(c) The Government is reimbursed all costs.

9. Require that grantor agencies establish regulatory procedures for assuring appropriate use of the products or services and computation of total costs for Government reimbursement.

10. Assign responsibility for monitoring implementation of this program and its socio-economic effects to the Office of Federal Procurement Policy.

[One Commissioner abstained from voting on recommendations 8, 9, and 10.]

Dissenting Position

Dissenting Recommendation 1. Prohibit the use of Federal supply sources by grantees, except where unusual circumstances dictate and under express statutory authorization.

Dissenting Recommendation 2. Charge grantees on the basis of total economic cost to the Government for Federal supplies and services made available to them.

[Offered in lieu of Commission recommendations 8, 9, and 10.]

Chapter 5

Special Products and Services

11. Reevaluate GSA and agency ADPE acquisition procedures from identification of requirements to delivery of an operational system, for consideration of all appropriate elements on the basis of total economic cost.

12. Require that GSA establish ADPE procurement delegation policy that would promote (a) effective preplanning of requirements by agencies and (b) optimum use of manpower.

13. Revise funding policies regarding multi-year leasing contracts, in addition to use of the ADPE Fund, to permit Government agencies to procure ADPE on a cost-effective basis.

14. Develop and issue a set of standard programs to be used as benchmarks for evaluating vendor ADPE proposals.

15. Change the late proposal clause regarding ADPE to conform to other Government procurement practices.

16. Assign responsibility for consistent and equitable implementation of legislative policy concerning food acquisition to the Office of Federal Procurement Policy or to an agency designated by the President.

17. Establish by legislation a central coordinator to identify and assign individual agency responsibilities for management of the Federal food quality assurance program.

18. Encourage procuring activities, when it is deemed in the best interests of the Government, to purchase supplies or services from public utilities by accepting the commercial forms and provisions that are used in the utilities' sales to industry and the general public, provided the service contract provisions are not in violation of public law.

19. Review transportation procurement techniques to determine whether more innovative procurement methods are warranted when alternative sources and modes are available.

PART E

ACQUISITION OF CONSTRUCTION AND ARCHITECT-ENGINEER SERVICES

Chapter 2

Architect-Engineer Services

1. Base procurement of architect-engineer services, so far as practicable, on competitive negotiations, taking into account the technical competence of the proposers, the proposed concept of the end product, and the estimated cost of the project, including fee. The Commission's support of competitive negotiations is based on the premise that the fee to be charged will not be the dominant factor in contracting for

professional services. The primary factor should be the relative merits of proposals for the end product, including cost, sought by the Government, with fee becoming important only when technical proposals are equal. The practice of initially selecting one firm for negotiation should be discouraged, except in those rare instances when a single firm is uniquely qualified to fill an unusual need for professional services.

2. Provide policy guidance, through the Office of Federal Procurement Policy, specifying that on projects with estimated costs in excess of \$500,000 proposals for A-E contracts should include estimates of the total economic (life-cycle) cost of the project to the Government where it appears that realistic estimates are feasible. Exceptions to this policy should be provided by the agency head or his designee.

Dissenting Position

Dissenting Recommendation 1. The procurement of A-E services should continue to be based on a competitive selection process as outlined in Public Law 92-582, which focuses on the technical competence of interested prospects. Solicitations of a price proposal and negotiations as to price should be undertaken only when the best qualified firm has been ascertained; if mutual agreement cannot be reached, the next best qualified firm should be asked for a price proposal, followed by negotiation; and if necessary, the process should be repeated until a satisfactory contract has been negotiated. [Offered in lieu of Commission recommendations 1 and 2.]

3. Consider reimbursing A-Es for the costs incurred in submitting proposals in those instances where unusual design and engineering problems are involved and substantial work effort is necessary for A-Es to submit proposals.

4. Repeal the statutory six-percent limitation on A-E fees. Authorize the Office of Federal Procurement Policy to provide appropriate policy guidelines to ensure consistency of action and protection of the Government's interest.

PART F**FEDERAL GRANT-TYPE ASSISTANCE PROGRAMS**

Chapter 3

Proposed Changes

1. Enact legislation to (a) distinguish assistance relationships as a class from procurement relationships by restricting the term "contract" to procurement relationships and the terms "grant," "grant-in-aid," and "cooperative agreement" to assistance relationships, and (b) authorize the general use of instruments reflecting the foregoing types of relationships.

2. Urge the Office of Federal Procurement Policy to undertake or sponsor a study of the feasibility of developing a system of guidance for Federal assistance programs and periodically inform Congress of the progress of this study.

PART G**LEGAL AND ADMINISTRATIVE REMEDIES**

Chapter 2

Disputes Arising in Connection With Contract Performance

1. Make clear to the contractor the identity and authority of the contracting officer, and other designated officials, to act in connection with each contract.

2. Provide for an informal conference to review contracting officer decisions adverse to the contractor.

3. Retain multiple agency boards; establish minimum standards for personnel and caseload; and grant the boards subpoena and discovery powers.

4. Establish a regional small claims boards system to resolve disputes involving \$25,000 or less.

5. Empower contracting agencies to settle

and pay, and administrative forums to decide, all claims or disputes arising under or growing out of or in connection with the administration or performance of contracts entered into by the United States.

6. Allow contractors direct access to the Court of Claims and district courts.

7. Grant both the Government and contractors judicial review of adverse agency boards of contract appeals decisions. [Five Commissioners dissent.]

8. Establish uniform and relatively short time periods within which parties may seek judicial review of adverse decisions of administrative forums.

9. Modify the present court remand practice to allow the reviewing court to take additional evidence and make a final disposition of the case.

10. Increase the monetary jurisdictional limit of the district courts to \$100,000. [One Commissioner dissents.]

11. Pay interest on claims awarded by administrative and judicial forums.

12. Pay all court judgments on contract claims from agency appropriations if feasible.

Chapter 3

Disputes Related to the Award of Contracts

13. Promulgate award protest procedures that adequately inform protestors of the steps that can be taken to seek review of administrative decisions in the contract award process.

14. Continue the General Accounting Office as an award protest-resolving forum. [One Commissioner dissents.]

15. Establish, through executive branch and GAO cooperation, more expeditious and mandatory time requirements for processing protests through GAO.

16. Establish in the executive procurement regulations, in cooperation with the General Accounting Office, a coordinated requirement for high-level management review of any de-

cision to award a contract while a protest is pending with GAO.

17. GAO should continue to recommend termination for convenience of the Government of improperly awarded contracts in appropriate instances.

18. Improve contracting agency debriefing procedures.

19. Establish a pre-award protest procedure in all contracting agencies.

20. Conduct periodic reviews by GAO of agency award protest procedures and practices.

Chapter 4

Equitable and Special Management Powers Under Public Law 85-804

21. Make authority presently conferred by Public Law 85-804 permanent authority.

22. Authorize use of Public Law 85-804 by all contracting agencies under regulations prescribed by the President.

23. Incorporate Public Law 85-804 into the primary procurement statute.

[One Commissioner dissents to recommendations 21-23.]

24. Revise existing requirements in Public Law 85-804 on reporting to Congress.

PART H

SELECTED ISSUES OF LIABILITY: GOVERNMENT PROPERTY AND CATASTROPHIC ACCIDENTS

Chapter 2

Self-Insurance of Government Property

1. That the Government, with appropriate exceptions, generally act as a self-insurer for the loss of or damage to Government property resulting from any defect in items supplied by a contractor and finally accepted by the Government.

2. Apply the Government policy of self-insurance to subcontractors on the same basis as to prime contractors.

3. Ensure that, where items delivered by a contractor to the Government are transferred by the Government to a third party, the third party has no greater rights against the contractor or its subcontractors than the Government would have if it retained the item.

Chapter 3

Catastrophic Accidents

4. Enact legislation to assure prompt and adequate compensation for victims of catastrophic accidents occurring in connection with Government programs.

5. Enact legislation to provide Government indemnification, above the limit of available insurance, of contractors for liability for damage arising from a catastrophic accident occurring in connection with a Government program.

PART I

PATENTS, TECHNICAL DATA, AND COPYRIGHTS

Chapter 2

Patents

1. Implement the revised Presidential Statement of Government Patent Policy promptly and uniformly.

2. Enact legislation to make clear the authority of all agencies to issue exclusive licenses under patents held by them.

3. Supplement the Presidential policy by the adoption of uniform procedures for application of the rights reserved to the Government under the policy.

4. Amend 28 U.S.C. 1498 to make authorization and consent automatic in all cases except where an agency expressly withholds its authorization and consent as to a specific patent.

5. Amend agency regulations and clauses to provide that all contractual warranties against

patent infringement be provided by specific contractual language and not by implication.

6. Authorize all agencies to settle patent infringement claims out of available appropriations prior to the filing of suit.

7. Grant all agencies express statutory authority to acquire patents, applications for patents, and licenses or other interests thereunder.

8. Give the United States District Courts concurrent jurisdiction with the Court of Claims for suits brought pursuant to 28 U.S.C. 1498 subject to the jurisdictional amount under the Tucker Act.

Chapter 3

Technical Data

9. Amend or repeal statutes limiting agency flexibility concerning rights in technical data.

10. Undertake, through the Federal Council for Science and Technology in coordination with the Office of Federal Procurement Policy, to develop and evaluate the implementation of a statement of Government policy on rights in technical data supplied under Government contracts. Give specific consideration to the relationships between prime contractors and sub-contractors.

11. Authorize agencies to acquire information and data.

12. Undertake, through the Federal Council for Science and Technology, in coordination with the Office of Federal Procurement Policy, to develop and evaluate the implementation of a statement of Government policy on the treatment of data submitted with proposals or other related communications.

13. Establish a remedy for the misuse of information supplied to the Government in confidence.

Chapter 4

Copyrights

14. Amend or repeal statutes limiting agency flexibility in dealing with the publication of works developed under Government contracts.

15. Enact legislation giving all agencies authority to acquire private copyrights or interests therein.

16. Establish an interagency task force under the lead of the Office of Federal Procurement Policy to develop and evaluate the implementation of a statement of Government copyright policy.

PART J

OTHER STATUTORY CONSIDERATIONS

Chapter 2

Codification—A Consolidated Procurement Title in the United States Code

1. Establish a program for developing the technical and formal changes needed to organize and consolidate the procurement statutes to the extent appropriate in Title 41, Public Contracts, of the United States Code.

Chapter 4

Statutes of Limited Application

2. Extend the Truth in Negotiations Act to all Government procurement agencies and develop coordinated regulations for interpretation and application of its provisions.

3. Extend the Renegotiation Act for periods of five years.

4. Extend the Renegotiation Act to contracts of all Government agencies.

5. Raise the jurisdictional amount under the Renegotiation Act from one million to two million dollars for sales to the Government; and from twenty-five thousand to fifty thousand dollars for brokers' fees. [Two Commissioners dissent].

6. Expand and clarify the criteria used by the Renegotiation Board.

Dissenting Position

Dissenting Recommendation 6. Expand and clarify the criteria utilized by the Renegotiation Board in determining excess profits and include therein a limitation of renegotiation to cost-type contracts.

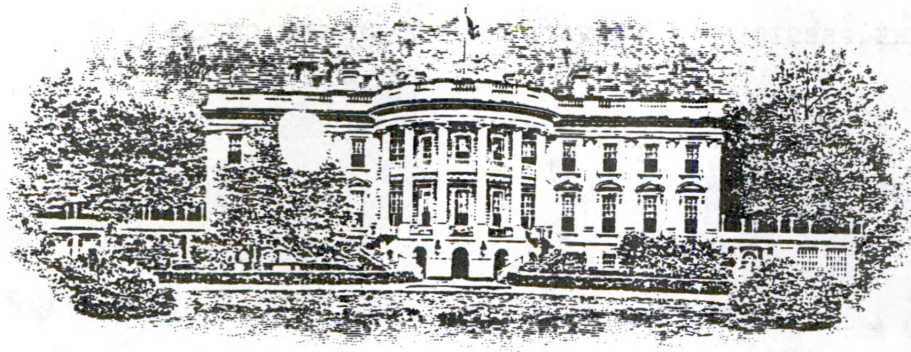
Total recommendations Parts A-J: 149

APPENDIX I

Acronyms

| | |
|--------|--|
| ACO | Administrative Contracting Officer |
| ADPE | Automatic Data Processing Equipment |
| A-E | Architect-Engineer |
| AEC | Atomic Energy Commission |
| AEC PR | Atomic Energy Commission Procurement Regulations |
| AEDC | Arnold Engineering Development Center |
| AFIT | Air Force Institute of Technology |
| ALMC | Army Logistics Management Center |
| AMETA | Army Management Education Training Agency |
| AMSL | Acquisition Management Systems List |
| APA | Administrative Procedure Act |
| ASPA | Armed Services Procurement Act |
| ASPR | Armed Services Procurement Regulation |
| BOB | Bureau of the Budget |
| B&P | Bid and Proposal |
| BPA | Bonneville Power Administration |
| CFR | Code of Federal Regulations |
| CIA | Central Intelligence Agency |
| COC | Certificate of Competency |
| CPFF | Cost-Plus-A-Fixed-Fee |
| CPIF | Cost-Plus-Incentive-Fee |
| CPSR | Contractor Procurement System Review |
| CSCSC | Cost Schedule Control Systems Criteria |
| CWAS | Contractors Weighted Average Share in Cost Risk |
| DCAA | Defense Contract Audit Agency |
| DCAS | Defense Contract Administration Services |
| DOD | Department of Defense |
| DPC | Defense Procurement Circular |
| DSA | Defense Supply Agency |
| DSMS | Defense Systems Management School |
| ECOM | Electronics Command |
| EPA | Environmental Protection Agency |
| FDA | Food and Drug Administration |
| FPASA | Federal Property and Administrative Services Act |
| FPR | Federal Procurement Regulations |
| FY | Fiscal Year |
| GAO | General Accounting Office |
| GSA | General Services Administration |
| GOCO | Government-Owned, Contractor-Operated |

| | |
|----------|---|
| GS | General Schedule |
| HEW | Department of Health, Education, and Welfare |
| H.R. | House of Representatives |
| IFB | Invitation for Bid |
| IOI | Internal Operating Instruction |
| IPE | Industrial Plant Equipment |
| IR&D | Independent Research and Development |
| LMI | Logistics Management Institute |
| MK | Mark |
| NASA | National Aeronautics and Space Administration |
| NASA PR | National Aeronautics and Space Administration Procurement Regulations |
| NLRA | National Labor Relations Act |
| NLRB | National Labor Relations Board |
| OFCC | Office of Federal Contract Compliance |
| OMB | Office of Management and Budget |
| ONR | Office of Naval Research |
| PCR | Procurement Center Representative |
| R&D | Research and Development |
| RFP | Request for Proposal |
| RIF | Reduction in Force |
| ROI | Return on Investment |
| SBA | Small Business Administration |
| SDPA | Small Defense Plants Administration |
| SPO | System Project Officer |
| SUPSHIPS | Supervisor of Shipbuilding (Navy) |
| SWPC | Small War Plant Corporation |
| TVA | Tennessee Valley Authority |
| U.S.C. | United States Code |
| USDA | United States Department of Agriculture |
| VA | Veterans Administration |
| WPB | War Production Board |



PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL

**TASK FORCE REPORT ON
THE OFFICE OF THE SECRETARY OF DEFENSE**

**SUBMITTED TO THE SUBCOMMITTEE FOR
CONSIDERATION AT ITS MEETING ON JULY 13, 1983**

THE PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL

REPORT OF
THE OFFICE OF THE SECRETARY OF DEFENSE
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AT ITS MEETING ON JULY 13, 1983

CO-CHAIRS
Robert A. Beck
Carter L. Burgess
James E. Burke
Carl D. Covitz



THE PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL

June 20, 1983

Mr. J. Peter Grace
Chairman
Executive Committee
President's Private Sector Survey on
Cost Control in the Federal Government

Dear Mr. Chairman:

The following report represents the results of the Office of the Secretary of Defense Task Force of the President's Private Sector Survey (PPSS) on Cost Control in the Federal Government. The report culminates the combined efforts of the 45 members of the Task Force, who devoted about 160 person-months of pro bono work to the PPSS initiative. These members, who represent 21 private sector companies, reviewed Department of Defense activities during the period July 1982 to December 1982.

The report contains proposed major recommendations which, when fully implemented, could result in three-year total cost savings of \$44.7 billion. It should be noted, however, that some of the recommendations may require years for the full savings to be realized. If our recommendations were fully implemented, annual savings (in 1983 dollars) of \$19.3 billion would be realized plus \$4.9 billion of one-time savings, offset by \$1.8 billion of one-time and recurring implementation costs.

While all facets of the Department of Defense could not be surveyed in the time allotted, areas selected for review were considered to offer significant potential for cost savings and improvements in operating efficiencies. Clearly, other opportunities for improvement exist, but due to limited time and personnel resources available, they could not be pursued.

The OSD Task Force did not attempt to assess the appropriate budget level required for the Department of Defense to fulfill its mission.

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Mr. J. Peter Grace
June 20, 1983
Page Two

The importance of the accompanying recommendations rests on the fact that they represent the potential for better utilizing finite resources available to the Federal Government, particularly as they relate to the Department of Defense. In making each of these recommendations, it was the intention of this Task Force to suggest approaches which will increase management efficiency in the Department of Defense and provide opportunities for cost savings without impairing the ability of DOD to provide for the national defense.

Should you, the other members of the Executive Committee, or the Survey Management Office have any questions, please do not hesitate to contact us, the Project Manager, William H. Tremayne, or the individual members of the Task Force.

Very truly yours,

Robert A. Beck
Chairman and Chief Executive Officer
The Prudential Insurance Company of
America

Carter L. Burgess
Chairman, Executive Committee
Foreign Policy Association

James E. Burke
Chairman and Chief Executive Officer
Johnson and Johnson

Carl D. Covitz
President
Landmark Communities, Inc.

PREFACE

On June 30, 1982, President Reagan signed Executive Order 12369 formally establishing the President's Private Sector Survey on Cost Control (PPSSCC) in the Executive Branch of the Federal Government. An Executive Committee under the chairmanship of J. Peter Grace was established, consisting of 161 high-level private sector executives--mostly chairmen and chief executive officers--from many of the nation's leading corporations.

Briefly stated, the President directed the PPSSCC to:

- o Identify opportunities for increased efficiency and reduced costs achievable by executive action or legislation.
- o Determine areas where managerial accountability can be enhanced and administrative controls improved.
- o Suggest short- and long-term managerial operating improvements.
- o Specify areas where further study can be justified by potential savings.
- o Provide information and data relating to governmental expenditures, indebtedness, and personnel management.

The Executive Order also provided that "the Committee is to be funded, staffed and equipped . . . by the private sector without cost to the Federal Government." To implement this objective, the Foundation for the President's Private Sector Survey on Cost Control was established. It formed a Management Office which organized thirty-six "Task Forces," each co-chaired by two or more members of the Executive Committee, to do the "preliminary reports." These are listed below:

| | |
|---|--|
| Agriculture | Health & Human Services-Social Security Administration |
| Air Force | Housing & Urban Development |
| Army | Interior |
| Automated Data Processing/Office Automation | Justice |
| Boards/Commissions-Banking | Labor |
| Boards/Commissions-Business Related | Land, Facilities and Personal Property Management |
| Commerce | Low Income Standards and Benefits |
| Defense-Office of Secretary | Navy |
| Education | Personnel Management |
| Energy (including Federal Energy Regulatory Commission and Nuclear Regulatory Commission) | Privatization |
| Environmental Protection Agency/Small Business Administration/Federal Emergency Management Agency | Procurement/Contracts/Inventory Management |
| Federal Construction Management | Real Property Management |
| Federal Feeding | Research and Development (National Science Foundation/National Aeronautics & Space Admin.) |
| Federal Hospital Management | State/AID/USIA |
| Federal Management Systems | Transportation |
| Financial Asset Management | Treasury |
| Health & Human Services-Department Management/ Human Development Services/ACTION | User Charges |
| Health & Human Services-Public Health Service/Health Care Financing Admin. | Veterans Administration |
| | Management Office Selected Issues |

Twenty-two of these task forces were assigned to study specific departments and agencies, and the remaining fourteen studied functions cutting across government such as personnel, data processing and procurement. Apart from the co-chairpersons, none of the task force members were members of the Executive Committee, nor did the task forces have any authority to make recommendations to departments and agencies or to the President.

Each of the 36 task forces prepared a draft report. This is one such task force report. Each, with a few exceptions, also prepared an appendix providing more detailed information supporting the tentative recommendations contained in the task force report. Those appendices are on file at the Department of Commerce's Central Reference and Records Inspection Facility. It should be noted that tentative recommendations relating to any one federal agency may be included not only in the appropriate agency task force report but also in the reports of the functional cross-cutting task forces.

All of the task force draft reports will be considered and acted upon in meetings open to the public by a Subcommittee of the Executive Committee of PPSSCC, along with other statements and recommendations. Accordingly, all tentative recommendations contained in this task force report are subject to possible changes resulting from the Subcommittee's deliberations. In addition, in identifying the implementation authority for each recommendation, the Task Force drew upon all available data at its disposal. Because of the complexities of the appropriations process, as well as historical precedents, further data could result in a change in the PPSS-identified authority.

It is important to note that cost savings, revenue generation, and cash acceleration opportunities in this draft report may duplicate similar dollar opportunities reported in other task force reports. Thus, there may be instances of double counting of dollar opportunities between task force reports. These duplications will be netted-out in the Final Summary Report to the President. Additionally, dollar estimates in this draft report are based on reasonable and defensible assumptions, including standard three-year projections based on first, second, and third year partial or full implementation will occur. Accordingly, estimated savings or revenue opportunities are understandably of a "planning" quality and not of a "budget" quality. Therefore, the reader should guard against drawing conclusions or making dollar projections based on the disclosures contained only in this draft report.

Following action upon all of the task force reports, the Executive Committee will adopt a Final Summary Report to the President, summarizing the scope of its individual task force recommendations and offering general conclusions and advice.

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EXECUTIVE SUMMARY

The Office of the Secretary of Defense (OSD) Task Force of the President's Private Sector Survey on Cost Control has completed its review of OSD operations selected Department of Defense (DOD) activities. The mission of the DOD is to deter war and, if deterrence fails, to conclude any conflict on terms favorable to the United States. All functions in DOD and its component agencies are performed under the direction, authority, and control of the Secretary of Defense.

DOD's total obligational authority for fiscal year 1983 is currently estimated to be \$239.4 billion. This includes \$61.7 billion for payment of military salaries and retirement; \$66.2 billion for operations and maintenance, including civilian salaries; \$24.8 billion for research, development, testing and evaluation; \$80.2 billion for procurement; and \$6.5 billion for other expenditures.

DOD employs two million military personnel in approximately 5,600 locations throughout the world. There are almost one million reservists and more than one million military retirees. Spouses and dependents of active duty, reserve, and retired military personnel total more than seven million. In addition to the total military-related population of 11 million people, there are about one million civilian employees of the Department of Defense and an estimated three million employees of defense contractors. The policies and programs of the Department thus directly affect the lives of more than 15 million people.

This Task Force reviewed OSD as to both the functions performed within the Agency and its responsibilities for monitoring and controlling functions common to the military services: the Air Force, the Army, and the Navy (including the Marines).

The OSD Task Force did not attempt to assess the appropriate budget level required for DOD to fulfill its mission. Rather, the Task Force sought to identify cost saving opportunities that would enable DOD to fulfill its mission in a more cost-effective manner.

The OSD Task Force analyzed defense cost saving opportunities in the following areas:

- o logistics
- o weapons acquisition
- o retirement provisions
- o health programs
- o personnel and compensation
- o financial controls

Opportunities for Cost Savings and Revenue Enhancements

The OSD Task Force review identified 40 cost savings and revenue enhancement opportunities. When fully implemented, these recommendations could produce annual savings of \$19.3 billion (in 1983 dollars), plus one-time savings of \$4.9 billion, offset by \$1.8 billion of one-time implementation costs. It should be noted, however, that it will take several years to realize fully the savings of some of the more significant recommendations.

In no case do we recommend diminishing the defense program. The OSD Task Force is in full agreement with the need for a strong national defense posture. All recommendations are made with full appreciation of this overriding need.

Almost 40 percent of the recommended savings can be derived from improved management of the weapons acquisition process. The OSD Task Force analyzed the process only. The issue of specific weapons choices was not addressed since this was beyond the competence of the review team and not relevant to our charge.

Overall Findings

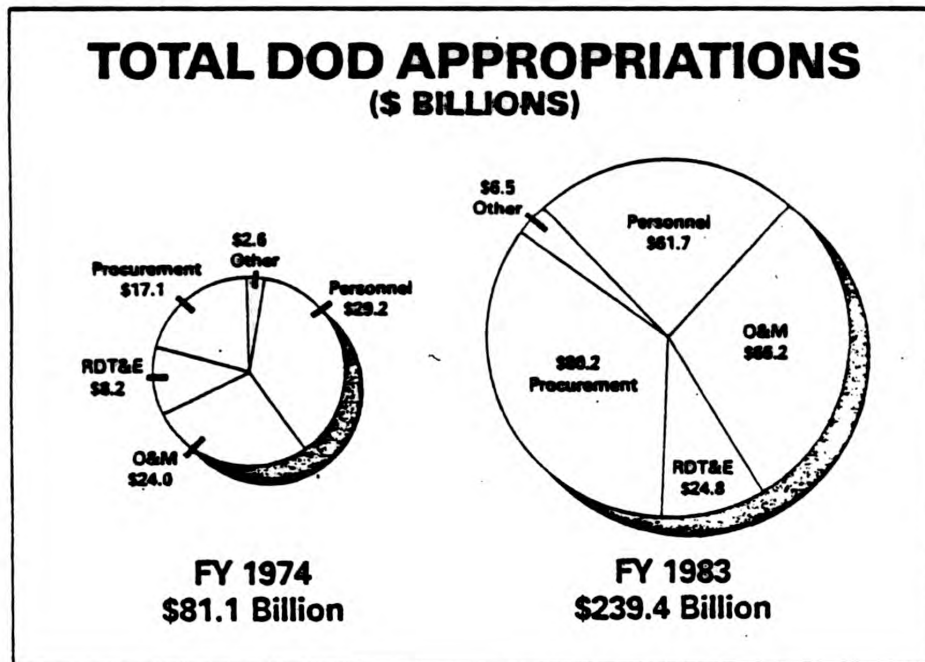
Management of OSD and DOD is an awesome task. The Department has more employees and more locations, and controls more dollars, than any other free world organization. As would be expected in a democracy, DOD is under constant scrutiny by Congress, the Office of Management and Budget (OMB), the White House, the media, special interest groups for and against its activities, its employees, its retired employees, business leaders, and the general public.

Two special circumstances impede efficient management and decisionmaking, as viewed by private sector standards. First, the military services have never really bought into the need for central management by the Secretary of Defense. DOD has been in place for 35 years, but the services still resist its authority. Secondly, Congress continually constricts DOD's management prerogatives. Weapons choices, base deployment, and other major management decisions cannot be made in isolation from home district political pressures from throughout the country. This creates an environment which favors expansion of programs; the management efficiencies of contraction or consolidation are seldom attainable.

Because of the rapidly escalating defense commitment, it is particularly necessary to effect economies where possible. Not only is total spending escalating, but the trends in defense appropriation are changing. From FY 1974 to FY 1983 the following categorical increases are noted:

| | |
|---|---------|
| Personnel costs | up 111% |
| Operations and maintenance | up 175% |
| Research, development, test, and evaluation | up 202% |
| Procurement | up 369% |

Procurement, which is the largest component of the FY 1983 budget, is also growing at the fastest rate. Clearly, it is an area in need of constant scrutiny for management efficiencies. The huge out-year costs of weapons now being developed will exacerbate this trend, as illustrated in the chart below.



Weapons procurement -- the nine recommendations made to improve the weapons acquisition process would save a projected \$18.1 billion in the first three years. Annual savings of almost \$10.5 billion (1983 dollars) would be realized following full implementation of the recommendations over a five-year period.

We recommend consolidating the weapons acquisition function since many of the problems noted are rooted in the organization structure. Further, we recommend steps to reduce instability in the weapons acquisition process. This alone could produce annual savings of \$5 billion or more if properly managed. Instability will also be curbed if DOD exercises discipline to reduce the number of major system new starts each year, to allow for affordability constraints.

Discipline in limiting overly rigorous military specifications and encouraging greater use of common parts will also yield very significant savings. So, too, will a simplification of existing regulatory constraints.

Logistics -- fourteen recommendations are made which produce \$12 billion in savings in the first three years in which savings would be achieved. Annual savings of \$4.1 billion (1983 dollars) would be realized following full implementation of the recommendations. Beyond these savings, there is the potential to reduce inventories by more than \$4 billion if appropriate investments are made to upgrade computer systems and other controls.

Recommendations are made to improve traffic procedures, and depot operations, and reduce the cost of demilitarization of ammunition. Two recommendations will reduce the cost of providing services and support to military bases. Another suggestion will significantly reduce the cost of petroleum products by establishing a realistic bidding procedure to which sellers will respond.

We feel that special steps will have to be taken by the President or the Secretary of Defense to reduce the military base structure in the United States. Congressional barriers erected in the past ten years render it almost impossible to close or realign significant military bases. Even the mention of consideration of a base closure generates adverse reaction from the affected Congressional delegations, community leadership, local private sector vendors, and base employees. Yet the cost of maintaining unnecessary bases ranges from \$2 billion to \$5 billion annually. We recommend that a special commission be established to tackle this thorny problem.

Retirement -- retirement pay for military personnel is rapidly becoming unaffordable for the Nation. A system that starts retirement pay as early as age 37, with benefits

equal to half of terminal base pay or more, generates an enormous outlay for DOD. Given the expected life span of a 37-year-old retiree, it is probable that the total amount he or she receives in retirement pay will exceed the total received for active duty compensation, even before allowances for inflation.

Our four retirement recommendations would generate \$6.9 billion in savings during the first three years that any savings could be achieved. (For our preferred retirement recommendation, savings would not be achieved until eight years after implementation.) We propose to modify the retirement systems by delaying full entitlement to retirement income until 30 years after service entry date, or through an earned income offset so that full military retirement pay would go only to those actually retired from the active work force prior to age 62.

Health -- DOD's health care costs have risen significantly over the past few years, without sign of abatement. DOD runs three separate service health care systems and a Civilian Health and Military Program of the Uniformed Services (CHAMPUS) program for civilian dependents and retired personnel and dependents. These systems are not satisfactorily coordinated to provide incentives for efficient use of health care dollars. Those incentives which are in place tend to drive costs up, rather than down.

We recommend consolidated management of the entire military health care system. Only in that way can needed efficiencies be introduced. CHAMPUS users should be shifted to direct care facilities, where such facilities are locally available. Greater cost sharing should be required by users, in order to induce cost containment actions.

Our four health care recommendations would generate \$3.2 billion in savings during the first three years.

Personnel -- there are four recommendations which address personnel-related issues and would generate savings of more than \$2.2 billion in the first three years. Almost half of this amount would be realized by closing virtually all commissaries in the continental United States, thus eliminating the commissary subsidy from the DOD budget. The commissary system is no longer required to meet its historic mission. In fact, 59 percent of those who use it today are retired military personnel. The private sector provides adequate and affordable access to food and staple items in almost all areas. In those very few areas where it does not, the exchange system could meet such needs without a Government subsidy.

v

Finance -- more than \$2.3 billion in three-year annual savings could be achieved through implementation of the five recommendations made in this area. Financial issues addressed include foreign military sales, Government-furnished material, freight bill auditing, and procurement auditing. A key recommendation is to establish a public audit committee to advise the Secretary of Defense and to instill tighter controls and increased efficiencies in operation from a stronger internal management audit function.

Organization -- the Task Force has analyzed previous studies of the relationship of OSD to the services and the Joint Chiefs of Staff. We have made our own analysis from both an operational and a cost savings perspective. We recommend that a Defense Executive Office be established, comprised of the Secretary of Defense, the Deputy Secretary of Defense, the three Service Secretaries, and the Chairman of the Joint Chiefs of Staff. We recommend the elimination of separate staffs reporting to the Service Secretaries.

In addition, we recommend that the position of Undersecretary of Defense for Acquisition be created, and that this new position and function be separated from the Undersecretary of Defense for Research and Engineering.

Implementation

More than eighty percent of the savings dollars can only be achieved if there is Congressional concurrence. In some cases, affirmative legislation is required. In others, successful implementation of a recommended change can only take place if Congress refrains from blocking DOD's actions. For example, while legislation is not necessary to close a base, too many examples exist where such action has been blocked to say that implementation is in the hands of the Secretary of Defense.

The Secretary of Defense is urged to initiate administrative actions to effect change where he already has such authority and to recommend legislation where such is required.

As the Report clearly indicates, implementation requires dealing with knotty issues like tradition, inter-service rivalries, institutional resistance, and Congressional interposition. It is not an easy task, but it is an important one. All parties should cooperate in effecting the spirit of these recommendations. It is far too costly to the country as a whole, and its Government and people, not to do so.

The Report Recommendations -- A Perspective

It is vitally important that the recommendations in this Task Force Report be placed in perspective. They are the product of an unprecedented and wide-ranging survey that was performed in a politically charged atmosphere by private sector executives and specialists whose services were volunteered. This staff had the formidable task of bringing their expertise to bear on largely unfamiliar and complex Federal operations in the short span of a few months.

Despite these difficult and perplexing challenges -- all of which were anticipated at the onset -- a great deal of valuable work was performed. The recommendations contained in this Report, if implemented, will result in real and significant savings and other benefits to American taxpayers whose hard work and personal sacrifices foot the bill for these Federal programs and operations.

We have sought to be realistic about the recommendations reported. The great majority of them, we believe, are fully substantiated. However, it would be misleading for us to leave the impression that each and every recommendation is rooted in a uniformly high level of research, analysis, and substantiation. The press of time, other business commitments, lack of adequate resources, and other constraints did not always permit the luxury of achieving this desired uniformity.

As a result, and to promote a realistic expectation of recommendations reported, we have evaluated the supportability of the recommendations on their management merits and have grouped them into three categories.

- o Category I -- Fully substantiated and defensible. Recommendations in this category are, in the opinion of the Task Force, convincing and deserving of prompt implementation.
- o Category II -- Substantially documented and supportable. Recommendations in this category may not be fully rationalized or documented in the Report, but all indications point to the desirability and defensibility of proceeding with their implementation.

- o Category III -- Potentially justifiable and supportable. Recommendations in this category, while meritorious, are not regarded as fully supported in the Report, due to time, personnel resources, and other constraints, but are deemed worthy of further analysis to determine the full extent of their merit for implementation.

These category descriptors do not take into account political, social, or economic conditions which may alter the supportability of these recommendations for implementation. Accordingly, it is possible, by grouping the recommendations along the above categories, to assess more effectively the cost savings that can be expected. This analysis permits summary estimates of: (1) firm, (2) probable, and (3) potential savings.

The Report Recommendations -- An Assessment

Based on the above perspective and categorization, an assessment of the reported recommendations is contained in the matrix on the following pages.

| Issue | Category/Three Year-Savings (S) or Revenue Generation (R) (\$ millions) | | |
|---|---|------------|-----|
| | I | II | III |
| OSD 1: Procure petroleum products by competitive bid. | \$514(S) | | |
| OSD 2: Upgrade existing inventory data systems. | \$6,075(S) | | |
| OSD 3: Transfer consumable inventory items to DLA. | \$124(S) | | |
| OSD 4: Consolidate depot level maintenance facilities and management functions. | \$590(S) | | |
| OSD 5: Consolidate wholesale depot operations. | | \$116(S) | |
| OSD 6: Contract out to private sector for demilitarization of conventional ammunition. | \$207(S) | | |
| OSD 7: Contract out under provisions of OMB Circular A-76. | \$460(S) | | |
| OSD 8: Consolidate base support operations across service lines. | \$993(S) | | |
| OSD 9: Realign or close military bases where there are significant saving opportunities. | | \$2,732(S) | |
| OSD 10: Centralize traffic management functions in a single agency. | \$84(S) | | |
| OSD 11: Procure ocean container transportation separately from inland container transportation services. | \$25(S) | | |
| OSD 12: Establish a cargo dispatch function to minimize DOD container detention charges. | \$6(S) | | |
| OSD 13: Integrate Cargo Data Interchange System into DOD program to upgrade its cargo tracking and documentation capabilities. | | \$5(S) | |
| OSD 14: Introduce competitive rate program for movement of household goods to Alaska and Hawaii, and require proper packaging for household goods moved to Alaska by sea. | \$69(S) | | |
| OSD 15: Consolidate the management of the weapons, acquisition function at the OSD level. | I/ | | |
| OSD 16: Consolidate contract administration functions at the OSD level. | \$298(S) | | |

X

| Issue | Category/Three-Year Savings (S) or Revenue Generation (R) (\$ millions) | | |
|--|---|----|-----|
| | I | II | III |
| OSD 17: Modify the Defense Acquisition Regulations to simplify and streamline complex regulatory procedures. | 1/ | | |
| OSD 18: Eliminate complex regulatory requirements associated with contractors' recovery of R&D expenditures. | \$331(S) | | |
| OSD 19: Improve communications between the DOD laboratories and the services, and require more effective coordination of research programs among the labs. | \$1,594(S) | | |
| OSD 20: Where feasible, require the use of common parts in weapons systems and allow tailoring of military standards for specific systems. | \$7,182(S) | | |
| OSD 21: Limit the number of new weapons programs initiated each year relative to projections of available dollars to fund the systems through the production phase. | \$1,523(S) | | |
| OSD 22: Modify existing procedures to ensure more accurate estimates of weapons system costs, and assign the responsibility for monitoring affordability of proposed weapons systems to the DOD Comptroller. | 2/ | | |
| OSD 23: Commit to stable five-year spending plans for weapons systems. Where feasible, introduce multiyear procurement contracts. | \$7,185(S) | | |
| OSD 24: Delay full entitlement to retirement income until 30 years after service entry date. | \$6,401(S) | | |
| OSD 25: Integrate military retirement pay with Social Security benefits. | \$274(S) | | |
| OSD 26: Base military retirement pay on the average of the retiring member's highest 36 months of base pay. | \$122(S) | | |
| OSD 27: Defer the commencement of retirement payments until a member has utilized all accumulated leave. | \$126(S) | | |

| Issue | Category/Three-Year Savings (S) or Revenue Generation (R) (\$ millions) | | |
|---|---|----------|------------|
| | I | II | III |
| OSD 28: Restrict the use of CHAMPUS by beneficiaries who reside in catchment areas. | \$1,179(S) | | |
| OSD 29: Consolidate management of DOD health care resources under a Defense Health Agency. | \$944(S) | | |
| OSD 30: Require more effective cost containment provisions in the military health care system. | \$933(S) | | |
| OSD 31: Discontinue operation of the Uniformed Services University of the Health Sciences. | \$117(S) | | |
| OSD 32: Discontinue operation of commissaries in the continental U.S. | \$973(S) | | |
| OSD 33: Strictly limit the number of exceptions to existing policy on permanent change of station moves. | | \$331(S) | |
| OSD 34: Restrict payments under the Selective Reenlistment Bonus program to skill areas manned at less than 100% of desired levels, and eliminate payments for members with ten or more years of service. | \$626(S) | | |
| OSD 35: Eliminate aviation career incentive pay for members who do not serve on regular and frequent flight duty. Also, reduce payments for members with more than 12 years of service. | \$262(S) | | |
| OSD 36: Establish a DOD Public Audit Committee, comprised of members from the private sector, to review and advise the Secretary of Defense on DOD's internal audit practices and controls. | | | |
| OSD 37: Establish a central audit group with responsibility for internal audit of all DOD procurement practices. | | | \$1,655(S) |
| OSD 38: Contract out the freight bill audit function and credit dollars recovered to the budgets of the transportation procurers. | \$247(S) | | |

X

| Issue | Category/Three-Year Savings (S) or Revenue Generation (R) (\$ millions) | | |
|--|---|----|------------------|
| | I | II | III |
| OSD 39: Improve controls over government furnished materials which are provided to maintenance and production contractors. | | | \$132(S) |
| OSD 40: Consolidate the responsibility for implementing administering, and monitoring the pricing policies for foreign military sales under the DOP Comptroller. | \$249(S) | | |
| Total cost savings by category | \$39,713(S) | | \$4,971(S) |
| Total -- all recommendations | | | \$44,684 billion |

Xii

1/ Savings not quantified.
 2/ Savings included in estimate for USD 23.

I. INTRODUCTION

A. OFFICE OF SECRETARY OF DEFENSE OVERVIEW

The mission of the Department of Defense (DOD) is simply to deter war and, if deterrence fails, to conclude any conflict on terms favorable to the United States.

The Office of the Secretary of Defense (OSD) Task Force is in full accord with the need for a strong national defense posture. All recommendations are made with full appreciation for this overriding need.

The Task Force did not attempt to assess the appropriate budget level required for DOD to fulfill its mission, nor was any attempt made to assess relative merits of weapons systems. Rather, the Task Force sought to identify cost saving opportunities that would enable DOD to fulfill its mission in a more cost-effective manner.

Since DOD's prime responsibility is preparedness, it is tempting to conclude that the high cost of preparedness is not subjected to rigorous challenge by DOD. This would be a simplistic judgment. Task Force interviews and analyses revealed a keen level of concern for the overall cost of the national defense.

At the same time, the Task Force noted that there is a predisposition to avoid any cost savings move that might be vulnerable to either political opposition or to a charge of weakening national preparedness. Readiness is too often given as a reason for continuing a practice when the logic of the practice is challenged. This atmosphere may create a disincentive to implementation of some of our recommendations.

Because of the focus on preparedness, particularly in the military services where the bulk of the dollars is spent, it is essential that continuing emphasis be placed upon cost-effectiveness.

Preliminary research by the OSD Task Force indicated that many cost saving opportunities are not initiated because DOD's culture and structure inhibit the decision-making process. For this reason, a study team was added to determine whether organizational changes could facilitate the cost management process without impairing preparedness. This report makes a number of suggestions to this end.

The OSD Task Force Report avoids confusing cost control with budget slashing. The suggestions made are intended to strengthen military readiness by more efficient use of those dollars which are made available for the national defense. It is up to the Administration and Congress to determine the appropriate budget level for DOD.

Private sector experience can more readily be applied to defense decisions than some might conclude. Both sectors must deliver a product or service at a price that the public is willing to pay. In order to keep the price at acceptable levels, it is necessary to review constantly the cost of delivery of the product or service. Neither the private sector nor the defense sector can afford to let its costs outrun its revenue base, whether that be selling price or taxes.

Competition and the profit motive combine to spark the drive for cost control in the private sector. The risk of confrontation worldwide needs to be balanced against the limited resources available from public taxes to spark a similar drive for cost control in defense.

The premise underlying all OSD Task Force recommendations is that the preparedness level should be maintained or improved, while unnecessary costs of delivering that level of preparedness should be eliminated.

Pervading Atmosphere

War is an undesirable act. Nevertheless, the American people stand ready to support their country when outside threats confront them.

Perceptions of the threat weigh heavily in the decisions made regarding our national defense needs. These perceptions change over time, playing a major role in determining how much of the Gross National Product (GNP) is dedicated to national defense.

But there are other attitudes, rooted in history, which influence defense decisions -- and hence cost:

- o Military versus civilian control -- while the free world has virtually always opted for civilian control at the highest levels, the desire for military decisionmaking by the military is understandable.

- o The traditions of the services and the consequent competition for limited resources -- as an April 1982 Report to the Chairman of the Joint Chiefs of Staff stated, "It is unrealistic to expect the Service Chiefs as a corporate body to help resolve joint issues involving the allocation of limited resources among the four Services."
- o Disdain for centralized control -- despite its 35-year existence, it appears that OSD has not yet been fully accepted by the services. While no intellectual arguments to this effect were presented to the OSD Task Force, it is evident that the emotional undercurrent exerts a constant tug.
- o Lack of incentives for cost control -- although cost control is considered a noteworthy goal, it seems to get more attention when budgets are set, rather than at the time operational decisions are made.
- o Patriotism and its rewards -- Americans who have contributed to the national defense, in whatever way, take pride in their contribution. Over time this pride is accompanied by a feeling of entitlement.

Entitlement

"Entitlement means that a group is to be rewarded at damn-the-cost for service to the nation." So wrote Theodore H. White in his recent book America in Search of Itself (Harper and Row, 1982, page 125).

"Entitlement" is frequently applied to social programs that have been created in the last half century. Whether one thinks of them as good or bad usually depends upon whether one is entitled.

In seeking to determine why cost saving opportunities had not been implemented when they appeared self-evident from a private sector viewpoint, the OSD Task Force realized that there is a pervasive feeling throughout DOD that many areas of the defense budget are hostage to provisions for groups and institutions that regard themselves as "entitled":

- o Weapons programs, once started, are seldom curtailed even in the face of unwarranted cost escalation or performance deficiencies. Project

managers, the services, contractors and sponsoring members of Congress protect them from challenge.

- o Special pay and benefit provisions put in place when military compensation was unduly low are not corrected long after military pay has been brought competitive with civilian pay, both in Government and the private sector.
- o Retirement provisions are not looked at anew, even when the conditions on which they were predicated change.
- o Contractors, large and small, regard continuing weapons and military base contracts as their right.
- o Civilian Government employees and their unions do not necessarily look with favor on cost saving opportunities from contracting out to the private sector. Other recommendations which would reduce staffing are resisted.
- o Members of Congress, local communities and local businessmen are strongly protective of the money spent on local bases, irrespective of their military need or cost-inefficiency.
- o The services cherish historic roles and budget shares, while resisting Defense-wide adaptation to changing world circumstances. They feel they must have their own laboratories and hospitals, and must manage their own housing and bases.

The private sector does not flinch from declaring its piece of the defense pie sacrosanct, as the above list shows.

It is human nature that groups should attempt to preserve historic entitlements. It is not necessarily in the national interest.

A group may have good reason to feel entitled. That does not preclude asking whether the price being paid is too high. The conditions that created a particular program may no longer apply. It is time to look at these entitlement problems in light of this Government's growing deficits, which threaten our economy and overall financial stability.

Organization

DOD is probably the most complex organization in the free world today for several reasons:

- o DOD has great difficulty establishing long-range objectives when its planning horizon is the end of a current Presidential term or, worse, the next Congressional election.
- o The personnel challenge alone involves managing 1,000,000 civilian employees and 2,000,000 military personnel in approximately 5,600 locations throughout the world. This represents approximately 62 percent of all Federal employment, or nearly 15 times as many people as the next largest department in the Government. When 3,000,000 contractor employees are included in the total, the statistics indicate that DOD directly or indirectly employs 5.2 percent of the national labor force.
- o The economics of the DOD are staggering. Defense outlays for 1982 totaled \$183 billion, which represented:
 - 25.2 percent of total Federal outlays;
 - 5.9 percent of the U.S. GNP; and
 - approximately \$800 for every person living in the United States.

The nearly \$100 billion budgeted for major weapons in 1983 is more than the gross revenues of the largest corporation in the United States. The outlay forecast in FY 1983 for military retirement pay alone in the DOD is \$16.5 billion, approximately equal to the gross revenues of the 16th largest corporation in the Fortune 500.

- o The political impact of defense spending puts massive pressure on DOD. Of the entire Federal budget, \$180.5 billion is categorized as "Relatively Controllable Outlays." Of this discretionary spending \$134.2 billion, or 74 percent, is in DOD. This presents a major opportunity for the public, press, lobbyists and Congress to help decide how and where vast sums of money are spent.

- o DOD employs 105,000 engineers and scientists -- 3.6 percent of the U.S. supply -- in research, development, and engineering roles across technologies ranging from food and apparel to the most sophisticated missiles. R&D expenditures in FY 1983 are forecast at \$24.3 billion.

DOD's organization is, by necessity, unusual. This derives, in part, from the need to provide civilian control over a military function.

The competition among the services, and the relationship of the services and their Secretaries to the Joint Chiefs of Staff (JCS), to the Commanders-in-Chief, and to the Secretary of Defense all contribute to the peculiar organization structure. These relationships have been carefully derived, however, and the OSD Task Force has made all organizational cost saving judgments in full recognition of the reasons why these relationships were established.

Ever since the creation of DOD, the services have fiercely protected all functions for which they were historically responsible and resisted attempts to consolidate functions, whether in OSD, in unified commands, or in specified commands. These reactions are generally healthy. Service competition insures that varying viewpoints will be fully weighed by the Department, the Administration, and the Congress, before fundamental questions are resolved.

Frequently, however, the facts may indicate that noncombatant functions can be done better if consolidated, and that consolidation would be more cost-effective. The National Security Act of 1947, as amended, gives the Secretary of Defense the responsibility and the authority to provide for the performance of any noncombatant supply or service activity common to more than one military service by one agency (or such other organizations as he considers appropriate), whenever it is determined to be more effective, economical, or efficient. A number of the OSD Task Force recommendations urge operational consolidation, but all such recommendations are consistent with military management of military functions. These noncombatant consolidation recommendations are made where it is felt that costs can be reduced and effectiveness improved.

These consolidation recommendations do not confuse consolidation with centralization. In some cases, consolidation and decentralization may be appropriate, but decentralization by service may not be the most effective way to accomplish operational efficiency.

Some of the OSD Task Force organizational recommendations are far reaching and novel, to the extent that anything can be novel in this much-studied department. Others have been adequately studied, and can be readily implemented.

Recommendations with respect to weapons acquisition management (p. 134) and overall DOD organization (p. 16) are long range in nature, but very important. Their cost saving potential is significant. The OSD Task Force believes they will enhance effectiveness, that they are directionally correct, and that they can be accomplished. (Nonetheless, they require analysis beyond that which could be accomplished by this survey.)

Management Information

It is evident that management information is not very usable throughout the Federal Government. It is for this reason that the Reform '88 program was announced by the White House in 1982.

This deficiency is especially evident when reviewing the information available in OSD. In part, this derives from the structure of the U.S. Budget. The line item analysis required for construction of the budget is not very useful as a management tool in an organization as large and complex as DOD. Despite this deficiency, the importance and visibility of DOD's budget require the continuing attention of the Department's management. Further, budgets for two to three years are under detailed scrutiny at all times.

Since the budget is not a useful management tool and management information is not readily available otherwise on an ongoing basis, great reliance is placed upon special studies. This is often frustrated by tendency to make no firm decisions in the face of the slightest controversy, resulting in sequential similar studies without resolution. For example, from the first Hoover Commission in 1949 through a subcommittee report of the Senate Armed Services Committee in 1982, there have been more than 20 studies of consolidation, coordination, and regionalization of the Department's health care systems. No definitive action to resolve the obvious problems has taken place, but the studies continue.

Similarly, there have been many studies concerning depot consolidation and maintenance consolidation. These studies are quite costly to perform, yet resolution of the problem is continually deferred.

Archaic data processing systems are documented in this and other task force reports of the President's Private Sector Survey (PPSS) on Cost Control. This situation exacerbates the problem.

In the course of the survey, the OSD Task Force was unable to secure satisfactory data with respect to base consolidation, Government-furnished materials, Government-furnished equipment, base support costs, full health care costs, etc., because of the inadequacies of the management information.

Further, it was noted that while OSD needs a great deal of management information from the services in order to perform its planning and control function, it frequently does not have ready access to the data.

Budget

The appropriations for DOD, the services, and OSD for the past ten years are presented on pages 11-15. For FY 1983, estimated appropriations total \$239.4 billion.

Caveat

It comes as no surprise that an organization with a budget of almost \$240 billion and with more than three million employees provides significant cost saving opportunities.

The issues raised here did not develop overnight. Many are rooted in the years before DOD was created. Many reflect the natural tension that exists between the Legislative and Executive Branches. Some of the issues recommended here have been proposed by DOD in the past, but were rejected or blocked by Congress. In those cases, the OSD Task Force urges reconsideration by Congress and supports DOD's position.

The OSD Task Force was asked to look for cost savings opportunities. By its nature, a report such as this is critical, focusing on areas in need of correction. It cannot be construed as a report card evaluating the performance of OSD or DOD.

The OSD Task Force has been impressed by the quality and the accomplishments of the civilian leadership of DOD

and the military leadership of the services. Hopefully, the recommendations made here will further strengthen their shared goals.

Methodology

The methodology used by the OSD Task Force was basically similar for all issues. The survey began with a literature review, augmented by introductory briefings. Information available through the General Accounting Office (GAO), the Office of Management and Budget (OMB), the Congressional Budget Office (CBO), the Federal Budget, Departmental documents, and private sector sources was scanned to provide initial guidance.

The OSD Task Force staff was divided into teams to review OSD and DOD from the following perspectives:

- o weapons,
- o logistics,
- o financial management,
- o personnel,
- o organization, and
- o legal and legislative issues.

Data gathering pertinent to the potential issues identified by the teams relied significantly upon interviews of Department personnel with the relevant responsibility. Further information was gleaned from financial data available through the Department. Interviews were conducted with knowledgeable sources outside Government, with outside contractors, and with former officials of the Department.

Incumbent officials interviewed ranged from the Secretary of Defense to the line management personnel responsible for the activities under review. Also interviewed were former officials: Secretaries of Defense, Service Secretaries, Chairmen of the JCS, OSD officials, and other members of management from prior Administrations.

In sum, more than 1,000 interviews were conducted in the course of developing the recommendations in this report. Liaison was maintained throughout the survey with the Executive Assistant to the Deputy Secretary of Defense and with the Office of Review and Oversight. Meetings were held

with the Secretary of Defense and the Deputy Secretary of Defense to obtain their perspectives.

The OSD Task Force is very appreciative of the cooperation it received from all segments of DOD, as well as from former DOD officials. The Secretary of Defense and his associates provided ready access to all data requested, to the extent that it was available.

Regular meetings were held between the co-chairs, who were members of the PPSS Executive Committee assigned to the OSD Task Force, and the project management team. The survey scope was jointly determined. The co-chairs provided active oversight and guidance to the Task Force by reviewing progress reports and preliminary findings throughout the survey process.

TOTAL DOD APPROPRIATIONS
(\$ billions)

| <u>FY</u> | <u>Personnel</u> ^{1/} | <u>Operations and maintenance</u> ^{2/} | <u>RDT&E</u> | <u>Procure- ment</u> | <u>Other</u> | <u>Total</u> |
|----------------|--------------------------------|---|------------------|--------------------------|--------------|--------------|
| 1974 | 29.2 | 24.0 | 8.2 | 17.1 | 2.6 | 81.1 |
| 1975 | 31.0 | 25.5 | 8.5 | 16.8 | 3.9 | 85.7 |
| 1976 | 32.8 | 28.7 | 9.5 | 21.1 | 3.3 | 95.4 |
| 1977 | 34.3 | 32.1 | 10.5 | 27.9 | 3.4 | 108.2 |
| 1978 | 36.5 | 34.7 | 11.4 | 30.1 | 2.6 | 115.3 |
| 1979 | 39.1 | 38.0 | 12.4 | 31.4 | 4.0 | 124.9 |
| 1980 | 43.0 | 46.2 | 13.6 | 35.3 | 4.3 | 142.4 |
| 1981 | 50.7 | 55.2 | 16.6 | 47.9 | 8.0 | 178.4 |
| 1982 | 57.6 | 62.0 | 21.8 | 64.3 | 8.1 | 213.8 |
| 1983 (est.) | 61.7 | 66.2 | 24.8 | 80.2 | 6.5 | 239.4 |

1/ Military salaries and retirement.

2/ Includes civilian salaries.

OSD APPROPRIATIONS
(\$ billions)

| <u>FY</u> | <u>Personnel</u> ^{1/} | <u>Operations and Maintenance</u> ^{2/} | <u>RDT&E</u> | <u>Procure- ment</u> | <u>Other</u> | <u>Total</u> |
|----------------|--------------------------------|---|------------------|--------------------------|--------------|--------------|
| 1974 | 5.1 | 1.6 | 0.5 | 0.1 | 1.1 | 8.4 |
| 1975 | 6.0 | 2.4 | 0.5 | 0.1 | 1.6 | 10.6 |
| 1976 | 7.3 | 2.6 | 0.6 | 0.2 | 1.4 | 12.1 |
| 1977 | 8.2 | 2.8 | 0.7 | 0.2 | 1.2 | 13.1 |
| 1978 | 9.2 | 3.0 | 0.8 | 0.3 | 1.5 | 14.8 |
| 1979 | 10.3 | 3.2 | 0.9 | 0.3 | 1.9 | 16.6 |
| 1980 | 12.0 | 3.6 | 1.1 | 0.3 | 2.1 | 19.1 |
| 1981 | 13.8 | 4.4 | 1.4 | 0.3 | 4.1 | 24.0 |
| 1982 | 15.0 | 5.2 | 1.8 | 0.5 | 4.6 | 27.1 |
| 1983 (est.) | 16.2 | 5.9 | 2.2 | 0.8 | 0.3 | 25.4 |

1/ Military retirement only.

2/ Includes civilian salaries.

ARMY APPROPRIATIONS
(\$ billions)

| <u>FY</u> | <u>Personnel</u> ^{1/} | <u>Operations and maintenance</u> ^{2/} | <u>RDT&E</u> | <u>Procurement</u> | <u>Other</u> | <u>Total</u> |
|----------------|--------------------------------|---|------------------|--------------------|--------------|--------------|
| 1974 | 8.8 | 7.4 | 1.9 | 2.5 | 0.7 | 21.3 |
| 1975 | 9.2 | 7.0 | 1.7 | 2.3 | 1.1 | 21.3 |
| 1976 | 9.6 | 8.3 | 2.0 | 3.0 | 0.7 | 23.6 |
| 1977 | 10.0 | 9.2 | 2.3 | 4.4 | 0.8 | 26.7 |
| 1978 | 10.5 | 9.8 | 2.4 | 5.3 | 0.4 | 28.4 |
| 1979 | 11.1 | 10.8 | 2.6 | 6.0 | 0.8 | 31.3 |
| 1980 | 12.1 | 12.3 | 2.8 | 6.4 | 0.8 | 34.4 |
| 1981 | 14.2 | 14.5 | 3.1 | 10.5 | 1.0 | 43.3 |
| 1982 | 16.3 | 16.8 | 3.6 | 13.9 | 1.7 | 52.3 |
| 1983 (est.) | 17.6 | 17.6 | 3.9 | 15.7 | 2.4 | 57.2 |

1/ Military salaries only (including Reserves, National Guard, etc.)

2/ Includes civilian salaries

NAVY & MARINE CORPS APPROPRIATIONS
(\$ billions)

| <u>FY</u> | <u>Personnel</u> ^{1/} | <u>Operations and maintenance</u> ^{2/} | <u>RDT&E</u> | <u>Procure- ment</u> | <u>Other</u> | <u>Total</u> |
|----------------|--------------------------------|---|------------------|--------------------------|--------------|--------------|
| 1974 | 7.5 | 7.3 | 2.7 | 8.6 | 0.6 | 26.7 |
| 1975 | 7.9 | 7.9 | 3.0 | 8.4 | 0.6 | 27.8 |
| 1976 | 8.1 | 9.1 | 3.3 | 10.2 | 0.6 | 31.3 |
| 1977 | 8.4 | 10.6 | 3.7 | 13.1 | 0.6 | 36.4 |
| 1978 | 8.8 | 12.1 | 4.0 | 14.6 | 0.0 | 39.5 |
| 1979 | 9.2 | 13.1 | 4.5 | 14.4 | 0.9 | 42.1 |
| 1980 | 9.9 | 16.1 | 4.6 | 15.8 | 0.8 | 47.2 |
| 1981 | 12.0 | 19.04 | 5.0 | 20.3 | 1.3 | 58.0 |
| 1982 | 14.0 | 21.5 | 7.5 | 26.2 | 0.4 | 69.6 |
| 1983 (est.) | 14.8 | 23.2 | 8.1 | 35.6 | 0.1 | 81.8 |

1/ Military salaries only (including USNR, USMCR, etc.)

2/ Includes civilian salaries

AIR FORCE APPROPRIATIONS
(\$ billions)

| <u>FY</u> | <u>Personnel</u> ^{1/} | <u>Operations and maintenance</u> ^{2/} | <u>RDT&E</u> | <u>Procure-- ment</u> | <u>Other</u> | <u>Total</u> |
|----------------|--------------------------------|---|------------------|---------------------------|--------------|--------------|
| 1974 | 7.8 | 7.7 | 3.1 | 5.9 | 0.2 | 24.7 |
| 1975 | 7.9 | 8.2 | 3.3 | 6.0 | 0.6 | 26.0 |
| 1976 | 7.8 | 8.7 | 3.6 | 7.7 | 0.6 | 28.4 |
| 1977 | 7.7 | 9.5 | 3.8 | 10.2 | 0.8 | 32.0 |
| 1978 | 8.0 | 9.8 | 4.2 | 9.9 | 0.7 | 32.6 |
| 1979 | 8.5 | 10.9 | 4.4 | 10.7 | 0.4 | 34.9 |
| 1980 | 9.0 | 14.2 | 5.1 | 12.8 | 0.6 | 41.7 |
| 1981 | 10.7 | 16.9 | 7.1 | 16.8 | 1.6 | 53.1 |
| 1982 | 12.3 | 18.5 | 8.9 | 23.7 | 1.4 | 64.8 |
| 1983 (est.) | 13.1 | 19.5 | 10.6 | 28.1 | 3.7 | 75.0 |

1/ Military salaries only (including USAF Reserve, Air National Guard, etc.)

2/ Includes civilian salaries

I. INTRODUCTION (CONT'D)B. THE MANAGEMENT ROLE OF OSD: CRITIQUE AND PROPOSALS

The National Security Act of 1947 created an integrated structure to formulate national security policy. Military restructuring was initially intended to bring about unification of the armed forces through the exercise of control and direction by the Secretary of Defense.

After 15 months as the country's first Secretary of Defense, James Forrestal said in a summary report, "The mere passage of the National Security Act did not mean the accomplishments of its objectives overnight." The findings of the President's Private Sector Survey (PPSS) Office of the Secretary of Defense (OSD) Task Force led to the conclusion that it has not happened over 35 years either.

During the OSD Task Force study, debate has raged in Congress, in the media, and throughout the country concerning the appropriateness of the Department of Defense (DOD) budget. It has been sniped at from many directions.

One facet of the debate seems clear. Those who criticize agree only on their criticism of the aggregate cost, rather than specific programs or bases. Those who defend choose to do so in the aggregate as well. Discussion of specifics rarely leads to consensus.

The dilemma of chaos can be illustrated clearly by the following excerpt from the Washington Post on February 2, 1983:

Committee Chairman John G. Tower . . . released a letter to colleagues asking them for military activities that could be eliminated in their home areas to help reduce defense spending.

In a Dear Colleague letter, Tower said he found it "intriguing" that "in one breath Senators will argue for reductions in defense, and then in another breath will argue just as strongly that such reductions should not be made in programs located in their states.

"I would invite every Senator," Tower wrote, "to give me a list by March 1, 1983 of any defense-related project in his or her state where a reduction of expenditures could be made because such expenditure is not essential for national defense."

Laughter broke out in the crowded hearing room at the Dirksen [Senate] Office Building as Tower outlined his proposal.

Laughter comes all too easily if we accept the implicit assumption that this is the system whereby defense priorities should be set. But it is gallows humor, since we also recognize that far more than a grain of truth underlies it.

At least in theory, the Secretary of Defense, with the concurrence of the President, should be able to assess the relative priorities of defense needs and choose those marginal programs, bases and personnel that should be eliminated, should an aggregate reduction of the Defense budget prove necessary. We recognize that this theory may fly in the face of the realities of the democratic process. But the existence of these political realities does not diminish the validity of the theory. Since the theory and the realities will be in constant tension, we deem it necessary that the two sides be fairly balanced.

It is the conclusion of the OSD Task Force that the ability of the Secretary of Defense and OSD to appropriately represent the views of the Administration is encumbered, in significant measure, by DOD's organization and structure.

OSD is encumbered by statute, by tradition, by so-called "political realities," and even by failure to utilize the full powers that are vested in it.

Background

Almost all of the problems addressed in the 40 issues comprising this report have been recognized for many years. Only a few of our recommendations are truly innovative.

In order to get a broad range of perspectives on the management problems we observed, we interviewed a significant number of incumbent DOD officials. We also discussed these concerns with former DOD officials: former Secretaries of Defense, former Deputy Secretaries, former Service Secretaries, and former Chairmen of the Joint Chiefs of Staff (JCS). We also interviewed other knowledgeable persons within and outside of Government. We sought out their ideas on management and organization problems and, in turn, used them as sounding boards for our then tentative recommendations.

Those whom we interviewed told us that OSD is, in many respects, a prisoner of its history.

Historical Analysis

From the earliest consideration of unifying the military establishment, the authority or potential authority of the Secretary of Defense has been controversial. During World War II, the separate War and Navy Departments had been only slightly coordinated by Joint Committees for certain field commands and by civilian emergency agencies.

Following World War II, the War Department argued for a single defense department, while the Navy argued against it. When hearings before the Senate Committee on Military Affairs seemed to be unable to reach an early solution, the President stepped into the fray.

On December 19, 1945, President Harry S. Truman sent a message to the Congress proposing a Department of Defense, saying in part, "One of the lessons which has most clearly come from the costly and dangerous experience of this war is that there must be unified direction of land, sea, and air forces at home, as well as in all other parts of the world where our Armed Forces are serving. We did not have that kind of direction when we were attacked four years ago -- and we certainly paid a high price for not having it."

After delineating the problems of the pre-World War II organization structure and stating that further studies of the general problem would serve no useful purpose, President Truman presented nine reasons for unification:

- o We should have integrated strategic plans and a unified military program and budget.

- o We should realize the economies that can be achieved through unified control of supply and service functions.
- o We should adopt the organizational structure best suited to fostering coordination between the military and the remainder of the Government.
- o We should provide the strongest means for civilian control of the military.
- o We should organize to provide parity for air power.
- o We should establish the most advantageous framework for a unified system of training for combined operations of land, sea, and air.
- o We should systematically allocate our limited resources for scientific research.
- o We should have unity of command in outlying bases.
- o We should have consistent and equitable personnel policies.

President Truman then provided an outline of a unified defense department. Included in that outline was a recommendation that, "The President and the Secretary should be provided with ample authority to establish central coordinating and service organizations, both military and civilian, where these are found to be necessary."

President Truman's general plan was introduced as S. 2044 on April 9, 1946. Agreement could not be reached in 1946. In 1947 a compromise was achieved, and on July 26, 1947, President Truman signed The National Security Act of 1947 (P. L. 253, 80th Congress).

Initially, the Secretary of Defense was designated the head of the National Military Establishment, which consisted of the Departments of the Army, Navy, and Air Force, together with related agencies. The statute empowered the Secretary of Defense to establish "general" policy and programs and to exercise "general" direction, authority and control.

In 1949 the first Hoover Commission recommended that the powers of the Secretary of Defense be strengthened, that statutory authority previously vested in the services be granted directly to the Secretary of Defense, and that

the Secretary of Defense have full authority, subject only to the President and the Congress, to establish policies and programs.

President Truman incorporated these views in a message to Congress on March 5, 1949. He proposed converting the National Military Establishment into the Department of Defense, while providing the Secretary of Defense with appropriate responsibility and authority to fulfill that enlarged responsibility. He urged that the responsibility of the Secretary of Defense to exercise direction, authority, and control over the Department of Defense be made clear and that certain limitations and restrictions on his role as head of an Executive Department be removed.

Congress approved amendments to the National Security Act of 1947, and President Truman signed them into law on August 10, 1949. The Department of Defense was created. The Act vested in the Secretary of Defense direction, authority and control over the Department of Defense. It was no longer "general."

The power to exercise direction, authority and control was not without restrictions, however. Another amendment to the Act provided that:

. . . no function which has been or is hereafter authorized by law to be performed by the Department of Defense shall be substantially transferred, reassigned, abolished or consolidated until after a report in regard to all pertinent details shall have been made by the Secretary of Defense to the Committees on Armed Services of the Congress.

Since 1949 the case for expanding the management powers of the Secretary of Defense has been made a number of times:

- o On November 18, 1952, Secretary Robert A. Lovett wrote to President Truman as his term came to a close. Lovett suggested clarification and strengthening of the Secretary's powers, noting difficulties in asserting authority in the field of supply, warehousing and issue. He cited, with approval, reorganization plans in other agencies under which "all functions of all other offices of a department and all functions of all agencies and employees of a department are transferred to the Secretary of the Department with exceptions, if necessary. The application of this approved procedure to the three Military Departments or the Department of Defense could neatly cure such questions."

- o On April 11, 1953, Secretary Charles E. Wilson forwarded, with President Eisenhower's full approval, a report by the Committee on Department of Defense Organization. The Committee had discussed the major problem of organization and procedure with former Secretaries of the military departments, the military chiefs of the services, with civilians who had held high offices in the Department, and other knowledgeable private citizens. Its military consultants were General George C. Marshall, Admiral Chester W. Nimitz, and General Carl Spaatz.

The Committee Report observed that, "It was not expected in 1947 when the National Security Act was adopted, or in 1949 when it was amended, that the national security organization should be closed to further improvement. While its fundamental practices are still sound, experience indicates that it needs to be amended, and that the organization and procedures of the Department of Defense need to be improved to attain four compelling objectives:

- The lines of authority and responsibility within the Department must be made clear and unmistakable.
- The Secretary of Defense must be able to clarify the roles and missions of the services.
- Planning must be based on the most effective use of our modern scientific and industrial resources.
- The organization of the Department must be able to effect maximum economies without injuring military strength and its necessary productive support."

The Committee Report called for statutory amendments to provide the Secretary of Defense with the following tools of sound management:

- Clear and effective authority over the entire defense organization, and control over the principal personnel, civilian and military, in DOD;

- A system to provide the Secretary with complete, accurate and understandable information on which to base decisions; and
 - An independent audit of programs and of efficiency of performance.
- o On April 30, 1953, President Eisenhower sent to Congress a message transmitting a reorganization plan which would strengthen the authority of the Secretary of Defense along the lines recommended by the Committee on Department of Defense Organization. Aside from the legislative proposal, he noted that he was also clarifying the lines of authority within DOD in order to strengthen civilian responsibility. He underscored the importance of the Secretary's responsibility, noting that:

No function in any part of the Department of Defense, or in any of its component agencies, should be performed independent of the direction, authority, and control of the Secretary of Defense. The Secretary is the accountable civilian head of the Department of Defense, and, under the law, my principal assistant in all matters relating to the Department. I want all to know that he has my full backing in that role.

The reorganization plan that accompanied President Eisenhower's message became effective on June 30, 1953.

- o The second Hoover Commission transmitted its Department of Defense recommendations to Congress on June 20, 1955. For the purposes of our review, the most significant recommendation was to establish a separate civilian-managed agency, reporting to the Secretary of Defense, to administer common supply and service activities. Secretary of Defense Wilson rejected this recommendation in a memorandum issued in March 1956, in which a preference for a single manager system was noted. A few years later Secretary of Defense McNamara did establish three defense agencies for common supply and service activities.

- o President Eisenhower remained concerned about organization and functioning of the Department of Defense, which he addressed in a message to Congress on April 3, 1958. He covered the steps in the unifying process, which have been cited above, but expressed his concern over continuing constraints:

These various steps toward more effective coordination of our Armed Forces under one civilian head have been necessary, sound, and in the direction pointed by the lessons of modern warfare. Each such step, however, has prompted opponents to predict dire results. There have been allegations that our free institutions would be threatened by the influence of a military leader serving as the principal military advisor to the Defense Secretary and the Commander in Chief. There have been forecasts that one or more of the Services would be abolished. As a result, the Secretary of Defense has never been freed of excessive statutory restraints. As a result of well-meaning attempts to protect traditional concepts and prerogatives, we have impaired civilian authority and denied ourselves a fully effective defense. We must cling no longer to statutory barriers that weaken executive action and civilian authority. We must free ourselves of emotional attachments to service systems of an era that is no more.

President Eisenhower asked for more authority for the Secretary of Defense with respect to:

- o more flexible control over appropriated funds;
- o distribution of functions within DOD;
- o control over public affairs and lobbying of services; and
- o transferring top officers between services, with the consent of the individual.

President Eisenhower expressly addressed the inter-service rivalry question, noting that, "the truth is that most of the service rivalries that have troubled us in recent years have been made inevitable by the laws that govern our defense organization." He went on to observe that "these rivalries, so common in the National Capital, are almost unknown in the field. Here in Washington they usually find expression in the Services' Congressional and press activities which become particularly conspicuous in struggles over new weapons, funds, and publicity."

President Eisenhower continued, "I suggest that we be done with prescribing controversy by law. I recommend eliminating from the National Security Act such provisions as those prescribing separate administration of the military departments and the other needless and injurious restraints on the authority of the Secretary of Defense. I specifically call attention to the need for removing doubts concerning the Secretary's authority to transfer, reassign, abolish, or consolidate functions of the Department."

- o This time, however, what Congress gave with one hand, it took back with the other. Under the 1958 Defense Reorganization Act, effective August 6, 1958, Congress granted to the Secretary of Defense the authority, "to take appropriate steps (including the transfer, reassignment, abolition, and consolidation of functions) to provide in the Department of Defense for more effective, efficient, and economical administration and operation and to eliminate duplication."

So far, so good. But they went on, "However, . . . no function which has been established by law to be performed by the Department of Defense, or any officer or agency thereof, shall be substantially transferred, reassigned, abolished, or consolidated . . ." until Congress has been given 30 days notice, after which either House could reject, within 40 days, any transfer or abolition of major combatant functions assigned by law to a military department, so long as in the opinion of that House the proposed action would impair the Nation's defenses.

Thus, Congress responded to the President's request that they remove doubts concerning the Secretary's authority for those key management functions. There no longer was any doubt; Congress had constricted the Secretary's authority even further.

- o While Congress had always been chary of granting the Secretary authority to transfer and consolidate functions, it has been even more restrictive when it comes to base realignments and closures. General support for economy in defense spending evaporates when discussions of closing specific bases arise. Furthermore, the pressure must be initiated by OSD, since Congress and the services have a common interest on this question.

On the one hand, members of Congress are sensitive to the loss or disruption of any major employment source in their districts. On the other hand, having military bases in as many Congressional districts as possible provides the services with high confidence of a favorable atmosphere for military programs. Almost 60 percent of all Congressional districts contain, or are adjacent to, significant installations, which some feel results in a "reciprocal pork-barrel," which is the dominant constraint on base closures and realignments.

Since 1969 resistance to base realignments has been written into law. The National Environmental Policy Act (NEPA) of 1969 has been interpreted to require an environmental impact assessment and, if necessary, preparation of an environmental impact statement before proposed actions are approved.

The 1977 and subsequent Military Construction Appropriations Acts have required NEPA compliance before funds can be used for closure or realignment actions.

In the 1978 Military Construction Appropriations Act, a new section 2687 was added to Title 10 of the United States Code which requires in advance of any closure or realignment action:

- public announcement and notification to both Armed Services committees of Congress that a military installation is a candidate for closure or realignment;

- NEPA compliance;
- notification to both Armed Services committees of Congress of a final decision to close or realign, with a detailed justification for the decision, including statements of the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or realignment; and
- the passage of a 60-day grace period during which no irrevocable action may be taken to implement the decision.

Thus, the stage has been set so that a long period ensues between the time that a base is identified as a candidate and the earliest possible date for implementation. Public opposition, political pressure, and even blocking legislation can occur long before this process can be completed or final decision announced.

This historic analysis has not been comprehensive as it focuses primarily on the legislative trail. At the same time, this historic recitation should reveal clearly that the authority of OSD and the Secretary of Defense is no little matter. Perhaps the independence of this Task Force from vested interest in the resolution will be helpful to those who must make the decisions as to the future of OSD vis-a-vis the Congress, the services, the President and the American taxpayer.

Congress and OSD

Many of those we interviewed are concerned about the trends in defense spending, about the heavy overload in the out years for weapons contracted for, and about the implications of defense spending for the entire national picture. They are worried that, when the out-year costs become clear, there will be massive cutbacks and cancellations, and that much of the money spent in the intervening years will have been wasted. They are further worried about the debilitating effect this will have on the defense industry, where the secondary level of suppliers has become critically weak, largely because of the risks inherent in being a DOD supplier.

This is of particular concern to them because many of them seem to regard Congress as representatives of special interest groups, reacting to legislation piece by piece, with little regard for the long-run picture. It is not difficult to understand why Congress wants such a heavy voice in DOD decisions. The defense portion of the 1983 fiscal year outlays will approach 30 percent of the total. But more importantly, almost 74 percent, or about \$135 billion of the \$180 billion in "Relatively Controllable Outlays" in the entire budget, goes for defense.

Congress is keenly aware that defense decisions are not only large in amount, but they are extremely complex with a heavy element of subjective judgment. Every district feels entitled to a piece of the action.

This creates a dilemma of staggering proportions for even the most conscientious politicians: on the one hand, the need to choose, among strongly lobbied alternatives, the most cost-effective weapons systems for the overall good of the Nation; and on the other hand, the pressure to make these choices based on the specific impact on their own constituencies.

Further complicating the picture is the fact that individual members of Congress frequently have a strong orientation to one or more of the services. Even after 35 years of OSD, Congress continues to deal directly with the services -- and vice versa -- and frequently around OSD. This happens for several reasons:

- o Psychological -- it is easier to identify with the Army, Navy, Air Force, or Marines than with OSD. The uniformed services can attract loyalty that OSD does not naturally come by. Furthermore, we in the private sector are well aware of how corporate headquarters are regarded.
- o Budget -- Congress still approves the budget by service. While the Secretary of Defense has the authority to adjust it to meet conflicting demands, he does not exercise it. The services know who in Congress will fight for their interests.

- o Home district -- the presence of a military base in a district builds a loyalty to that service.
- o Divided opinion -- because DOD does not always speak with one voice, Congress steps in to referee the battles or reconcile the differences to its own satisfaction.
- o Success -- so long as the services perceive that they can get more out of Congress than they can from OSD, they will continue to do so.

It is the view of this Task Force that the country is not well served by the restrictions that sometimes inhibit the Secretary of Defense from exercising good business and military judgment in the choice of weapons systems and base structure. However, the overall problem is one that cannot be solved by people from the outside, private sector or otherwise.

The problems cited by Presidents Truman and Eisenhower still exist. If anything, they are worse in light of the world threat, the escalating cost of defense, and the pervasive feeling of entitlement to the defense dollar.

Perhaps it is time for the President and the leaders of Congress to agree to study the possibility of a Modern Agenda for Military Management. It has been 30 years since the Committee on Department of Defense Organization convened for the last thoroughgoing study of overall organization and procedure.

OSD and the Services

In the course of this Task Force study, hundreds of interviews were conducted in OSD, in the services and other Governmental organizations, with outside contractors, trade associations, think tanks and other knowledgeable observers of DOD.

On paper, and in fact, the Secretary of Defense and OSD have enormous authority, even with the limitations that have been cited previously. However, given that the charge to the office is the overall management of the defense structure, it is instructive to observe how that authority is perceived.

Many of the people who spoke with us noted that, in many respects, the services have never really accepted the need for, the existence and long-term viability of OSD. In the view of many observers, the services simply do not accept the statements of the Secretary of Defense as final; and management throughout OSD does not believe the Secretary of Defense has effective authority over the services.

The purpose here is not to evaluate whether these perceptions are valid, but to point out that they exist. It is also clear that perceptions influence actions. To the extent that OSD management perceives the authority of the Secretary to be less than it really is, that perception may constitute a de facto limitation on its ability to make effective management decisions.

Certainly the analyses of this OSD Task Force could be interpreted to lend support to the ability of the services, sometimes abetted by Congress, to thwart logical cost savings that would derive from consolidation, centralization or better management. See, for example, the following issues:

- OSD 3 Transfer of Consumable Inventory Items
- OSD 4 Maintenance Depot Consolidation
- OSD 5 Wholesale Depot Consolidation
- OSD 8 Consolidation of Base Support Operations
- OSD 9 Base Realignments and Closures
- OSD 10 Unification of Traffic Management
- OSD 15 Improved Organization of Acquisition Function
- OSD 16 Defense Contract Administration Consolidation
- OSD 20 Common Parts and Standards
- OSD 21 Major Systems New Starts
- OSD 22 Estimating Weapons Systems Costs
- OSD 29 Direct Health Care Consolidation
- OSD 39 Government-Furnished Materials
- OSD 40 Foreign Military Sales

Further, a review of the actions of the services after creation of DOD lends credence to the perception of service dominance. The organization structures of the services have not changed much to accommodate to the existence of OSD, except to add interfacing staff positions. The services each seem to have attempted to remain stand-alone units which could undertake full defense responsibility, even if OSD and the other services were to disappear tomorrow.

The services often object to any move that would transfer functions to an OSD entity, even where it has been demonstrated clearly that an OSD agency is more efficient and more reliable. For example, in 1981 the Surveys and Investigation Staff of the House Appropriations Committee came to a conclusion similar to that reached by the OSD Task Force in OSD 3. In its report the Surveys and Investigations Staff said, in part, "The services can interminably rebut, or disagree with any economic analysis performed by any organization regardless of qualifications. It is virtually impossible to perform the finite analysis the services will continue to insist on. The Investigative Staff feels that there is sufficient data and evidence upon which to make a decision on this matter. The services' arguments against the proposal are parochial, and at times even emotional. The time has come to 'fish or cut bait.'" Still, the services continue to oppose this issue.

In the judgment of the OSD Task Force, the primary impediment to the adoption of at least one-third of the 40 recommendations submitted in this report will be the objection of the services to losing exclusive control over that part of the activity which they have historically managed, irrespective of the potential cost savings to the Nation.

In 1958 President Eisenhower attempted to strengthen unification by encouraging transfers of top officers between services, saying, "It is my belief that before officers are advanced beyond the two-star level, they must have demonstrated, among other qualities, the capacity for dealing objectively -- without extreme service partisanship -- with matters of the broadest significance to our national security." Not many feel that this lofty ideal has been achieved. While this Task Force was uniformly impressed by the caliber, intelligence, vision and breadth of the senior military officers that we interviewed, we were nonetheless struck by the strong dominance of their background in their particular service. We were frequently told of the turf battles among the services, as well as among the factions within each service.

Years of tradition, doctrine and behavior created the culture in which service dominance exists. But there appears to be one thing above all that intensifies and perpetuates service dominance: the services never relinquish control of their people, even when they send them to activities such as the Joint Staff, OSD assignments, or to Unified Commands. Their career opportunities continue to rest with their service. Individuals know that if they are to have a future when they return to their service, they must "vote service" whenever presented with the opportunity.

In the period following World War II, President Truman, with the support of General Marshall and General Eisenhower, pushed hard for the unification of the services, but he failed. Later, as President, Eisenhower attempted unsuccessfully to press toward the same end. Today, those we interviewed felt that the need for integration and coordination of the services is growing increasingly stronger. DOD must find a way to get not only good coordination and priority setting among the services, but also their support for sensible proposals that set aside the individual service bias that each senior officer carries.

The recommendations that follow throughout this report are intended to be sensible proposals. They frequently call for OSD, a defense agency, or civilian contractors to perform nonmilitary tasks, not only because they can be done more efficiently there, but also because it frees up talented military people to perform their military role.

Finally, throughout our interviews we found a wide body of opinion to the effect that the staffs of the Service Secretaries are really anachronisms in light of the respective responsibilities of OSD and the Service Chiefs' staffs. We heard this view expressed by managers positioned throughout the organization, including former managers in the Service Secretariats. Many feel that these staffs are redundant, and that the Service Secretaries should rely on the Service Chiefs' staffs and OSD for that support which cannot be eliminated.

Analysis of OSD Organization Structure

We found organization structure a very difficult issue to explore. When we probed into this area, nearly every manager queried had the same response, "We really don't have any organization structure problems. What we need is better people." The record indicates that this simply is not so. It would be hard to prove that top managers in DOD

have been anything less than exceptional people -- people who had performed well in previous positions and who performed well after they left DOD.

The fact is that DOD does not perform as well as it might, and we believe there are some structural problems which contribute. Further, we believe that more good people will not necessarily make a significant difference unless the organization is designed to operate efficiently and economically. The most telling comment we heard often in proof of this was, "The minute we have a crisis, we cut through all the bureaucracy, and things get done." The obvious question then is why not design for everyday operation the organizational structure that works when it must. One reason is that the DOD organization does not feel it has the freedom to organize itself to do its job most effectively. In fact it cannot, as the historical analysis above clearly demonstrated.

In the years since its creation, DOD has been faced with constantly changing demands on its organization: gearing down from World War II; rearming for the Korean conflict, then later cutting back to normal peacetime operation; building up to fight the Vietnam action in the face of tremendous opposition from the people, the press and influential members of Congress; then once again scaling down during the 1970s, only to begin a dramatic push for rearmament under the Reagan Administration. Entwined with these needs to expand and contract have been pressures to consolidate and centralize at times, and to decentralize at other times.

In a number of DOD units, duplicated or overlapping functions have been consolidated into single organizations. We find that OSD has taken on the role of managing several consolidated functional groups, such as the Defense Logistics Agency (DLA), the Defense Mapping Agency (DMA), the Defense Communications Agency (DCA), and others. This has resulted in some very strange organizational combinations:

- o DLA, the major procurement and supply agency for the consumables used by the services, employs nearly 50,000 people and spends \$20 billion per year. It is generally agreed that DLA is a successful consolidation of functions formerly duplicated among the services.

This consolidated line organization reports to the Assistant Secretary of Defense who has the staff responsibility for Manpower, Reserve

Affairs and Logistics. Though logistics has been added to this Assistant Secretary's title, this does not alter the fact that the main mission of DLA has little to do with the balance of the responsibilities of the Assistant Secretary. DLA's primary mission is to support the services and the Unified and Specified Commands.

- o DMA, also considered to be a successful consolidation, employs 9,000 people and makes maps to support military operations throughout the world. This line organization works in direct support of the Commands under the Chairman of the JCS, but reports to the Under Secretary of Defense for Research and Engineering.
- o DCA, the organization through which the Chairman of the JCS communicates with the Commands, also reports to the Under Secretary of Defense for Research and Engineering.

These are organization patterns which would simply be ignored in the event of crisis. In fact, they are often ignored in the normal course of business. This mixture of line and staff functions in an organization creates many problems in setting priorities. Typically, in the private sector, such "two-hatted" managers give their attention to their line units, so the staff work and long-term planning suffer. Experience has shown that operating line units should report to line management and that staff units should report to staff management. In addition, private sector experience certainly supports decentralization of functions, responsibility and authority as an effective way to bring focus and identity to the product or service outputs of an organization.

These hybrid organizations are among the many causes of what we saw as another problem throughout DOD: overly large spans of control. We found many managers with anywhere from 15 to 30 people or organizations reporting to them. When we probed this we were told, "Well, that really doesn't happen. He doesn't see him that often, etc." Common private sector practice normally limits spans of control to six to eight, perhaps ten in unusual situations. A span of 20 or more simply cannot work.

Another factor encouraging these enormous spans of control was the civilian personnel system. It appears that under this system, supervisory positions are often evaluated

on the basis of the span of control; i.e., the number and the highest level of personnel reporting to that supervisory level.

Our survey indicated that the DOD organization contained a number of units which duplicated the structure and function of other units. Many organizations perform similar functions in OSD, in each of the staffs supporting the Services Secretaries, and again in the staffs reporting to the Service Chiefs. We interviewed a number of managers who argued persuasively that "the staffs reporting to the Service Secretaries are anachronisms, left over from their days of Cabinet rank. They communicate up to their counterparts in OSD and down to their counterparts in the service organizations. They translate DOD policy into appropriate terminology and publish the policy for use in their service. They often impede efficient, economical operation. We could eliminate them entirely, strengthen OSD's staffs to communicate directly with the staffs reporting to the Service Chiefs, and never miss the Service Secretaries' staffs at all. In fact, it would tighten the overall organization to eliminate the Secretaries' staffs, and ask the Secretaries to use the service and OSD staffs."

The following are some outstanding examples of duplication of effort:

- o There are large Manpower and Reserve Affairs organizations in OSD reporting to the Secretary of Defense; again in the Service Secretariats, reporting to the Service Secretaries; and then again in the services, reporting to the Chiefs. Among top managers, there was a widely held belief that these responsibilities should be assigned largely to the Service Chiefs. Then, the Manpower and Reserve Affairs unit in OSD could be reduced drastically, keeping only the minimum organization needed to deal with DOD-wide issues, such as the all-volunteer force and compensation matters.
- o Throughout the acquisition system in DOD, there are major overlaps of functions in OSD and the services which make the process of acquiring major weapons systems both more costly and more time consuming than necessary.
- o There are people performing legislative and public affairs functions in OSD, the Service Secretariats, and in the staffs reporting to the Service Chiefs. The organizations in the services tend

to focus their attention on the specific needs, programs or activities of their particular service. We found that in many cases, the individual services maintained more extensive lobbying or public relations efforts than OSD. While this may be good for the particular service in the short term, activities which tend to focus on individual services create inter-service issues or conflicts which are often counter-productive to the accomplishment of DOD's mission. President Eisenhower also addressed this subject in his message to Congress requesting reorganization of DOD in 1958, using these words:

. . . a principal outlet for service rivalries is the public affairs and legislative liaison activity within each of the military departments . . . Surely everyone will agree that personnel charged with such duties should not seek to advance the interest of a particular service at the expense of another, nor should they advance a service cause at the expense of overall national and defense requirements. We do not want defense dollars spent in publicity and influence campaigns in which each service claims superiority over the other and strives for increased appropriations or other Congressional favors.

I have directed the Secretary of Defense to review the numbers as well as the activities of personnel of the various military departments who engage in legislative liaison and public affairs activities in the Washington area. I have requested that he act, without impeding the flow of information to the Congress and the public, to strengthen Defense Department supervision over these activities and to move such of these personnel and activities as necessary into the Office of the Secretary of Defense.

Now, 24 years later, we still find active legislative and public affairs organizations in each of the services. Beyond the negative effects of

these overlapping organizations, this suggests that it is almost impossible to eliminate a function in DOD. One senior official told us, "The organization in DOD is like a starfish: it regenerates lost parts."

We found no clear insight or emphasis on long-range planning of organization structure. We asked organization analysts in OSD what the ideal organization should look like to fit the functions DOD performs. The response: "Whatever the current Secretary wants." We asked how organization planning was done and how change was accomplished. The response: "Functions can't really be eliminated. We don't really change much; we just move the blocks around. We're prevented from really changing by external forces."

Further, there appeared to be no good process in place for organizational self-analysis, which would increase the awareness of a need for improvement in structure.

The net result of these structure problems is an organization that breeds all of the typical problems of a bureaucracy: slow response, unclear reporting lines, major overstaffing, and too much internal bickering over who should do what.

Recommendations

Throughout this report are recommendations that will strengthen the ability of OSD to perform consolidated functions for DOD and its services at considerable cost savings. Defense agencies or new consolidated operations are recommended or could be considered for many issues:

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| OSD 8 | Consolidation of Base Support Operations |
| OSD 10 | Unification of Traffic Management |
| OSD 16 | Defense Contract Administration Consolidation |
| OSD 29 | Direct Health Care Consolidation |
| OSD 37 | Procurement Audit Service |
| OSD 38 | Freight Bill Audit |
| OSD 40 | Foreign Military Sales |

Beyond these specific issues, our analysis of the problems of the weapons acquisition process in Issues OSD 15 through OSD 23 has led us to suggest consideration of a major overhaul, leading perhaps to the consolidation of this process in OSD. This recommendation is outlined in detail in Issue OSD 15.

While the consolidation of responsibility for the acquisition process would be a major undertaking, it would solve many of the problems that have been outlined in this chapter. It would also transfer to OSD activities that can best be addressed by civilians, freeing up military leadership for purely military functions. It would enable Congress to look to a single source for comparative information on weapons alternatives, and it would assure evenhanded treatment of contractors.

Finally, in terms of overall organization of DOD and in light of the problems that surfaced in the course of the OSD Task Force study, we have several proposals to make:

- o We recommend the creation of a Defense Executive Office to include the Secretary of Defense, the Service Secretaries, the Chairman of the JCS, and the Deputy Secretary of Defense. If the Secretary of Defense deems it appropriate, the Under Secretary for Policy could also be a member of the Defense Executive Office.
- o We recommend the designation of an Under Secretary of Defense for Acquisition (a new position) separate from the Research and Engineering function, which would continue to be under the direction of the Under Secretary for Research and Engineering.
- o We recommend that the DLA report to the proposed Under Secretary of Defense for Acquisition.
- o We recommend the elimination of the staffs reporting to the Service Secretaries and the transfer of any functions which cannot be eliminated to OSD or to the staff of the appropriate Service Chief.

The proposed DOD organization chart and the existing chart, both in simplified form, are illustrated on pages 40 and 41.

Many large private sector organizations, recognizing that the burden of coordinating a large complex enterprise is beyond the capability of one or two people, have created Offices of the Chief Executive. Placing top DOD officials in a coordinating role with the Secretary of Defense will strengthen the DOD-wide decisionmaking process, provide better representation of individual service views at the top of the organization, establish a base from which to achieve better unified decisions and actions among the services, and relieve the span of control problem of the Secretary of Defense.

The designation of an Under Secretary of Defense for Acquisition will provide a separation of two organically separate disciplines and spread an enormous work load. The need for an Under Secretary of Defense for Acquisition seems apparent under current circumstances, but would be all the more necessary if the recommendations contained in Issue OSD 15 were implemented.

We believe that in aggregate, these recommended changes in organization structure would significantly improve DOD's operation by:

- o providing more and broader leadership at the top of the organization;
- o providing an organizational framework which will work to enhance, rather than inhibit, unified decisions and actions;
- o reducing staff and thus saving money and improving efficiency;
- o separating line and staff functions for maximum effectiveness;
- o reducing spans of control to reasonable operating levels; and
- o recognizing the clearcut distinction between the acquisition function and the research and engineering function.

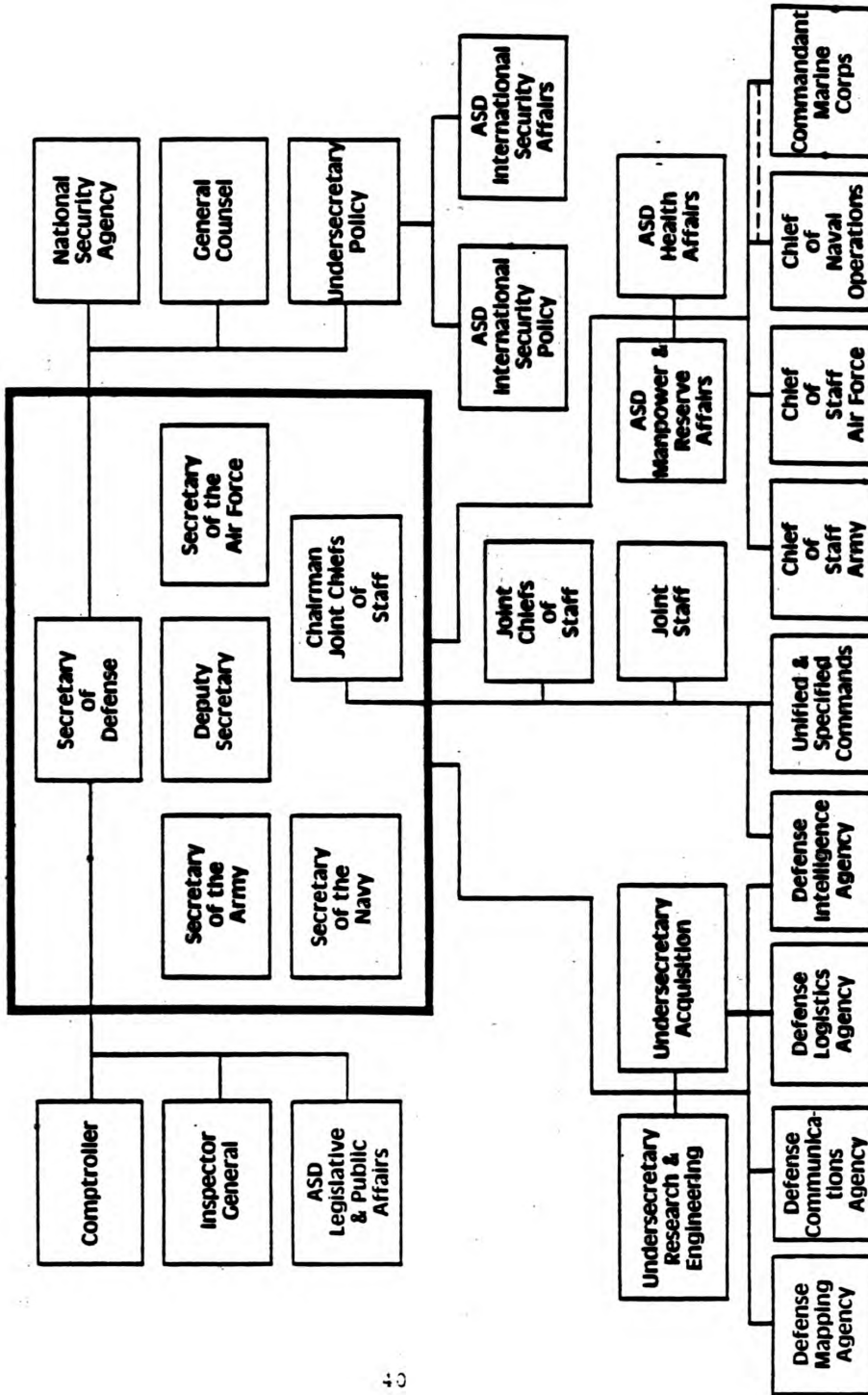
Specific recommendations concerning the organization of JCS are beyond the scope of this Task Force's charter. It should be pointed out, however, that many respected military and civilian leaders believe that it is timely to consider options for JCS reform. (See U.S. Congress, House of Representatives, Reorganization Proposals for the Joint Chiefs of Staff, Hearings before the Investigation Subcommittee, 97th Congress, 2nd Session, April-August 1982.)

It has been stated that some reform of the military staff system is necessary to provide the civilian leadership with more objective judgments as to what priorities should exist. Some believe that it is too much to expect that the JCS, whose members are also individual Service Chiefs, and a Joint Staff composed of members who serve brief tours -- always dependent on their individual service for promotion, career path, etc. -- could be institutionally capable of providing the Secretary of Defense with the kind of objective advice he needs.

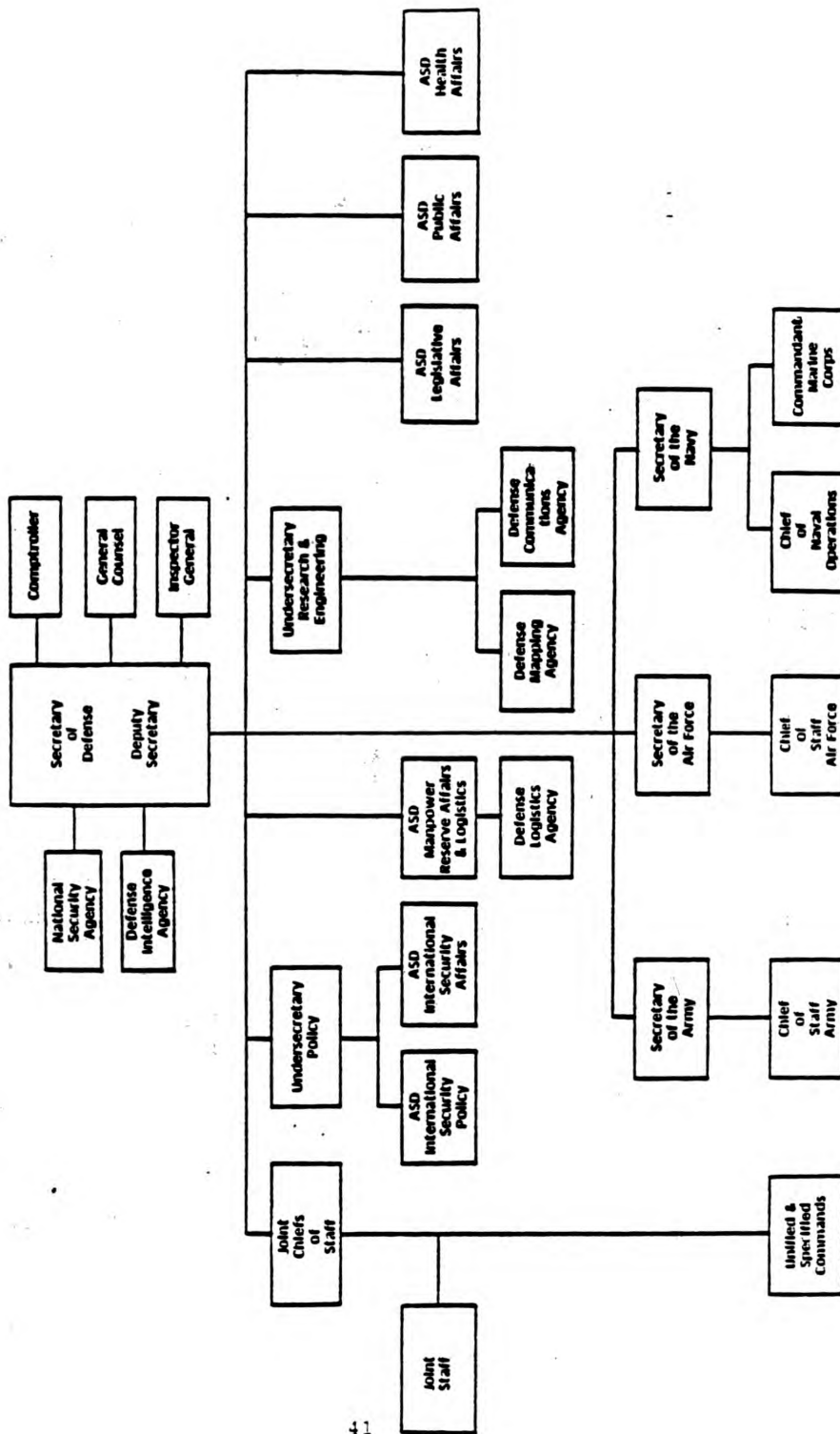
Many different proposals have been advanced, e.g., strengthening the role of the Chairman of the Joint Chiefs; changing to a single Chief of Staff, supported by the General Staff with a unique promotion track, etc.

It might very well be appropriate to consider JCS reform in conjunction with our proposals for the reorganization of OSD and the acquisition process.

Proposed Organization The Defense Executive Office



Present Organization



4-1

I. INTRODUCTION (CONT'D)C. DOD MANAGEMENT CLIMATE

Early in our investigations, we found that structural and cultural problems in the Department of Defense (DOD) often inhibited, and sometimes totally prevented, successful exploitation of cost saving opportunities. We interviewed civilian and military managers at all levels throughout DOD and talked with former officials and other experts with particular insights into these matters. We studied how the organization is structured and how it operates. From this background and our private sector experience, we developed recommendations for improvement. While some of our recommendations will result directly in identifiable savings, we expect most of them will accomplish more by improving the structure and functioning of the organization, and thus will provide a supportive apparatus for ongoing cost savings activity.

The Introduction noted that DOD is probably the most complex organization in the free world. Beyond this inherent complexity, there is a major factor which has a pervasive impact on the efficiency and effectiveness of DOD's operation -- management turnover. There are several understandable reasons for this high turnover:

- o The political cycle virtually assures a complete change of top management at least every four years. In fact, the average service of Secretaries of Defense has been 26 months.
- o Military transfer policies establish the tour of duty for officers in DOD as three years.
- o Military and civilian retirement policies provide incentives for successful top managers to retire a number of years earlier than their counterparts in the private sector -- often just as experience brings them to the peak of their productivity.
- o Salaries and other rewards for top managers are not competitive enough to attract or retain the highest caliber people, except for those who are more motivated by psychological rewards.
- o Frustration over not being able to make right things happen frequently drives managers to leave after brief careers.

Top management turnover is a problem throughout Government, and certainly is not unique to DOD. Even though we understand that reduction in turnover could bring improved efficiency, we have taken high turnover as a given and focused our attention on factors more controllable within DOD.

In our investigations, we probed primarily to find the areas which need to be improved. Thus, we deal in our report almost exclusively with the negative aspects of organization structure and culture. Lest this be misunderstood, we must make several important points:

- o To varying extents, most large organizations exhibit the kinds of problems we saw in DOD. Our interest is to point out, based on private sector experience, how DOD might improve the way it handles organizational problems.
- o We interviewed, and were otherwise exposed to, large numbers of managers throughout DOD during the four months of our investigation. While our objective was not to evaluate individual performance, we were impressed with many of the civilian managers and their level of talent and experience. We were particularly impressed by the breadth of outlook, the dedication and level of administrative and managerial skill we saw in the senior military officers.
- o We have not dealt with the question of financial rewards. Obviously, the statutory limit on the salaries of top managers and the rapidly escalating salaries of those below this limit combine to provide a wrenching force within this organization. When we talk of the reward system, we mean to include promotion, status, recognition and all of those intangibles which are so helpful in motivating managers to take increased responsibility, to perform better, and to gain additional satisfaction from their jobs.

In our study we found attitudes, traits, traditions and practices which prevent DOD from performing its mission as effectively and economically as it might. These can be grouped into four major topic areas:

- o Roles and Missions,
- o Personal Accountability,
- o Management Focus, and
- o Resistance to Change.

Roles and Missions

Management has not adapted the roles and missions of the major organizational components to changing conditions.

Organizations throughout DOD have extremely detailed statements of roles and missions. But close examination showed many of these organizations do not function the way their statements say they should. Organizations have taken on different roles and missions for a number of reasons: because they were told to make the change; because a subordinate organization did not perform; because external pressure forced the most expedient change to be made; or because functions were consolidated, and it seemed there was no other central place for the new organization.

OSD itself is an organization which would insist it has a well-defined role and mission. It seems clear that the OSD organization should set long-term objectives for DOD, develop policy, coordinate the activities of the services, establish overall priorities for projects among the services, and follow up to insure that policies are executed and missions accomplished. Yet we found widespread feelings that OSD interfered with the service organizations by micro-managing their businesses, and that OSD was not performing the function that subordinate units needed the most: setting long-range objectives and leading the way, consistent with the limitations imposed by the political process.

Interviews with former Chairmen of the JCS revealed a major common thought: warfare has changed dramatically in the past 25 years. We will never be able to fight again as we did in World War II; yet we have made few adaptations to the warfare of the future by changing the roles of the services or by redefining the interfaces between them.

We found people expressing a number of reasons why they thought roles and missions had grown fuzzy. They felt that neither Congress nor the services ever really faced up to the existence of OSD at its inception. The most noticeable evidence of this was that many staff functions which were placed in OSD were never completely eliminated from the staffs of the Service Secretaries. Over the years, OSD's role was perceived to have been altered dramatically under some Secretaries. Roles also grew unclear because emphasis was on the political, the expedient, the doable. People told us, "We really shouldn't have given them that job to do. It was doomed to be ineffective, but we had to do something. We did what we could do, not necessarily what was best."

This lack of clarity naturally created problems in the organization. The area of turf battles was the single topic discussed by every person we interviewed. Obviously, when roles and interfaces are not clear in an organization, it invites and even encourages turf battles. In the longer term, the issues which cause these struggles for identity lead to new organizations to counteract or to watch the "offending" organization.

Recommendations

DOD top management should jointly define for each of the major organizational components in DOD the ideal role and mission which would enable it to perform best its share of the total mission in the future.

DOD management should give particular emphasis in its role review to the following topics:

- o The proper division of roles among OSD, the Service Secretariats, and the staffs of the Service Chiefs -- within these staffs, there are many firmly entrenched organizations performing similar functions. We recommend that each function be consolidated to the greatest practical extent, and then be placed where it will be performed best. We also recommend that the function and the people performing the function be removed from the other organizations.
- o Centralization vs. decentralization -- we recommend that management work toward developing decentralized, more manageable units which can identify with output products or services.
- o The proper role of the JCS -- to improve the effectiveness of their operation.
- o Management of the acquisition of new weapons systems -- we have recommended that acquisition functions be separated from the research and engineering functions to put additional emphasis on the execution phases of the acquisition process. See the prior chapter and Issue OSD-23 for a more detailed analysis of this recommendation.

DOD management should work with subordinate management to develop the ideal roles and missions for its units, following redefinition of major component roles above.

Personal Accountability

Management does not clearly delegate authority along with responsibility.

We interviewed many managers who exhibited little keen sense of responsibility, who voiced in different ways a sense of futility about their jobs, and who felt they could not really do anything to influence the course of actions. They felt a remoteness from the action and a concern that good performance was not really recognized and rewarded.

As we probed deeper, we found a widespread belief that all authority rested somewhere up at the top of the organization and that individuals could not really decide anything by themselves. There appeared to be a perception at the working levels that the top of the organization did not really trust or rely on them. There seemed to be a pervasive feeling that if an individual manager stuck out his or her neck to make a tough decision, the personal risks were so high as to outweigh the potential benefits.

We developed a feeling that the system was at fault more than the people themselves, and felt that the attitudes we found need more probing.

We found several underlying causes for these common feelings of impotence. A manager in DOD really understands that his or her decisions are made in a goldfish bowl. Congress, the press and the public are perceived to pounce on the slightest move a person makes which would set him or her apart from the pack.

The use of committees throughout DOD serves to confuse and separate authority and responsibility. Early in 1981, there was an intensive campaign to eliminate or consolidate committees. DOD eliminated 187 committees, or 30 percent of those in existence. But 437 committees remain, 153 of them in OSD -- 85 of these in Research and Engineering, 26 in Health Affairs, and 24 in Manpower, Reserve Affairs and Logistics. In addition, there are scores of groups which are not called committees, but which function in a similar manner, such as task forces and study groups.

One high-ranking OSD official told us, "Committees result in consolidating the opposition and in generating the lowest common denominator actions and recommendations. They are used as convenient stalling mechanisms. They are sieves, and by the time the information reaches the Secretary, only the pap remains."

The frequent investigations by outside groups further serve to heighten a manager's feelings that he or she is not trusted. A DOD manager is the target of outside investigations -- the General Accounting Office (GAO) and the Office of Management and Budget (OMB) continually, and periodically, from investigations such as ours.

Further, there were strong feelings that the reward system did not really recognize individual initiative and tough decisionmaking. Managers felt they would do much better to fit in and survive than to excel and stand out. Clearly, the reward system is not totally helpful. It tracks seniority. Lower and middle managers are probably overpaid for what they really do, and top managers are underpaid, by statutory limitation, compared to their private sector counterparts.

Another negative impact of the reward system in the broadest view concerned self-policing by managers. If they "blow the whistle" -- that is, if they muster the courage to say, "My program should be slowed or stopped." -- they run a major risk of damaging their career. Thus the system motivates them to continue until someone else shuts them down, which does not often happen.

These feelings of lack of personal accountability start a chain reaction that ultimately has a profound negative effect on the entire organization. First, managers begin to delegate their responsibility back up to where they perceive the real authority is. Then, the upper levels of the organization become overloaded. They respond quite naturally by adding deputies and assistants. When this process does not totally solve the problem, they begin adding layers to the organization, and this diffuses authority and responsibility even further.

This is in direct contrast to private sector experience which has clearly demonstrated that the effectiveness of a large, complex organization improves when authority is delegated down into the organization along with responsibility. Decisions then are made by those with either the most pertinent knowledge of the situation or with the highest stake in the outcome of the decision.

For a number of reasons Government, and DOD in particular, does not delegate authority well. The impact of holding authority at the top of the organization -- or of creating the perception of holding authority -- is to weaken the entire organization. The lower levels do not really create and innovate: they respond to the hierarchy rather than propose and initiate; they pass the buck upward to avoid risks, or do what they think the boss wants. This results in tremendous overloads at the top of the organization.

The one-on-one structure of the Secretary and Deputy Secretary simply does not offer any relief for this overload. This is why, in the previous chapter, we recommended creation of a Defense Executive Office to strengthen the Secretary's ability to coordinate operations, reduce his span of control, and provide a crisp, clean structure which would make delegation of authority easier.

Beyond the Secretary's immediate office there are delegation problems well down into the organization. Each level needs to examine itself very carefully and develop ways to delegate more effectively.

Recommendations

DOD top management should develop a program to delegate specific authority for actions down into the organization along with responsibility.

DOD top management should move to take decisionmaking authority out of the hands of committees, to assign specific authority to the single individuals who should make these decisions, and to eliminate any committee not specifically needed for communication.

DOD management should insure that promotion and other appropriate rewards go to those managers who set and achieve challenging objectives.

Management Focus

Management focuses on activities instead of results, the short term versus the long term, and the expedient rather than the ideal.

While management by objectives has proven itself effective throughout the private sector, management by activity is firmly entrenched in Government, and DOD is no

exception. Throughout our interviews, we asked managers where their organizations were headed, what their basic objectives were.

The two largest operating units under OSD are the Defense Logistics Agency (DLA) and the Defense Mapping Agency (DMA). Both of these agencies, managed by experienced senior military directors, have in place crisp, clear objectives programs which are understood well down into the organization. But these proved to be the exception. Within the staff organizations of OSD, our questions brought viewgraph presentations of organization size, budget and mission, followed by articulate descriptions of programs underway.

When we asked about performance, we were told most often that a particular organization performed "very well." When we asked how the performance was measured, we found little or no relationship to hard measures or established objectives. We found that people often measured an organization's effectiveness by the lack of noise about that organization in the system; i.e., "if we are not hearing bad things about them from other organizations, and we are not getting a lot of griping from within, we assume they are performing well."

We also asked why so much emphasis is placed on the short term. We were told repeatedly by top managers, "I arrived on the job behind and was under so much pressure from the in-box that I never could stop to plan ahead." One, a former Chairman of the JCS, told us, "I envy you the opportunity to study this organization. You've asked me questions about how we operate that I never had time to think about or ask. I was always too busy with things that had to be done immediately." Another former Chairman said, "I could never see beyond the next budget."

A key point is implicit in these comments from the leaders of the organization: if the top managers do not have time to plan ahead, and to set goals and manage by objectives, how can they possibly expect their subordinate managers to do so? We were told repeatedly that goal setting was more difficult in Government than in the private sector because the profit motive was absent. Our conclusion

is that, because there is no profit motive, and because there is such high turnover in top management, there is far greater need for long-term goal setting in Government than in the private sector to the extent that it can be done in the context of a four-year Presidential term and biennial Congressional elections.

Recommendations

DOD top management should develop a clear, concise set of long-range objectives for DOD.

DOD management should require each subordinate organization to develop clear, concise objectives for its operation -- both for the short term and for the long term.

DOD management should initiate a follow-up process to insure that objectives are set and then met, and that appropriate recognition and other rewards go to managers who improve the efficiency of operations and successfully reduce costs.

Managers throughout DOD should work within their organizations to develop alternatives to the bottom line profits of private sector organizations so they can objectively measure progress and performance against their goals.

Resistance to Change

Management and the system have jointly convinced people that if they innovate, it offers more personal risk than benefit.

Throughout our interviews, we inquired about the process used in DOD to stimulate and manage change. We found a wide diversity of attitudes. In the agencies which produce and supply items to end users, we found relatively little resistance to change -- and a very clear understanding that they needed to continue to improve their service and reduce their operating costs. Over the past ten years, for example, DMA has managed a major evolutionary change from 99 percent paper maps to a 50:50 mix of paper and digital maps. It has managed the introduction of this new technology in such a way that significant increases

have been made in productivity, and improvements in morale have been achieved as welcome side effects.

In the staff organizations, we saw the more classic bureaucratic reactions to change, "We don't really need to change, just do what we're doing better. Making change happen is just so difficult it's not worth the effort. If we change to suit this boss, he'll be gone soon and the next one probably will want something different anyway. We can't change things -- it will affect readiness, or we can't change things because 'they' won't accept it."

It is easy to understand why career bureaucrats resist change. Managers at the very top find it is not easy to stimulate change. The fate of the Acquisition Improvement Program is often used as an example of the sluggishness of the organization's acceptance of change. In September 1982, Government Executive reported, "After more than a year, the [acquisition] Initiatives are still mostly top-level talk and grass-roots inaction. What has been said by the Pentagon policymakers is not being done." This is sad, given the fact that most managers in industry and Government alike believe that the changes in the acquisition process proposed by these initiatives are necessary, and will be helpful in reducing the cost and delivery time of major weapons systems.

Exploring this area further, we found that few management tools are in place to make innovation automatic. Most private sector companies establish guidelines to demonstrate their willingness to invest capital to reduce costs, improve service or increase productivity. Instead, the Government sometimes sets up systems which inhibit or retard change.

Private sector management has developed effective programs to encourage employees at all levels to question each phase of their operation, not merely to find ways to improve the operation, but to ask the basic questions: Why does this task need to be done at all? Can it be eliminated entirely?

Again, as in our discussion of personal accountability, we found that personal risk enters the arena of resistance to change. Large numbers of managers in DOD believe that innovation in management offers high personal risk and relatively little offsetting benefit. They perceive that the reward system in total tells them not to rock the boat, but to maintain the status quo.

We believe resistance to change results very logically from the emphasis on management by activity rather than by objectives. When management has not developed clear goals and objectives or defined what success of the venture means, it is very hard to develop a persuasive case that improvement of any kind is needed -- and harder yet to quantify how much. Many private sector organizations have undertaken massive efforts to develop organizational climates in which the need for change is understood and accepted. Generally, experience shows that these programs are most effective when they are used to lay the groundwork for some specific, understandable and necessary change. When programs are merely activities pointing toward no specific action, they tend to be received as interesting academic exercises. Often, the learning must be reintroduced when really needed.

Experience in the private sector has shown that resistance to change in the face of overwhelming indications of its necessity ultimately exacts a very dear price. The experience of the railroads, the steel companies and the major automobile manufacturers is testimony to the punishing impact of continually failing to modernize and improve. Given the economic pressures facing the Nation, one can only conclude that in DOD, resistance to change will ultimately result in less preparedness for any given level of expenditure.

Recommendations

DOD should develop programs to educate the entire organization to the fact that change is vital to the successful accomplishment of its mission.

DOD should use the changes proposed by the recommendations of this report as the focal point of a major "acceptance of change" program.

Summary

There are many organizational structure and function problems which prevent DOD from operating as well as it might. We believe that DOD cannot make major improvements in performance unless it eliminates some of these impeding organizational problems. We believe that fixing these problems will lead to considerable dollar savings.

We were not able to find a good program of critical self-analysis of organizational structure and function.

Until DOD can develop a culture in which self-analysis and constructive criticism are accepted and encouraged, it must rely on outside groups for this analysis and criticism. Recommendations from outsiders will always have two handicaps: they will be based on less detailed knowledge of the total situation, and they will never achieve the degree of ownership which internal recommendations achieve.

We believe that DOD should adopt our recommendations, directing the existing organizations to accomplish the intent of these recommendations without creating new managers to head staff offices and oversee these programs. Improvements to their organization are key responsibilities of the responsible managers and, for success, they must be perceived as such.

II. ISSUE AND RECOMMENDATION SUMMARIES

A. LOGISTICS

OVERVIEW

The logistics issues developed by the OSD Task Force pertain to the acquisition of goods for the field, the transportation of goods and people, and base operations and support.

In each of these areas there is a service predilection for full control of logistics pertinent to that service. While the desire to have full control over one's own activities is natural, there are a number of reasons why it may not be cost-efficient:

- o It requires duplication of central staff support and coordination.
- o It may not take advantage of economic order quantities.
- o It does not recognize that the needs of the services overlap geographically and functionally.
- o Logistics, being relatively low on the individual service's priority list, cannot receive the attention it deserves.

The achievements of the Defense Logistics Agency (DLA) consistently demonstrate that a specialized, consolidated group can deliver needed goods faster and cheaper than can the services operating independently. Statistics on supply availability, inventory processing time, and on-time shipment rate indicate that DLA's performance has generally exceeded that of the services.

Many cost saving opportunities exist in the areas of base support, base realignment and contracting out. Service resistance and Congressional intransigence make the realization of savings very difficult. The charge of intransigence is a strong one, but it is difficult to otherwise describe legislation that proscribes even studying cost saving potential or puts so many hurdles to effecting cost savings that such attempts are abandoned.

II. ISSUE AND RECOMMENDATION SUMMARIES

A. LOGISTICS ISSUES

OSD 1: PROCUREMENT OF PETROLEUM PRODUCTS

Summary Recommendation

The Department of Defense (DOD) should seek legislation that will permit it to modify the Defense Acquisition Regulations to exempt petroleum procurement from all non-essential requirements and modify standard provisions utilized in petroleum procurement documents to conform them, as nearly as possible, to provisions employed in commercial fuel contracts. These changes should result in increased competition among fuel suppliers and lower prices charged to the Government.

Financial Impact

\$53-\$258 million annually

Potential Savings: Annual savings are based on a projected 1¢ to 5¢ per gallon average price reduction for refined petroleum products plus additional annual savings of \$1.5 million from decreases in personnel and operating costs for the Defense Fuel Supply Center.

These savings may be offset somewhat by relatively minor costs incurred to revise standard procurement procedures and to retrain, redeploy, and/or terminate Government personnel.

Background

Petroleum products are purchased for DOD by the Defense Fuel Supply Center (DFSC), which is part of DLA. During FY 1981, DFSC petroleum purchases totaled \$12.6 billion -- approximately 95 percent of the total petroleum purchases by the Federal Government in that year. Although it only accounts for 2 or 3 percent of domestic purchases, it is the single largest petroleum buyer in the United States. Defense expenditures for petroleum products have grown from \$2.5 billion per year in FY 1976.

Methodology

The OSD Task Force interviewed personnel in DOD, the Office of Management and Budget (OMB), and DFSC regarding procedures for DOD petroleum purchases. We also held discussions with Canadian officials regarding their centralized system for the purchase of petroleum products. Historical data on petroleum purchases by DFSC were analyzed to determine average prices paid for petroleum products.

Findings

Prior to 1973, DFSC procured petroleum products by means of formally advertised invitations for sealed bids (IFBs) and was able to acquire all the petroleum products it required at prices which were generally lower than prices in the commercial market. Since the Arab oil embargo in 1973, DFSC has been negotiating its petroleum contracts (as contrasted to using advertised IFBs), and has been paying prices equivalent to those in the commercial market. Only 20 percent of FY 1983 DFSC fuel purchases will be accomplished through formal bidding.

In late 1979 and 1980, the Investigations Subcommittee of the House Armed Services Committee held extensive hearings on DOD's petroleum supply and procurement practices. Among other things, the final report of the Subcommittee, dated June 10, 1980, directed the Secretary of Defense to: (a) modify the Defense Acquisition Regulations to exempt petroleum procurement from all nonessential requirements; (b) modify the contract provisions utilized in petroleum procurements to conform them, as nearly as legally possible, to the provisions employed in commercial fuel procurements; (c) submit any legislative proposals believed necessary to expedite DOD fuel procurements; and (d) reorganize and staff the DOD energy office with persons having education and experience in petroleum production, refining, transportation, storage, quality surveillance, and statistical analysis.

In early 1981, DOD generated Legislative Proposal No. 97-86. Generally speaking, the proposal sought legislative authority to permit DOD to waive various statutory procurement requirements in order to make petroleum purchases at competitive prices in a deteriorating market and to satisfy DOD's urgent and critical requirements at any price in a tight market. In DOD's own words, the "waiver authority that would result from enactment of the proposed legislation [would] enable DOD to depart in extraordinary situations from prescribed procurement procedures and contract terms when this is clearly in the Government's best interests."

Legislative Proposal No. 97-86 was submitted to OMB and the Department of Justice for their review and comment in accordance with regular procedure in early 1981. By letter dated August 11, 1981, the Department of Justice stated its view that the waiver authority was unnecessary in light of the Defense Production Act. It was not until June 10, 1982, that the Department of Justice announced that it had never intended to block the submission of the legislative proposal and that the final decision in this regard rested with the Secretary of Defense. The legislative proposal never was submitted to Congress. It was supplanted after year-end by Legislative Proposal 98-38. It has not yet been approved by OMB nor submitted to Congress.

The basic problem underlying all this controversy is that DFSC is required by statute and regulation to use procurement practices and procedures that are not well suited to the procurement of petroleum products. These procurement statutes and regulations were developed primarily to regulate DOD contractors whose prices are based on cost and whose operations are relatively labor-intensive.

As DFSC readily acknowledges, the petroleum industry is reluctant to accept rigid and time-consuming procurement procedures and numerous boiler-plate contract clauses that have little or nothing to do with the production of petroleum products. In general, the petroleum industry objects to any contractual provisions that is not essential and consistent with ordinary commercial practices.

As part of this study, the OSD Task Force contacted Canadian officials to see what their experience has been with respect to the procurement of petroleum products. We were told that Canada has had great success over the past four or five years with their new Consolidated Procurement Support System (CPSS). CPSS is a centralized and fully computerized system for purchasing petroleum products by means of single annual competitively bid procurements.

CPSS is being phased in by products and regions, and presently includes heating fuel and gasoline products for almost all of Canada. In contrast to DFSC solicitation and award documents, which are burdened with lengthy and cumbersome regulatory provisions, Canadian procurement documents are short and simple, and deal almost exclusively with product, price, and delivery.

The information supplied by Canadian officials indicates that a higher percentage of potential suppliers bid on Canadian procurements than on DFSC procurements. In addition, in contrast to DFSC's experience, these officials report that they are still receiving significant discounts from prevailing prices in the commercial market. Taken at face value, the Canadian experience strongly supports the OSD Task Force recommendations to simplify procurement procedures and reinstate competitive bidding in the procurement of petroleum products by DFSC.

Conclusions

The continued use of specialized DOD contracting practices has caused economic injury in two respects. First, competition is reduced because many suppliers simply do not bid on DFSC procurements. Either they do not want to divulge cost and other proprietary information, or they cannot afford to comply with burdensome recordkeeping and reporting requirements. Second, DFSC is unable to conduct advertised IFB-type procurements because it is required to include these standard contract clauses in its solicitation documents. When those suppliers that do submit bids take exception to one or more of the clauses, DFSC must declare such bids nonresponsive. The irony is that DFSC then turns around and negotiates contracts with these same suppliers and agrees to eliminate the very clauses to which the suppliers took exception. Unfortunately, the opportunity for competitive sealed bids is lost in the process.

In our opinion, Legislative Proposal No. 98-38 is too narrow because it is limited solely to "extraordinary situations" such as deteriorating and tight market conditions. The current legislative proposal might usefully be broadened to include all market conditions in recognition of the fact that many of the burdensome specialized contracting practices are not necessary for DOD's petroleum purchasing.

The point is that if these requirements were eliminated at the outset, more suppliers would be willing to compete for DFSC business, and DFSC would be able to use advertised IFB-type procurements. These changes should result in lower prices.

Recommendations

OSD 1-1: The OSD Task Force recommends that the legislative proposal be broadened to provide waiver authority to DFSC for any type of market conditions, if the waiver will achieve significant savings, and will either enhance already existing competition or provide competition where none now exists. We have generally discussed these concepts with officials at DFSC and OMB, and they agree that the broader waiver authority should result in increased competition and lower prices.

In further support of such a revised legislative proposal, we would like to emphasize several points. First, the increased waiver authority will permit a critical balancing of a myriad of public interests -- not the least of which is the cost of national defense and the skyrocketing cost of Government. Here, an opportunity exists to better ensure supply and to eliminate unnecessary defense expenditures by hundreds of millions of dollars each year. Second, the waiver of cost and other proprietary information will not damage the procurement process since DFSC already relies on market data for pricing decisions. Third, the waiver of various socioeconomic clauses will have relatively little impact because the petroleum industry is not labor intensive. Fourth, the number of petroleum suppliers is small, so that relatively few contracts will be exempted from existing procurement requirements. Finally, most suppliers will continue to be bound by Federal and state laws with respect to civil rights and the environment.

OSD 2-2: As noted above, the final report of the Investigations Subcommittee of the House Armed Services Committee directed the Secretary of Defense to reorganize and upgrade the staffing of DOD's energy offices. Consistent with this final report, the OSD Task Force recommends that the training and rank of personnel at DFSC be upgraded to a level commensurate with its responsibility. DOD fuel expenditures totaled \$12.6 billion in FY 1981, and highly trained and motivated personnel are needed to fulfill this enormous purchasing responsibility.

Savings and Impact Analysis

DFSC estimates that 215 million barrels (or 9 billion gallons) will be purchased in FY 1983. Of that total, 43 million barrels will be purchased domestically through bidding; 50 million barrels will be purchased overseas through negotiation; and 122 million barrels (or 5.124 gallons) will be purchased domestically through negotiation.

It is the judgment of experienced senior procurement specialists serving on the OSD Task Force that one to five cents per gallon could be saved through application of our recommendation for those domestic purchases that are currently negotiated. This would produce savings of \$51 million to \$256 million

If the legislative changes are made, DFSC estimates that 50 positions (buyers and support staff) could be eliminated, saving an additional \$1.5 million per year.

Assuming a 10 percent inflation factor, the mean estimated savings from adoption of this issue for the first three years would be:

| | <u>(\$ millions)</u> |
|-------------------------|----------------------|
| First year | \$155 |
| Second year | 171 |
| Third year | 188 |
| <u>Three-year total</u> | <u>\$514</u> |

DFSC should also determine the extent to which formal bidding could be employed for overseas purchases, thus effecting further savings.

Implementation

DOD should prepare and submit a revised legislative proposal incorporating the OSD Task Force recommendations discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS

OSD 2: IMPROVED INVENTORY MANAGEMENT

Summary Recommendation

In order to improve its inventory management capabilities, the Department of Defense (DOD) should prioritize a program to upgrade existing inventory data systems. This will require modernization of automated data processing (ADP) hardware and software. Additionally, to ensure that logistics ADP systems are compatible at all levels in the inventory management and control systems, an Office of the Secretary of Defense (OSD)-level group should be assigned the responsibility for policy and review functions relating to ADP logistics.

Financial Impact

| | |
|---|---|
| \$.75 to \$1.5 billion annually when fully implemented | <u>Potential Savings:</u> Up to four years in lead time will be required to install modernized ADP equipment before any savings are realized. In the first year of savings realization, the savings will be approximately \$.375 to \$.75 billion due to increased operating efficiency. Savings should increase to \$.75 to \$1.5 billion in the second and subsequent years of savings realization. |
| \$2.9 to \$5.8 billion one-time | A total one-time cash gain due to inventory reduction of \$2.9 to \$5.8 billion should accrue by the second year of savings realization. |
| \$1.4 billion one-time | <u>Implementation Cost:</u> Total cost for upgraded logistics ADP systems for the services and Defense Logistics Agency (DLA) is estimated at approximately \$1.4 billion over a four-year implementation period. |

Background

In DOD, supply systems inventories are basically organized into two levels, the wholesale (or distribution) level and retail (or user) level. Inventories at the wholesale level are stored in about 30 depots around the country. Inventories at the retail level include those on board ships and on numerous military bases, both in the continental United States and abroad.

As of September 1981, DOD reported a total secondary item inventory of about \$40 billion (excluding fuel and subsistence items). Secondary items include assets such as spare parts, medical supplies and operating supplies. This category excludes weapons, ammunition and aircraft engines which are considered principal items. Approximately \$30 billion of the secondary item inventory is considered wholesale inventory, and the balance of \$10 billion is considered retail inventory.

The wholesale level normally acquires materials from vendors, and then issues them to the retail level (the users) according to their demand, generally through the requisition procedure. Once the items have been transferred to the retail (user) level inventories, the inventory control systems at the wholesale level no longer track them. Also, the various retail inventory systems function as almost totally self-contained entities with little or no communication among facilities.

DOD expects to spend approximately \$4 billion in FY 1983 on maintaining existing ADP systems for logistics support. By the end of FY 1983, DOD will have approximately 9,100 conventional computers, excluding weapon systems embedded computers. Almost half of these will be pre-1974 vintage, and many are no longer serviced by vendors. DOD supply and inventory ADP systems are mostly batch-oriented, running programs developed over 20 years ago in some cases.

Methodology

The OSD Task Force made a comprehensive review of published studies and reports on the DOD supply inventory systems. These include General Accounting Office (GAO) audit reports, DOD reports, and contractor studies. Extensive interviews were conducted with service and DLA personnel responsible for management of inventory control systems. Additionally, Task Force personnel analyzing this issue were experienced in private sector inventory management and control techniques.

This issue and issues related to it were reviewed by other President's Private Sector Survey task forces. For further information, refer to the reports of the:

- o Air Force Task Force,
- o Automatic Data Processing Task Force,
- o Navy Task Force, and
- o Procurement/Contracts/Inventory Management Task Force

Findings

In the past, attention has been directed at the management of inventory at the wholesale level within each service. In the mid-1970s, DOD diverted some attention to the need to improve inventory management at the user level and introduced the Retail Inventory Management and Stockage Policy (RIMSTOP). This policy was developed from a 1974-1976 study conducted by a joint work group with participation of all of the services.

The RIMSTOP report concluded that improving the management of retail inventories not only would affect the size and effectiveness of the retail inventories, but also would have a significant impact on improving the management of the wholesale inventories. Obtaining more accurate and timely data on supply usage and inventory activities at the user level is one of the most important for improving the management of inventories, including the ability to better balance stocks and minimize excess stock buildup, thus avoiding unneeded inventory investment and excessive obsolescence. The services are in various phases of complying with this policy. However, it appears that full compliance will be dependent on extensive modernization of existing automated inventory data systems.

The outdated ADP systems force artificial constraints on inventory management in general. For example, using the current ADP systems, economic order quantities for inventory items are calculated within a minimum order period of six months and a maximum of three years. The minimum constraint is the result of the inability of the ADP system to physically handle purchase requisitions more than twice a year per item. There are many items, particularly consumable items, that should be ordered monthly. Some small requisitions are not completely automated, but faster ADP equipment and higher dollar limits on fully automated requisitions are now completely automated, but faster ADP equipment and higher dollar limits on fully automated requisitions would permit purchases of many items in monthly lot sizes and could reduce average inventory by 2.5 months for these items.

The outdated ADP systems also create the following problems:

- o The equipment experiences frequent downtime, resulting in late reports with data updates sometimes omitted, due to lack of available running time. This poor service affects the productivity of end users and of ADP personnel.
- o Equipment running costs are excessive because of high maintenance charges, large floor space requirements, higher electrical and air conditioning usage with more uninterruptible power supply equipment requirements, and additional operating personnel. Software maintenance costs are high because the programs are old and have been extensively patched and modified.
- o Equipment is running at or near capacity to handle basic operating needs. Limitations in power and memory preclude the possibility of expanding the systems. Obsolete equipment prevents the use of modern and efficient magnetic tape and disks.
- o Inventory management decisions are suboptimal due to lack of timely data and high error rates. The two principal operating problems resulting from faulty data are poor retail asset visibility from the wholesale level and poor demand forecasting.
 - With respect to retail asset visibility, the Army has no visibility of consumables at the retail level; the Navy has visibility of these assets on a quarterly basis at best; and the Air Force has retail visibility of the majority of its consumables. One problem resulting from poor retail asset visibility is that scarce maintenance resources are used to repair parts that are in long supply. Repairables, which are more costly than consumables, should have tight controls with respect to visibility. OSD has confirmed that a significant cause of excess inventory and long supply is the lack of retail asset visibility. For example, a requisition may be sent to an inventory control point (wholesale level) and be filled from wholesale stocks, which will be replenished by a purchase transaction. At the same time, there may be excesses of the same item elsewhere in the retail system which

could have been used to fill the requisition, or the requisitioning retail activity may be stockpiling the asset. In the absence of retail asset visibility, item managers are unable to balance stocks within the total system.

Previous DOD efforts to modernize ADP hardware and software have been frustrated by the time-consuming and inefficient ADP procurement procedures that have evolved under the Brooks Act, P. L. No. 89-306. The Brooks Act establishes mandatory Government-wide procedures for the procurement of computer and data processing equipment. In 1981, Congress partially exempted DOD from the Brooks Act, by enacting Section 908 of the DOD Authorization Act for 1982, P. L. No. 97-86. Among other things, the purpose of Section 908 was to permit DOD to streamline its ADP procurement procedures and to exempt "mission-related logistics support systems" from the Act. However, DOD has not yet exercised its Section 908 authority, because it has been unable to reach internal agreement on what ADP hardware and software should be exempt.

Conclusions

In the DOD supply systems, reporting and processing of inventory data is automated, but the equipment in use is frequently obsolete. Present computer facilities are in need of upgrading so that inventory data can be processed in a more accurate and timely manner. In addition, the development of compatible inventory data systems for the services and DLA would increase retail asset visibility and improve requisition efficiency.

Updated inventory management techniques would also enable more efficient management of spare parts and would have a positive impact on readiness. Improved inventory management systems could increase weapons availability by 5 to 15 percent, according to estimates provided by the services. For example, the Air Force has estimated that with improved inventory management, it could field an additional 40 to 60 aircraft at all times.

Recommendations

OSD 2-1: DOD should initiate a program to substantially modernize its ADP logistics systems for inventory management and control. The following elements should be considered in this modernization plan:

- o Improvement in systems for inventory control and management will require replacement of obsolete

ADP hardware and software. DOD should streamline the ADP approval process which could be accomplished, in part, by a determination that ADP logistics systems are mission-related and, therefore, should be exempt from Brooks Act acquisition requirements. Currently, ADP acquisition time for DOD is approximately three times that for the private sector.

- o Modernization of ADP hardware and software will require training of ADP personnel in state-of-the-art ADP logistics support techniques. We recognize that this is a cost which will have to be expended to ensure effective implementation of new ADP systems, and will reduce estimated savings to some degree in the short term. However, greatly increased efficiencies in inventory management and control will result in the long term.
- o Improved systems planning is necessary so that a link is established between inventory investment and readiness. New systems must satisfy operational needs. For example, data should be available through the system which would allow the services to project the impact of reduced spare parts inventory on aircraft availability.
- o The planning and review of ADP logistics systems should be centralized to ensure that the new or modernized ADP systems are compatible across the services, DLA and at the wholesale and retail levels. We recommend that a central ADP logistics policy group be created, reporting to the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics. This group should help define system objectives and also monitor the ability of the systems to meet these objectives.

Savings and Impact Analysis

After the four years necessary to implement ADP modernization, the savings would be:

(\$ millions)

| | | <u>Assuming 10% Inflation</u> |
|-------------------------|----------------|-----------------------------------|
| First year | \$ 563 | \$ 563 |
| Second year | 1,125 | 1,238 |
| Third year | 1,125 | 1,361 |
| <u>Three-year total</u> | <u>\$2,813</u> | <u>\$3,162</u> |

Our cost and savings estimates are based on data compiled by DOD. Exhibit II-1 at the end of this issue provides an estimate of the costs to the services and DLA associated with modernization of ADP logistics systems. The total estimated cost, assuming that the modernization program is implemented over a four-year period, is approximately \$1.4 billion.

Exhibit II-1 also details potential savings from improved inventory management and control systems. A one-time inventory reduction of \$2.9 to \$5.8 billion, or 7.3 to 14.5 percent, will be realized in the first two years of savings realization. Annual recurring savings are projected to reach approximately \$.75-\$1.5 billion in the second year of savings realization. This assumes that new or expanded systems are put into place over a four-year period.

Implementation

DOD should determine, as soon as possible, the extent to which the above recommendations for the modernization of ADP logistics can be carried out under the authority of Section 908 of P. L. No. 97-86. The recommendations should then be implemented as discussed. DOD should seek any additional legislation that may be needed to implement these recommendations free of the constraints of the Brooks Act.

The Secretary of Defense should create a strong central focus for ADP logistics by assigning the policy and review functions to an appropriate OSD unit that can assure compatibility of inventory systems across service lines at wholesale and retail levels.

Exhibit II-1

**PROJECTED COSTS AND RESULTANT SAVINGS
FROM ACCELERATION OF INVENTORY MANAGEMENT
SYSTEMS AND ADP MODERNIZATION**

Projected Cost
(4-Year Implementation)
(\$ millions)

| | |
|-----------|----------------|
| Army | \$350 |
| Navy | 350 |
| Air Force | 500 |
| DLA | 200 |
| Total | <u>\$1,400</u> |

Estimated Savings
(\$ millions)

| | <u>First year of savings realization</u> | | <u>Subsequent annual savings realization</u> | |
|---|--|--------------|--|----------------|
| | <u>Low</u> | <u>High</u> | <u>Low</u> | <u>High</u> |
| Procurement Efficiencies ^{1/} | \$150 | \$300 | \$350 | \$700 |
| Logistics Support ^{2/} | 100 | 200 | 150 | 300 |
| Productivity ^{3/} | <u>125</u> | <u>250</u> | <u>250</u> | <u>500</u> |
| Total (recurring savings) | <u>\$375</u> | <u>\$750</u> | <u>\$750</u> | <u>\$1,500</u> |
| Inventory Reduction ^{4/} (one-time) | \$750 | \$1,500 | \$2,125 | 4,250 |

- ^{1/} Procurement efficiencies include savings resulting from better knowledge of inventory levels and improved demand forecasting, thus enabling procurement personnel to improve the purchasing process.
- ^{2/} Logistics support includes reduced transportation and administrative costs.
- ^{3/} Productivity improvements result from more efficient use of maintenance and supply personnel.
- ^{4/} The one-time inventory reduction is related to safety stock reductions, reduced economic order quantity levels, and lower levels of inactive inventories.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD 3: TRANSFER OF CONSUMABLE INVENTORY ITEMS

Summary Recommendation

The management of consumable inventory items for the Department of Defense (DOD) should be centralized in the Defense Logistics Agency (DLA) to the fullest extent possible. Accordingly, 900,000 of the 1.2 million consumable inventory items currently managed by the services should be transferred to the DLA. The transfer should be phased in over an 18-month period.

Financial Impact

\$75 million
annually

Potential Savings: Estimated annual savings of approximately \$75 million are based on personnel reductions which would result from DLA's historically higher ratio of items per manager.

Additional savings are possible, though not quantified here, because of the opportunity for increased competitive bidding for the transferred items.

\$125 million

Implementation Cost: A total of \$125 million in one-time costs for item re-assignment, and personnel and facilities costs.

Background

DOD uses approximately 3.4 million consumable items. The term "consumable items" includes (a) expendable items, i.e., items, including minor spare parts, which are either consumed in use or discarded when no longer serviceable, and (b) field level repairables, i.e., items repaired or expended in the field rather than items returned for depot level repair. The DLA manages approximately 2.2 million consumable items and the services manage 1.2 million items. Approximately 25 percent of the items currently managed by the services are bought on the basis of competitive bidding, while the comparable statistic for DLA-managed items is 68 percent.

At the end of World War II, DOD operated 25 separate supply systems. This caused extensive fragmentation of effort and duplication of staff. As a result of the Hoover Commission Report, some changes were initiated in the 1953-1956 period with single manager assignments to the services for commodities such as fuel, medical and subsistence items, clothing, and textiles. Under these assignments, each single activity was designated a class manager with DOD-wide responsibility for management of all items in a group of Federal Supply Classes (FSC).

The next step toward integrated inventory management was the establishment of the Defense Supply Agency (DSA) in 1962 and the transfer of the single manager commodities to DSA. In January 1977, DSA was redesignated the Defense Logistics Agency (DLA). As additional FSCs were assigned to DLA, the Office of the Secretary of Defense (OSD) decided that certain items should remain with the services. These items included end items of equipment, depot level repairables, and selected consumable items.

Methodology

The Task Force interviewed supply and logistics officials in OSD, DLA, the General Accounting Office, and the services. A review was made of pertinent DOD reports and audits and of testimony presented before Congressional committees on the transfer of consumable inventory items to DLA.

This issue was also reviewed in the report of the President's Private Sector Survey on Cost Control Procurement/Contracts/Inventory Management Task Force.

Findings

A two-world system has become more or less formalized with regard to consumables: DLA manages commodity items, while the services retain more complex, weapons systems related items. The Item Management Coding is the mechanism used to identify items or classes of items that are to be managed by the services or DLA. Ten criteria must be met for the services to retain an item. The cumulative effect of decisions taken over the years has been to increase the proportion of consumable items managed by DLA.

In 1977, the OSD staff proposed the consolidation of all service-managed consumables into DLA (except conventional ammunition). The proposal was presented to the Deputy Secretary of Defense in December 1978, and was forwarded to the services for comment. The Army and Air Force rejected the idea completely; the Navy acknowledged that 395 out of 520 items could go to DLA, but questioned the economics involved. All of the services felt that readiness would be adversely affected as a result of the higher degree of complexity of the items proposed for transfer. The services also questioned the economic analysis performed by OSD to demonstrate potential savings, and came up with their own data, which indicated higher costs if the transfer were made.

The OSD requested that the Defense Audit Service (DAS) review the OSD economic analysis and the services' cost data and arguments concerning readiness. In response, DAS Report No. 80-108 was issued on May 29, 1980. The report dealt extensively with the question of readiness impact. It pointed out that according to the two most important DOD measures of supply performance -- percent supply effectiveness (line fill rate) and total pipeline performance (percentage of requisitions filled within standard time) -- during the period 1978-1981, DLA consistently outperformed the services by 4 to 15 percentage points and 3 to 11 percentage points, respectively.

The DAS also compared the functions performed and the costs allocated by the services in the management of consumable items to those functions performed and costs incurred by DLA to manage the same types of items. DAS pointed out that the services were using 6,126 personnel at an annual cost of \$116.7 million to manage their consumable items, while DLA used 2,391 personnel at an annual cost of \$43.8 million to manage the same number of items.

In response, the services argued that their performance had been adversely affected because of the complexity of the items they manage. They also pointed out that DLA performance seemed enhanced because the items it manages

are common, commercial items. The May 1980 DAS report examined the complexity issue and concluded that none of the service-managed items was beyond DLA's capability to manage. The report further pointed out that in the event a technical problem developed which was beyond DLA's engineering capabilities, regulatory procedures existed for obtaining engineering support from the service most knowledgeable about the item.

On July 7, 1981, the Deputy Secretary of Defense directed that 200,000 consumable items be transferred from the services to DLA. The transfer was to be completed by November 1, 1982. An agreement with the services provided for a two-year period in which to evaluate DLA's performance after the transfer was complete. The argument for an extended evaluation period was based on the reasoning that DLA would be receiving a full pipeline from the services and, therefore, would not have to take any procurement action for some time. However, DLA was required to take procurement action on many of these items.

Conclusions

It appears to the OSD Task Force that DLA has proven its ability to manage successfully consumable items with statistically superior results as compared to the services. Further, it is misleading to assert that item complexity has an impact on the mechanics of procurement, since procurement actions are taken when an item hits its reorder point. It seems, therefore, that a two-year evaluation period of the 200,000 item transfer is excessive. This is particularly true in light of the significant savings which are forfeited during the review period.

Recommendations

OSD 3-1: Of the remaining 1.2 million consumable items managed by the services, we recommend a transfer of 900,000 items to DLA. The remaining 300,000 items fit into categories which should be retained by the services, i.e., nuclear propulsion gas, field level repairables, and design-unstable items.

It is our understanding that the maximum feasible rate at which items can be transferred is approximately 50,000 items per month. Therefore, at this rate, approximately 600,000 items could be transferred in a 12-month period. During this period, a performance evaluation should be conducted relative to DLA's management of the previously transferred 200,000 items and the 50,000 items being acquired per month. Also, negotiations for the transfer of

the remaining 300,000 items should be completed during this period, based on DLA's track record on the recently acquired items with comparable characteristics.

Savings and Impact Analysis

Based on an OSD economic analysis and a DAS report, it has been estimated that approximately \$100 million could be saved annually if all 1.2 million consumable items currently managed by the services were transferred to DLA. Since we are recommending the transfer of only 900,000 items, we have estimated annual savings at approximately \$75 million. To reflect the transfer of the 200,000 items as of November 1, 1982, the Defense budget for FY 1983 was reduced by approximately \$15 million. All savings are based on projected net reductions in personnel due to DLA's historically higher ratio of items per manager. The personnel reductions from the services were partially offset by additions to DLA.

Also, additional savings are possible to the extent that transferred items can be opened to increased competitive bidding. That is, to the extent that DLA can improve on the 25 percent of service-managed items which are bought on the basis of competitive bidding, savings in addition to those from personnel reductions are likely.

In order to accomplish the transfer, certain non-recurring costs would be realized, according to the OSD economic analysis. These costs, estimated to total \$125 million, are categorized into item reassignment and personnel and facilities costs. The payback period for the project is expected to be three years.

Implementation

The Secretary of Defense should direct the phased-in transfer of approximately 900,000 additional consumable inventory items to DLA management as discussed above.

Savings would not be realized until the third year of implementation. The first three years that these savings are realized would be as follows:

| | (\$ millions) | Assuming 10% inflation |
|-------------------------|---------------|---------------------------|
| First year | \$ 75 | \$ 75 |
| Second year | 75 | 83 |
| Third year | 75 | 91 |
| <u>Three-year total</u> | <u>\$225</u> | <u>\$249</u> |

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD 4: MAINTENANCE DEPOT CONSOLIDATION

Summary Recommendation

The Department of Defense (DOD) should consolidate depot-level maintenance facilities and management functions where there are opportunities for increased efficiencies and cost reduction.

Financial Impact

| | |
|------------------------------|---|
| \$50 million annually | <u>Potential Savings:</u> Estimated annual savings of \$50 million through consolidation of the depot-level maintenance functions. |
| \$300-\$400 million one-time | Consolidation of some maintenance facilities should result in a one-time cash gain of \$300-\$400 million due to a reduced need for some specialized maintenance equipment. |

Background

In the DOD system, maintenance is generally performed at the organization, intermediate, and depot levels. The organizational and intermediate levels perform maintenance on specific weapons systems. The depot level performs heavy maintenance on a variety of systems such as jet engines, missile guidance systems, and tank engines.

Depot-level maintenance facilities require extensive capital investment in fixed facilities, specialized tools, and complex test equipment. DOD has 29 depot level maintenance facilities. Fiscal year 1983 expenditures for all DOD depot-level maintenance are estimated at \$12.4 billion.

Methodology

The Office of the Secretary of Defense Task Force interviewed DOD Officials responsible for maintenance policy. The Task Force also conducted an extensive review of General Accounting Office, DOD, and contractor studies on depot-level maintenance facilities and management of depot maintenance resources.

Findings

Various DOD and outside groups have performed numerous studies on opportunities for consolidation and streamlining of depot-level maintenance capabilities. For example, the issue of a single manager for DOD aeronautical depot maintenance has been studied over the last 15 years. Some limited steps have been taken to capitalize on consolidation opportunities identified in these studies.

In 1976, the Maintenance Interservice Support Management Office (MISMO) was established under the Joint Logistics Commanders Group in the military departments. MISMO is responsible for examining all new items in the DOD inventory and identifying opportunities for interservice consolidation of depot maintenance. In FY 1981, MISMO groups identified \$35 million in cost-reduction opportunities. In 1980, the Joint Aeronautical Depot Maintenance Action Group was formed to accelerate the study of potential efficiencies in aeronautical depot maintenance management.

Many of the previous studies have commented on the complexity of calculating depot level maintenance efficiencies and economies due to a lack of common cost accounting systems and capacity measurement systems among and within the services. These studies have noted that the lack of comparable management information systems for depot-level maintenance among the services has been a major deficiency in developing consolidation alternatives. Data-on-cost and capacity utilization is necessary to determine system-wide capabilities for depot-level maintenance consolidation.

DOD Handbook 7220.29H and DOD Instruction 4151.15, dealing with cost accounting and workload distribution, were issued to address these data deficiencies. However, implementation has been incomplete, and modifications to the regulations are under consideration. Additional emphasis is being placed on the refinement of data for calculation of depot capacity and utilization.

Conclusions

There appears to be a consensus in DOD that consolidation of depot maintenance capabilities offers cost savings opportunities. However, it seems that considerable disagreement over which areas to consolidate has stymied significant action. The basic stumbling block appears to be the strong feeling by the services that they must control their own maintenance resources in order to assure mission readiness. There is also disagreement over the extent to which centralized control over such maintenance would provide appropriate allocation of work assignments and capital investment. Reluctance to give up total control of depot-level maintenance capabilities has prevented full realization of cost and efficiency opportunities. The OSD Task Force feels that a reasonable program for depot-level maintenance consolidation can be devised, which will overcome these concerns.

To the extent that maintenance depot consolidation can be buttressed by consolidated management of the industrial activities that are performed in them, it would appear that savings could be achieved through: (1) elimination of redundant management and systems overhead; (2) greater professionalism in the management of industrial activities; and (3) better utilization, because of the elimination of excess capacity.

Recommendations

OSD 4-1: DOD should establish a timetable for the consolidation of depot level maintenance functions where there are opportunities for cost savings. In order to make the appropriate consolidation decisions, standardized cost accounting data is required on depot-level maintenance capacity and utilization.

OSD 4-2: DOD should require strict adherence to DOD Handbook 7220.29H and DOD Instruction 4151.15 so that uniform cost accounting systems are used to generate the necessary data.

Savings and Impact Analysis

Based on DOD data, potential annual savings from consolidation of depot-level maintenance are estimated at approximately \$50 million.

Assuming a 10 percent inflation rate, the mean estimated savings for the first three years from implementation of this recommendation would be:

| | (\$ millions) |
|-------------------------|---------------|
| First year | \$ 50 |
| Second year | 55 |
| Third year | 61 |
| <u>Three-year total</u> | <u>\$166</u> |

A one-time savings of \$300 to \$400 million is possible due to a one-time reduction in specialized maintenance equipment that would not be needed if maintenance functions were consolidated. Interest savings would be about \$35 million per year.

Implementation

The Secretary of Defense should develop and implement a plan to consolidate maintenance facilities and management functions as discussed above. To the extent that the consolidation plan constitutes a proposal to close or realign military installations or facilities having more than 300 civilian employees, and will result in the reduction of 50 percent of the number of civilian employees at such installations, or a 1,000 total, DOD may not implement the consolidation plan until it has complied with the requirements of 10 U.S.C. Section 2687 (1980) and Section 112 of the 1982 Military Construction Appropriations Act, P. L. No. 97-106.

Pursuant to these statutes, DOD must publicly announce the consolidation plan, comply with the requirements of the National Environmental Policy Act of 1969, and submit a detailed written justification to the House and Senate Armed Services Committees. Congress then has 60 days in which to affirmatively reject the consolidation plan before it can be implemented by DOD.

The Secretary of Defense should require strict adherence to DOD Handbook 7220.29H and DOD Instruction 4151.15 in order to establish common cost accounting and capacity calculation systems for all maintenance depots as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD 5: WHOLESALE DEPOT CONSOLIDATION

Summary Recommendation

The Department of Defense (DOD) should develop and implement a plan for wholesale depot consolidation using the prototype system in the recent Wholesale Interservice Depot Support (WIDS) study as a model. Also, the existing warehouse reporting system should be improved to provide more accurate warehouse physical capacity information and better measures of warehouse productivity.

Financial Impact

\$50 million
annually

Potential Savings: \$50 million per year, based on a consolidation plan in which four wholesale depots are closed. Savings include reduced personnel, transportation and depot operating costs.

\$50 million
one-time

Implementation Cost: One-time cost of \$50 million, including costs of personnel termination and transportation of material to other facilities.

Background

The DOD distribution system is responsible for providing worldwide support for defense personnel and weapons systems. This requires a complex system of facilities and procedures to receive, store, maintain, distribute and control the flow of material through the military distribution system to its ultimate users.

A wholesale depot may be described as a facility that receives, stores and issues material in bulk quantities to the ultimate users of the material. Each military base or installation (including ships) maintains inventories necessary to perform its mission. Inventories at this level are referred to as retail inventories.

DOD has 30 wholesale depots. The distribution of wholesale depots is as follows: the Air Force maintains five; Army, nine; Navy, seven; Marine Corps, three; and Defense Logistics Agency (DLA), six.

Methodology

The Task Force reviewed numerous studies by the General Accounting Office, DOD, and outside consulting groups on the DOD material distribution system. Special attention was given to the July 1982 WIDS study conducted by DLA. The Task Force also interviewed DOD officials responsible for distribution and supply.

Findings

The 30 wholesale depots currently in the DOD system have a total attainable capacity of 665 million cubic feet versus a total occupied space of 499 million cubic feet. Excess capacity cannot be exactly determined by simply subtracting occupied space from attainable space, since some capacity must be available for surges in demand. The three most recent reports on the wholesale distribution system (discussed below) have all indicated that there is excess capacity in the system, and there are opportunities for consolidation.

In 1978, the Joint Logistics Commanders issued an extensive report titled the "DOD Material Distribution System Study." This study recommended, in part, restructuring the wholesale distribution system from 33 depots to 21 depots (excluding Pearl Harbor). It suggested that six

DLA depots, three Army depots, and three Navy depots be closed. Annual savings were estimated at \$100 million, with approximate one-time implementation costs of \$84 million.

In 1979, American Management Systems, Inc., conducted another analysis of the DOD wholesale distribution system and determined that the existing system of 33 wholesale depots in the continental United States could be reduced to a total of 25. The depots recommended for closure included two Army depots, three Navy depots, and three DLA depots. Annual savings were estimated at \$18 million after one-time implementation costs of \$64 million.

Subsequent to these two studies, six depots were merged with other existing facilities. In addition, three new wholesale depots were added in locations which better served the needs of the Navy.

In July 1982, the Defense Logistics Analysis Office issued a third study, the WIDS study. The study noted that there is considerable excess capacity in the wholesale distribution system and developed a prototype WIDS Distribution Plan which created 10 General Distribution Depots and 16 Local Distribution Depots. In the development of a WIDS prototype system, four DLA wholesale depots were eliminated from the system. This implies a reduction in the wholesale distribution system to 26 depots.

We recognize that it was not the intent of the WIDS study to identify specific facilities for closure. It appears, however, that the result of the WIDS effort is the identification of four depots which could be merged with other existing facilities and result in annual cost savings of approximately \$25 million. These depots are DDCSC Columbus, DDMT Memphis, DDOU Ogden, and DGSC Richmond. The WIDS savings are based solely on an estimated reduction in transportation costs, since the facilities to be closed are inefficiently located within the framework of the entire wholesale distribution system.

DOD collects data on depot capacity and utilization through DD Form 805, Storage Space Utilization and Occupancy Report, and associated DOD Instruction 4145.5. In 1979, the Defense Logistics Analysis Office recommended that the reporting system be upgraded to improve the adequacy and accuracy of physical warehouse capacity data reported. All of the suggested improvements have not been accomplished.

It also appears that there is a lack of uniform guidance on the establishment of surge and mobilization capacity requirements for the physical distribution system. The various studies on the distribution system have employed surge and mobilization capability ranging from 15 percent to 100 percent. This suggests a need to develop and implement a defined surge and mobilization capability criterion for warehouse capacity planning purposes.

Conclusions

The OSD Task Force believes that DOD has adequately studied the distribution system issue, and it has been determined that excess capacity exists. A depot consolidation plan should be developed and implemented within the framework of an aggressive timetable, as designated by the Secretary of Defense.

It is evident that there is little accurate data on capacity and utilization in the wholesale distribution system. The lack of accurate capacity data places an obvious constraint on developing sound warehouse capacity decisions.

Recommendations

OSD 5-1: DOD should develop and implement a final plan for improving the wholesale distribution system using information in all the previous studies. The WIDS prototype system could serve as a model. It has identified four depots as candidates for consolidation or merger, but do not argue that these four depots are the only candidates for consolidation. The consolidation plan should include those system changes needed to facilitate depot restructuring, accurate identification of excess capacity and mobilization requirements, and the selection of candidates for depot deactivation. Further, any transportation savings that could be realized from the WIDS study and that are independent of actual depot consolidation should be implemented expeditiously.

OSD 5-2: The reporting system should be upgraded to improve the adequacy and accuracy of physical warehouse capacity data. In particular, DOD Instruction 4145.5 should be revised to improve the existing warehouse reporting system. Data should be generated that will allow DOD to develop representative depot productivity and efficiency measures, so that depot performance can be more effectively monitored and controlled.

Savings and Impact Analysis

Precise estimates of savings are difficult because the conclusions were inferentially drawn from three recent studies, none of which came up with precisely this recommendation. On the other hand, the four depots referenced for closure here were each recommended for closure by at least two of these recent studies. In the time available for our review, the Office of the Secretary of Defense (OSD) Task Force was not able to develop independent analyses of the cost consequences of the reconfiguration of the depot structure implied by the WIDS study.

Significant transportation cost savings would result from the recommended consolidation, as well as from better transportation planning for the reconfigured depot structure. We believe a \$25 million estimate of annual savings to be quite conservative, based upon our review of the prior studies.

Operating cost savings would also be significant, with the precise amount dependent upon the incremental operating costs that the remaining depots would incur as a result of closing the four suggested depots. Our assessment of the three prior studies leads us to feel that a conservative estimate of annual operating savings would also be at least \$25 million.

The combined annual savings of \$50 million would be 7 to 12 percent of estimated wholesale depot operational costs, according to DOD officials.

Also, based inferentially on the three prior studies reviewed, we believe that one-time implementation costs of as much as \$50 million could be incurred. This would translate to a one-year payback on the investment.

Assuming a 10 percent inflation rate, the mean estimated savings for the first three years from implementation of this recommendation would be:

| | (\$ millions) |
|-------------------------|---------------|
| First year | \$ 50 |
| Second year | 55 |
| Third year | 61 |
| <u>Three-year total</u> | <u>\$166</u> |

Implementation

The Secretary of Defense should develop and implement a final plan to consolidate the wholesale depot system as discussed above. To the extent that the consolidation plan constitutes a proposal to close or realign military installations or facilities having more than 300 civilian employees -- this would result in the reduction of 50 percent of the number of civilian employees at such installations, or 1,000 employees total -- DOD may not implement the plan until it has complied with the requirements of 10 U.S.C Section 2687 (1980) and Section 112 of the 1982 Military Construction Appropriations Act, 970106. Pursuant to these statutes, DOD must publicly announce the consolidation plan, comply with the requirements of the National Environmental Policy Act of 1969, and submit a detailed written justification to the House and Senate Armed Services Committees. Congress then has 60 days in which to affirmatively reject the proposal before it can be implemented by DOD.

DOD Instruction 4145.5 should be revised to improve the existing warehouse reporting system as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD 6: DEMILITARIZATION OF CONVENTIONAL AMMUNITION

Summary Recommendation

The Department of Defense (DOD), through the Defense Property Disposal Service (DPDS), should solicit bids for the one-time demilitarization of its backlog of approximately 200,000 short tons of conventional ammunition and for the ongoing demilitarization of the estimated 40,000 short tons of ammunition accumulated annually. Bids should be sought both for contractor demilitarization in contractor-provided, nonmilitary facilities, and for contractor demilitarization in military facilities. The priority in this solicitation should be the elimination of the existing backlog of surplus and obsolete ammunition. Based on information contained in bid proposals, DOD can then determine the feasibility of ongoing contractor participation in demilitarization.

Financial Impact

\$18-\$31 million
annually

Potential Savings: Annual savings of \$18 million are possible if ammunition is demilitarized by private contractors in nonmilitary facilities; \$31 million, if contractors perform demilitarization in military facilities.

\$93-\$157 million

One-time savings from demilitarization of the existing stockpile are estimated at approximately \$93 million if contractors use nonmilitary facilities, and \$157 million if contractors use Government facilities.

Background

Ammunition stocks become surplus and obsolete as new technology and weapons are introduced and phased in. The disposal of obsolete surplus ammunition in the United States has generally been accomplished by demilitarization (dismantling and destruction) at a military base in accordance with the Defense Demilitarization Manual (DOD 4160.21-M-1).

Ammunition becomes more sensitive with age. With a large stockpile of ammunition awaiting demilitarization, there is an increased potential for theft and accidental discharge. Therefore, good safety practice dictates strict control and prompt demilitarization of ammunition stockpiles.

In 1977, the Army assumed the role of single manager for conventional ammunition for all of the services. In this role, the Army's responsibilities include production and acquisition of ammunition as well as maintenance, renovation, demilitarization and disposal. With respect to demilitarization, this meant that as of November 1, 1977, the Army inherited from the other services the ammunition inventories designated for demilitarization.

Methodology

In order to assess the nature of the problem and determine feasible alternative solutions, the Office of the Secretary of Defense (OSD) Task Force conducted interviews with appropriate OSD and Army personnel. Data were gathered on inventory levels and estimated costs associated with demilitarization of the backlog. Pertinent DOD memoranda and directives on the demilitarization effort were also obtained. Special attention was directed to the Blue Ribbon Panel report.

Findings

At the end of FY 1977, the Army's demilitarization inventory was approximately 39,000 short tons. At the beginning of FY 1978, as a result of the Army's designation as a single manager for conventional ammunition, the Army's demilitarization inventory increased by 98,700 short tons to 137,700 short tons.

The chart below depicts the growth in the Army's demilitarization inventory since FY 1978.

DEMILITARIZATION INVENTORY
(Thousands of Short Tons)

| | <u>1978</u> | <u>1979</u> | <u>1980</u> | <u>1981</u> | <u>1982*</u> |
|-------------------------|-------------|-------------|-------------|-------------|--------------|
| Begin fiscal year | 137.7 | 137.0 | 160.1 | 171.3 | 173.8 |
| Annual demilitarization | 59.4 | 35.2 | 42.2 | 24.1 | 14.0 |
| Additions to inventory | 58.7 | 58.3 | 53.4 | 26.6 | 40.3 |
| End fiscal year | 137.0 | 160.1 | 171.3 | 173.8 | 200.0 |
| Backlog | 78.3 | 101.8 | 117.9 | 147.2 | 160.0 |

* 1982 figures are estimates.

During the five-year period, the demilitarization inventory increased by 60,000 short tons, and the Army's backlog doubled. The Army contends that available resources during this period were allocated to programs with higher priority than in-house demilitarization. These programs included depot improvement, particularly at Crane, Hawthorne, and McAlester, and a high level of shipping and maintenance activity to improve worldwide readiness and increase certain war reserve stocks.

The Army has projected an average addition to inventory of 40,000 short tons per year through FY 1987. The current projected demilitarization funding levels for the same period are sufficient for in-house demilitarization of approximately the same volume. Therefore, unless additional resources are committed to in-house demilitarization efforts, the Army will be unable to reduce the backlog.

In July 1980, noting the growing demilitarization backlog, the Army requested a waiver from requirements that demilitarization be performed on military installations. In its waiver request, the Army stated that the March 31, 1980, demilitarization inventory was 167,000 short tons. The Army also noted that: "Additional heavy generations of surplus and obsolete ammunition are forecasted; consequently, inventory growth will continue to outpace the rate of disposal unless new initiatives are employed." One initiative identified by the Army at that time as having a high potential for success was the sale of surplus and obsolete ammunition to reliable industrial firms at a nominal price for demilitarization in nonmilitary facilities under Army surveillance.

The Army was granted the authority to solicit bids for contractor demilitarization in nonmilitary facilities. According to the Blue Ribbon Panel study (October 1982), four solicitations have been held since the waiver was granted. In these four solicitations, only 12,750 short tons of the total inventory of 160,000-200,000 short tons were offered for sale.

The Blue Ribbon Panel study estimated that approximately 88 percent, or 176,000 of the 200,000 short tons of ammunition in inventory, is salable. The remaining inventory, which is nonsalable, includes high security-risk items, inert components, or bulk explosives. The maximum reclaim value in the 200,000 short-ton inventory is \$59.7 million. The Army estimates that the in-house reclamation value would be approximately \$13.8 million.

Conclusions

The OSD Task Force believes that the Army should be moving ahead in this area. We recognize the safety and security related concerns associated with demilitarization of ammunition in nonmilitary facilities. We have concluded, however, that continued inaction by the Army will result in stockpiles of ammunition that are themselves a safety and security problem.

The OSD Task Force believes that the sale by DOD of a sufficiently large volume of ammunition would provide an incentive for contractor participation in the bid process. To date, the Army has only offered for sale approximately 12,750 tons out of the 176,000-ton inventory that is salable. In the four solicitations, tons offered for sale ranged from 1,000 to 7,200. The total tons sold was only 742. The Army opposes sale of the entire inventory for demilitarization in nonmilitary facilities. In general, the Army argues that such a sale would be too costly, since the Army would incur cost for inspection of the inventory, materials and shipping. At a minimum, it is estimated that such a sale would cost the Army \$93 million (net of the estimated \$14 million reclaim value).

Recommendations

OSD 6-1: The Army should solicit bids for demilitarization of the existing ammunition inventory by private contractors in Government facilities. This type of arrangement would permit the Army to maintain close control over the demilitarization process without incurring all of the costs associated with demilitarization in nonmilitary facilities.

OSD 6-2: The solicitation should request bids for demilitarization of the 200,000 short-ton inventory in military facilities or in nonmilitary facilities. This will allow the Army to make a realistic assessment of the potential cost savings under either approach. In order for the Army to accurately assess the costs associated with ongoing contractor demilitarization in either military or nonmilitary facilities, bids should also be solicited for demilitarization of approximately 40,000 short tons of ammunition on an annual basis.

Savings and Impact Analysis

The Army has estimated that in-house demilitarization of the existing inventory would cost approximately \$186 million (\$200 million minus \$14 million estimated scrap value). Both the Blue Ribbon Panel and the Army have estimated costs for demilitarization by contractors in nonmilitary facilities -- the Blue Ribbon Panel estimated \$93 million; the Army, \$81 million.

Based on our study of this issue, we estimate that demilitarization by contractors in military facilities would cost approximately \$29 million.

Potential savings from contractor demilitarization of the existing inventory would accrue as follows (detailed estimates included in Exhibit II-2):

| | | |
|--------------------------------------|--|---------------|
| Contractor demilitarization off-post | | |
| Per Blue Ribbon Panel estimate | | |
| (\$186 million-\$93 million) | | \$93 million |
| Per Army estimate | | |
| (\$186 million-\$81 million) | | \$105 million |
| Contractor demilitarization on-post | | |
| Per OSD Task Force estimate | | |
| (\$186 million-\$29 million) | | \$157 million |

Assuming that DOD's average annual demilitarization rate is 40,000 short tons, the annual savings potential would range between \$18 and \$31 million if contractors perform demilitarization. Our one-time savings estimate is based on demilitarization of 200,000 short tons. Demilitarization by contractors of 20 percent of that amount could yield savings of \$18 million if contractors demilitarize in nonmilitary facilities (20 percent x \$93 million) to \$31 million if contractors demilitarize in military facilities (20 percent x \$157 million).

To estimate annual savings in the first three years, we have used the midpoint of the estimated range of recurring and one-time savings. Assuming an annual inflation factor of 10 percent, the estimated savings would be:

| | (\$ millions) |
|------------------|---------------|
| First year | 150 |
| Second year | 27 |
| Third year | <u>30</u> |
| Three-year total | <u>207</u> |

Implementation

The Secretary of Defense should direct the Defense Logistics Agency, through DPDS, to solicit bids for the demilitarization of obsolete and surplus ammunition as discussed above.

Exhibit II-2

ESTIMATED SAVINGS

Costs to Demilitarize Existing Inventory
(\$ millions)

| | <u>In-House ^{1/}</u> <u>(by Army)</u> | <u>Contractor</u> <u>Demil. Off-Post</u> | <u>Contractor</u> <u>Demil. On-Post</u> |
|--|---|---|--|
| | | <u>BRP Est. ^{5/}</u> | <u>Army Est.</u> |
| Inspection | N/A | \$3.7 | \$16.2 |
| Packaging for contractor demil. | N/A | 53.4 | 22.5 |
| Shipping | N/A | 35.9 | 42.5 ^{3/} |
| Pre-award survey and certification | N/A | .2 | .2 |
| | | | .2 |
| Total cost to DOD (net of estimated \$14M scrap value) | \$186 | \$93.2 | \$81.4 |
| Potential savings from contractor demil. (in-house cost minus contractor cost) | | \$93 | \$105 |
| | | | \$157 |

^{1/} Detailed cost breakdown not available.

^{2/} Demilitarization by contractors in military facilities would not require the extensive repackaging necessary for off-post demilitarization.

^{3/} Midpoint of estimated range of \$35-\$50 million.

^{4/} Assuming that Government facilities are used for contractor demilitarization, there would be some transportation costs involved. Our analysis indicates that these costs would be lower than those assumed by both the Blue Ribbon Panel and the Army.

Average shipping cost = 12.5¢ per ton mile
Average shipment = 1000 miles
Tons to be shipped = 200,000

Total cost = (\$.125) x (1000) x 200,000 = \$25 million

^{5/} Blue Ribbon Panel

II. ISSUE AND RECOMMENDATION SUMMARY (CONT'D)

A. LOGISTICS (CONT'D)

OSD 7: DOD IMPLEMENTATION OF OMB CIRCULAR A-76

Summary Recommendation

The Department of Defense (DOD) should seek legislation that will terminate existing constraints on DOD implementation of the Office of Management and Budget (OMB) Circular A-76. A-76 is a Government-wide cost reduction incentive program which encourages Government agencies to contract out when the private sector can provide certain goods and services more economically. In recent years, DOD efforts to implement OMB Circular A-76 have been restricted by various legislative requirements. DOD should be permitted to aggressively pursue cost savings opportunities which are available through A-76 programs.

Financial Impact

\$337 million
annually

Potential Savings: DOD should be allowed to proceed with an optimum strategy for contracting out and streamlining in-house work. If our recommendations are implemented over a five-year period, annual savings of \$337 million will be realized.

Background

OMB Circular A-76 implements the general policy that the Government should rely on the private sector to provide goods and services when it is economical to do so. More specifically, OMB Circular A-76 defines the policies and procedures to be followed in determining whether a certain commercial activity should be carried out by the Government or by private enterprise.

Circular A-76 does not apply to major systems acquisition or agency administrative and management functions. It does apply to commercial and industrial activities currently performed by Government employees, such as food service, maintenance, security, firefighting, laundry and drycleaning, automatic data processing, health services, audiovisual support, etc. The exceptions under which the Government may operate these commercial activities are: (1) there is no satisfactory commercial source available; (2) use of a private source would threaten national security; or (3) use of a private source would result in higher costs. When A-76 contracts expire, they are reviewed to determine whether they should be brought back in-house.

If a DOD activity is contracted out, military employees are reassigned. Civilian employees must be provided with the first right of refusal for employment on the contract, with at least the wages and fringe benefits prevailing for similar work in the locality. Displaced employees are also given priority consideration and training for other Government positions.

Methodology

The Task Force findings are based on interviews with numerous Government officials and a comprehensive analysis of reports, studies and audits performed by Government and non-Government groups on contracting out under OMB Circular A-76. Interviews were conducted with officials from the Office of the Secretary of Defense (OSD), the services, and the Office of Federal Procurement Policy.

This issue and issues relating to it were reviewed by other President's Private Sector Survey task forces. For further information, refer to the reports of:

- o Procurement/Contracts/Inventory Management Task Force,
- o Real Property Management Task Force,

- o Air Force Task Force,
- o Army Task Force, and
- o Personnel Task Force.

Findings

DOD has led other agencies in the implementation of the A-76 program. Since 1979, DOD has performed cost comparison studies of commercial activities involving 17,600 personnel spaces. These studies resulted in a determination that it was more economical to contract out approximately two-thirds of the commercial activities to the private sector. This resulted in the conversion of 11,700 spaces from DOD to private contractors, with an annual savings of approximately \$70 million. Even if an activity remains in-house after a cost comparison study, there appear to be substantial cost savings as a result of improved efficiencies (or streamlining) in operations which are identified in the cost comparison studies.

However, DOD has been subject to Congressional restrictions and requirements not imposed on civilian agencies. For example, Congress passed a moratorium on DOD A-76 reviews for fiscal year 1978, which essentially halted A-76 planned conversions for a year. Also, DOD is required to follow certain lengthy study procedures which do not apply to civilian agencies. Before an activity can be contracted out, DOD must perform a cost comparison study in which it must be demonstrated that contracting out to the private sector should yield a savings equal to at least 10 percent of the in-house personnel costs. Completion of such studies, in some cases, takes from 12 to 24 months. By contrast, civilian agencies need no cost studies to contract out activities with annual operating costs under \$100,000. In addition, Congress requires that DOD report activities which are scheduled for contracting out and also requires details of cost study results after completion. DOD must also provide annual reports to Congress on its contracting out efforts.

In August 1982, language was included in the DOD Authorization Act for FY 1983, 97-252, which prohibits any DOD expenditures on new A-76 cost comparison studies through March 31, 1983. DOD is also prohibited in FY 1983 from entering into any new contracts for firefighting or security guard duties on any military installation.

The Administration has encouraged OMB to give more emphasis to contracting out programs. The President affirmed his support for this program in his March 1982 budget message. It is our understanding that OMB is currently working on a simplification of A-76 cost comparison procedures.

Conclusions

DOD efforts to aggressively pursue savings opportunities under the A-76 program have been constrained by legislatively imposed restrictions and requirements. Continual intervention in DOD's management of the program disrupts the contracting process and discourages support for active participation in the A-76 program within the services.

Recommendations

OSD 7-1: Current restrictions on DOD's use of A-76 procedures should be removed. DOD should be permitted to program optimum savings under A-76 procedures without the constraints which destabilize the A-76 effort. DOD is currently subject to additional requirements which have the net effect of reducing potential savings. To the extent that restrictions on DOD's implementation of A-76 have become permanent through their inclusion in appropriation or other legislation, DOD should seek further legislation to repeal these restrictions.

Savings and Impact Analysis

The OSD Task Force understands that DOD objectives for FY 1982 to 1987 were for conversions of approximately 78,400 personnel spaces to private contracts and streamlining of 2,500 additional spaces. Projected savings were \$766 million per year. Operating under existing legislative restrictions, DOD expects that actual conversions and streamlining during the period will effect a total of approximately 45,000 personnel spaces for annual savings of \$429 million. If these restrictions on DOD's use of A-76 procedures were removed, DOD would save an additional \$337 million. This would bring total savings from A-76 to the originally planned \$766 million.

Exhibit II-3, at the end of this issue, provides details on expected A-76 conversions versus actual conversions and in-house streamlining. The incremental

savings attributable to full implementation of expected A-76 conversions is approximately \$337 million by FY 1987 (five years).

The estimated savings for the first five years from implementation of the recommendations would be:

(\$ millions)

| | | <u>Assuming 10 percent inflation</u> |
|-------------------------|--------------|--|
| First year | \$ 67 | \$ 67 |
| Second year | 135 | 149 |
| Third year | 202 | 244 |
| <u>Three-year total</u> | <u>\$404</u> | <u>\$460</u> |
| Fourth year | 270 | 359 |
| Fifth year | 337 | 493 |

Implementation

DOD should seek legislation that will permit it to implement OMB Circular A-76 as discussed above.

DOD should then proceed to convert or streamline 20 percent of the shortfall noted above during each of the fiscal years 1983 to 1987.

Exhibit II-3ESTIMATED SAVINGS -- CONVERSIONS AND IN-HOUSE STREAMLINING
(\$ millions)

| | <u>Contract</u> <u>Conversions</u> | | <u>In-house</u> <u>Streamlining</u> | | <u>Total</u> | |
|----------------------------------|---------------------------------------|---------------------------------|--|---------------------------------|---------------|---------------------------------|
| | <u>Spaces</u> | <u>Annual</u> <u>Savings</u> | <u>Spaces</u> | <u>Annual</u> <u>Savings</u> | <u>Spaces</u> | <u>Annual</u> <u>Savings</u> |
| FY 79-81 | | | | | | |
| a. Actual | 11,700 | \$ 70 | 700 | \$ 14 | 12,400 | \$ 84 |
| FY 82-87 | | | | | | |
| b. Defense guidance | 78,438 | \$706 | 2,500 | \$ 60 | 80,938 | \$766 |
| c. Expected | <u>43,900</u> | <u>395</u> | <u>1,400</u> | <u>34</u> | <u>45,300</u> | <u>429</u> |
| d. Shortfall | 34,538 | \$311 | 1,100 | \$ 26 | 35,638 | \$337 |
| FY 79-87 | | | | | | |
| Act. & Def. guidance (a+b) | 90,138 | \$776 | 3,200 | \$ 74 | 93,338 | \$850 |
| Expected (a+c) | <u>55,600</u> | <u>465</u> | <u>2,100</u> | <u>48</u> | <u>57,700</u> | <u>513</u> |
| Shortfall | 34,538 | \$311 | 1,100 | \$26 | 35,638 | \$337 |

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD-8: CONSOLIDATION OF BASE SUPPORT OPERATIONS

Summary Recommendation

The Department of Defense (DOD) should consolidate more base support operations across service lines. DOD should require that the services participate in the Defense Retail Interservice Support (DRIS) program so that opportunities for consolidation of base support services can be identified in the short term. All bases operating in areas which contain multiple military installations within a 50-mile radius should become potential candidates for consolidation of support services. Those consolidations with savings potential should be promptly implemented at the direction of the Secretary of Defense.

Financial Impact

\$100-\$500 million
annually

Potential Savings: The estimated savings range used here is derived from testimony by the General Accounting Office (GAO) on June 22, 1982, before the Legislation and National Security Subcommittee of the House Government Operations Committee. Based on an analysis of the many audits and studies of the DRIS program which have been conducted over the last ten years, the OSD Task Force concluded that this savings range is feasible and conservative.

Background

Base support operations include such services as fire protection, housing management and maintenance, finance and accounting, refuse collection, civilian personnel management, building and road maintenance, and security. There are 50 such functions in the administrative and logistical support areas and 25 in the supply and maintenance areas. Since most of these functions are standard across the services, there is a potential for cost savings to the extent that interservice consolidation of such functions can be initiated in geographical areas with several military facilities. Such consolidation can reduce duplication in staffing and facilities.

The cost of base operations was approximately \$20 billion in 1982, and it is expected to increase to \$26 billion by 1986.

Methodology

The Office of the Secretary of Defense (OSD) Task Force reviewed numerous studies and audits conducted on the DRIS program since 1975. The Task Force also interviewed DOD officials involved in the management of the DRIS program.

This issue and issues related to it were reviewed by other President's Private Sector Survey task forces. For further information, refer to the reports of the Army Task Force and the Procurement/Contracts/Inventory Management Task Force.

Findings

In 1973, DOD initiated DRIS program to provide base commanders with a mechanism for determining where base support operations could be consolidated in order to reduce costs and increase efficiency. (In the DOD context, "retail" refers to the base or user level.) Through participation in the DRIS program, coordinated by the Defense Logistics Agency (DLA), base commanders indicate the base support services their installations could use from, or provide to, other installations within a 50-mile radius. This information is reported to DLA and maintained in the DRIS data bank. Additional information is submitted by participating bases which provides data on the dollar and staff-year savings from consolidation and the types of support services in a particular geographical area categorized by supplier and by receiver.

In 1978, DOD established Joint Interservice Resource Study Groups (JIRSGs) for 51 geographical zones which contain at least ten military installations within a 50-mile radius. JIRSGs were directed to study each category of support services and determine consolidation opportunities within JIRSG zones.

In March 1981, the Deputy Secretary of Defense directed each service to set a goal of minimum savings of \$10 million per year in FY 1983 to 1987 from consolidation of base support activities. In March 1982, noting the limited success of the DRIS program, a DOD audit report indicated that changes in the JIRSG process were necessary to elevate the importance of the DRIS program. The audit report recommended that a General or Flag Officer be appointed to act as an executive agent for each of the four primary JIRSG regions. DOD has not followed this recommendation, though a Directorate for Base Operations was established in OSD, currently headed by a Lieutenant Colonel.

The DRIS program has been the subject of numerous studies and audits. In general, all of the studies concluded that the program has not been as effective as possible in identifying potential areas for consolidation. Some of the reasons cited for the program's ineffectiveness include: (a) participation in the program is not mandatory; (b) savings goals are too low to spark an aggressive program; (c) there is no perceived authority to resolve conflicts and force such consolidations without escalation to the highest levels in DOD; (d) the parochialism of the services militates against the sharing of base support services through consolidations; and (e) there is much confusion due to the overlapping of DRIS, the Commercial and Industrial-Type Activities (CITA) program, and the intraservice consolidation programs.

Conclusions

The issue of consolidation of base support operations has been studied rather consistently over a period of at least ten years by DOD and outside audit groups. All reports conclusively point to the potential for savings through effective consolidation of base support operations.

The OSD Task Force has concluded that no insurmountable obstacles stand in the way of a successful program of interservice consolidation of base support services. It appears that strong and forceful management is needed, along with an

emphasis on the program at the OSD level, to provide the impetus for full activation of the consolidation effort.

Recommendations

The OSD Task Force believes that DOD has an existing vehicle through which further base support consolidation efforts can be made, i.e., the DRIS program. However, to improve the effectiveness of the program, the Task Force suggests several modifications:

OSD 8-1: Participation in the program should be mandatory for all base commanders. Further, all areas with two or more bases operating within a 50-mile radius should become potential candidates for consolidation of base support services.

OSD 8-2: DOD should establish a timetable of not more than two years for completion of all interservice consolidation opportunities already identified by the DRIS program.

OSD 8-3: Where DLA determines it is appropriate, prototype studies should be performed on potential base support consolidation candidates. This would eliminate the need for separate studies at individual bases.

OSD 8-4: The DRIS program staff should develop a rigid schedule to implement, within a five-year timeframe, all base support consolidation candidates proven feasible by the prototype studies. The staff should also monitor these consolidations as they are implemented.

Savings and Impact Analysis

Potential savings from an effective DRIS program are difficult to estimate with precision. In testimony before the Legislation and National Security Subcommittee of the House Government Operations Committee in June 1982, the GAO stated that a savings goal of \$108-\$540 million per year from consolidation of base support activities was reasonable. Within the timeframe of our review, we were unable to better quantify potential savings. The lower end of the GAO savings range represents only 0.5 percent of total base operations costs. In light of the numerous previous studies which have indicated that savings opportunities exist in this area, it seems reasonable to assume that the GAO estimate is feasible and conservative. Assuming a 10 percent

inflation factor, the mean estimated savings for the first three years from implementation of these recommendations would be:

| | (\$ millions) |
|-------------------------|---------------|
| First year | \$300 |
| Second year | 330 |
| Third year | 363 |
| <u>Three-year total</u> | <u>\$993</u> |

Implementation

The Secretary of Defense should direct the consolidation of base support operations.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD 9: BASE REALIGNMENTS AND CLOSURES

Summary Recommendation

The Department of Defense (DOD) should recommend and Congress should concur with an aggressive program to close or realign a significant number of military bases in the United States. While the subject is politically painful to pursue, the need for vigorous action is clear. Because of the deep-seated resistance that springs up to oppose any specific candidate for closure, we recommend that an umbrella approach be taken. Two alternative approaches should be considered:

- o The President should appoint an independent commission to make a comprehensive study of the base realignment problem; or
- o DOD should declare all bases as candidates for closure, give appropriate notice to Congress and the public, and commence the requisite studies.

Financial Impact

\$2 billion
annually

Potential Savings: The full potential savings are very substantial. It appears that this savings estimate is a conservative goal, based on information in previous DOD and Office of Management and Budget (OMB) analyses.

Background

When this Office of the Secretary of Defense (OSD) Task Force was starting its study, OSD indicated that our assistance could prove helpful with respect to suggestions for base realignments and closures. The Secretary of Defense repeated the need for such assistance at a White House briefing.

Early in the present Administration, in a letter to each of the Service Secretaries, the Deputy Secretary of Defense said, "On the basis of our current underutilized base structure, I cannot accept continual expenditure of Defense resources for activities and installations which are not essential to the current overall National Defense effort." Unfortunately, the request to the Service Secretaries to recommend significant base closures and realignments did not result in an adequate response.

Prior Secretaries of Defense had also attempted to reduce the base structure, but legislative impediments enacted in the mid-1970s have made the process extremely difficult politically.

As the Congressional Budget Office noted in a February 1982 report, "The major opposition to base realignments stems from the economic dislocation they might produce in communities near the bases -- often a cause of intense local concern." Consequently, while almost everyone can agree with the need to reduce the base structure, agreement cannot be reached on specific bases if they are located in the United States or its territories.

Methodology

Interviews were conducted with present and prior DOD officials responsible for installations and housing. Data available with respect to prior studies at the OSD level were reviewed. OMB officials were interviewed and OMB analyses were reviewed. This issue was also discussed with prior Secretaries of Defense to secure their perspective and suggestions.

Data at the service level were not reviewed for two reasons. First, there was insufficient time available to perform detailed reviews of the situation at each base. More importantly, as discussed below, the problem is a political and an OSD management problem, and should be viewed in that context.

Findings

DOD maintains approximately 5,600 separate installations and properties throughout the world, of which approximately 4,000 are in the United States. These installations support over two million active-duty military personnel, nearly one million reserve personnel, over one million civilian personnel, over one million retired military personnel, and an undetermined number of active and retired dependents. The annual cost of these installations was approximately \$20 billion in 1982, of which \$14 billion was for installations in the United States. By 1986, these costs will grow to about \$26 billion and \$19 billion respectively.

The installations and properties range in size from one-half acre to over 600,000 acres, from 0 to over 50,000 personnel assigned. The definition of an "installation" differs from service to service, primarily as a result of differing history and command structures. Army and Air Force installations are generally contiguous entities which embrace all the activities within their borders and are reasonably self-contained. Navy defines its installations in a much more fragmented way so that, in some cases, contiguous activities, or even activities completely surrounded by other activities, are counted as separate installations.

Of the United States installations, approximately 312 are considered to be significant. The remaining installations are generally small support facilities (less than 150 employees) or National Guard and Reserve installations.

Since 1968, the DOD worldwide military and civilian employee population has decreased from about five million to three million. Some progress was made early in that period with respect to base realignments and closures, but the effort has virtually dried up.

It does not appear coincidental that such economies stopped in the mid-1970s after Congress enacted legislation requiring DOD to prepare detailed studies of base closings and realignments, with advance notice to Congress and the public of proposed studies, and providing for Congressional review of the completed studies before implementation.

Some proposals announced for study in 1976 have not yet been resolved. No realignment packages have been announced since 1979.

This, perhaps, should not be surprising, since following the 1979 closure and realignment package announcement, the then Deputy Secretary of Defense and the Service Secretaries were required to defend their actions at numerous Congressional committee hearings. At some hearings, outside witnesses were allowed to join members of Congress to expound their reasons why a base should not be realigned.

With increasing frequency, members of Congress from affected districts introduce defense legislation, usually in the military construction bill to delay specific realignment proposals. After the 1979 package announcement, the law was changed to require a particular Air Force base realignment to be subject to Congressional special reporting procedures. Legislation was also passed to require the preparation of an environmental impact statement for the same realignment, despite an interpretation that it was not required. In a number of other cases, specific legislation was passed to require environmental impact statements even though normal provisions would not have so required. Environmental impact statements can be very expensive, often costing \$100,000 to \$1 million to perform and can take months and sometimes years to finalize.

In the case of another realignment, an amendment was introduced in defense legislation that would have, for the first time, stopped a proposed realignment. Not only did DOD back down, but another \$100 million will be spent for new facilities on that base to modernize it.

According to a memorandum sent to the Secretary by the Assistant Secretary for Manpower, Reserve Affairs and Logistics, "There probably have been other cases where Congressional pressure has been put on the military departments that influenced their decision to maintain the status quo, but since these actions never come to DOD's attention, we do not know the total number of bases that Congress precluded us from closing."

We tried to obtain adequate information to enable us to make specific recommendations in this area, as was suggested to us by the Secretary of Defense. Unfortunately, we were thoroughly frustrated by our inability to get usable data. It should be noted that no data were refused us. We reluctantly conclude that the many pressures that are brought to thwart each specific proposal have discouraged the assembly of usable data, at least at the OSD level.

Opinions as to the savings potential vary considerably:

- o OMB has developed alternative proposals regarding closures or realignments of 50 or more of the 312 significant installations in the United States.

Under one alternative, potential savings of \$2 billion are estimated from realignment of unnecessary and inefficient installations, with no increase in capital investment. A second option estimates potential savings of \$5 billion from a major program of modernization and consolidation of installation structures. This option would require increased DOD funding levels for a three-to four-year period. Estimates for both options include savings from increased use of contractors for base-support services.

- o In March 1981, Secretary Weinberger directed each of the services to meet reduction targets through base realignments and closures, for a total of \$1.25 billion in annual savings. No specific candidates for realignment or closure were designated by OSD, nor was the technique used by OSD to arrive at the \$1.25 billion figure delineated.
- o The response from the services to Secretary Weinberger's directive was not encouraging. The aggregate response was less than 40 percent of the target. Two of the services argued that no further realignments or closures were advisable.

Subsequently, the responsibility for identifying and carrying out base realignments was delegated to the services. No goals were imposed, and little action has been evident.

Conclusions

It appears clear that the legislation of the mid-1970s has had the effect of making it extremely difficult to close or realign bases. Little has been done for almost four years, even though previous Secretaries and top OSD officials of the current administration believe the current base structure is underutilized.

It appears to the OSD Task Force that the political problems associated with base closings make this a very difficult issue to address. OSD does not appear to have hard data that would enable it to be forceful with the services. The services do not appear to want to give up any bases. Even if they were willing, they appear to be deterred by the anticipation of adverse reactions by the affected Congressional delegations, community leadership, local private sector vendors, and employees (both civilian and military).

In short, unless the President or the Secretary of Defense directs that an objective, intensive study be made in this area, there is little hope of accomplishing meaningful realignment.

Recommendations

OSD 9-1: The President should appoint an independent bipartisan commission to make a thorough study of the base realignment problem. There should be substantial representation of retired senior military officers. In addition to making specific recommendations on base realignments, the commission should be charged with the responsibility of determining the extent to which nonmilitary considerations (i.e., political pressures, broadly defined) interfere with rational, cost-effective military decisions.

The OSD Task Force does not concede that this is an impossible task. It is simply a difficult one. We believe that a frank report to the American people will convince them that the retention of inefficient, inadequate and misplaced facilities is not in the national interest.

Alternatively, DOD could declare all U.S. bases as candidates for closure. Environmental impact statements as required by the National Environmental Policy Act could be started simultaneously. Appropriate notice would be given to the respective Armed Services Committees and the public. Following the completion of environmental impact statements and other required studies and after all decisions have been made, they would be announced to those committees and the public, and the 60-day grace period would begin.

Savings and Impact Analysis

Because estimated savings require detailed reviews of the situation at each base, the OSD Task Force has no independent estimate of the total savings possible from further base realignments. If DOD pursues and Congress allows, the remaining realignments from the 1979 package would produce more than \$500 million in savings over the next five years.

OMB estimates annual savings of \$2 billion to \$5 billion could be achieved. The lower figure would not make fundamental changes in base structure philosophy, but it

would require strenuous efforts to realign unnecessary and inefficient installations without any special increase in capital investment.

While the OSD Task Force has not performed an independent estimate of savings possible from further base realignments and closures, we find the lower end of the OMB range to be a conservative estimate of savings achievable. Assuming five years to implement the recommendations, the net savings would be:

| | | (\$ billions) |
|------------------|--------------|-----------------------------------|
| | | <u>Assuming 10% Inflation</u> |
| First year | \$.4 | \$.400 |
| Second year | .8 | .880 |
| Third year | <u>1.2</u> | <u>1.452</u> |
| Three-year total | <u>\$2.4</u> | <u>\$2.732</u> |
| Fourth year | 1.6 | 2.130 |
| Fifth year | 2.0 | 2.928 |

Implementation

The President should appoint an independent bipartisan commission to conduct a comprehensive study of the base realignment problem. In the alternative, the Secretary of Defense should declare all U.S. bases as candidates for closure and initiate the compliance procedures for base realignments required under 10 U.S.C. 2687 (1980).

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD 10: UNIFICATION OF TRAFFIC MANAGEMENT

Summary Recommendation

The Department of Defense (DOD) should seek legislation that would permit it to establish a single traffic management agency within the Military Traffic Management Command (MTMC) that would be responsible for the surface and air traffic management functions currently vested in the Military Sealift Command (MSC), the Military Airlift Command (MAC) and the MTMC. The responsibility for the actual transportation equipment and its operation would remain with MSC, MAC and MTMC. The new traffic management agency would be responsible solely for traffic management and coordination.

Financial Impact

| | |
|-----------------------|---|
| \$20 million annually | <u>Potential Savings:</u> \$4.7 million annual savings have accrued from the trial consolidation of sealift cargo offering and booking functions of MSC and MTMC under the supervision of MTMC. The complete consolidation of all surface and air traffic management functions recommended by the Office of the Secretary of Defense (OSD) Task Force should yield an additional \$15.3 million annual savings in reduced overhead and personnel expenditures and avoidance of duplicative data processing costs. |
| \$20 million one time | More efficient cargo traffic management would also result in an estimated one-time savings of \$20 million due to a shortening of the inventory pipeline. |
| \$1-\$2 million | <u>Implementation Cost:</u> One-time cost associated with some office reorganization and relocation of some personnel and passenger booking terminal equipment. |

Background

Military traffic management is administered by MTMC, MSC and MAC. Under the current system, operators of the organic transportation resources make decisions on whether to use these resources or whether to contract for the services in the marketplace.

Currently, MTMC coordinates land transportation, except for container movements, and operates military ocean terminals. MSC coordinates inland container movement, procures commercial ocean cargo space, and provides ocean lift using organic Navy or charter vessels. The individual services handle the movement of air cargo. The passenger traffic function is divided between the MTMC, which generally controls commercial air travel in the continental United States, and MAC, which controls international air travel, using both commercial carriers and the MAC fleet.

Methodology

The OSD Task Force conducted interviews with representatives of MTMC and MSC and representatives of the Air Force familiar with the operation of MAC. Additionally, the OSD Task Force interviewed the author of a comprehensive contractor study of DOD transportation functions. Also, members of the OSD Task Force analyzing this issue had extensive operating experience in the field of traffic management and physical distribution.

Findings

History has shown that at times of peak military activity (i.e., World War II, Korea and Vietnam), there are more demands upon the transportation system than there are resources, and that a knowledgeable cadre of traffic experts is necessary to allocate the available resources. In peacetime, there is the further question of cost control. Operators of transportation modes may not necessarily be the best organizations to evaluate options and reach transportation resource allocation and cost control conclusions because of their inherent prejudice for a specific mode of transportation.

The organization and operation of DOD transportation functions have been studied and restudied by DOD and by outside consulting groups. There have been various recommendations for consolidation, and there has been great

resistance to each. In fiscal year 1982, DOD proposed creating a new Military Transportation Command, which would consolidate the surface transportation and traffic management functions of MSC and MTMC. However, Congress enacted Section 1110 of the Department of Defense Authorization Act for 1983, P.L. No. 97-252, which prohibits the consolidation of "any function" currently being performed separately by MSC, MAC or MTMC until Congress has the opportunity to consider further DOD legislative proposals.

The OSD Task Force determined that the function of mode selection and traffic management within DOD was fragmented and often in conflict with good management practice. Specifically, many of the decisions relating to the utilization of commercial air transportation services to points outside the continental United States were made by MAC, which also operates a fleet of military and cargo aircraft for DOD. The need to justify and utilize these organic resources often overrode economic criteria in carrier selection decisions and resulted in the use of military aircraft in situations where commercial air carriers might have been chosen if purely economic analysis had been allowed to influence the transportation decision.

Further complicating this process was the fact that the decisions on domestic personnel movements were made by MTMC, which does not own any organic resources. MTMC decisions often conflicted with the decisions made by MAC, particularly where movement from an inland continental United States point to an overseas destination was involved. Similarly, MSC operated organic resources and contracted for commercial cargo space. Again, operational considerations often overrode economic decisions. Finally, MTMC offered a career development path for military transportation specialists, whereas the Navy and Air Force did not provide for progressive career development in this specialized field.

Conclusions

The OSD Task Force concluded that the operation of organic transportation resources was often in conflict with rational economic decisions in the selection of transportation services and that substantial opportunities for cost reduction existed if these functions could be separated. The current DOD proposal does not really focus on the most important issue -- the need for a single traffic manager for transportation. The proposal only considers surface transportation of cargo. The air transport functions of MAC and MTMC are not included in this proposal. However,

a single traffic manager should manage cargo and passenger movements by surface and air. Complete centralization of traffic management would permit the traffic manager to weigh all of the options and select the mode of transportation that costs least and takes least time. A traffic management function should make the mode decision, and the mode operators, i.e., MAC, MTMC and MSC, should provide the resources to implement the mode selections.

Recommendations

OSD 10-1: The functions of traffic management and transportation equipment operation should be separated and treated as separate cost centers. This would more clearly delineate the true cost of providing transportation services. The consolidation of all traffic management functions into one command should improve day-to-day operating efficiencies and reduce management and administrative costs.

OSD 10-2: We recommend that the traffic management functions currently being performed by MTMC, MSC and MAC be consolidated under one agency. This agency should have no organic transportation resources. MAC should continue to operate organic aircraft resources, and MSC should operate organic ocean cargo resources and take over responsibility for terminal operation from MTMC.

Savings and Impact Analysis

The trial consolidation of ocean cargo booking under the control of the MTMC, which also coordinates the inland movement of cargo, has generated estimated annual savings of \$4.7 million. Based on the efficiencies achieved to date, it is estimated that additional savings of approximately \$15.3 million, for a total annual savings of \$20 million, could be achieved through complete consolidation of all surface and air traffic management functions. Full savings may not be achievable for one to two years due to the necessity of developing new systems to interface with existing data processing systems.

A study by Harbridge House, an independent contractor working for DOD, has indicated that a unified traffic management system offers further potential for at least \$20 million in one-time cash gain through the reduction of the inventory replacement time. This would lead to a one-time reduction in total inventory investment.

These savings opportunities would be offset initially by a one-time expenditure of \$1-\$2 million for personnel relocation and facilities consolidation to accommodate the combination of traffic management functions.

Assuming a 10 percent inflation factor, the estimated savings for the first three years from implementation of this recommendation would be:

| | (\$ millions) |
|-------------------------|---------------|
| First year | \$20 |
| Second year | 22 |
| Third year | 24 |
| <u>Three-year total</u> | <u>\$66</u> |

Implementation

DOD should seek legislation that will permit it to consolidate all surface and air traffic management functions as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD 11: INLAND CONTAINER TRANSPORTATION PROCUREMENT

Summary Recommendation

The Military Sealift Command (MSC) should discontinue its requirement that ocean carriers provide through bills of lading for intermodal surface cargo movement. MSC should procure only ocean container transportation services. Local Department of Defense (DOD) shipping and receiving entities should procure inland container transportation services. The Military Traffic Management Command (MTMC) should be permitted to negotiate inland transport rates upon request by local shippers and receivers.

Financial Impact

\$5-\$10 million

Potential Savings: Estimated annual savings are based on projected fiscal year 1983 MSC expenditures of \$55 million for inland container transportation services. Approximately 10 percent of projected expenditures (the estimated management fee charged by ocean carriers) could be saved if MSC discontinued its requirement for through bill of lading. Further savings could result from the flexibility of local shippers to negotiate local inland transport rates.

Background

MSC has used the through bill of lading concept as a way of simplifying the procurement and control of overseas cargo shipments. The concept evolved from the development of intermodal cargo movement, i.e., movement of cargo in the same container which can be used interchangeably on either truck or rail equipment or on board ship. Most ocean carriers offered combined inland and ocean container transportation services to private industry only for a short time, until it proved to be too complex and expensive to manage. MSC still requires through bill of lading for its overseas shipments.

MSC also requires that ocean carriers include a break-out of the cost of the land elements and sea elements of each route in the bill of lading. The carriers must secure quotations from trucking and rail companies for inland transportation services at either end of each route, and incorporate these rates into their overall rate quotations. Ocean carriers are also required to provide trucking and rail coordination and dispatch service in conjunction with each ocean cargo shipment. The trucking and rail elements of each rate structure are checked by MTMC against published rates to ensure reasonableness.

Methodology

The Office of the Secretary of Defense (OSD) Task Force conducted interviews and reviewed documents concerning MSC's current practice in procuring container transportation services. Private sector ocean carriers were also interviewed. This analysis was performed by Task Force personnel with private sector experience in transportation procurement.

Findings

Local DOD shipping and receiving entities have the option of procuring local trucking and rail service if appropriate, but they currently have little incentive to do so since any savings as a result of negotiation do not accrue to the shipper or receiver.

The ocean carrier is responsible for selecting the inland container carrier. DOD shipping and receiving entities are only responsible for scheduling the arrival and dispatch of the container. Tracking of the container

movements must be done through the ocean carrier. MSC is required to handle only one bill of lading, issued by the ocean carrier for the combined container movement.

Conclusions

The current procedure for procuring through intermodal cargo movement service does not reflect the realities of today's deregulated transportation marketplace. Ocean carriers are being asked to provide a management service which is not compatible with their current organizational structure and which is generally not cost-effective. Furthermore, local shippers and receivers have the familiarity with local transportation market conditions which could be used to substantially improve upon current container movement practices.

Elimination of the requirement for ocean carriers to provide land transportation services would allow carriers to pass through savings in the form of lower bids for the water leg of intermodal cargo movements. The local DOD shipping and receiving organization would deal directly with the container haulers without going through the ocean carriers. This would require some additional clerical effort for DOD in preparing an inland bill of lading for the local carrier movement. This document is not complex, and incremental clerical effort would be minimal.

In general, the competitive factors in the major trade lanes influence the relative attractiveness of various types of transportation contracts. MSC and the local shipping installations should be provided the maximum possible flexibility in procuring inland transportation in order to take advantage of competitive development. It appears to us that utilization of local DOD traffic management resources to negotiate inland transport contracts should ensure the lowest possible rate.

Current marketplace experience indicates that local agreements can be significantly more cost-effective than large, geographically broad transportation contracts. However, in late 1982, a number of ocean carriers proposed intermodal freight rates as a competitive marketing device to get around conference rates in the highly competitive north Atlantic freight lanes.

Recommendations

OSD 11-1: MSC should discontinue its requirement that ocean carriers procure inland container transportation services. Local DOD shipping and receiving entities should procure inland transport services, and they should be given maximum flexibility to take advantage of competitive developments in the marketplace.

It should be noted that Section 1110 of the DOD Authorization Act for 1983, P.L. 97-52, prohibits the consolidation of "any function" currently being performed separately by MSC, MTMC or the Military Airlift Command. To the extent that this OSD Task Force proposal constitutes a consolidation of inland container transportation services in MTMC, such consolidation arguably would be prohibited by legislation.

Savings and Impact Analysis

It is estimated that ocean carriers charge approximately a 10 percent management fee for the service of procuring inland container transportation. Currently, ocean carriers maintain an office to manage inland transportation of containers only for DOD. Elimination of this service, along with a highly competitive bidding process for military transportation contracts, should make it attractive for steamship lines to pass through these savings in their bids.

Local procurement of container hauling services in today's deregulated environment and with the knowledge of local conditions offers a potential for at least 10 percent in additional savings. This kind of cost reduction achievement is not unusual in the private sector in today's environment.

Based on estimated FY 1983 expenditures of \$55 million for inland container transportation services, total potential savings from implementation of this recommendation should range between \$5 and 10 million.

To estimate the annual savings potential, we have used the midpoint of the estimated range of savings. Assuming an annual inflation factor of 10 percent, the estimated savings in the first three years would be:

| | (\$ millions) |
|-------------------------|---------------|
| First year | \$ 7.5 |
| Second year | 8.3 |
| Third year | 9.1 |
| <u>Three-year total</u> | <u>\$24.9</u> |

Implementation

DOD Directives 5160.10 and 5160.53 should be revised to separate the procurement of ocean and inland container transportation services in connection with overseas cargo shipments as discussed above. DOD may need to seek legislation to implement this change because of the blanket prohibition established by Section 1110 of P.L. 97-252.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD 12: CONTAINER DETENTION CHARGES

Summary Recommendation

The Military Traffic Management Command (MTMC) should establish a cargo dispatch function which would coordinate cargo shipments with the unloading and storage capabilities at receiving locations.

Financial Impact

\$1-\$2.5 million
annually

Potential Savings: Tighter management and better coordination in determining container loading and unloading priorities should reduce detention charges by approximately 50 percent, or \$1-\$2.5 million annually.

\$.2-\$.3 million
annually

Implementation Cost: Some increase in staff would be necessary to improve control.

Background

Container detention is a penalty charged by carriers for use of carrier equipment (containers, rail cars, highway trailers) in excess of a reasonable unloading time. Standard unloading times are set by carriers, often in conjunction with rate bureaus, trade associations and shippers themselves. Charges are billed, usually on a sliding scale, after free time is exceeded. MTMC estimates that detention charges of \$2-\$5 million are incurred annually under existing cargo dispatch procedures.

The problem addressed here is that container shipments are not coordinated with unloading and storage capabilities at receiving locations. As a result, container flow often exceeds the capabilities of receiving locations to unload and store the containers, thereby causing the backup of loaded containers on carrier equipment and the assessment of detention charges. An efficient cargo dispatch function could significantly reduce or eliminate unnecessary detention charges.

Methodology

The Office of the Secretary of Defense (OSD) Task Force conducted interviews with officials in the Military Sealift Command (MSC) and MTMC, and representatives of major ocean carriers serving the United States' east coast ports and the major European ports. Estimates of the total container detention expense were provided by MSC.

Findings

The current procurement system places a premium on meeting resupply deadlines established in the military procurement system, and the procurement function is measured on its ability to meet procurement schedules. Thus, there is great incentive and pressure to procure goods, load containers, and dispatch cargo on the basis of schedules built around total reorder cycle times. However, these schedules do not incorporate any recognition of the potential for unloading delays at destination. Our analysis indicated that the substantial level of Department of Defense (DOD) container detention at northern European installations resulted from a lack of any consideration on the part of shippers of unloading capabilities at destination ports.

Information provided by MSC and MTMC, as well as by the ocean carriers, indicates that there is a significant unloading backlog at destinations in northern Europe. Discussions with individuals in these organizations also indicated that most of the total DOD detention expense is being incurred in this area, and it is being incurred on cargo that generally originates from a limited number of points in the eastern United States. Therefore, it appears that a cargo control coordinating function, which releases cargo for dispatch to unloading facilities on the basis of the facilities' ability to promptly handle the cargo, could yield significant reductions in container detention expense.

Discussions with ocean carriers indicated that there is a potential for significantly escalating costs for container detention since detention rates have been held down artificially in past years through pressure from the ocean transportation procurement agency. As a result, some of these costs have been recovered in the ocean transportation rate structure, thereby disguising the true cost of container detention.

Conclusions

The OSD Task Force has concluded that the major portion of container detention is occurring in a relatively compact traffic lane with a limited number of shipping points in the eastern United States and a limited number of receiving points in northern Europe. Therefore, it appears feasible that DOD could exercise some management control over this traffic lane and coordinate container dispatch from the United States with receiving capabilities in Europe.

Recommendations

OSD 12-1: A container dispatch function should be organized within MTMC. The primary function of the group would be to ascertain the container backlog situation at the major receiving points in northern Europe and to release containers from the major loading points in the eastern United States on the basis of the standard container transportation time and the ability of the receiving locations to unload the containers.

This office should be staffed with four or five people who are equipped with telex and telephone capability to survey the key receiving locations. This office should be given the authority to release or hold shipments at origin, prior to container loading, to avoid generating container

detention charges at the destination port. This coordinating capability should dramatically reduce container detention expense that DOD is currently incurring in northern Europe.

Savings and Impact Analysis

MTMC has estimated annual container detention expense in the United States' East Coast/northern Europe traffic lane at \$2-\$5 million. Good management of container loading and release should halve this cost. Costs may go higher in coming years without proper container release controls as carriers seek to recover the true cost of holding loaded containers for long periods of time.

It is estimated that a cargo dispatch staff of four to five people with telex and telephone communication capability would cost \$200,000-\$300,000 per year.

To determine the annual net savings potential we have used the midpoint of the estimated range of savings minus the midpoint of the estimated range for the annual implementation cost. Assuming an annual inflation factor of 10 percent, net savings in the first three years would be:

| | (\$ millions) |
|-------------------------|---------------|
| First year | \$ 2.0 |
| Second year | 2.0 |
| Third year | 2.0 |
| <u>Three-year total</u> | <u>\$ 6.0</u> |

Implementation

DOD Directive 5160.53 should be revised to establish a cargo dispatch function in MTMC as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. LOGISTICS (CONT'D)

OSD 13: CARGO DATA INTERCHANGE SYSTEM

Summary Recommendation

In its program to improve and update the Military Standard Transportation and Movement Procedure (MILSTAMP), the Department of Defense (DOD) should consider the extent to which it can integrate systems developed by the Cargo Data Interchange System (CARDIS). DOD's use of CARDIS should be contingent upon successful development of the system by the National Committee on International Trade Documentation (NCITD) (which is being funded solely by the private sector).

Financial Impact

\$4-\$5 million
one-time

Potential Savings: \$4-\$5 million would be saved in systems development and programming cost avoidance if CARDIS is compatible with the MILSTAMP upgrade program.

Background

DOD moves millions of tons of cargo around the world each year. Much of this cargo moves by civilian commercial carriers. In the early 1960s, DOD developed MILSTAMP to provide semiautomated cargo documentation and tracing capability. This system consists of packets of 80-column cards for each unit shipped. The cards are input at various stages of cargo movement to provide cargo documentation and tracing.

Cargo movement in the private sector is accomplished through the use of bills of lading, commercial invoices, and packing lists, which perform the same function as the MILSTAMP cards. Both private sector and military systems are in need of major improvement to keep pace with changes in the transportation industry, improvements in transportation technology, and the advent of integrated electronic data processing systems which may eliminate the need for much of the printed document and punched card formats currently in use in the private and public sectors.

Methodology

The Office of the Secretary of Defense (OSD) Task Force conducted interviews with the Director of Transportation and Distribution Policy in OSD and with personnel involved in the MILSTAMP program administration.

Findings

The MILSTAMP system has been modified in an attempt to make it more compatible with the realities of today's transportation system. The MILSTAMP system utilizes a technology which is 20 years old and is considered outdated and cumbersome by today's standards. Frequent modifications to the existing system also make it difficult to administer.

The Deputy Assistant Secretary of Defense for Supply, Maintenance, and Transportation recognized that the MILSTAMP system was in need of overhaul and directed the formation of the MILSTAMP Improvement Program in January 1980. The MILSTAMP group was specifically directed to address options available for improvement of documentation, accounting and administration procedures; cargo-in-transit visibility and control; interface with commercial carriers; and the need for long-term development of a modernized DOD transportation and movement system which would completely replace MILSTAMP.

CARDIS is a prototype system of cargo documentation being developed by NCITD. CARDIS seeks to integrate the data and tracking requirements of shippers, carriers, census offices, customs departments, banks, insurance companies and consignees, who are all parties to the various transactions which support the flow of goods in international commerce.

NCITD began to work on the concept of electronically transmitting cargo transportation data in the early 1970s, when it became apparent that technology would provide the ability to develop electronic cargo mail. A prototype system was developed and tested in 1979, in a joint project funded by NCITD and the Federal Maritime Administration. The system test proved the utility of the CARDIS concept and provided a basis for refinement of system specifications. Revised CARDIS specifications have been published, and two potential vendors, Tymeshare and ADP, have announced their intention to provide a CARDIS-type service. Initial commercial testing is expected in 1983.

Conclusions

The MILSTAMP system is obsolete in terms of recognizing users' needs, compatibility with the deregulated transportation environment, and current electronic data processing technology. The private sector is currently wrestling with similar transportation and documentation problems. A combined effort by DOD and the private sector could lead to considerable cost avoidance by DOD in upgrading MILSTAMP if a commercially acceptable cargo documentation and tracing system can be developed.

CARDIS is designed to provide cargo tracking, documentation and expedited capabilities to the private sector export market. Cargo configuration, transportation modes and documentation requirements are basically similar for the private sector and DOD. Therefore, development of a common cargo data system offers a good area for Government and private sector cooperation as well as economies of scale for both organizations.

Recommendations

OSD 13-1: DOD has already recognized CARDIS as a possible element in its program to update MILSTAMP. The MILSTAMP improvement working group should follow through. If the CARDIS system proves commercially viable, the OSD Task Force recommends that DOD consider integrating CARDIS

with MILSTAMP. Such integration would allow DOD to avoid significant costs associated with independent development of a cargo data system which must ultimately be compatible with that used by commercial carriers. However, DOD should not participate in funding the development of CARDIS.

Savings and Impact Analysis

Development of a major data network such as an improved MILSTAMP system or the CARDIS system will involve a large investment in systems development, programming and hardware acquisition. Industry sources familiar with the CARDIS requirements have estimated that systems development alone could involve an expenditure of \$2-\$3 million. Hardware acquisition by the DOD for a stand-alone system could involve expenditures of millions more. The OSD Task Force conservatively estimates that \$4-\$5 million could be saved by DOD's utilization of a commercial service for cargo tracing and documentation.

Implementation

The Secretary of Defense should actively consider revising MILSTAMP to incorporate CARDIS as discussed above.

ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)A. LOGISTICS (CONT'D)OSD 14: HOUSEHOLD GOODS MOVES TO ALASKA AND HAWAIISummary Recommendation

The Department of Defense (DOD) should seek legislation that will permit the Military Traffic Management Command (MTMC) to solicit competitive bids for movement of household goods to Alaska and Hawaii. Restrictive language has been written into DOD appropriations legislation since 1978 to prohibit competitive bidding on Alaska and Hawaii household goods moves. In addition, in order to eliminate unnecessary and excessive damage claims, household goods which are moved to Alaska by sea should be packaged in the same manner as household goods shipped to other overseas locations.

Financial Impact

| | |
|-----------------------|---|
| \$21 million annually | <u>Potential Savings:</u> \$19 million from introduction of the competitive bidding program for household goods movements to Alaska and Hawaii; \$2 million from institution of changes in the methods of packing and moving household goods to Alaska. |
|-----------------------|---|

Background

MTMC designed the Competitive Rate Program (CRP) in 1976 to obtain more competitive rates for the movement of household goods of military personnel. Prior to implementation of this program, all carriers which had equal rates shared equally in the household goods traffic. Thus, there was no real incentive for any carrier to quote a lower rate, because the carrier received no advantage as long as the other carriers met the same rate. Under the CRP, the carrier with the lowest rate was guaranteed a significant portion of the traffic, often as much as 50 percent. This provided a volume opportunity to the low-cost carrier.

Methodology

The office of the Secretary of Defense (OSD) Task Force reviewed data from MTMC and the General Accounting Office that provided concrete information on the effectiveness of competitive bidding in reducing the cost of moving household goods. The Task Force also reviewed household goods loss and damage claims experience for moves to various destinations by various modes of shipment.

Findings

The CRP was tested in Okinawa and Germany in 1976, and substantial rate reductions were achieved. The Germany test yielded rate reductions averaging 36 percent. As part of an effort to expand the CRP to other overseas shipping routes, competitive rates were solicited for Alaska and Hawaii in 1977. The quotes submitted under the competitive proposal for Alaska reduced rates an average of 26 percent and for Hawaii, 20.5 percent. However, restrictive language was included in the DOD Appropriations Act for 1978 which precluded the adoption of CRP for moves to Alaska and Hawaii. Similar language has been included in the DOD Appropriations Act for each of the last four years. See, for example, Section 744 of the DOD Appropriations Act for 1982, P.L. 97-114. As a result of this legislation, DOD is still prohibited from implementing the program for moves to Alaska and Hawaii.

As a corollary issue, the OSD Task Force has reviewed the extensive number of loss and damage claims relating to moves of household goods to Alaska. Normal practice in the movement of household goods by sea is to pack and crate them in large packing crates with a large quantity of bracing and padding, along with extensive water barriers.

However, household goods moved by sea to Alaska go in a conventional moving van from the continental U.S. location to Seattle. There they are off-loaded and packed in ocean cargo containers for movement by sea to Alaska. The ocean containers are unloaded in Alaska, and the household goods are put on another moving van for final delivery. As a result of the excessive handling of the goods and the inadequate water protection, 71 percent of all shipments to Alaska have reportable loss or damage, as opposed to normal DOD claims experience of 30 percent worldwide. The OSD Task Force understands that MTMC follows these packing procedures for shipments by sea to Alaska as a result of pressure or resistance to change on the part of the Alaska Movers Association.

Conclusions

Competitive bidding has proven its effectiveness by dramatically reducing household goods moving costs to destinations outside North America. Further, DOD loss and damage claims experience in moves to Alaska is excessive. Action should be taken to reduce these claims to a level no greater than the normal DOD claims experience.

The barriers to implementation of competitive bidding of rates and packing and crating of household goods shipments to Alaska and Hawaii should be eliminated. Reducing loss of goods and damage claims will have a further benefit through improving the morale of families whose goods are moved.

Recommendations

OSD 14-1: DOD should seek legislation which will permit the CRP to include the movement of goods to Alaska and Hawaii, the only remaining traffic lanes where competitive bidding is not used. Using the 26 percent and 20.5 percent rate reductions quoted for Alaska and Hawaii moves in 1977, the OSD Task Force estimates that the CRP could result in savings of approximately \$19 million per year in moves to these two states.

OSD 14-2: MTMC should require that household goods moved to Alaska by sea be packaged in the same manner as all other overseas shipments of household goods. The OSD Task Force understands that MTMC is already giving consideration to implementing this recommendation for the current fiscal year.

Savings and Impact Analysis

Data provided by MTMC Household Goods Section projects fiscal year 1983 Alaska and Hawaii moving expenses at \$36.2 million. Based upon rate reductions offered for Alaska and Hawaii when actual competitive bids were solicited in 1977, savings are projected currently at \$19 million.

It is estimated that approximately 14 percent of total DOD dollars spent on moves of household goods to Alaska represents payment of loss or damage claims. The average DOD claims expenditure, as a proportion of the cost of all DOD moves, is approximately 6 percent. Reduction of the Alaska claims expenditures to the DOD-wide level of 6 percent by using overseas packing and crating methods in shipments to Alaska would yield annual savings of approximately \$2 million.

Assuming an annual inflation factor of 10 percent, the estimated savings in the first three years would be:

| | (\$ millions) |
|------------------|---------------|
| First year | \$21 |
| Second year | 23 |
| Third year | <u>25</u> |
| Three-year total | <u>\$69</u> |

Implementation

DOD should seek legislation that will permit it to extend the CRP program to include the movement of household goods to Alaska and Hawaii. In addition, MTMC should require that household goods moved to Alaska by sea be properly packaged as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

B. WEAPONS

OVERVIEW

The problems of the weapons acquisition process are well known. The path toward solution is less clear. For many years there have been a great deal of analyses of the problems, all of which have resulted in little real improvement.

Early in 1981 the Deputy Secretary of Defense assembled experts from within and outside Government to survey all prior studies relative to the weapons acquisition dilemma and asked them to prescribe solutions.

The resulting Acquisition Improvement Program identified the problems and delineated 32 initiatives to unclog the system. A great deal of follow-up study ensued, and a start has been made toward effecting some of the changes. The most significant accomplishment so far was the limited introduction of multiyear procurement into the 1983 budget.

The Office of the Secretary of Defense (OSD) Task Force supports the goals of the Acquisition Improvement Program and believes that faster progress toward implementation would be desirable.

As a recent progress report on the Acquisition Improvement Program notes, "Cultural change in a vast organization takes some time. Our challenge is to incorporate the initiatives in the day-to-day operations and decision processes of the department. This requires publicizing the initiatives to ensure a clear understanding at all levels, as well as overcoming the normal organizational resistance to change."

The OSD Task Force believes that the problem is an urgent one, with immense cost implications to the nation. The efforts of the Department of Defense leadership are heartily endorsed, but even more decisive steps should be taken to effect that change expeditiously.

Our recommendations in the weapons acquisition area support the department's initiatives and suggest specific steps to speed the process.

One omission from the Acquisition Improvement Program is any consideration of organizational change. In our view, many of the bottlenecks and the institutional resistance are an inevitable result of the organization of the Department of the Defense (DOD). This problem is addressed specifically with respect to weapons acquisition in Issue OSD 15. A broader analysis has been provided in the opening chapter.

Given the limited timeframe of this survey, it was necessary to divide the weapons issues into discrete areas. In practice, they are not discrete, but complementary. The adoption of any of the recommendations will help cure the deficiencies ascribed to the other issues.

The savings that can be produced from these recommendations will be available to meet the ambitious weapons development program that is planned for the remainder of the decade.

The savings calculations were based upon data provided in the proposed 1983 budget. In that proposal, the total obligational authority for weapons procurement was:

| (\$ billions) | |
|---------------|--------|
| Aircraft | \$32.1 |
| Missiles | 13.1 |
| Ships | 18.6 |
| Other weapons | 6.3 |
| Total | \$70.1 |

Expenditures for Research, Development, Test and Evaluation were proposed at \$24.3 billion, of which \$17.3 billion was to be contracted with industry. In-house DOD expenditures of \$5.5 billion were planned, with the remainder going to Federal Contract Research Centers and Universities.

Other President's Private Sector Survey task forces also reviewed aspects of the weapons acquisition process. For further information, refer to task force reports on:

- o Air Force
- o Army
- o Navy
- o Procurement/Contracts/Inventory Management

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)**B. WEAPONS (CONT'D)****OSD 15: IMPROVED ORGANIZATION OF THE
ACQUISITION FUNCTION****Summary Recommendation**

The Department of Defense (DOD) should initiate a program to modernize and streamline the total acquisition process. It is our assessment that consolidation of the management of the acquisition process within the Office of the Secretary of Defense (OSD) would improve program efficiency and provide opportunities for significant cost savings. While the OSD Task Force recommends virtually full consolidation of the acquisition process into OSD, interim steps, somewhat short of that goal, are also possible.

Financial Impact

Potential Savings: Dollar savings, while considerable, are difficult to quantify and will vary widely depending on the degree of change implemented. In the Savings and Impact Analysis section of this issue, we have estimated some benchmark savings increments possible if recommended changes are implemented to improve the efficiency of the process.

Background

In the existing system, acquisition policy and guidance are provided by the Office of the Under Secretary of Defense for Research and Engineering. This organization is responsible for basic and applied research, the gathering and exchange of scientific and technical information, establishment of DOD-wide acquisition policies and procedures, oversight of design and engineering functions, and guidance and oversight for the major weapons acquisition process. Each of the services has a similar organization reporting to the Service Secretary, which develops acquisition policies and procedures and oversees the acquisition process -- essentially duplicating the functions performed within OSD.

Each service is structured to provide its own threat evaluation, countermeasure development and engineering design. The acquisition function is performed by large commands reporting to the Service Chiefs who manage the programs and implement the acquisition process. These service commands are:

DARCOM - Army Materiel and Readiness Command
 NAVMAT - Naval Materiel Command
 AFSC - Air Force Systems Command
 AFLC - Air Force Logistics Command

The current acquisition process is complex and lengthy. Guidelines, policies and procedures on acquisition of major weapons systems are provided to the Services in DOD Directive 5000.1 and DOD Instruction 5000.2. A system is designated as major when Research, Development, Test and Evaluation (RDT&E) funds exceed \$200 million or production funds exceed \$1 billion.

The systems acquisition process is divided into four distinct phases -- concept exploration, demonstration and validation, full-scale development, and production and deployment. These are illustrated in Exhibit II-4 at the end of this issue.

Before the four acquisition stages are initiated, a service must determine that there is a mission need (i.e., potential threat) for which existing capability is deficient. In the case of major systems, the service then prepares a Justification of Major System New Starts (JMSNS), which is a precise articulation of what is required of a new weapons system or what modifications are required in existing systems to meet the stated mission. The JMSNS is submitted to the Secretary of Defense with the service's Program Objectives Memorandum for the budget year in which funds are requested to initiate a new program start.

In Phase 1, concept exploration, the services identify and explore various alternatives to satisfy the mission need. The results are summarized in the System Concept Paper, which contains those concepts that will be carried into the next phase, the reasons for eliminating other concepts, and a description of the acquisition strategy. The Secretary of Defense, through the Defense Systems Acquisition Review Council (DSARC), must provide authority to proceed into the next phase. This point is called Milestone I.

In Phase 2, demonstration and validation, the system is refined through extensive study and further analysis. Some hardware may be developed and tested in order to provide a better definition of performance, cost and producibility. Usually, prototypes are created by several firms in competition for the production contract. This phase provides the input and rationale for deciding which system, if any, should move into full-scale development. The decision, made by DSARC, to move into the next phase is called Milestone II. This is a critical point in the process where the commitment is made to expend major resources.

Phase 3 is full-scale development. The decision to go into full-scale development is supported by information in the Decision Coordinating Paper (DCP) and the Integrated Program Summary (IPS), prepared by the appropriate program office. The DCP identifies the alternatives, goals, thresholds and costs. The IPS, which should not repeat data in the DCP, provides more specific information and a comprehensive summary of the program. It is at this stage that major contracts are negotiated with private industry. Engineering models of the weapon and principal support items are designed, developed, fabricated and tested. Procurement of long lead-time production items and limited production of the system often occur during this phase. Documentation of test results, cost estimates and proposed schedules are presented to DSARC for the Milestone III decision that is needed to put the weapon into production.

Phase 4, production and deployment, is the final phase in the process, when the weapon is produced in volume. It is an ongoing phase that ends when the last system is delivered and accepted, or when the weapon becomes obsolete. Normally, 80 percent of the weapons systems costs are incurred in this phase.

Methodology

In developing this issue, the Task Force conducted interviews with former DOD officials who served in the capacities of: Secretary of Defense, Deputy Secretary of Defense, Service Secretary, and Chairman of the Joint Chiefs of Staff. We also interviewed incumbent DOD officials, as well as private sector individuals knowledgeable in the area of DOD procurement. We also performed a comprehensive review of numerous pertinent published materials on the subject.

Findings

As the OSD Task Force analyzed the DOD acquisition process (see Issues OSD 16 through OSD 23), it became apparent that many of the acquisition-related problems are rooted in the department's organizational structure. In this issue, we provide a private sector perspective on possible solutions.

DOD's weapons acquisition system is massive. The proposed total obligational authority for fiscal year 1983 was more than \$70 billion for procurement of aircraft, missiles, ships, combat vehicles, weapons and torpedoes. RDT&E accounted for another \$24 billion.

There are 65,000 people in DOD who are directly involved in the acquisition process. In addition, personnel in the various commands support the acquisition function. The number of support personnel is difficult to determine, but our research indicates that as many as 7.5 support personnel are required for each person directly involved, for a total DOD involvement of perhaps 500,000 people. In addition, an estimated 3,000,000 contractor personnel are affected by procurement decisions.

The sheer dollar magnitude of the DOD weapons acquisition program ensures that the acquisition process is carefully scrutinized by private industry, the Congress, the press and the public at large. When a program incurs major cost overruns, DOD is soundly reproached by all of these groups, and the perception is reinforced that the acquisition process is largely inefficient and uncontrollable.

Not only does DOD have to cope with meeting the need for weapons, but it must be recognized that there is also a strong push to sell to DOD. This push comes from vendors who market weapons systems as well as from private and

public sector representatives of the areas where the weapons systems would be manufactured.

As a general rule, each service prefers to have weapons that are unique, even though another service has developed a system for the same broad purpose. Further, as noted in Issue OSD 20, the overuse of military specifications can drive up the cost of weapons systems beyond what is reasonably necessary.

OSD must pass judgment on each proposed weapons system. However, there is a considerable body of evidence to suggest that they are not in as full possession of data and the range of options available as they should be, since they are not as close to program planning as the services are.

Critics of the current weapons acquisition process make the following points:

- o DOD spends enormous amounts of money and time to obtain weapons that are on the leading edge of technology, but too few are available for use.
- o The lead time between conceptualization and development is too long.
- o Inadequate attention is paid to long-term affordability. Therefore, the trade-off between alternative weapons systems is made too late.
- o Whereas DOD personnel costs have somewhat more than doubled since 1974, and operations and maintenance costs have almost tripled, procurement costs are five times the 1974 level.

Conclusions

We have identified specific problems relating to the acquisition of major systems in the weapons section (Issues OSD 16 through OSD 23). It is difficult to isolate the conditions which contribute to a particular problem, due to the complexity of the acquisition process and the large number of personnel and procedures involved. In this issue we discuss the acquisition process in the context of the DOD organizational structure and the problems that organizational factors contribute to the procurement of major weapons systems.

Organizationally, the major OSD policy functions involved in the acquisition process report to the Under Secretary of Defense for Research and Engineering. There are, of course, some arguments for tying research and engineering with procurement, particularly in the high technology world of defense systems. Probably the reason most often cited is that research and engineering are ongoing processes which continue into the procurement-production phases. While this is undoubtedly true, as the DOD operates today, this organization is one of the principal causes of stretched-out delivery cycles and resultant cost escalation.

The managerial skills employed by a research and engineering executive differ markedly from those needed by a procurement and production executive. It would be difficult for one manager to function effectively in both roles and to maintain the discipline needed at the interface between the two major phases of the acquisition process. A recognized authority, Dr. Jacques S. Gansler, supports this conclusion when he states that "effort must be made toward separating R&D and Production in business areas that would stand on their own. This change would give far more flexibility to the operation and structure of the defense industry."^{1/}

In the existing process, major weapons systems are acquired by separate organizations in each of the three services. Each service maintains personnel to perform the same acquisition management and administrative functions in areas such as contract and other reporting requirements, data processing systems, requests for proposals, interface with industry, implementation of procurement regulations and contract administration.

In addition to this massive duplication of effort among the services and between the services and OSD, the current organization discourages optimization of total DOD procurement spending. Procurement funds are distributed by program among the three services, each of which operates independently of the other. Each service speaks for itself and defends its weapons programs against those of the other services when necessary.

^{1/} Gansler, J.S. The Defense Industry. The MIT Press, 1980, p. 265.

Interservice rivalry for procurement funds compounds the problem. It appears that each service is inclined to underestimate proposed weapons systems costs, either to make its system appear more cost-effective than proposed systems of competing services, or to be allowed to start even more weapons. Theoretically, service-neutral advice to the civilian OSD management from the Joint Chiefs of Staff (JCS) should help in the priority setting process. In practice, however, the service affiliations of the JCS and the Joint Staff have created an environment that usually precludes the provision of truly neutral advice.

Once selected, a weapons system develops a constituency within the service and within the Congress and industry. Therefore, it becomes very difficult to terminate a program, even if it experiences cost overruns or exhibits only marginal performance. Historically, neither the cost estimates generated by the services or by the Cost Analysis Improvement Group of the OSD Office of Program, Analysis, and Evaluation have been adequate as predictors of actual experience. Thus, they lend insufficient input into the process whereby the civilian management of DOD tries to establish program priorities in an environment of limited resources.

Cost underestimation in the early stages of the acquisition process generally leads to successive changes in the cost estimates as the program moves through the acquisition phases. This factor, along with continual changes in the quantity procured, in production rates, in engineering designs and in available funding leads to overall program instability. It has been estimated that approximately 20 percent of the actual cost of a weapons system represents costs associated with program instability.

The OSD Task Force suggests that a more centralized focus on the acquisition process at the OSD level would reduce instability in the process. OSD would be able to maintain the objectivity necessary to resist proposed instability changes in high priority programs. OSD's objectivity would allow the elimination of marginal programs from the DOD budget, something the services are generally not able to do because of their vested interest in their own programs.

The OSD Task Force feels that consolidation of the management of the acquisition process at the OSD level would improve the focus and effectiveness of the DOD procurement effort. It would also create an opportunity

for organizational restructuring of the acquisition process to eliminate many of the problems discussed in the OSD Task Force weapons acquisition issues.

Our recommendation for consolidation is not a rejection of decentralization. Indeed, it may very well be beneficial to decentralize along functional, specialty or regional lines. The problem with the existing system is decentralization by service.

Our recommendations for consolidation of the weapons acquisition process will result in an elevation of the importance of the acquisition function as a discrete process within DOD. As part of this process of reorganization, we are impressed by the arguments advanced for reform of the institutions that provide military advice to the civilian leadership of the department. Although our conclusions derive from our findings with respect to problems observed in the acquisition process, it should be noted that many respected military and civilian leaders believe that reform of the JCS and Joint Staff will improve the ability of the department to carry out its mission. (See U.S. Congress, House of Representatives, Reorganization Proposal for the Joint Chiefs of Staff, Hearings Before the Investigations Subcommittee, 97th Congress, 2nd Session, April-August 1982.)

Recommendations

OSD 15-1: DOD should consolidate the acquisition function -- separate from the research and engineering activities in the acquisition process -- under a newly created position of Under Secretary of Defense for Acquisition. This new Under Secretary would be responsible for management of the procurement and production phases of the acquisition process.

We believe that separating the procurement and production phases of acquisition from the research and engineering phases would bring much-needed discipline to the acquisition process within DOD. It would require that designs be completed and accepted before major procurement and production began. This could defer some ongoing improvements in technology, but would focus attention on changes and force an analysis of each proposed change on the basis of impact on timing and cost, as well as benefit to the user. Additionally, it would lead to an important focus on fast, economical delivery of systems designed for possible future retrofit with improved items of technology.

Emphasis on cycle reduction and unit cost could also lead to more widespread use of standardized subsystems and the Preplanned Product Improvement Program as a cost-reduction measure.

We suggest four progressively advanced and broad-based alternatives in acquisition procedures which the Secretary of Defense should consider. We recommend that the fourth suggestion, total consolidation of acquisition, be the target organizational structure for the DOD procurement program. We recognize that significant changes in OSD and the services would have to be implemented to reach this target. Implementation of any of the alternatives would constitute a major improvement.

A uniform system of procurement -- at a minimum, we recommend that uniform policies and procedures be established for management decision making on acquisition of major weapons systems. The Defense Acquisition Regulations establish uniform policies for the procurement of supplies and services, but the process of decision making is different in each service. This change would have the major effect of eliminating unnecessary duplication of effort and would provide a uniform system for the military-industrial complex to deal with, regardless of which service is involved.

A commodity approach to procurement -- under this alternative, the acquisition function would continue within each of the services. However, procurement of similar systems would be handled by a single consolidated organization located within the most logical service. For example, in this type of approach, the Air Force would procure all aircraft, regardless of the end use organization. This approach would incorporate the single manager concept in the weapons acquisition process. The single manager approach has been used successfully for procurement of certain consumable items for some years.

Consolidation of procurement and production -- under this alternative, we recommend consolidation of the management of the acquisition phases for procurement through production into a single agency reporting to OSD. The services would retain the functions of mission need analysis, countermeasure conceptualization, research and engineering, test and evaluation, and acceptance. When the service was satisfied that the system met its need, the project would be given to the acquisition organization for contracting and production.

Total consolidation of acquisition -- under this preferred alternative, we recommend the total consolidation of the acquisition function at the OSD level; i.e., research and engineering functions should be consolidated under the Under Secretary of Defense for Research and Engineering; and procurement and production functions should be consolidated under the Under Secretary of Defense for Acquisition (as proposed herein). This would require removing the research and engineering functions from the services. The services would determine mission needs, conceptualize countermeasures, develop mission element needs statements, and charge the acquisition agency with development and production of weapons systems to meet these needs at a minimum cost on an agreed schedule. The services would retain the functions of test and evaluation and acceptance of the final system.

It should be noted that such an approach would be similar to the practices adopted by many of our European allies.

We feel that there are many efficiency and cost reduction benefits to be gained from implementation of the above recommended changes. Perhaps the most significant benefits would be in the area of reduction in program instability and the attendant problems. Consolidation of acquisition functions would encourage implementation of the 32 initiatives in the Acquisition Improvement Program, provide a more objective basis for decisions to accept or reject proposed competing programs from the services, allow DOD to present a single position to Congress and the public on acquisition matters, and facilitate the promulgation of uniform procurement policies and procedures to control the acquisition process.

It is apparent that DOD will be under constantly increasing pressure to provide more defense capability with the same or fewer resources. It is essential, therefore, that DOD structure itself so that equal balance be given to decisions regarding cost and timing of weapons systems programs as well as user needs and the embodiment of the latest technology considerations.

Savings and Impact Analysis

The installation of consolidated management of the weapons acquisition process holds the potential of saving many billions, perhaps even tens of billions of dollars annually in the aggregate, from better decision making.

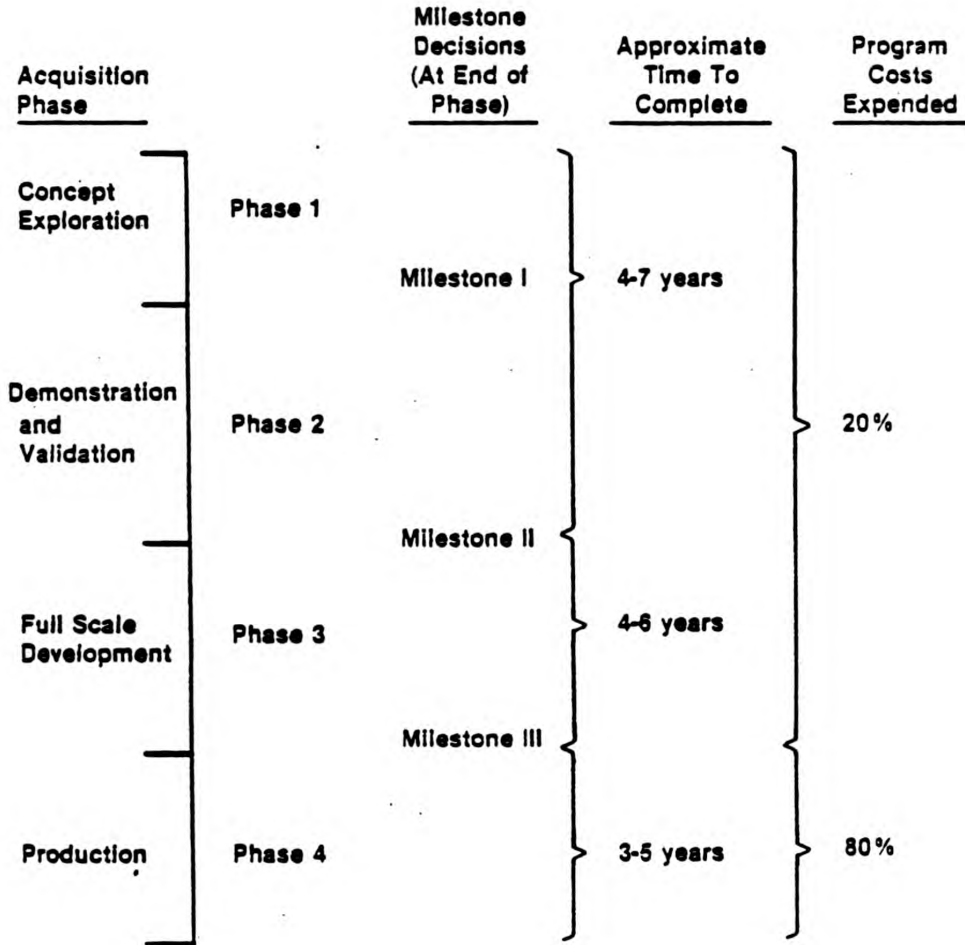
Further, we estimate that each 1 percent reduction in the 500,000 personnel now involved in the acquisition process would save approximately \$150 million. No savings are claimed in this report, however.

Implementation

DOD should seek legislation to establish the position of Under Secretary of Defense for Acquisition within OSD. The new Under Secretary should then develop and implement a plan to modernize the total acquisition process in DOD as discussed above.

Exhibit II-4

WEAPONS ACQUISITION PROCESS



II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)**B. WEAPONS (CONT'D)****OSD 16: DEFENSE CONTRACT ADMINISTRATION CONSOLIDATION****Summary Recommendation**

The Secretary of Defense should direct the consolidation of all Department of Defense (DOD) contract administration functions under the direction and control of a senior acquisition executive (see Issue OSD 15). A single focal point for all DOD contract administration activities will promote the development of uniform contract management policies and procedures, improve the DOD's contract management, reduce operating costs, and provide uniform contract management services.

Financial Impact

\$90 million
annually

Potential Savings: A 10 percent reduction in personnel costs, equal to \$90 million, can be achieved through realignment and consolidation of plant and regional offices.

Background

The current DOD organization for contract administration is a combination of centralized and decentralized activities conducted by the Defense Contract Administration Service (DCAS) and by the individual services.

DCAS is part of the Defense Logistics Agency (DLA) in the Office of the Secretary of Defense (OSD). It maintains 71 Plant Representative Offices, each administering all contracts at a particular plant on behalf of all DOD buying offices. In addition, there are 37 DCAS management area offices and nine DCAS regional offices, which perform contract administration duties at smaller firms.

The services have nine separate military headquarters managing the military contract administration effort -- three Army, four Navy, and two Air Force organizations.

The DCAS is the largest contract administration organization. It employs 16,300 people and administers over 300,000 contracts with a total value of \$105 billion. The Air Force, the next largest contract administration function in terms of contract dollars (over \$90 billion), employs approximately 3900 people and administers approximately 50,000 contracts. With approximately 5900 people, the Navy administers about 24,000 contracts with a value of \$60 billion. Close to 4,000 Navy contract administration personnel are responsible for the contract administration function in support of 16 shipbuilding and ship repair locations. The Army uses 1,100 people to administer \$13 billion in contracts.

Methodology

DOD and industry officials were interviewed. In addition, prior recommendations of other study groups were reviewed.

Findings and Conclusions

Numerous studies have been conducted on the feasibility of consolidating the contract administration functions for all of DOD. In June 1963, the Project 60 study recommended that contract administration, with few exceptions, be consolidated. As a partial response, the DCAS was established in 1964 as part of DLA. However, strong resistance from the services prevented the complete consolidation of all contract administration functions at that time.

However, that study did result in a least one additional improvement in the management of contract administration. Before Project 60, each military service doing business with the same contractor was permitted to place its own contract administrators in the same plant. As a result of Project 60, the contract administration function for each plant was assigned to one service, which represented the other services, in order to present a single face to industry.

A 1978 study of the contract administration function performed by Booz, Allen & Hamilton also supported the notion of consolidating contract administration. This study identified several areas where DCAS performance was given high ratings by military customers: negotiation of overhead rates, negotiation of spare parts contracts, and performance of technical analysis of cost and schedule control systems criteria.

The contract administration function is an important part of the DOD acquisition process. The contract administration offices comprise DOD's direct interface with industry, providing much of the information needed for source selections and, after award, enforcing the terms and conditions of the contract. DOD's present approach to contract administration permits major variations in operating procedures among DCAS and the various service components performing contract administration. These variations include: inconsistency in procedures for evaluating contractor capabilities and performance; inability to reasonably assess operational effectiveness; inconsistency in the quality of the work force; and difficulty in applying innovations across service lines. There also appears to be a wide variance in the numbers, grade levels, and technical specialities of personnel assigned to contract administration activities in similar circumstances.

Despite the numerous problems with the current management of contract administration and the recommendations of the study groups cited above, the services continue to oppose the consolidation concept. They contend that consolidation could impair their ability to control service specific acquisition programs and to ensure responsiveness to program managers' concerns.

Recommendations

OSD 16-1: DOD contract administration should be consolidated under the direction of a senior OSD acquisition executive in order to accomplish three goals: (1) provide a

single method of contract administration practice, irrespective of the purchasing entity within DOD; (2) facilitate training, transfer, progression, and direction of contract administration personnel; and (3) reduce headquarters and overhead cost.

Savings and Impact Analysis

The OSD Task Force estimates that a consolidation of contract administration functions could result in a 10 percent reduction in manpower, with a savings potential of \$90 million.

Assuming a 10 percent inflation factor, the estimated savings for the first three years from implementation of this recommendation would be:

| | <u>(\$ millions)</u> |
|-------------------------|----------------------|
| First year | \$ 90 |
| Second year | 99 |
| <u>Third year</u> | <u>109</u> |
| <u>Three-year total</u> | <u>\$298</u> |

Implementation

The Secretary of Defense should direct the consolidation of DOD contract administration functions under the direction of a senior OSD acquisition executive as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

B. WEAPONS (CONT'D)

OSD 17: REGULATORY CONSTRAINTS

Summary Recommendation

The Department of Defense (DOD) should take appropriate action to simplify the complex regulatory system which governs the acquisition of weapons systems. This is essential for improving and expanding the competitiveness of the industrial base.

Financial Impact

Potential Savings: While it is difficult to quantify, simplification of the procurement process should reduce direct Government costs and indirect contractor compliance costs that are reimbursed by DOD. To the extent that regulatory simplification will attract additional suppliers, the increased competition should lead to lower contractor bids.

Background

The Armed Services Procurement Act is the primary statutory basis for procurement procedures in DOD. This Act sets forth broad policy guidelines for the acquisition of weapons systems, and DOD has issued a myriad of regulations and directives to implement the Act.

The Defense Acquisition Regulations (DAR) comprise the major regulatory document issued by the Office of the Secretary of Defense (OSD), which governs procurement by the services. The stated purpose of DAR is to establish for DOD uniform policies and procedures related to the procurement of supplies and services. The services and the Defense Logistics Agency issue their own procurement regulations to implement DAR. OSD and the services also issue various appendices, supplements, directives, and manuals which influence the procurement of weapons systems.

In these various promulgations, DOD attempts to cover all aspects of the contracting process, such as how to choose among various types of contracts, how to negotiate prices, reporting requirements, how contractors are required to set up their accounting systems and allocate their costs (which allocated contractor costs are reimbursable by the department), etc. In published regulations alone, there are approximately 7,500 pages and a half million words of instruction material that apply to Government and industry personnel in contracting with DOD. Approximately 65,000 DOD employees are involved in direct acquisition activities in addition to more than 500,000 support personnel. Another 3,000,000 contractor personnel are employed by industry, whose costs are paid for in contract prices via contractor overhead or direct contract costs.

Methodology

Interviews were conducted with DOD and Office of Federal Procurement Policy (OFPP) personnel involved in the procurement regulations. We also interviewed industry executives responsible for complying with the regulations. We reviewed numerous Government regulations, as well as the process by which the DAR Council develops regulations. Considerable data used by the OFPP in developing the proposed new procurement system were also reviewed.

Findings

One of the reasons most often cited for the detailed procedures included in the DAR and the implementing regulations issued by the services is that many Government personnel involved in procurement lack the technical skills to use a high degree of professional judgment in making decisions. Most industry and Government personnel believe that the Government procurement regulations are too rigid. However, most Government personnel strictly adhere to the regulations, even when some flexibility is intended by the regulations, in order to avoid criticism.

The OSD Task Force reviewed the procurement policies of several major companies involved in both defense and non-defense work. These companies procure significant amounts of supplies and services from vendors and subcontractors, and the function of procurement is very important to the overall operation of these companies. Without exception, the companies have developed and issued broad policy-type statements for use by all divisions and

subsidiaries, rather than detailed procedures such as DOD uses. Included in this material, and reinforced in discussions with industry representatives, are frequent references to the need to rely upon professional judgment of procurement personnel, not detailed regulations and procedures.

The OSD Task Force recognizes that Government procurement is on a much larger scale than that of any individual company, and that the high technology products that the Government purchases are generally more advanced than such products purchased by most companies. Another major difference between procurement in Government and industry lies in the concept of public vs. private accountability for funds expended. It is generally required that public funds be more closely accounted for and controlled than private funds. The Government evidently perceives that the promulgation of detailed regulations leads to improved accountability.

However, the OSD Task Force believes that DOD places undue reliance on written regulations to accomplish the job of acquiring weapons systems. Current procedures do not adequately recognize that the procurement of billions of dollars in supplies and services each year is a job for highly skilled professionals, using maximum judgment and minimum reliance on written regulations. Private industry has learned that spending scarce private funds is best accomplished, not by voluminous written regulations, but by brief policy statements which provide guidance for skilled professionals.

Discussions with industry representatives and a review of other data indicate that the high cost of excessive DOD regulations is significant, and it affects a broad range of contractor activity and drives up the cost of Government procurement. OSD itself estimates that contractually imposed management systems and data requirements cost eight cents out of every dollar spent for procurement. In addition, the detailed reporting requirements and the necessary administrative procedures connected with defense contracting have discouraged small and medium-size firms from doing business with the Government, resulting in a substantial decline in the industrial base at the subcontractor level during the last 20 years.

OFPP was charged by the Congress with developing a uniform procurement system for all Government agencies, including DOD. In its report to the Congress in 1982, OFPP recognized significant problems in existing procurement regulations of all agencies. Total savings of the new

procurement system were estimated by OFPP at \$9 billion, with almost \$4 billion related to regulatory simplification and use of a professional work force.

In summary, the OSD Task Force estimates that in its quest for uniformity in procurement matters, DOD has published a half million words on thousands of different contractual issues, attempting to address every possible eventuality in the contracting process. In so doing, it has created a chaotic regulatory environment with the following results:

- o High cost to the Government to maintain DAR and other regulatory matters.
- o High cost to the Government to implement the regulations, including the layering of personnel to respond to regulatory requirements.
- o Overly precise procedures that inhibit the exercise of professional judgment by contracting officers and other Government personnel.
- o High costs to industry--which are passed on to the government via higher contract prices--to comply with the procedures, including unnecessary reporting of data in contract proposals and during the life of the contract.
- o Burdensome regulations which prevent some companies, particularly smaller subcontractors, from selling to the Government, thereby further debilitating our industrial base and lessening competition.
- o Interminable delays in implementing OSD policy-level decisions, due to the slow process within the DAR Council for changing DAR, and the development of multitiered regulations, instructions, etc., at the service level.

Recommendations

OSD 17-1: DOD should adopt the following key elements in the OFPP proposal that will improve competition, provide for a less bureaucratic process, and reduce the cost of acquisition of weapons systems:

- o Simplification of the procurement process, which is too cumbersome and costly.

- o Improvement in the industrial base by removing excessive regulation and improving competition at the subcontractor level.
- o Elimination of profit and fee limitations.
- o Development of a highly professional procurement work force so that judgment plays a more important role.
- o Elimination of procedural regulations.

The OSD Task Force proposes the following specific actions:

- o Where feasible, replace overly detailed procedures specified in the DAR with policy statements to provide general guidance for DOD procurement actions. In developing policy statements, care should be exercised to avoid the sense of rigidity that is presently incorporated into much of the DAR and other instructional material, so as to make greater use of professional judgment by contract administration personnel. The services should not be permitted to issue separate regulations, directives, or instructions that interpret OSD policy statements.
- o Develop professional procurement personnel who are technically capable of functioning within broadly stated policy guidelines. Establish training courses for existing and new contract administration personnel to facilitate the transition from working under detailed existing regulations to exercising professional judgment in carrying out OSD policy statements.
- o In order to concentrate the regulatory environment on large contracts, limit the mandatory flow down of contractual terms, conditions, and regulations by prime contractors to subcontractors.
- o Where there is adequate competition for contracts, increase the use of price analysis techniques in negotiated contract amounts (per ASPR 3-807.2) at both the prime contractor and subcontractor levels as a less expensive alternate to cost analysis.

- o Reexamine contract clauses, forms, and standard contract language with a view to simplification, consolidation, or elimination.

Savings and Impact Analysis

While it is difficult to quantify, simplification of the procurement process should reduce direct Government costs and indirect contractor compliance costs that are reimbursed by DOD. To the extent that regulatory simplification will attract additional suppliers, the increased competition should lead to lower contractor and subcontractor bids.

Implementation

The Secretary of Defense should simplify existing regulations and procedures governing the acquisition of weapons systems and foster independent professional judgment by contract administration personnel as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

B. WEAPONS (CONT'D)

OSD 18: INDEPENDENT RESEARCH AND DEVELOPMENT COSTS

Summary Recommendation

Independent research and development (IR&D) costs should be recoverable by defense contractors in the same manner as other bona fide overhead expenses. The burdensome regulatory process currently used should be eliminated.

Financial Impact

\$100 million
annually

Potential Savings: Direct Department of Defense (DOD) costs associated with administration of the IR&D program and indirect costs would be reduced by approximately \$100 million. These savings estimates include a reduction in DOD and contractor personnel of about 1200.

Background

IR&D is contractor-performed, product-oriented research and development that is not sponsored by contract, not required in the performance of a contract or grant, and not required for the preparation of a specific bid or proposal. The tasks performed with IR&D funds are basic research, applied research, concept formulation studies, and product development. The first three of these categories have relatively narrow definitions. The development area includes not only the design, prototyping, test, and evaluation of new systems and components, but also improvement efforts directed toward existing systems and components.

IR&D may include projects with direct or very close association to DOD-directed programs, or it may relate to tasks primarily directed toward the needs of a non-DOD customer. It can be a long-range effort to improve the state of the art, or it may be a very short-range effort.

Industry IR&D programs provide DOD technical personnel with a wide range of opportunities as they look around for the specialized capabilities to meet their requirements. According to industry sources, many IR&D ideas come from the working level, where industry believes that people have the best view of the potential capabilities in their specialty. Ideas may also come through communications with the working level DOD technical personnel. If all IR&D work were to be contracted R&D, then the burden of communication and identification of the availability of scientific work in progress would fall upon the DOD scientists, aided by industry technical salesmen. Industry, because of competition and the need to produce salable products, is compelled to consider a larger array of potential solutions than DOD scientists and technical personnel. This does not necessarily mean a more costly method since IR&D projects can be initiated quickly, and terminated just as quickly if the chance of a payoff seems small. Under contracted R&D, there presently is no incentive to cease the work if positive results seem unlikely.

A consensus of corporate and DOD opinion is that IR&D is needed to support the constant technological demands of DOD, which lacks sufficient total resources to conduct a complete approach to IR&D.

The Defense Logistics Agency (DLA), through the Defense Technical Information Center, maintains and operates the IR&D Data Bank. The theory behind the Data Bank is that it provides useful guidance for DOD program managers and permits more effective coupling of IR&D with funded programs.

The Data Bank has a total of 43,000 records with approximately 8,300 added in 1981. No statistics are maintained as to the total number of IR&D projects done by all of the contractors on a cumulative basis for each year.

Recent studies reveal that the Data Bank is incomplete, with only 60 percent of contractor technical plans and brochures on file. Thus, the Data Bank does not contain all IR&D projects planned or performed by industry. Since contractor participation in the Data Bank is strictly voluntary, previous contractor IR&D efforts are frequently duplicated or repeated.

Methodology

In the development of this issue, the Office of the Secretary of Defense (OSD) Task Force conducted 26 in-depth interviews with DOD personnel with responsibility for key aspects of the IR&D system, including OSD policy and technical evaluation, tri-service negotiations, technical brochures, on-site reviews, and the DOD Data Bank, and with industry representatives, including technical planners, financial personnel, legal personnel, and trade association representatives.

Findings

P.L. 91-441, Section 203, enacted in 1970, governs the recovery of defense-related IR&D costs by DOD contractors. The law requires annual advanced negotiated agreements for IR&D recovery by contractors having more than \$4 million in IR&D costs; requires submission annually of contractor IR&D technical plans covering all DOD and non-DOD projects; provides for substantial disallowance of IR&D costs for failure to negotiate advanced agreements; and requires submission of an annual report to Congress of IR&D costs. It also requires that contractors be reimbursed only for IR&D expenses incurred on programs having potential military relevance (PMR).

In response to the legal requirements, an elaborate administration and review system was set up by DOD, incorporating the following major elements:

- o Annual negotiations of allowable IR&D ceilings for contractors with IR&D of \$4 million or more.
- o Annual preparation of IR&D project brochures and reviews of each defense contractor for all IR&D projects (both DOD and non-DOD).

- o On-site facility and program reviews every three years.
- o Extensive IR&D Data Bank. Input is not mandatory, and the bank is currently only 60 percent complete.
- o Establishment of an IR&D Policy Council within DOD.
- o Maintenance of an IR&D Technical Evaluation Group managed by the Office of the Secretary of Defense (OSD).
- o An annual DOD report to Congress covering the IR&D costs of about 180 contractors and approximately 28 profit centers.
- o Appeal Board procedures.

The law and implementation procedures have established a large and cumbersome paper flow. Approximately 180 contractors submitted technical plans for DOD review in 1981. In total, the plans contained about 10,000 project descriptions. One contractor submitted a plan with 9,000 pages. It is normal for contractors to ship copies of their annual plans to between 50 and 100 DOD technical centers for review. Each project may be reviewed and graded several times and rated for PMR. The grades are averaged and eventually compiled into an overall technical plan rating (scale of 0-10). This is used as one element of evaluation by tri-service negotiators in setting contractor IR&D ceilings.

P.L. 91-441 was intended to provide a means to assure that DOD was reimbursing only contractor IR&D costs relevant to the DOD mission and that the total costs would be reported to Congress. It was, and is, widely believed in DOD that without the present system, contractors would take advantage of the absence of negotiated ceilings and increase IR&D costs considerably. In essence, the law and regulations reflect a lack of confidence that market forces provide pressures for cost containment. Contractors strongly disagree with this assertion and believe the present system, while having the appearance of control, is in reality only a large bureaucratic exercise yielding little benefit.

Conclusions

The OSD Task Force understands that the intent of P.L. 91-441 was not to reduce allowable contractor IR&D costs by setting ceilings below what contractors would otherwise be entitled to recover, but rather to facilitate Congressional oversight by providing a mechanism by which DOD could ascertain and report to Congress the total DOD IR&D reimbursement to contractors. Legislative history supports the view that allowable costs limitations were not imposed by law. In addition, the House made this unmistakably clear by stating that its intent was that DOD pay its full share of IR&D costs and end involuntary cost sharing imposed on contractors.

The elaborate implementation and review process established by DOD in Directive 5100.66 to comply with P.L. 91-441 is unnecessary and unproductive. There is no evidence that either the Government or contractors benefit in any substantial way from the elaborate and time-consuming technical review process. The few benefits that are derived by the Government are insufficient to justify the costs associated with continued review and regulation.

The technical review and grading system is inconsistent across the services and lacks support among technical personnel. The scores are used by the Government as one element in tri-service ceiling negotiations. The weighing of the annual technical review scores and three-year on-site review scores in determining ceilings is treated by the Government as proprietary information, not to be shared with contractors. Neither the Government nor contractors use the technical review process as a factor in developing technical plans. Interchange of technical views comes about through personal contacts, seminars, technical literature, briefings, etc.

Treating IR&D costs differently from other elements of overhead is unwarranted. Competitive forces can be expected to operate effectively to assure that IR&D costs are constrained and reasonable. DOD should dismantle the complex, costly, and unproductive control system now in effect and allow the competitive forces to operate to control these costs, subject to the test of reasonableness and audit in the same manner as other elements of overhead.

Recommendations

OSD 18-1: Independent research and development costs incurred by contractors should be reimbursed in the same manner as other bona fide overhead expenses. Subject to audit, the level of IR&D spending, potential relationship

to military needs, contents of technical plans, and direction of IR&D efforts should be determined by each company internally, based upon analysis of its competitive posture, sales and profit objectives, and long-term business plans.

The elaborate and cumbersome implementation and review process established by DOD in Directive 5100.66 should be eliminated. The cost ceilings, technical brochures, triennial reviews, and tri-service negotiations should be eliminated as unnecessary to evaluate appropriate IR&D costs.

All contractors, regardless of the size of their IR&D programs, should be required to submit the one-page Independent Research and Development Data Sheet (DTIC Form 271) describing each IR&D program for inclusion in the DOD Data Bank. This will permit DOD technical planners to search the file for projects relevant to their needs.

Savings and Impact Analysis

DOD costs associated with implementation of the IR&D program, such as on-site evaluations, evaluators' salaries, tri-service negotiators' salaries, travel and lodging, and related administrative costs, are not available in one consolidated report. Each service interprets the IR&D program in its own way, split between different organizations and programs. The OSD Task Force has estimated 1981 IR&D cost data for DOD, based upon interviews and conservative assumptions, as shown in Exhibit II-5 on page 163 at the end of this issue.

The costs associated with industry administration of the IR&D program are passed on to DOD as indirect costs. They have been conservatively estimated to reflect the costs incurred to prepare technical brochures and handle on-site evaluations and the tri-service annual negotiations. These costs are borne by DOD and are calculated in Exhibit II-6 on page 164.

Based on 1981 data, total estimated savings would have been \$94 million. Annual savings from adoption of these recommendations would be conservatively estimated at \$100 million.

Assuming a 10 percent inflation factor, the estimated savings for the first three years from implementation of this recommendation would be:

| | <u>(\$ millions)</u> |
|-------------------------|----------------------|
| First year | \$100 |
| Second year | 110 |
| Third year | 121 |
| <u>Three-year total</u> | <u>\$331</u> |

Implementation

DOD should seek legislation to repeal P.L. 91-441. This would eliminate the PMR determination, annual ceiling negotiations, technical brochure reviews, on-site reviews, tri-service negotiations, and the annual report to Congress.

The Secretary of Defense should rescind DOD Directive 5100.66 and replace it with a directive requiring all contractors recovering IR&D costs on DOD contracts to submit a DTIC Form 271 for each IR&D project for inclusion in the DOD Data Bank.

Exhibit II-5U.S. GOVERNMENT DIRECT COSTS
ASSOCIATED WITH IR&D MANAGEMENT -- 1981

| | <u>Present Program</u> | | <u>Proposed Program</u> | | <u>Proposed Reduction (Potential Savings)</u> | |
|---|------------------------|----------------|-------------------------|--------------|---|----------------|
| | <u>Mnpwr</u> | <u>\$000</u> | <u>Mnpwr</u> | <u>\$000</u> | <u>Mnpwr</u> | <u>\$000</u> |
| Technical reviewers | 7 | \$250 | 3 | \$107 | 4 | \$143 |
| Tri-service negotiators | 12 | 460 | 0 | 0 | 12 | 460 |
| On-site review | 11 | 509 | 0 | 0 | 11 | 509 |
| Technical review (evaluation of projects) | 18 | 755 | 0 | 0 | 18 | 755 |
| General admin tasks, log in/out, document handling, storage, etc. | 15 | 363 | 5 | 121 | 10 | 242 |
| Documentation center (DTIC) | 6 | 230 | 10* | 383 | (4) | (153) |
| DCAA audit & consolidation rpt. | 17 | 100 | 0 | 0 | 17 | 100 |
| Travel cost for on-site review | | <u>1,000</u> | <u>0</u> | <u>0</u> | | <u>1,000</u> |
| Subtotal-direct | 86 | \$3,667 | 18 | \$611 | 68 | \$3,056 |
| Support costs (25%) | | <u>917</u> | | <u>153</u> | | <u>764</u> |
| TOTAL | | <u>\$4,584</u> | | <u>\$764</u> | | <u>\$3,820</u> |

Note: Includes four additional personnel at the DOD Data Bank to handle the increased workload associated with mandatory submission of DTIC Form 271 by all contractors for all IR&D projects.

Exhibit II-6U.S. GOVERNMENT INDIRECT COSTS ASSOCIATED
WITH INDUSTRY ADMINISTRATION OF IR&D PROGRAM -- 1981

| | <u>Present Program</u> | | <u>Proposed Program</u> | | <u>Proposed Reduction (Potential Savings)</u> | |
|--|----------------------------|------------------|-----------------------------|-----------------|---|------------------|
| | <u>Mnpwr</u> | <u>\$000</u> | <u>Mnpwr</u> | <u>\$000</u> | <u>Mnpwr</u> | <u>\$000</u> |
| Preparation of tech brochure | 1,450 | \$ 87,000 | 280 | \$16,800 | 1,170 | \$70,200 |
| On-site evaluation | 30 | 1,800 | 0 | 0 | 30 | 1,800 |
| Tri-service annual negotiations | 45 | 2,700 | 0 | 0 | 45 | 2,700 |
| Miscellaneous costs, reviewers, disputes, etc. | <u>N/A</u> | <u>N/A</u> | <u>0</u> | <u>0</u> | <u>N/A</u> | <u>N/A</u> |
| Subtotal-direct | 1,525 | \$ 91,500 | 280 | \$16,800 | 1,245 | \$74,700 |
| Support costs (25%) | | <u>22,875</u> | | <u>4,200</u> | | <u>18,675</u> |
| TOTAL | | <u>\$114,375</u> | | <u>\$21,000</u> | | <u>\$93,375*</u> |

*This is a net amount allocable to Government work.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

B. WEAPONS (CONT'D)

OSD 19: DEPARTMENT OF DEFENSE LABORATORIES

Summary Recommendation

The Department of Defense (DOD) should take appropriate action to improve the data exchange between the services and the defense research laboratories so that information on emerging technology developments can be better integrated into the appropriate phases of the weapons acquisition process. Additionally, more effective coordination of research programs among the laboratories is needed to eliminate duplication of staff and research efforts. Finally, the laboratories should phase out their involvement in the later stages of the development cycle.

Financial Impact

\$700 million annually

Potential Savings: More effective integration of research data into the weapons systems acquisition process, and better coordination and limitation of laboratory research programs, could result in savings of at least 5 percent of the engineering and operational systems development expenditures (\$14 billion).

Background

Approximately 75 DOD laboratories provide technical support to the research and development activities in the weapons system acquisition process. The labs identify and exploit new technology and support DOD in acquiring outside research in developing technologies.

DOD categorizes its research and development efforts into several phases: basic research (6.1), exploratory development (6.2), advanced development (6.3), engineering development (6.4), management and support (6.5), and design development (6.6). The relationship of these so-called research, development, test, and evaluation (RDT&E) funding phases to the acquisition cycle and the milestones decisions is illustrated in Exhibit II-7 at the end of this issue.

The DOD laboratories administer most of the basic research (6.1) and exploratory development (6.2), while the services perform most of the development efforts in later phases. In fiscal year 1980, the most recent period for which complete laboratory data is available, total laboratory expenditures for all phases of RDT&E (6.1 through 6.6) equaled \$7.4 billion, of which only \$2.2 billion represented in-house research efforts.

The 1983 budget proposed \$24.257 billion in total DOD RDT&E expenditures. The distribution by research and development phase was as follows:

| | <u>(\$ billions)</u> |
|-----------------------------|------------------------|
| 6.1 Basic research | \$.828 |
| 6.2 Exploratory development | 2.509 |
| 6.3 Advanced development | 4.689 |
| 6.4 Engineering development | 8.919 |
| 6.5 Management and support | 2.224 |
| 6.6 Design development | <u>5.088</u> |
| TOTAL | <u>\$24.257</u> |

Methodology

The Office of the Secretary of Defense (OSD) Task Force interviewed senior officials in DOD and performed a comprehensive analysis of the DOD procurement process. Pertinent reports and issue papers were reviewed.

Findings and Conclusions

Presently, only the early development phases (6.1 and 6.2) have visibility across all services, through inclusion in the Defense Technical Information Center data base. The only centralized work that is done involves high-risk research programs managed by the Defense Advanced Research Projects Agency (DARPA) -- which are basically high-risk projects that the services are reluctant to undertake. However, even this minimal effort at centralization is frustrated, because the services often consider the DARPA efforts to be competitive with, rather than complementary to, their own, and are often hesitant to pick up DARPA-initiated programs for further development.

It appears to the OSD Task Force that a centralized, coordinated effort to disseminate data among the services and the laboratories is crucial. This should provide the operational forces with a better understanding of the potential value and limitations of emerging technologies before committing specific technologies to weapons systems programs. Improved data exchange between the services and the laboratories should also ensure that prior work is fully utilized and will not be repeated.

In the past, some DOD laboratories have continued their development projects through the engineering development phase (6.4), either in-house or through contractors. It appears that this serves only to aggravate the dissemination problem to the point where the ultimate weapons system contractors are obliged to re-engineer for production. It appears to the OSD Task Force that engineering development is not a cost-effective in-house role for DOD research laboratories, and that all development work should be transferred to the services no later than the completion of the advanced development phase (6.3). The elimination of engineering development on the part of the laboratories will result in a substantial decrease in personnel.

Recommendations

OSD 19-1: A coordinated effort between the laboratories and the services will be necessary for DOD to realize the savings estimated herein. We recommend that DOD consider the following initiatives in its development of a program to more effectively integrate laboratory research efforts into the appropriate process.

- OSD should monitor advanced development (6.3) and engineering development (6.4) across all services, whether the work is performed in-house or by contractors. (Presently only basic research (6.1) and exploratory development (6.2) are monitored at the OSD level.)
- DARPA should:
 - Sponsor only technology programs having very high-risk or multiservice potential;
 - Transfer advanced development (6.3) demonstration programs to the lead service. Joint service surveillance committees should designate the lead service.
- Service labs should not normally carry out engineering development (6.4) or field service in-house, but should retain enough hands-on project and field contacts to maintain working competence. Such a decrease in lab activity would result in cost savings.
- Where appropriate, service labs should serve as consultants and coordinators on component, subsystem, and support system standardization.
- Service lab technology position papers should be more readily available to DOD bidders and to all military combat commands.
- Service labs should be given broad mission requirements from the combat commands rather than specific hardware needs. This would allow the labs to concentrate on conceptual solutions.
- Communications and data exchange programs should be established between DOD laboratory personnel and the combat forces they serve, and among the various services working in identical or complementary technologies.
- DOD laboratory managers should be permitted a greater role in choosing projects for funding in the basic research (6.1) and explanatory development (6.2) phases. This should result in minimizing internal project marketing efforts to push favored programs, thereby reducing costs of brochure preparation, presentations, and other costs involved in an advocacy role.

Savings and Impact Analysis

Engineering development (6.4) and operational development (6.6) expenditures will total \$14 billion in FY 1983. Based on OSD Task Force industry experience, we believe that at least a 5 percent savings, \$700 million annually, can be realized if the above recommendations are implemented.

Assuming three years to implement the recommendations, the savings would be:

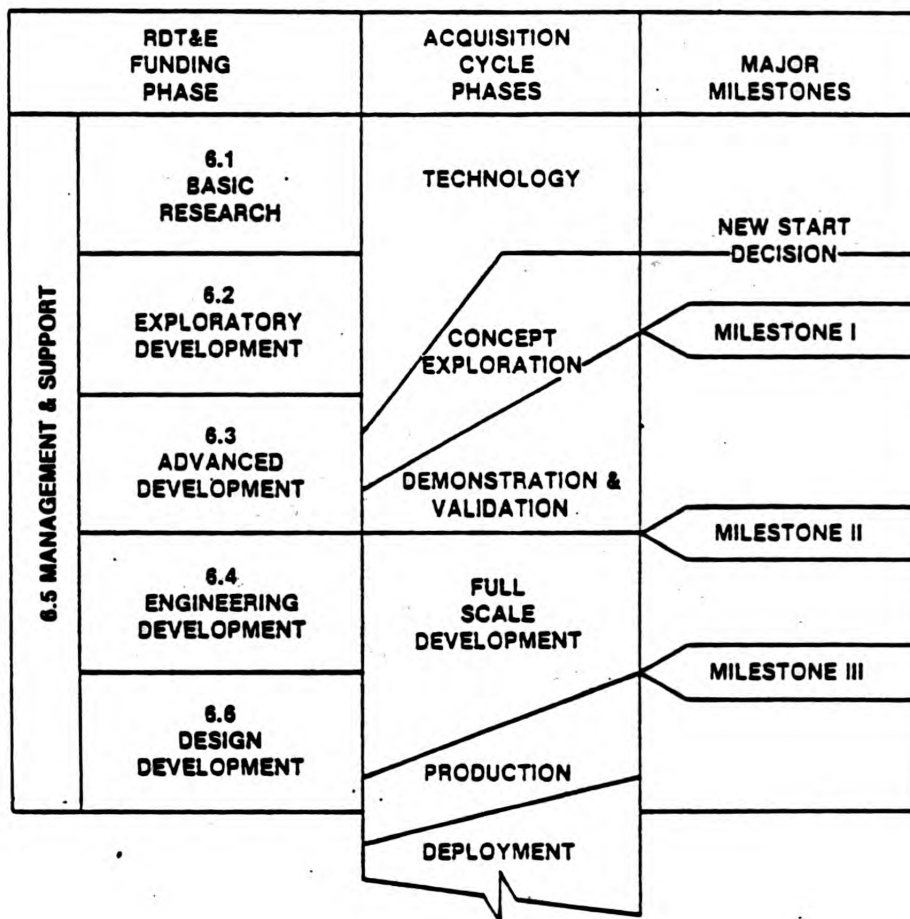
| | | <u>Assuming 10% Inflation</u> |
|-------------------------|------------------------|-----------------------------------|
| First year | \$ 233 million | \$ 233 million |
| Second year | 467 million | 514 million |
| Third year | 700 million | 847 million |
| <u>Three-year total</u> | <u>\$1,400 million</u> | <u>\$1,594 million</u> |

Implementation

The Secretary of Defense should direct that research data be more effectively integrated into the acquisition process, and that laboratory research programs be better coordinated and limited as discussed above.

Exhibit II-7

ACQUISITION CYCLE INTERRELATIONSHIPS



II. ISSUE AND RECOMMENDATION SUMMARIES

B. WEAPONS (CONT'D)

OSD 20: COMMON PARTS AND STANDARDS

Summary Recommendations

The Department of Defense (DOD) should mandate the use, where possible, by all services of common hardware components, subsystems, equipment, and other parts in order to minimize initial acquisition and life-cycle costs. The use of military standards and specifications should be decreased, and not all components included in the end item being procured should be subject to special military standards and specifications.

Financial Impact

| | |
|------------------------|--|
| \$3.3 billion annually | <u>Potential Savings:</u> Approximately \$2.3 billion from increased use of common parts among all services and \$1.0 billion from decreased application of uniform military standards and specifications. |
| \$0.1 billion annually | <u>Implementation Cost:</u> Annual appropriations of \$100 million for DOD to provide for joint service development of military hardware or software having multiple weapon system applications potential. |

Background

Different weapons systems frequently include functional elements at the level of components, subsystems, equipment and parts (i.e., computers, radars, tracking devices), which serve the same purpose, but are specially developed and produced for each system. This lack of commonality among essential elements of weapons systems is addressed in Initiative 21 of the Defense Acquisition Improvement Program, which directs DOD to promote the development, specification, and interservice use of common hardware components, subsystems, equipment, and parts in military weapons systems. The objective is for the services to use, wherever possible, elements from other weapons systems that can be modified for a particular use in the new weapon systems at minimum cost.

The term "common parts" has a broad meaning. It includes commercially available aircraft purchased for training purposes as well as something as mundane as commercially distributed machine screws.

Military specifications (MILSPECS) are developed for a wide range of end items being procured, including the various parts, components, and material included in the end items. MILSPECS define the technical characteristics required in the production of such items. Generally, it is more costly to produce an item to a MILSPEC than to a normal commercial standard.

Use of standard, off-the-shelf component equipment, subsystems, and field operational support systems can reduce weapons system development lead time, permitting earlier deployment of more sustainable weapons systems, and lower acquisition and life-cycle costs. Unfortunately, program managers are not generally motivated to focus on this form of cost-saving opportunity.

Methodology

Senior officials in DOD and industry were interviewed. Extensive articles and issue papers were reviewed, along with various conference reports.

Findings

The benefits of applying standardization of component parts are of two types: economies of scale obtained by larger volume purchases and economies of scale in maintenance and modification.

The high cost of applying unnecessary military standards and specifications also consists of two parts. One is the cost of verifying, usually in document form, that standards are being accurately applied. Another is the excessive acquisition cost occasioned when a standard specifies qualities not needed in the specific equipment being acquired.

MILSPECS have long been a target of misdirected criticism. The target should be procurement officials who are not sufficiently selective in citing military specifications requirements in contracts. Military specifications are developed for a very wide range of end items being procured. They are referred to as first tier requirements and lower tier requirements which are related to the components and material as well as processes (x-ray, stress tests, welding, tolerances) involved in the manufacture of items used in end item components. It is necessary to develop such a vast array of military specifications because certain of the rigid specifications are in fact needed in acquiring certain end items. The problem has been that if a military specification exists, it will be cited as a requirement in any contract, even though the particular end item procured does not need to meet all such specifications. Procurement officials are not sufficiently selective in choosing only the particular military specifications that are truly needed in relation to the end item being procured.

In connection with the problem, a landmark military-civilian study (1974-1976 Shea Task Force) concluded that the high cost of contractual military specification compliance resulted from failure to utilize the inherent flexibility of the documents in a reasonable and selective way, rather than from a fundamental problem with the specifications themselves. William P. Clements, Deputy Secretary of Defense in 1975, observed, "The initial findings of the (Shea) Task Force have confirmed my concern regarding the need for a coordinated and well managed control over the application of specifications and standards in the end item equipment. This, therefore, is a fertile arena for effective cost reductions in the acquisition process."

Conclusions

The Office of the Secretary of Defense (OSD) Task Force believes that Government procurement personnel should be more selective and should invoke only those military specifications that relate specifically to the particular needs of the end item being procured. For example, military specification requirements on x-ray of material may be

important in procuring certain items on a space vehicle, but not on all items included in the vehicle, and not on other items being procured for less sensitive use.

In November 1981, OSD sponsored a three-day seminar, "Current Initiatives in the DOD Standardization and Specification Program to Improve the Acquisition Process." Addressing this seminar, Dr. Richard DeLauer, Under Secretary of Defense for Research and Engineering said, "The DOD must find ways to reduce the voluminous RFP (Request for Proposal) responses we require from contractors. We must be willing to take some risks which have a high payoff in terms of cost savings. The challenge is to motivate the acquiring services to specify only that which is essential to a clear understanding of need, rather than dictate contractors' management systems, 'how-to' procedures, or internal methods of accomplishment." DOD's policy statements to accomplish the above are well intentioned, along with organizational emphasis in OSD. However, implementation by the individual services has been slow, in part due to the laborious process of promulgating regulations through the Defense Acquisition Regulations (DAR) Council. In the Council, the individual services must for all practical purposes agree among themselves as to the implementing instructions before such regulations are issued.

The OSD Task Force believes DOD has not adequately addressed the lack of common parts in weapons systems and the excessive use of military specification requirements (rather than normal commercial standards) in contracts. The enormous costs involved require that both OSD and the services change substantially their methods of approaching the problem. OSD must provide incentives for the services to promote commonality and better utilize its existing authority to require standardization. The services must cooperate among themselves towards a common objective of total life-cycle cost reduction among all services. The services must relate to industry in a more cooperative, less adversarial role in order to decrease weapons systems costs.

The long-standing nature of the problems makes them particularly difficult to remedy, since cultural as well as technical issues are involved.

Recommendations

OSD 20-1: DOD should link military or commercial hardware standard utilization planning directly to the weapons system cost, performance, reliability and field maintain-

ability objectives for each program. Life-cycle support cost is a particularly important decision variable in acquisition of repairable hardware for combat service.

OSD 20-2: DOD should provide seed money (appropriated funds) as front-end funding to carry out cross-service military hardware design standardization studies as an integral part of the individual weapons systems acquisition process. The objective is to identify the unique system components, subsystems, or equipment that could be adapted to multiple weapons system use without extensive modification.

OSD 20-3: DOD should provide seed money to initiate joint-service development of military hardware (e.g., subsystems, major components, and support systems), or software having multiple weapons system applications potential. Participation of services on equal terms would permit competitive design approaches and second-sourcing of end items.

OSD 20-4: DOD should indemnify the weapons systems contractor when DOD standard equipment used does not measure up to the contractor's overall system requirements.

OSD 20-5: As normal acquisition practice, DOD should consider only MILSPECS related to the item being procured (first tier standards) as required. All other lower tier MILSPECS for material, parts, and components included in the end item should be simply reference documents, and not mandatory, unless individually justified and separately listed in the purchase contract. This is the inverse of present procedure which considers all layers or tiers of cross-referenced documents to be contractual requirements unless formal exception is taken.

OSD 20-6: DOD should authorize the use of financial incentives to encourage contractors to challenge unimportant or irrelevant "standard" requirements when responding to an RFP. These incentives might consist of cash payments or allocating a given number of source selection evaluation points based on the potential cost savings of the proposer's alternative recommendations. (At present, there still is a generally perceived disqualification for "nonresponsiveness" when changes are suggested.)

OSD 20-7: At the Request for Proposal (RFP) stage, DOD should invite all contractors to challenge burdensome data requirements. It should not gather detailed contractor documentation and data merely for proof of performance or "just in case" archives. It should take advantage of contractors' computerized data storage and retrieval systems.

OSD 20-8: After contract award to the lowest qualified competitive bidder, DOD should offer contractual financial incentives for cost savings derived from selective application ("tailoring") of standards. For example, in flexibly priced contracts, such proposals could be incorporated as an instantaneous value engineering proposal without requiring extensive audit or negotiation. (Advanced "tailoring" input for each successive phase of the acquisition process is now DOD policy per Directive 4120.21, November 3, 1980.)

OSD 20-9: At the service level, individuals in charge of standardization efforts should report to the program manager (rather than someone in Logistics Management). The standardization function should be linked to the service laboratory center of technological expertise, so that laboratory consultants can advise when it is timely to identify technology for standardization and also when standardization might impede technology development.

OSD 20-10: DOD should mandate service implementation of OSD standardization policies in DAR without prior approval by the DAR Council. The services should be required to request OSD policy deviations on an exception basis. (This is the inverse of the present system under which individual service administrative and legal representation on the DAR Council can essentially "pocket veto" OSD policy.)

Savings and Impact Analysis

We have estimated the potential cost avoidance from applying these suggestions against the \$70.1 billion fiscal year 1983 total obligational authority for weapons acquisition as follows:

| | |
|--|----------------------|
| I. Increased use of common subsystems among services | |
| o Improved design alternatives for multiple-use and life-cycle cost-effectiveness. Estimated 2 percent saving, based on a 1982 Boeing Study. | \$1.4 billion |
| o Joint service development of multiple use components and subsystems. Estimated 1 percent saving, based on Air Force estimate | .7 billion |
| o Broader application of existing DOD equipment inventories. Estimated .3 percent saving, based on an OSD Task Force estimate. | <u>.2 billion</u> |
| TOTAL | <u>\$2.3 billion</u> |

II. Decreased use of military specifications

| | |
|--|----------------------|
| o Elimination of requirement for contractors to comply with MILSPECS. Estimated 1 percent saving, based on conservative OSD Task Force estimate. | .7 billion |
| o Increased use of commercial hardware and equipment, and industry standards rather than MILSPEC requirements. Estimated .5 percent saving, based on research by the Aerospace Industries Association. | <u>.3 billion</u> |
| TOTAL | <u>\$1.0 billion</u> |
| TOTAL (I + II) | <u>\$3.3 billion</u> |

We estimate that it may cost as much as \$100 million annually to provide for joint service development of military hardware or software having potential applicability to multiple weapons systems.

Assuming three years to implement the recommendations, the savings would be:

| | (\$billions) Assuming 10% Inflation | |
|-------------------------|---|----------------|
| First year | \$1.1 | \$1.100 |
| Second year | 2.2 | 2.420 |
| Third year | 3.3 | 3.993 |
| <u>Three-year total</u> | <u>\$6.6</u> | <u>\$7.513</u> |

Implementation

The Secretary of Defense should direct the increased use of common components and the decreased use of special military standards and specifications as discussed above. He should also ask Congress to appropriate the funds to provide seed money for joint service projects.

II. ISSUE AND RECOMMENDATION SUMMARIES

B. WEAPONS (CONT'D)

OSD 21: MAJOR WEAPONS SYSTEM NEW STARTS

Summary Recommendation

The Department of Defense (DOD) should install self-disciplinary limits on the number of new weapons programs started each year. Before a new start is approved, an estimate should be made of the projected cost of that new weapons system through production. DOD should then consider the impact of that incremental cost on the overall acquisition process, in view of the limited funds that would be available for that new system and other major systems already being developed or produced. Limits on new starts would ensure that there are sufficient funds to carry out all weapons programs economically and efficiently.

Financial Impact

\$1.1 billion
(annually after
full implemen-
tation)

Potential Savings: Limiting the number of development programs should result in annual research, development, test and evaluation (RDT&E) savings of at least \$1.1 billion when fully implemented over a five-year period.

Background

DOD acquisition of defense systems has repeatedly come under intense scrutiny and criticism for cost overruns, program stretch-outs and the resulting reduction in unit volumes. Adding several new start programs to an already clogged system provides overwhelming pressure on the acquisition process and results in inefficiencies as the services attempt to fund all their programs within the constraints of a fixed budget. They can accommodate the added programs only by stretching out production schedules and reducing unit volumes for existing programs.

Methodology

Senior officials in the Office of the Secretary of Defense (OSD) responsible for the acquisition process were interviewed, as were knowledgeable officials in the Office of Management and Budget (OMB) and the General Accounting Office. Interviews were also conducted with former DOD officials and other knowledgeable sources in the public and private sectors. A review was made of the most recent Selected Acquisition Reports (SARs) and DOD directives concerning program approval and funding. Relevant GAO reports and other literature pertinent to the subject were also reviewed.

Findings

SARs, prepared quarterly, summarize status and cost data for major defense systems which have been approved for full-scale development. Major systems are designated by the Secretary of Defense and presently include those requiring \$200 million or more in RDT&E funding (fiscal year 1980 dollars) or \$1 billion or more in production funding (FY 1980 dollars), or both. Programs of this size usually number no more than 50. The June 30, 1982, SAR reported on 39 programs with projected total acquisition costs of \$450 billion.

The list of programs on the way to review and approval for full-scale development and production is lengthy. In the last two years, the Defense Resources Board (DRB) recommended approval of 27 major systems new starts, and the Deputy Secretary of Defense approved 28, one more than requested. This is only a portion, perhaps as low as 30 percent to 40 percent, of the total number of new programs in the pipeline working their way toward approval for entry into full-scale development and eventually into production.

The problem is that there are too many programs already in the production cycle to permit funding at efficient rates, i.e., that rate which provides the lowest possible total program cost consistent with the need and capability of the service to deploy the system.

DOD Directive 5000.1, Major System Acquisitions, and DOD Instruction 5000.2, Major System Acquisition Procedures, set out the process that major programs must go through to be approved and funded as new starts. The data required for each subsequent milestone decision are also specified.

The Under Secretary of Defense for Research and Engineering, as the designated Defense Acquisition Executive, is responsible for managing the overall acquisition system and for ensuring compliance with the directives. The Secretary of Defense has the ultimate approval authority for the decision to start a new major weapon system into the concept exploration phase and for subsequent milestone decisions, to proceed to Demonstration and Validation (Milestone I), Full-Scale Development (Milestone II), and Production and Deployment (Milestone III). At these major decision points, the programs are initially reviewed by the Defense Resources Board - new starts or the Defense Sciences Acquisition Review Council - Milestones. The present Secretary has delegated his authority in this regard to the Deputy Secretary.

Assuming that the need for a new system has been demonstrated within the service and to OSD, then the principal issue facing DOD management is affordability. DOD policy defines proof of affordability at the time of approval of a new start as follows:

System planning shall be based on adequate funding of program cost. A program normally shall not proceed into concept exploration or demonstration and validation unless sufficient resources are or can be programmed for those phases (emphasis added).

The point is that DOD policy does not require that a major system be demonstrated to be affordable through the full-scale development and production phases in order to obtain approval as a new start. It need only be shown to be affordable through the early development phases.

The problem is that the early development phases have the lowest financial requirements and are easily funded. Therefore, far more programs are started each year than can be carried through the full-scale development and production phases. Because it is almost impossible to terminate these

programs after they are started, the result is that too many programs end up competing for limited production funding. This, in turn, is what leads to inefficient production quantities, program stretchouts, and cost overruns.

In reality, the focus in approving new starts is on the next budget year. At the time new starts are approved, the DRB is only presented the limited funding information contained in the Five Year Defense Plan. However, much of this information is incomplete and no out-year data are made available.

While these difficulties are recognized, it is noted that the Extended Planning Annex, prepared as part of the planning process, extends cost projections out five years beyond the Five-Year Defense Plan. Although these out-year projections are only rough estimates, they could be used to project the cumulative financial impact on the DOD budget of approving far more programs than can ever be funded at economic production rates. In any event, the use of such estimates in early affordability reviews would be far better than the current practice of making no attempts at long range affordability analysis.

The pressures to start new programs are enormous. Prior to DRB approval, the program represents a potential "market" for all contractors who may aspire to compete for the program. As such, it also represents to Senators and Representatives a potential source of jobs and investment for their states and districts. For the sponsoring service and cognizant development command, it represents a response to a projected threat and a means to assure continuity of the development center. To those in the development centers, it means job security and career challenge. This represents a large, albeit unorganized, constituency pressing for the approval of new starts and their continuity thereafter.

These pressures do not moderate once a program has passed through the concept exploration phase and the demonstration and validation phase, and has moved to full-scale development. When a contractor has been awarded a major program and the subcontractor network is established, resistance to program cancellations and cutbacks stiffens. Senators and Representatives must aggressively support their affected constituents. The services become committed to their programs and are naturally resistant to cutbacks and cancellations. In fact, it is well known that the system will accept substantial program stretchouts and cutbacks to keep a program alive, even though the production rates become inefficient, volumes become marginal in terms

of mission and cost-effectiveness, and the late availability exposes the country to unaddressed threats and increases the probability of early system obsolescence.

As would be expected, cancellation of programs reported in the SARs is rare. The Roland and Copperhead weapons systems are two recent examples and even in these cases a minimum number of orphan units will be produced.

The same resistance to cancelling production programs extends to new starts. Again, DOD clearly prefers stretch-outs and decreased funding to cancellation. Of the 18 new start programs approved by the Deputy Secretary of Defense as part of the FY 1983 Program Objectives Memorandum and budgeting process, 11 have not been funded to the level proposed by DOD (through authorizations), and only one was increased. Not one of these programs has been cancelled. Obviously, they will proceed at a slower pace than that proposed in the original service submissions.

The extent of the stretchout and suboptimum production rate problem goes even deeper. In developing their proposals, the services have their own affordability concerns. OSD officials believe that the services do not necessarily request the most cost-efficient programs, but rather that they are driven to propose what will sell. Thus, even at the outset of a program, there are inherent inefficiencies which are later compounded by overwhelming pressures to launch new start efforts and to eventually force them, along with existing programs, under a relatively inflexible total DOD budget line. This process is believed to be an important contributor to program instability (see Issue OSD 23).

Conclusions

Much has been written about the so-called procurement "bow wave" and the recurring production schedule stretch-outs, unit production reductions, unit cost increases, and the compounding effects of price escalation. Recent increases in defense spending have permitted improved schedules and have moved rates of production closer to economic levels. However, it is asserted in the literature and by those interviewed in this survey that overall defense systems are still being produced at suboptimum rates, and unit volumes are continually set on the basis of what can be squeezed into the budget, rather than what is economical or what is the optimum required for the intended military mission.

Part of this costly problem is caused by the continuing competition for available funds from new programs being added to the acquisition pipeline. If the 39 systems currently in full-scale development or production had had to pass tougher affordability criteria and continuing cost scrutiny at an early stage, fewer of them would have been subjected to the recurring stretchouts and unit volume reductions that have occurred. Although demonstration of affordability in a rudimentary sense is required as part of the new start and milestone review process, the requirement only applies to the specific systems under consideration. There is no requirement to demonstrate that adding new systems to the acquisition pipeline will not cause production stretchouts or volume reductions in other systems already in the procurement chain.

In the view of the OSD Task Force, the new start decision process is inherently deficient since it provides virtually no meaningful control. Given the pressures to keep programs alive once they pass the new start hurdle, and the noted inability to cancel programs downstream, it is absolutely essential to stiffen the entry requirements for major new system starts. DOD must make a more demanding and realistic review of long-range affordability in the new start decision process.

Given its interest in profitability, the private sector cannot afford to continue marginal programs. Because DOD operates in a different environment, it has escaped many of the severe penalties that would be paid by an industrial concern if it routinely stretched programs and operated at inefficient production rates. However, if DOD is to fulfill its mission at a cost that is affordable to the U.S. economy, it must introduce more of the kind of discipline that characterizes private sector operations.

DOD policies are a reflection of the system as it has long operated. The policies did not create the system. The OSD Task Force observed that there are few pressures, if any, on DOD top management to face up to this affordability issue. Rather than retard the flow of new programs, the current DOD management has indicated it intends to do a better job of cutting out entire programs if they do not meet objectives. However, there is no evidence that this can be achieved, even though the objective is sound. Top DOD management has the power to institute changes in the system, but there are pressures that mitigate against placing tough controls on the system because:

- o Such controls would be unpopular with the services.

- o Political pressures are great, given Congressional constituent interests in various programs.
- o Political appointee tenure is short, and fighting to improve the system would require a major commitment of scarce resources and time.

Similarly, the services have little incentive to sponsor controls because:

- o They compete with the other services and fear they may not get their fair and rightful share of resources.
- o They already are hard pressed and feel they need all the resources they have.

The Chairman of the Joint Chiefs of Staff and the service Chiefs of Staff, who are represented on the DRB, also are not likely to limit new start programs. The Chairman has no power to set priorities among the services, and the service Chiefs appear to support the other services, lest their service be subject to restraints as well. The DRB, as it deals with new starts, simply concurs with service recommendations. The facts support this. In the last two years, DRB has recommended for approval one more new start than the services requested. No program was rejected.

OMB has indicated that the total projected costs of acquiring all weapons systems in the pipeline (from new start through production) are approximately 230 percent of the funds that are likely to be available for such purposes. Although it is important to overprogram somewhat in this regard to take into account the likelihood that a few weapons systems will indeed be cancelled at some point along the line, the OSD Task Force believes that this percentage is much too high. We believe that the percentage should be 140 percent at the time of the new start decision and that this percentage should progressively decrease through the later milestone decisions. Strict adherence to such limitations will ensure that a more limited number of programs make it through the process to the production phase.

Recommendations

The lack of effective controls over new starts results in each program's being given less than the required resources which, in turn, increases system costs and delays

introduction of capabilities. As a result, the system may end up being obsolete and may be built in insufficient numbers to meet the mission.

OSD 21-1: DOD should develop and aggressively implement a modification to the program review and approval cycle, which would:

- o Subject every new start to in-depth affordability review over the projected life cycle of the program.
- o Review new start affordability in relation to all other new starts being proposed and programs already in the system extending out at least ten years and show the effects on existing programs.
- o Base affordability evaluations on conservative estimates of DOD total budget resources and price escalation for the ten year planning period.
- o Allow for less program attrition and establish specific ceiling percentages for overprogramming at each acquisition phase and hold rigidly to these ceilings. The OSD Task Force suggests that the percentage ceiling be 140 percent at the new start stage, and that this percentage be progressively decreased at later milestone decision points. While this appears conservative, the record shows that cost overruns justify such conservatism.
- o Modify the SAR reporting system (as proposed in the recent House Armed Services Committee report on curbing cost growth in weapons systems and the Comptroller General's 1981 report to selected Senate and House Committees) to show program status and cost projections by program, starting with the funding of a major system new starts. The SARs should be modified to show, quarterly, the best cost estimates available for the entire acquisition cycle. Improved SARs would contain the key financial data needed to perform the affordability analyses on both new start and approved systems. Expansion of SAR reporting is presently being planned by the DOD. It is recommended that these changes be included.

This recommendation would inject into DOD spending decision discipline analogous to the capital spending budgets used by industry to control tooling and facilities

expenditures. Such capital budgets are developed on the basis of conservative projections of sales and profits and corporate financial objectives. Capital budgets force prioritization of new projects and, therefore, provide a realistic means to assess affordability. Under the proposed system, the percentage limits on overprogramming would serve to prevent inefficient funding of programs and associated stretchouts. The changes would tend to force DOD management to decide program priorities and to extend those requirements to the services.

Savings and Impact Analysis

Major program new starts are described in DOD Directive 5000.1 as those programs for which the DOD component estimates costs to exceed \$200 million (FY 1980 dollars) in RDT&E funds or \$1 billion (FY 1980 dollars) in production funds, or both. The average number of new starts approved in 1981 and 1982 (for FY 1983 and 1984, respectively) was 14. As discussed above, OMB has indicated that the total projected cost of all programs is approximately 230 percent of the funds that are likely to be available. We propose that DOD limit such overprogramming to 140 percent as of the time of the new start decision, with progressively lower percentages for later milestone decision points. A reduction from the current average over-programming of 230 percent to a level of 140 percent would result in a 40 percent reduction in RTD&E expenditures.

Assuming there are 14 new start programs a year and that each has an average total RDT&E cost of \$200 million (\$2.8 billion total) over a five-year period, an average savings over a typical five-year period of 40 percent, or approximately \$1.1 billion, might be obtained. On a moving average basis, this would provide annual savings of \$1.1 billion for all programs in the system by the fifth year.

Applying these criteria to the FY 1983 new starts funded in the FY 1983 Congressional Authorizations Bill, the RDT&E new start budget for FY 1983 would be reduced from \$557.3 million to \$334.4, a \$222.9 million or 40 percent reduction. These savings could be used in any of three ways: (a) to reduce defense spending, (b) to fund the remaining new starts to optimized levels, or (c) to fund programs in the procurement phases to more efficient production rates and volumes. The savings would develop as follows over the five-year implementation period.

| | | (\$ millions) |
|-------------------------|----------------|-----------------------------------|
| | | <u>Assuming 10% Inflation</u> |
| First year | \$ 223 | \$ 223 |
| Second year | 446 | 491 |
| Third year | 669 | 809 |
| <u>Three-year total</u> | <u>\$1,338</u> | <u>\$1,523</u> |
| Fourth year | 892 | 1,187 |
| Fifth year | 1,115 | 1,632 |

Estimating the potential for savings on production programs is difficult, if not impossible. A key premise of this analysis is that there are too many production programs chasing the available production budget. It is hypothesized that affordability reviews and overprogramming limits imposed at the time of new system starts would reduce the number of programs entering the system and, therefore, would relieve the intense pressures for program stretchouts and volume reductions. The effect would be to permit program production to proceed at more economical rates and provide the required unit volumes in a more timely manner.

Given these assumptions, the financial implications of this proposal will be RDT&E savings early in the program and efficiency savings on program production. However, DOD makes no attempt to track actual program costs versus an ideal program profile. The savings which might result by attempting efficient program rates, therefore, are not available and would have to be developed program by program. We believe these savings to be considerable, given the large number of programs which have suffered delays and cutbacks. The financial implications of even modest efficiency savings would obviously be considerable.

In total, not including any potential savings for production efficiency, it is estimated that implementation of the proposed limits would save the DOD and the U.S. Government a minimum of about \$1.1 billion per year in RDT&E spending. These savings could be used to accelerate other RDT&E effort or to improve production efficiency. The projected RDT&E savings, while substantial, are believed to be modest relative to the potential savings on production programs and the corollary improvements in force effectiveness resulting from fielding defense systems earlier and in the required volumes.

The OSD Task Force analyses in Issues OSD 22 and OSD 23 provide alternative approaches to measuring the production savings that would derive from reducing instability, which is caused, in major part, by an excessive number of new starts at the RDT&E stage.

Implementation

The Secretary of Defense should revise DOD Directive 5000.1 and Instruction 5000.2 to require complete affordability reviews (through production) of all major programs from the time new starts are approved.

In addition, DOD Instruction 7000.3 should be revised to require the SARs to project system costs for all major defense systems through the final production phase, from the time each new start is approved.

Finally, the Secretary of Defense should issue a directive limiting total overprogramming at each phase in the acquisition cycle to fixed percentages of the total DOD funds that are likely to be available through the final production phase.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

B. WEAPONS ISSUES (CONT'D)

OSD 22: ESTIMATING WEAPONS SYSTEMS COSTS

Summary Recommendation

The Secretary of Defense should establish procedures to ensure more accurate estimates of weapons costs in order to permit better planning and reduce cost overruns. Specifically, provision should be made for establishing a new production cost baseline at Milestone III. The Secretary should also establish procedures to create a policy-oriented data base for use by DOD management. The Department of Defense (DOD) Comptroller should be assigned the responsibility for analyzing the affordability of proposed weapons systems and for monitoring actual costs versus estimated costs. Internal DOD budget data should not be disclosed to contractors at the pre-award stage, because such disclosure encourages contractors to submit bids that are less than their own internal cost estimates. In addition, prior to issuing a Request for Proposal (RFP), DOD should consult with industry in order to give contractors a better understanding of the complexity of the project. Finally, in order to give contractors more incentive to estimate costs more realistically, contracts should be used which require contractors to absorb a greater share of cost overruns.

Financial Impact

Potential Savings: Improved cost estimates which, in most cases, would be higher than existing cost estimates would result in the elimination of an estimated 3 to 10 percent of major programs prior to entry into production. Improvement in the estimation of weapons systems costs is a necessary condition for reduction in instability in the weapons acquisition process. We have not attempted to calculate discrete savings attributable to our recommendations regarding each of these two issues. Estimated savings from the reduced instability recommendations (Issue OSD 23) include potential savings attributable to better estimation of weapons systems costs.

Background

DOD Directive 5000.1 and DOD Instruction 5000.2, recently revised, specify the phases in the major systems acquisition process. The intent of Directive 5000.1 is to delineate prescribed decision points in the acquisition process which require approval of a system, based on such items as technical feasibility, affordability, acquisition time, readiness and system flexibility prior to its moving to the next phase in the acquisition process.

Specifically, decisions are required by the Secretary of Defense for major systems new starts (based on the recommendations of the Defense Resources Board) and based on the recommendations of the Defense Systems Acquisition Review Council (DSARC) at the three so-called milestones. At Milestone I, the concept selection must be approved before the system moves into the demonstration and validation phase. Approval is based on preliminary concepts, cost estimates, schedules, objectives and affordability estimates. At Milestone II, after preliminary data on the system have been defined somewhat in the demonstration and validation phase, the decision is made regarding full-scale development. Milestone III is the production decision point. Approval to proceed into production is contingent upon the appropriate service's demonstration that financial resources are available or can be programmed to complete the system development, to produce efficiently, and to support the deployed system (Exhibit II-4 on page 145 illustrates the process).

DOD Directive 5000.4 provides for independent evaluation of weapons system cost estimates by the OSD Cost Analysis Improvement Group (CAIG). The CAIG provides the DSARC with a review and evaluation of both the independent cost estimates of the services and the program office cost estimates. Independent cost analyses by the services must be prepared by organizations in each service separate from the control and direction of the program office responsible for acquisition of the system.

Methodology

Interviews were conducted with DOD and industry representatives. Internal DOD data were examined, and various studies, conference reports and articles were reviewed.

Findings

Despite the various independent estimates and reviews of program cost estimates which are required, DOD has been continually faced with significant cost overruns on weapons systems acquisitions. The Selected Acquisition Report (SAR) of June 30, 1982, indicates that for 39 programs, cost estimating errors alone (exclusive of other elements contributing to cost growth, such as unanticipated inflation or engineering and quantity changes) amounted to \$10.8 billion, or about 9 percent of the original estimated cost of \$124.6 billion.

One reason for cost estimating errors is that the measurement of a program cost overrun compares actual costs to a baseline cost estimate that is prepared early in the life of the development of the weapons system. The baseline cost estimates for major programs reported in the SAR are established at Milestone II, prior to the system's entering the full scale development phase. At this early stage in the development of the weapons system, it is too soon to establish a baseline of estimated program costs against which actual costs will be measured to determine the extent of cost overrun or underrun. Up to Milestone II, only the demonstration of the system and validation of requirements has occurred. Little or no production has occurred, so there is little experience for forecasting costs with any degree of accuracy.

Another part of the problem in cost underestimating lies with contractor underbidding in the initial development phases of the program. The OSD Task Force believes that the problem of intentional underbidding by defense contractors is compounded by defense contractors' underestimation of the actual complexity of producing the system. Based on three major weapons programs, the following revealing information is disclosed by Joseph P. Large in "Bias In Initial Cost Estimates -- How Estimates Can Increase The Cost of Acquiring Weapons Systems":

| <u>Company internal estimate</u> | <u>Company bid</u> | <u>Final cost</u> |
|--------------------------------------|--------------------|-------------------|
| 1.0 | .75 | 2.2 |
| 1.0 | .43 | 4.0 |
| 1.0 | .45 | 2.0 |

The differential between columns one and three is greater than the difference between columns one and two. This suggests that deliberate understatements of cost are a less important cause of cost growth than failure to appreciate project difficulty.

Poor cost performance in relation to estimates can be tied to both DOD and defense contractors. The use of cost plus fixed fee (CPFF) or cost plus incentive fee (CPIF) contracts during the early stages of weapons systems development has not resulted in sufficient financial incentives to industry to design lower-cost weapons systems. Contractors are given incentives to maximize quality and minimize lead time, rather than to reduce costs. Since there is no commercial type market to establish the value of specific weapons development, many proxy indicators of value -- performance, reliability, development time -- are emphasized, to the detriment of lower production cost.

Also, there is the constant desire to use the latest -- and sometimes very risky -- technology. DOD desires the most sophisticated system and the contractor desires to outwit any possible competition. Often the technology is introduced too late in the development phase, causing program stretchout or, conversely, fitting it into the development cycle -- causing higher production costs related to the need to produce in a timely and reliable manner.

Conclusions

The inadequacy of affordability reviews throughout the acquisition process, even though clearly called for in DOD Directive 5000.1, contributes to higher costs in many cases. Although current policy specifies affordability reviews at the various milestones, it is apparent that earlier and more constant attention is needed to the issue of the affordability of each individual system in relation to total systems being procured.

This matter is addressed, in part, in Issue OSD 21, in which we demonstrate the need for better cost estimates and long-term affordability reviews at the point where the decision is made to start a new development program. In this issue, we focus on the need for better cost estimates and affordability reviews in relation to the Milestone III decision to move from development of a program into production.

The OSD Task Force believes that weapons system cost estimates should be made separately for the development and production phases and that baseline costs of production should be more accurately projected. Development is by its nature risky and cost estimates for this phase of acquisition should be more flexible. It is estimated that total RDT&E costs represent only 20 percent of total weapons acquisition cost. At the completion of the RDT&E phase, estimates of baseline production costs and affordability

could be more accurately determined. At this point (Milestone III), approximately 80 percent of estimated program costs are yet to be expended. If it is determined that the system is not affordable at this point, it is better to terminate the program at Milestone III and write off the 20 percent investment, rather than proceed with an unaffordable or inadequate system.

We recognize that some analysts, perhaps including the Congress and its staffs, may resist this suggestion, preferring to "hold their feet to the fire" based upon the development estimates. We believe, however, that a weapons system becomes qualitatively and quantitatively different when it moves from development to production. This is in keeping with our view of the distinct differences between research and engineering and acquisition.

We therefore urge that a new baseline be established for Milestone III in order that management of the production process can more accurately be portrayed and evaluated. It is these data which have the most pertinence for oversight. The Milestone III decision should have been made with full cognizance of historical development and a much clearer look into the future. This is the point from which DOD performance or production should be judged.

The lessons learned through development are valuable and should not be lost. Care should be taken to see that a backward look remains available, when such analysis is pertinent. Such a supplementary record can be easily designed. We do not believe, as we have noted, that it is the most relevant tool for measuring production performance.

CAIG advises DSARC on their assessment of program cost estimates. Generally, CAIG's evaluation indicates that costs will be 20 to 25 percent higher than the program office cost estimates. History has shown the CAIG estimates closer to reality, and yet little use appears to have been made of the CAIG estimates when the DSARC approves a program. The program office estimates are generally used. Recently, however, there have been isolated cases in which CAIG estimates have played a more important role in the decision-making process.

One problem with trying to get at the issue of affordability is the great difficulty OSD decisionmakers have had trying to understand what forces are at work influencing the outcomes in individual programs, in sets of programs involving similar equipment, across services, etc. It has only been since the early 1970s that OSD has had available to it a record keeping system that tracks the cost progress of individual major weapon system programs both by quarterly

recording of changes in projected cost of the system and by attempting to categorize cost change by different cause. The Selected Acquisition Reports, created for use in the Congressional review process, are an enormous improvement over the data available prior to their creation. Notwithstanding that, however, their current structure could be improved in order to make them a more policy-oriented management tool, as well as a provider of more useful information to the Congress.

For example, cost data are usually presented as base-year (DE year) constant dollars and also as current and future year inflated dollars. This system makes it very difficult (without recomputation) to do comparisons of cost growth across more than one program. Thus, it is difficult to tell how one aircraft program is doing relative to another, etc. Further, the rather significant fluctuations in inflation over the last several years make not having a measure related to the current year's conditions an even more serious omission. Therefore, we recommend that the SARs adopt a reporting format which includes base-year dollars, current year dollars, and then-year dollars. In the case of then-year dollars, we note the importance of using the most up-to-date, realistic estimates of future inflation.

The other area for improvement in the SARs is the categorization of reasons for cost change. In addition to inflation, these include quantity change, schedule change, engineering change, estimating error, support cost variance, cost overrun/underrun and unpredictable and contract performance incentives. Although this is certainly an improvement over simply labeling all change as "underrun or overrun," these categories still tend to report on the effects, rather than the underlying causes of cost growth. And, of course, it is just this information about causes that is so vital to OSD decisionmakers.

The importance of getting at root causes is well illustrated by a 1979 Rand Corporation Study, Acquisition Policy Effectiveness: Department of Defense Experience in the 1970s. According to the Rand Study, which was based on a sample of 31 SAR level programs, the most frequent cause for the schedule slips reported had to do with inadequate annual funding. The reasons for inadequate annual funding varied by program, but they often included Congressional cuts, reassignment to higher priority systems, cost growth due to performance increase, etc. The point is that, without this kind of visibility into just why a particular schedule slips or, occasionally, speeds up, OSD management does not have an adequate management information system from which to arrive at appropriate policy judgments. This

deficiency seems particularly acute in the weapons acquisition environment where the number of players, including some external to DOD, suggests that remedies to some of the problems must come from outside the institution of the Department of Defense.

The Rand analysis concluded that the most important underlying causes of cost growth observed (after effects of inflation and quantity change were factored out) were inadequate funding, unexpected technical difficulties, changes in equipment performance, and estimating errors. The study also recommended that the SARs be revised to incorporate these or similar categories in order to provide information on cost growth and its fundamental causes.

Recommendations

OSD 22-1: DOD should assign responsibility for analyzing the affordability of weapons systems to the DOD Comptroller.

Under the existing procedures, no one person is responsible for determining individual system affordability. Assigning the analysis responsibility to the Comptroller would add some independent judgment and control in the weapons acquisition process and provide the Secretary of Defense with a means of tracking and ensuring balance between financial implications and the acquisition process. The Comptroller is independent of program offices in the services and other parts of OSD that play a role in the acquisition process. In addition, the Comptroller's knowledge of financial matters in the entire DOD, including the financial status of other major weapons systems, should provide a sufficiently broad perspective relative to the issue of affordability of individual systems. Also, the Comptroller can perform more effectively if the CAIG function reports directly to the Comptroller.

OSD 22-2: When budgeting the acquisition of a weapons system, DOD should use the higher of the estimates submitted by either the CAIG or the program management office. While neither has been totally accurate in the past, it is believed that the CAIG estimates are closer to reality. The program manager's performance should be judged against his estimate -- assuming program manager continuity through decisive milestones.

OSD 22-3: DOD should establish a new production cost estimating baseline for measuring program performance once a system is ready for the Milestone III decision to go into production. Milestone II is too early in weapons systems development for establishing the baseline production cost for a system. At Milestone III, most systems are fully developed and tested, and a limited production run has been accomplished, assuring more accurate cost figures. However, in some cases, the baseline should be set subsequent to Milestone III, if accurate cost forecasts are still unavailable at that point.

While the OSD Task Force is of the view that the production decision at Milestone III warrants a new baseline, we recognize that there will be resistance to the recommendation if the weapon configuration generally conforms to the Milestone II assumptions and design. In such cases, it may not be deemed worthwhile to develop a new baseline. However, it is strongly urged that a new baseline be mutually agreed to by DOD and the Congress when significant configuration changes have occurred.

OSD 22-4: To encourage contractors to estimate target costs more realistically in contract negotiations and to decrease costs further during development contracts, DOD should consider using contracts which permit the Government and contractor to share in cost underruns (as at present), but which require the contractor to absorb a greater share of cost overruns, except perhaps for economic price adjustments. Currently, individual contracts are awarded to contractors for the purpose of developing a weapons system that may eventually go into full-scale production under future contracts. Under these development-type contracts, target costs and target profits are negotiated along with sharing ratios (e.g., 30 percent contractor, 70 percent Government) for cost overruns and underruns, in order to give contractors incentives to decrease costs. A particular concern of this recommendation is that a method should be determined that will relieve the Government from sharing in cost overruns that are attributable to deliberate underbidding on the part of the contractor. If contractors are required to absorb a greater share of cost overruns, the target costs included in the contracts should be more accurate. Contract target costs will then provide a more useful basis for assessing the ultimate affordability of weapons systems.

OSD 22-5: DOD should release RFP for new weapons systems to industry without revealing DOD budget figures. Currently, when DOD releases an RFP, contractors acquire DOD acquisition strategy and budget figures. It is common knowledge that contractors have, in many cases, underbid

their own internal estimates so as not to exceed DOD budget amounts. Frequently, cost-type contracts are used at this early stage of the acquisition cycle so that the ultimate effect is a cost overrun which is absorbed primarily or entirely by the Government.

OSD 22-6: Prior to issuance of an RFP, DOD should informally consult with potential contractors in order to aid in contractor understanding of the project and to allow contractor input. Studies have indicated that some cost underestimation results when contractors do not fully understand the scope and complexity of the program.

OSD 22-7: DOD should propose revision of the SAR reporting format in order to make these reports a more useful management information tool.

Savings and Impact Analysis

Better estimates of weapons systems costs is one of the factors necessary to reduce instability in the weapons acquisition process. We project that improvements in weapons cost estimates would ultimately reduce by 3 to 10 percent the number of major programs which enter full scale production.

We have estimated that approximately \$5.26 billion in annual savings could accrue from an overall reduction in instability in the acquisition process (see Issue OSD 23). This estimate includes the savings which would result from improvements in estimating weapons costs, which in itself would lead to reduced instability costs.

Implementation

The Secretary of Defense should direct that procedures for estimating weapons systems costs be revised as discussed above. In addition, contractors should be better informed about the complexity of programs at the bidding stage. Finally, greater incentives should be built into contracts to preclude deliberate underbidding and to discourage cost overruns.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

B. WEAPONS ISSUES (CONT'D)

OSD 23: INSTABILITY IN THE WEAPONS ACQUISITION PROCESS

Summary Recommendation

The Department of Defense (DOD) should commit to a stable five-year spending plan for the acquisition of weapons systems at economical production rates. DOD should focus the attention of Congress on any significant increase in costs that would result from proposals to change the plan. Critical to achieving such a plan for program stability is the DOD's ability to relate financial affordability to proposed new systems early in the budgetary cycle. This would avoid accumulating systems that cannot be funded in economic production quantities during the entire production cycle.

Financial Impact

| | |
|--|--|
| <p>\$5.26 billion annually (after full implementation)</p> | <p><u>Potential Savings:</u> Cost growth due to instability on 25 major programs studied recently is estimated to be \$27 billion per year. While it is not possible to control instability completely, the improvements recommended herein should save at least 5 to 10 percent of the annual weapons costs (approximately \$70 billion).</p> |
|--|--|

Background

For purposes of this report, program instability is defined as any event, except inflation, which causes actual program costs to exceed original estimated costs. Program instability would, therefore, include poor initial cost estimates, stretched and delayed production schedules, engineering changes, quantity changes and poor contractor performance.

Issue OSD 21 estimates savings available in RDT&E phases through limiting new starts. Issue OSD 22 discusses the problems associated with poor cost estimation, particularly at the time of the Milestone III decision to go into full-scale production. This issue treats the excess costs incurred in the production phase due to instability. Because inadequate cost estimates contribute to instability, the savings attributable to both issues OSD 22 and OSD 23 are combined.

Methodology

The Task Force conducted over 100 interviews with personnel in OSD, the services, and private industry. It also reviewed various articles, conference reports, books, many internal DOD reports and reports of the General Accounting Office (GAO).

The concerns addressed by this issue and OSD 22 were also addressed by the President's Private Sector Survey Procurement/Contracts/Inventory Management Task Force in their issues PROC 4 (Multi-year Contracting), PROC 6 (Planning), and PROC 8 (Cost Estimating and Scheduling). That task force estimated that \$8.8 billion could be saved in DOD weapons procurement in the first three years through the adoption of their recommendations.

Findings and Conclusions

The OSD Task Force traced the program cost estimates for 25 major weapons systems, based upon an analysis initiated by the Defense Systems Management College. That analysis reviewed the cost growth factors in the acquisition process of major weapons systems.

The 25 major programs that we reviewed were initiated between 1971 and 1978. They have been affected by program changes, technological changes, quantity changes, timing changes and unanticipated inflation. We attempted to

measure the cost growth in these programs through the end of 1981, recognizing that a significant factor in seeming "cost growth" could be due to low cost estimations performed at the onset (see Issue OSD 22).

The 25 programs had an average age of seven years as of year-end 1981, but the weighted average was somewhat less when the size of programs was considered.

We found that the year-end 1981 total of the cost estimates for these 25 programs was 323 percent of the total development estimates made at the time the respective programs were initiated. Our analysis of the cause of cost escalation revealed the following:

| | (\$ billions) |
|--|---------------|
| Total development estimates | \$104.8 |
| Inflation costs beyond assumption in development estimate | 42.3 |
| Program changes made after development estimate | 129.4 |
| Other changes made after development estimate | <u>62.7</u> |
| Total estimated program costs over program life cycle | \$339.2 |

Even when unanticipated inflation was removed, the cost growth due to instability factors for these 25 programs was \$192.1 billion, or 183 percent of the original development estimate. The total annual increase in program costs, adjusted for year of entry for each program, was \$26.9 billion, or 28.8 percent by weighted average (see Exhibit II-8 at the end of this issue).

This does not imply that the program measured at year-end 1981 was the identical program on which the development estimate was based. It may be, to the extent that the original estimate was unduly low, but other changes must be analyzed as well. These results do demonstrate that affordability cannot be adequately anticipated in the face of such unreliable data. It also demonstrates the high cost of not freezing the design or proceeding to approve the program before the true costs of technological improvements to the design are known.

On the basis of our review of this data, other studies reviewed, and discussions with DOD personnel, the OSD Task Force concluded that DOD has difficulty relating financial affordability to the production of proposed new systems sufficiently early in the decision-making process. As a

result, more systems are put into production than can be funded in economical production quantities during the product cycle of each system, resulting in cost growth for reasons such as stretched production schedules and quantity changes. In this connection, the Selected Acquisition Report (SAR) of June 30, 1981, shows that 40 of 47 programs have experienced changes in the number of units to be procured, and 41 have experienced schedule changes.

On average, the production phase of a weapons system spans about five years and represents 80 percent of the total weapons system cost. The remaining 20 percent of the weapons system cost is represented by prior RDT&E expenditures, including full-scale development, which may have required up to 10 or 15 years before the system was ready for production (Exhibit II-4 on page 145 illustrates the process).

Because most of the funds are spent for procurement, and not development, a careful determination of whether a program will proceed into production or be cancelled should be made at Milestone III. At this point, the determination should be made regarding:

- o whether the particular weapons systems is still required to meet the threat as perceived early on in the R&D work program;
- o whether the weapons system reflects successful and effective culmination of the preceding R&D work;
- o whether the R&D development should be cancelled and written off as an unsuccessful venture;
- o whether the cost of the weapons system in economical production quantities over the entire life cycle is affordable, in relation to other systems presently in production or being considered by DOD.

At the present time, we do not believe that the processes of weapons system selection, internal DOD budgeting for production, and Congressional appropriations are sufficiently interrelated so that an orderly and economical process of weapons system acquisition management may operate. Weapons systems should be acquired at the lowest reasonable cost per unit, which frequently means higher annual rates of production. However, there appear to be many systems in production at uneconomically low production rates that cannot be terminated because of the pressures of various constituencies such as the services, contractors,

and the Congress. We believe the present situation also exists, in part, because of DOD's failure to adequately limit the number of new systems that are initiated (see Issue OSD 21).

Acquiring systems at the lowest reasonable unit cost by insisting on adequate economic production quantities is not presently a high priority in DOD decision-making processes. DOD seems to opt for having large numbers of different systems in production at low, uneconomical rates of production. This is so in spite of the DOD Acquisition Management Improvement Program which states: "We must improve long-range planning to enhance acquisition program stability.... [We must] increase program stability by fully funding R&D and procurement at levels sufficient to ensure efficient cost, supportability and schedule performance, and minimize changes to the approved program."

Multiyear procurement (MYP) is a contractual procedure whereby DOD agrees to purchase from a contractor a stated number of weapons systems each year for several years, usually at a fixed price, but possibly with escalation of certain basic costs based on inflation indices. Only a few weapons systems are presently being procured on MYP contracts. In contrast, most weapons systems are presently procured on the basis of annual contracts, wherein the quantities purchased have a direct relationship to the amount of annual appropriations from Congress. Under this annual basis of procurement, the quantities of any particular system that are purchased can vary significantly from year to year, depending on a wide range of factors, such as overall budget constraints, competing systems, technology changes and the strength of the constituencies in support of the individual system.

Under MYP, the Government and the contractor enter into a long-range financial relationship, at a fixed cost to the Government. In these circumstances, the Government is in a stronger position to negotiate a lower contract price because higher and more stable quantities are procured each year, rather than the lower uneconomical production rates often used under the annual contract procedure.

The OSD Task Force believes MYP is a vehicle for accomplishing program stability and minimizing attendant cost growth. Cost savings from the use of MYP have been estimated at 10 to 20 percent by the Deputy Secretary of Defense. The Navy claims from 6 to 35 percent savings over single year procurement on four sample programs. The Air Force claims it could "routinely" save from 10 to 30 percent of total acquisition cost by MYP.

Based on OSD Task Force experience and knowledge of the industry, we believe entering into MYP contractual commitments for many proven systems that enter the production phase would help provide the discipline of program stability on the part of the Administration, Congress, and DOD. We believe all decision makers would take a harder look at the initial decision to procure a particular system under MYP, covering three to five years' production at higher economical annual quantities because of the significant dollars involved, as opposed to the smaller dollars involved in the annual appropriations process. We also believe MYP would force a higher degree of competition among different systems competing for scarce financial resources, with the healthy result that some programs would not be funded for production. Other major benefits of MYP are reduced program costs and an acute awareness of the high cost of program changes such as quantity changes, stretched production and engineering technology changes, all of which contribute to cost growth.

Savings due to MYP can be achieved through any or all of the following:

- o Increased competition at the prime contractor and subcontractor levels.
- o Economic quantity buys of material throughout the subcontractor and supplier base.
- o Improved labor and overhead efficiencies at the prime contractor and subcontractor levels by optimizing costs for start-up and learning.
- o Improved productivity in the manufacturing process as the result of increased corporate capital investments.
- o Reduction of lead times for manufacturing materials and parts in the subcontractor/supplier base. This can occur by permitting the prime contractor to enter the subcontractor/supplier production queues only once at the beginning of the program, instead of having to reenter the queues each year.
- o Improved surge production capability for the overall weapon system, as well as for logistics sustainability, because of the increase of materials ordered at the beginning of the MYP contract.

If MYP were used on a more regular basis, an environment of stability would be achieved within which the acquisition process could function. For example, only a single contract is negotiated under MYP, as opposed to several under the annual appropriations basis. Thus less time is used on administrative functions, such as budget preparation, furnishing and evaluating estimated prices, and changing quantities that influence price estimating.

The higher degree of competition at both the prime contractor and subcontractor levels for the larger contracts resulting from MYP would permit industry to use management techniques, equipment and tooling which would result in providing weapons systems at a lower cost per unit. The MYP contractual arrangement would allow the contractor to commit corporate financial resources, people, facilities, equipment and subcontractors for longer periods of time. This would result in improving the industrial base and making the Government a more attractive customer, thereby increasing competition.

In the experience of the OSD Task Force, increased competition leads not only to lower costs but also to higher improved quality. An illustration of the importance of establishing improved quality is found in the aerospace industry, according to Aviation Week and Space Technology, August 2, 1982. An article by W.H. Gregory indicated that U.S. aerospace managers were averaging only about 12 good assemblies out of every 100. MYP is an excellent tool by which the Government can require the manufacturer, because of the size and stability of the contract, to commit resources to optimize system performance.

As was pointed out in Issue OSD 22, the OSD Task Force believes cost estimates for weapons systems are made too early -- so early that accurate forecasts are nearly impossible. The level of confidence that a major program will be completed within its initial cost estimate (presently made in conjunction with the Milestone II decision to proceed with full-scale development) is only 9 percent (N. Augustine, Concepts, February 1982). Accordingly, baseline production cost estimates, against which actual costs will be compared in many cases should not be made until the project has advanced to Milestone III, when reasonable estimates can be made.

Top management in OSD and program managers for major weapons systems serve in their respective capacities an average of only 30 months. The average life cycle of a weapons system, including R&D and production, is over 13 years. We have determined from private sector sources that industry keeps key employees in positions an average of

eight years for projects and operations of less financial magnitude and technical complexity than major defense weapons systems.

Program managers are not presently held responsible for all aspects of the program, since they are not able to control certain aspects, such as funding and program changes. Accountability for a program is shared by a number of entities -- the services, the program manager, the Congress and OSD. As a result, no one is really held accountable.

Recommendations

OSD 23-1: Recognizing that Congress, the Administration, DOD, and contractors have all contributed to past program instability, we believe that in the future, OSD should exercise its authority and play a more aggressive role in controlling defense expenditures. OSD should exercise control in the following ways:

- o For its own and external use, such as Congressional relationships, DOD should make firm five year spending plans based on economical rates of production. DOD should calculate and focus attention on the cost of changing from those plans prior to any decision to alter the five-year plan by the Congress, any entity in DOD, or the Administration.
- o DOD can minimize cost growth in systems acquisition through commitment to program stability that is best evidenced by MYP contracts.
- o DOD should address both the financial affordability of proposed systems and the defense need for the systems in the annual Defense Guidance Report. At present, this report does not address in sufficient detail the issue of financial affordability. To interlock affordability and need would help prevent starting new systems that cannot be funded in economical production quantities during the entire production cycle.
- o DOD should reestablish its baseline production cost estimate at Milestone III, when program costs can be estimated more realistically.

OSD 23-2: Recognizing that program managers play a key role in the acquisition process, improvement in program stability can also be achieved by DOD action to:

- o Lengthen the assignment period of key Government personnel, such as program managers.
- o Develop a stated career path for program managers to provide incentives for improved performance.
- o Hold program managers accountable for those aspects of the program that they are able to control, recognizing that Congress, OSD, or the services sometimes take control out of their hands.

Savings and Impact Analysis

Our sampling of weapons cost escalation indicates that too many weapons systems are allowed to proceed through the acquisition cycle because the potential costs are underestimated at the outset and the costs of changes are not adequately anticipated.

Proper estimating, freezing of the design at a reasonable point, MYP, and curtailing the number of systems produced would enable DOD to purchase the best range of systems that are affordable.

While we recognize that all instability cannot be eliminated, it is our judgment that the implementation of the recommendations for Issue OSD 22 and this issue should be able to reduce instability by as much as 20 percent. We estimate that such stability improvement would yield a 5 to 10 percent savings for weapons production procurement costs, which are currently \$70.1 billion. Mean estimated savings of 7.5 percent would be \$5.26 billion.

Assuming five years to implement the recommendations, the savings would be:

| | | (\$ billions) With 10 percent inflation assumption |
|-------------------------|----------------|--|
| First year | \$1.052 | \$1.052 |
| Second year | 2.104 | 2.314 |
| Third year | 3.156 | 3.819 |
| <u>Three-year total</u> | <u>\$6.312</u> | <u>\$7.185</u> |
| Fourth year | 4.208 | 5.601 |
| Fifth year | 5.260 | 7.701 |

Implementation Steps

DOD should seek legislation to permit the increased use of multiyear contracts and the Secretary of Defense should implement the recommendations discussed above to improve stability in the weapons acquisition process.

Exhibit II-8

INSTABILITY COSTS FOR 25 SELECTED PROGRAMS
AS OF DECEMBER 1981
(\$ millions)

| No. | Program | | Orig. cost est. | Cost escalation | | Instability cost increase per year | |
|---------|---------------|--------------|-----------------------|----------------------------|------------------|--|-------------|
| | Start date | Age (yrs) | | Unanticipated Inflation | Instability | \$ | % |
| 1 | 1977 | 4 | \$4,184 | \$810 | \$3,078 | \$770 | 18.4 |
| 2 | 1971 | 10 | 329 | 125 | 1,122 | 112 | 34.1 |
| 3 | 1978 | 3 | 3,186 | 205 | 743 | 248 | 7.8 |
| 4 | 1975 | 6 | 1,563 | 660 | 932 | 155 | 9.9 |
| 5 | 1978 | 3 | 14,084 | 2,400 | 11,099 | 3,700 | 26.3 |
| 6 | 1978 | 3 | 1,358 | 205 | 1,023 | 341 | 25.1 |
| 7 | 1972 | 9 | 3,758 | 1,200 | 2,423 | 269 | 7.2 |
| 8 | 1972 | 9 | 5,241 | 2,075 | 3,393 | 377 | 7.2 |
| 9 | 1972 | 9 | 4,779 | 2,015 | 12,780 | 1,420 | 29.7 |
| 10 | 1969 | 12 | 6,166 | 999 | 28,667 | 2,389 | 38.7 |
| 11 | 1970 | 11 | 1,032 | 325 | 2,153 | 196 | 19.0 |
| 12 | 1973 | 8 | 3,245 | 3,000 | 8,001 | 1,000 | 30.8 |
| 13 | 1977 | 4 | 464 | 545 | 3,221 | 805 | 173.5 |
| 14 | 1971 | 10 | 5,748 | 2,410 | 16,108 | 1,611 | 28.0 |
| 15 | 1974 | 7 | 12,431 | 5,940 | 10,127 | 1,447 | 11.6 |
| 16 | 1970 | 11 | 2,662 | 460 | 3,091 | 281 | 10.6 |
| 17 | 1970 | 11 | 7,355 | 3,750 | 29,449 | 2,677 | 36.4 |
| 18 | 1975 | 6 | 6,055 | 3,100 | 31,749 | 5,292 | 87.4 |
| 19 | 1973 | 8 | 632 | 105 | 721 | 90 | 14.3 |
| 20 | 1975 | 6 | 12,875 | 10,250 | 16,600 | 2,767 | 21.5 |
| 21 | 1975 | 6 | 735 | 210 | 1,103 | 184 | 25.0 |
| 22 | 1970 | 11 | 3,908 | 810 | 2,039 | 185 | 4.7 |
| 23 | 1976 | 5 | 601 | 220 | 303 | 61 | 10.1 |
| 24 | 1977 | 4 | 894 | 150 | 675 | 169 | 13.9 |
| 25 | 1977 | 4 | 1,527 | 280 | 1,500 | 375 | 24.6 |
| TOTAL | | | <u>\$104,812</u> | <u>\$42,249</u> | <u>\$192,100</u> | <u>26,921</u> | |
| AVERAGE | | | | | | | <u>28.8</u> |

SUBCHAPTERS OMITTED

| | |
|---------------|--------|
| C. RETIREMENT | p. 209 |
| D. HEALTH | p. 245 |
| E. PERSONNEL | p. 275 |

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

F. FINANCIAL ISSUES

OVERVIEW

The Office of the Secretary of Defense (OSD) Task Force has found that there is no usable management information system in the Department of Defense. Line item detail prescribed for the Federal budget cannot be used effectively for the financial analysis of areas of operation.

Since top DOD officials do not have as ready access to management information as would be normal in private sector operations, frequent resort is made to special studies. A major obstacle occurs because of the delay in obtaining relevant data and because basic decisions tend to be put off in the press of other problems.

Because of the operational deficiencies of the basic accounting system, great reliance must be placed upon financial controls and internal auditing. Added focus in this area should result from the recent creation of the position of Inspector General for the DOD.

The OSD Task Force makes two further recommendations to enable the Secretary to maximize the value of the internal audit function. Since the scope of internal audits in the procurement area has been far too limited for the size of the weapons acquisition program, the establishment of a Procurement Audit Service is recommended.

The private sector has found that corporate audit committees, comprised of outside directors, considerably improve the quality of internal auditing and the scope of the internal audit program. The OSD Task Force recommends that DOD establish an outside audit committee to perform a similar function for the Secretary of Defense.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)F. FINANCIAL ISSUES (CONT'D)OSD 36: DEPARTMENT OF DEFENSE PUBLIC AUDIT COMMITTEESummary Recommendation

The Department of Defense (DOD) should seek legislation that will permit it to establish a public audit committee comprised of members from the private sector appointed by the President of the United States. The role of the DOD Public Audit Committee would be comparable to that of private sector audit committees, which serve in an advisory capacity to corporate boards of directors. The primary responsibility of the DOD Public Audit Committee would be to conduct thorough and independent reviews of DOD internal audit practices, procedures, and controls, and to evaluate the adequacy of the internal audit responsibilities, mission, and scope for DOD.

Financial Impact

The formation of a DOD Public Audit Committee would enhance the effectiveness and visibility of the audit functions within DOD and provide an independent review of overall audit and management policy compliance. The full effects of this recommendation in terms of financial savings and increases in operating efficiencies and program effectiveness are difficult to measure. However, based on our review of DOD internal audits and follow-up on audit recommendations, the Office of the Secretary of Defense (OSD) Task Force feels that the increased importance placed on the audit function will result in substantial savings. Further, the resulting long-term improvements in internal controls will generate additional opportunities for savings.

Background

The private sector has increasingly come to recognize the positive value of a public audit committee as an instrument of control, as well as a means of enhancing the quality and acceptability of the internal audit process. A basic function of a corporate audit committee is to assist the board of directors in fulfilling its fiduciary responsibility relating to corporate accounting and reporting practices. Another major function of the committee is to maintain a direct and separate line of communication between the board of directors and the company's independent auditors. Through this role of communication, the audit committee develops information on an understanding of company activities which, through their advisory role with the board of directors, can be used to strengthen the board's control of company operations. The OSD Task Force believes that a properly structured DOD audit committee can assume a similar role and improve the overall control of DOD's operations.

Findings and Conclusions

Most corporate audit committees concentrate their activities on issues related to profitability, such as the company's budget and long-range financial planning. The audit committee provides the company's directors with an independent assessment of overall management efficiency and control. The very complexity of DOD's structure and operations increases the probability of breakdowns in internal control and policy compliance. In DOD, the profitability motive of the private corporation is replaced with the mission of protecting and defending national security in times of peace and war. The DOD Public Audit Committee should focus on internal audit policies and procedures and on mechanisms for internal control which ensure that operating policies are efficiently and effectively carried out.

DOD Directive 7600.2 defines the scope of internal audit to include evaluations of the economy, efficiency, and effectiveness with which managerial responsibilities are carried out, including financial, operational, and support activities. DOD has both internal and contract auditors. The DOD Public Audit Committee would be concerned primarily with internal audit. DOD has four internal audit organizations, which collectively are responsible for auditing all of DOD's operations (i.e., Defense Audit Service, Army Audit Agency, Navy Audit Agency, and Air Force Audit Agency). We recommend that the DOD Public Audit Committee work directly with the Secretary of Defense and the DOD Inspector General. However, given that the internal audit components in the services are separate organizations, it will also be

necessary for the committee to interact with the appropriate service audit agency directors.

It is our understanding that DOD has numerous standing committees which were formed to coordinate DOD audit and investigative functions. Members on these committees are generally DOD personnel at policy-making levels in the OSD and the services. It appears that due to cross-membership, a major value of these committees is the opportunity they provide for communication among top managers of the various audit groups. This provides some internal coordination among DOD audit groups. To the extent that these groups actually plan the internal audit effort, the Public Audit Committee may determine that it is appropriate to interview committee members on a regular basis. At the same time, members of these groups, like the internal auditors, should have direct access to the Public Audit Committee without going through the Secretary of Defense.

The DOD Public Audit Committee should review or offer guidance to top DOD management in the following audit-related areas:

- o policies for audit activity;
- o the development and execution of a comprehensive and coordinated long-term audit plan, including the prioritization of audit coverage in high dollar-risk environments such as procurement, inventory management, and research, development, test, and evaluation (RD&E);
- o the effectiveness of and compliance with DOD policies and procedures at all levels of management;
- o the effectiveness of management controls to increase operating economies and efficiencies;
- o the evaluation of internal controls and accomplishment of stated policy objectives;
- o follow-up of management's implementation of audit recommendations;
- o follow-up of various commission recommendations directed towards DOD and its operations;
- o the need for updated computer auditing techniques; and
- o the need for increased coordination between the various audit organizations in the selection of audit targets.

The benefits of a public audit committee can be far-reaching. For one, the committee's role reinforces the internal auditor's independence from management, thereby providing an additional degree of control over operating policies. An audit committee also forces both auditors and management to take a more aggressive approach toward problems that might otherwise go unresolved.

The committee's composition of private sector individuals assures the independent point of view that is so crucial to its effective functioning. While a knowledge of business and finance as they relate to DOD activities is a distinct advantage to audit committee members, it is not essential for all members. Audit committee experience would be a helpful criterion for committee membership. The committee composition should provide for diversity in outlooks among members.

We recognize that DOD's operations with respect to national security will require that audit committee members qualify for security clearance. However, the purpose of the committee will not be to examine policy decisions with respect to national defense. Rather, as in the private sector, the committee's primary function will be to provide feedback to top management (in this case, the Secretary of Defense) regarding the efficiency and effectiveness of operations overall and the extent to which operational policies are being followed.

Recommendations

The OSD Task Force recognizes that a public audit committee for DOD would be a unique entity, as no other Federal agency uses a private sector group in such a manner. The fact that we recommend such a committee only for DOD does not mean that we do not feel other agencies would also benefit from such a group. Rather, our focus of study was DOD and our recommendation is constructed accordingly.

Legislation would be required to form an advisory group to the Secretary of Defense which is comprised totally of members from outside the DOD. Based on our knowledge of the operation of public audit committees in the private sector, we recommend that the legislation include the following provisions.

OSD 36-1: The President should appoint an audit committee for DOD consisting of seven leaders from the private sector, with no more than four from any one political party. The committee members should serve for one term of

six years should not be reappointed unless the initial appointment was to fulfill an unexpired term of less than three years.

Initially, the President should appoint members as follows: three members for six years; two members for four years; and two members for two years (eligible for reappointment). Thereafter, all terms would be six years, except in situations where an unexpired term is filled. Anyone having served in DOD in the previous five years would not be eligible for membership on the audit committee. Members would serve without pay.

The primary duties and responsibilities of the audit committee would be defined as follows:

- o The committee would be required to meet formally at least four times a year and submit a report of each meeting to the Secretary of Defense. Meetings could be scheduled at any other times deemed appropriate by the committee.
- o The committee, on an individual or joint basis, would be accessible, through OSD, to receive reports, suggestions, questions, and recommendations from internal auditors and financial officers of DOD.
- o The committee would review the duties, responsibilities, and activities of the Inspector General's Office of DOD, other OSD-level organizations with internal audit responsibilities, and the respective service audit agencies.
- o The committee would review periodically, with appropriate DOD personnel, management's plans and procedures to assure compliance with DOD policy and performance thereunder.
- o The committee would review selected accounting policies.
- o The committee would meet with the Secretary of Defense semiannually to report on findings and recommendations developed through the audit process.

Implementation

DOD should seek legislation to establish a Public Audit Committee as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

F. FINANCIAL ISSUES (CONT'D)

OSD 37: PROCUREMENT AUDIT SERVICE

Summary Recommendation

The Department of Defense (DOD) should establish a central audit group, the Procurement Audit Service, with responsibility for internal audit of all DOD procurement practices. The Procurement Audit Service should report to the DOD Inspector General.

Financial Impact

\$500 million annually Potential Savings: The financial impact of this recommendation is very difficult to quantify. Assuming a productivity factor of .5 percent through improved audit and review, the Office of the Secretary of Defense (OSD) Task Force estimates cost avoidances and efficiency improvements could total \$500 million annually. Potential non-financial benefits are discussed below.

There may be some implementation cost, not quantified here, to the extent that additional personnel are required to handle assignments previously performed by auditors. In light of the authorization of 100 new spaces for procurement auditing in the FY 1983 budget, and the transfers proposed herein, further additional personnel may not be required.

Background

The internal audit components of DOD include the Defense Audit Service (DAS), the Army Audit Agency (AAA), the Navy Audit Service (NAS), and the Air Force Audit Agency (AFAA). As described in DOD 7600.2, the purpose of an internal audit is to provide management with a report of the economy, efficiency, and effectiveness with which certain responsibilities and functions are being carried out. Management, the personnel responsible for carrying out certain functions, and the auditor are all members of the same organization but have separate and distinct reporting relationships.

The reporting relationship and the structure of DOD audit groups have undergone many changes since the establishment of DOD. The 1949 amendments to the National Security Act assigned audit operations, both internal and contract, to the DOD Comptroller. However, the responsibility for conducting audits within the services was assigned to the AAA, NAS, and AFAA which reported to the respective comptrollers of these Military Departments.

In 1978, the Secretary of Defense transferred the audit function of the Navy and Air Force from the respective comptrollers to positions directly under the Service Secretaries. Similar action had been taken by the Army in 1974. DAS was created in 1976, reporting to the Secretary of Defense. As a result of the 1978 reorganization of OSD, DAS was placed under the DOD Comptroller.

The Inspector General Act of 1978 excluded DOD but provided for an in-depth study of the then-existing audit agencies. In April 1981, the Office of Assistant to the Secretary of Defense for Review and Oversight was established, and DAS was moved from the Comptroller's Office to Review and Oversight. In 1982, Congress established the DOD Inspector General's (IG) Office, and DAS was transferred from Review and Oversight to the new IG's office.

As of March 31, 1982, approximately 2800 persons comprised the internal audit and review functions in OSD and the Services. This number excludes approximately 1700 spaces in the military internal review groups, whose primary function is to service commanders at the various military installations. Also excluded are 3600 personnel assigned to the Defense Contract Audit Agency.

The external audit component of DOD is the Defense Contract Audit Agency (DCAA). DCAA's audit effort is directed to outside entities -- basically contractors and

vendors of goods and services for Government use or consumption. DCAA personnel have no responsibility for evaluating internal audit procedures or for the personnel responsible for performing internal audit procedures.

DCAA has responsibility for all contract audit services for DOD procurement. It has also been assigned responsibility for other Federal agencies. While contract auditors report to DCAA management, their primary role is to service the requirements of the contracting officers. In the pre-award stage of the acquisition process, DCAA personnel function as financial advisors, while in the post-award phase, they function primarily as cost analysts.

Methodology

The Task Force conducted numerous interviews with OSD-level personnel responsible for audit plans and policy for both DAS and DCAA. The Task Force also reviewed annual reports of audit operations for DAS and DCAA for 1980 through the third quarter of 1982.

Findings

The numerous structural reorganizations plus changes in reporting relationships for the audit groups have affected not only audit policy but also the selection of audit targets. In the early stages of their existence, audit groups concentrated their efforts on accounting and financial functions. Their efforts soon expanded to the areas of supply, maintenance, personnel, training, and operational support functions in general. The audit approach was not necessarily financial or accounting but an evaluation of efficiency and effectiveness.

Prior to the establishment of the DOD IG, audit policy and procedural criteria were developed by the DOD Comptroller. The IG is now responsible for determining audit policy regarding fraud, waste, and abuse in DOD. The IG's responsibilities also include coordination and examination of all audits performed on DOD programs. Audit assignments by the four internal audit agencies, DAS, AAA, NAS, AFAA may be self-initiated, mandated, or requested.

Self-initiated audits in general are directed toward the review of management controls in concept and practice and the prevention of fraud and waste. Our extensive review of audit reports and audit plans reveals a lack of specific audit effort in the area of the internal control of the

procurement process. As a consequence, audit efforts are not effective in monitoring internal controls in procurement.

For FY 1980, the percentage applications of audit resources for internal audit of procurement and contract administration functions was 11.2 percent. An examination of several related audit reports suggests at least one-half of that effort was directed toward contract administration, thus leaving only about 5 percent of total resources directed to procurement. Given the magnitude of DOD expenditures for procurement (i.e., approximately \$114 billion projected for FY 1983), it is evident that greater emphasis and increased resources should be directed toward the audit of research, development, test and evaluation (RDT&E) and procurement.

A major procurement audit was scheduled to start in July 1981, with a commitment of 840 audit work days. The audit was directed toward RDT&E funds for cruise missiles for Navy and Air Force programs. The objective was to ascertain whether the acquisition agency had made proper risk evaluation of evolutionary technology versus revolutionary or frontier technology. We believe this was an excellent audit target, even though the objectives were restrictive and should have included a review of baseline estimates and causes of cost growth. The audit target was apparently not considered top priority because the audit was never undertaken.

During the six-month period ending March 31, 1982, the audit components of DOD issued 105 reports which addressed subjects dealing with procurement and research and development. These reports recommended changes which would provide savings of \$650-\$700 million.

Conclusions

Based on an extensive review of DOD audit reports and plans, the OSD Task Force concluded that there is a lack of specific audit effort in the area of internal control of the procurement process. The FY 1983 Defense budget included RDT&E expenditures of approximately \$24 billion and procurement expenditures of approximately \$89.6 billion. It appears that DAS audit plans do not direct sufficient priority or effort in the overall review of procurement practices of the various acquisition groups within OSD and the services.

The diffusion of the audit effort has led to the ineffective internal audit review of controls in the procurement area. There is no centrally directed, comprehensive oversight review of the entire procurement process. Further, the audit coverage of DOD procurement practices is inadequate to ensure proper control of waste and inefficiencies.

Recommendations

OSD 37-1: DOD should establish a Procurement Audit Service (PAS) to perform internal reviews of DOD procurement practices. The PAS should report to the DOD IG. The DCAA should remain in the DOD Comptroller's organization and not be assigned to the IG. The proposed PAS should review the quality, accuracy, and scope of DCAA in the course of its normal internal audit reviews.

In order to establish the special Procurement Audit Service (PAS), the OSD Task Force proposes that 5 to 10 percent of the spaces in each of the existing audit agencies be transferred to the PAS. Decreasing the number of auditors in the service agencies and in DAS would be offset by relieving these agencies of most of their procurement audit assignments and by eliminating the quasi-audits, such as force readiness reviews. The OSD Task Force recommends that the performance of force readiness reviews be the responsibility of the IGs services.

In addition to its examination of the internal control procedures related to DOD procurement, the PAS should also monitor and assist in the implementation of the Acquisition Improvement Plan. For example, the PAS, in concert with the Task Force on Acquisition Improvement, could direct attention to such areas as more realistic weapons systems cost estimates, adequate and stable program funding, greater use of multi-year contracting, etc.

The OSD Task Force feels that a highly trained, specifically directed procurement audit force would provide significant monetary benefits of equal importance, we feel would be the potential non-financial benefits:

- o High level, independent, and non-operational review of procurement and research and development expenditures;
- o Improved coordination of the audit effort when centralized in one unit;

- o Improved prioritizing of audit targets and assignments;
- o Uniformity and consistency of audit policies; and
- o Coordinated interchange of information among all audit components of DOD.

Savings and Impact Analysis

While it is very difficult to quantify the estimated impact of this proposal, the redirection and specific focus of the audit effort within the procurement environment point to significant cost avoidances related to increased efficiency, economy, and effectiveness. The semi-annual report to Congress of Audit, Inspections, and Investigative Operations in the DOD (October 1, 1981-March 31, 1982) contains several examples of successful endeavors in detecting waste and opportunities for improved efficiency in various areas of procurement. Assuming a productivity factor of only 0.5 percent through improved audit and review, it is conceivable that cost avoidances or efficiency improvements could aggregate over \$500 million.

Assuming an annual inflation factor of 10 percent, the estimated savings in the first three years would be:

| | <u>(\$ millions)</u> |
|-------------------|----------------------|
| First year | \$ 500 |
| Second year | 550 |
| <u>Third year</u> | 605 |
| Three-year total | <u>\$1,655</u> |

Implementation

The Secretary of Defense should establish a Procurement Audit Service under the DOD IG as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

F. FINANCIAL ISSUES (CONT'D)

OSD 38: FREIGHT BILL AUDIT

Summary Recommendation

Since the Department of Defense (DOD) is the largest Government procurer of commercial transportation services, the audit function for its freight bills should be delegated by the General Services Administration (GSA) to DOD. DOD should then contract out the audit function to the private sector whenever practicable. Any amounts that are recovered due to freight bill overcharges or duplicate payments should be credited to the budgets of the offices which procured the transportation services in order to provide better incentives for diligent audit of carrier rating errors, duplicate billing, and classification errors.

Financial Impact

- \$53 million annually Potential Savings: Annual savings for increased freight claim recovery should be approximately \$50 million plus \$3 million through reduction of staff in GSA and redistribution of personnel into the transportation procurement agencies.
- \$72 million There is also the opportunity for a one-time savings of \$72 million from auditing the existing backlog of freight bills.

Background

DOD's expenditures for U.S. commercial transportation services are expected to represent approximately 80 percent of the projected Government-wide transportation expenditures of \$7 billion in FY 1983. Given that DOD accounts for such a high proportion of total Government expenditures in this area, it is logical to assume that DOD's expertise could result in better controls over the post-payment audit function. The Military Traffic Management Command (MTMC) and local transportation procurement agencies are experienced in the area of freight rate negotiation, classification, and application. This level of expertise fully qualifies the transportation procurers to oversee the post-payment audit of freight bills.

In a separate recommendation regarding transportation management, Issue OSD 10, we have recommended that a centralized traffic management office be established within MTMC. Once established, this office should assume responsibility for the freight bill audit functions and should contract out with private auditors whenever practicable.

The Federal Government has long recognized the potential for freight cost recovery. Until 1975, transportation invoice audit was performed by the General Accounting Office (GAO). In 1975, transportation invoice audit was transferred to GSA. Initially, GSA had over 1,000 people assigned to the audit function. However, successive budget reductions have reduced the GSA audit staff to under 200 people. In FY 1981, with an audit staff budget of \$6 million, only \$12 million was recovered in rating errors and duplicate billings. The Office of the Secretary of Defense (OSD) Task Force feels that reduced effort in this area has translated into a reduction in potential recovery of losses due to freight bill errors.

Methodology

The Task Force conducted interviews with freight transportation procurement experts in MTMC and reviewed in depth the operation of the Freight Bill Audit Section at GSA with key management personnel of this section. Additionally, it conducted interviews with GAO personnel who recently completed an audit of the GSA freight bill payment function. Many of the conclusions reached by the OSD Task Force agree with the conclusions reached by GAO.

Findings

It is apparent and recognized by all parties concerned that there are substantial opportunities in the post-payment audit of freight bills to identify and claim for freight classification errors, freight rating errors, and duplicate billings. In fact, this function was actually performed by GAO prior to 1975, when it was consolidated under the umbrella of services provided by GSA. However, the fact that a freight bill audit section is self-sustaining and, in fact, returns more revenue than it costs, has apparently been lost on recent Administrations and Congressional budget committees. Therefore, the function has been reduced to a skeleton operation which foregoes many audit opportunities in an attempt to skim the "cream of the audit opportunities" with available staff.

The freight bill audit area provides an excellent opportunity for reduction in Government overhead costs through subcontracting the audit function to private commercial firms, which have for years provided post-payment audit services to the private sector. These organizations work on a commission basis, and auditors are paid a percentage of their recovery. This tends to make for an extremely lean and aggressive audit industry. In the audit industry, the commission compensation structure creates much more highly motivated auditors than a straight salary compensation program would. Thus, by its very nature, a contract audit is likely to be vastly more efficient than an in-house audit. For this reason, most private sector firms subcontract the freight bill audit function.

It was also noted that there is a backlog of 14 to 22 months of freight bill audits in GSA. Therefore, there is an additional opportunity for one-time savings.

Conclusions

The separation of the audit function from the control of the transportation procurers and the diversion of recovered funds from the budgets of the procurers into a general revenue fund reduce the motivation to see that a thorough audit is done. If the dollars recovered through freight bill audits were returned to the operating budgets of the transportation procurers, it is felt that they would be more aggressive in ensuring that documents were available to auditors for the post-payment audit.

Recommendations

OSD 38-1: The post-payment audit of freight bills function should be returned to the procuring agencies, who are most knowledgeable in the unique characteristics of their local procurement operations and who can best oversee the accumulation of the necessary data to allow for an efficient post-payment audit. These agencies should in turn subcontract the audit function, as is normal in private industry, to commission auditors, who are generally regarded by the private sector as being aggressive and efficient in their audit functions. To provide additional incentive to ensure an accurate and thorough post-payment audit, funds recovered should be channeled back into the transportation procurement organizations and be reflected as management efficiencies in the operational and budget review functions of these organizations.

The OSD Task Force supports GSA's recent efforts to contract out the freight bill audit function and believes that DOD should also contract out this function after it is delegated. This concept was sanctioned by both the Senate and House of Representatives in the proposed 1983 appropriations bill for GSA.

Savings and Impact Analysis

The OSD Task Force savings projections are based on an estimate of a 2 percent freight claim recovery opportunity if more comprehensive freight bill audit procedures are initiated. The OSD Task Force has selected a recovery rate of 2 percent as being a conservative estimate of the recovery potential and in line with private sector experience. Estimates of 5 percent or more as a potential recovery rate have been offered by both Government and private sector sources. Two percent is selected only to show an order of magnitude of the potential for recovery through a thorough and efficient audit program. Since FY 1983 DOD expenditures for commercial transportation services are expected to equal \$5.5 billion, a 2 percent recovery would yield a savings of \$110 million.

If the freight bill audit function is contracted out to private audit firms, the savings to the Government from increased claims recovery would be reduced by the contractors' fees. It is our understanding that private freight audit firms charge up to 50 percent of claims collected for their services. Given the potential volume of Government business, it is likely that a lower commission rate could be established. For purposes of these estimates, the OSD

Task Force has assumed a 40 percent commission rate, which represents an average of commissions offered to large private firms. This would reduce the estimated Government savings to \$52 million (net of the projected FY 1983 recovery of \$14 million).

There is an opportunity for a one-time savings through clearing up the estimated 18-month backlog in GSA audits. Assuming that annual expenditures for commercial transportation services were \$4 billion during this period, the base for the savings calculation would be \$6 billion. A 2 percent savings would yield \$120 million, less \$48 million in commissions, or a net savings of \$72 million.

The transfer of freight bill audit functions to the procurement organizations and subsequent subcontract thereof would eliminate the necessity for the freight bill audit section within GSA. In 1981, the most recent year for which data were available, the budget for this organization was approximately \$6 million for 200 personnel. We are assuming that at least half of the positions in this organization could be eliminated. Of the remaining 100 personnel slots, it is assumed that some personnel would be redistributed among transportation procurement agencies to oversee the audit function and to accumulate the necessary freight bills and tariff data to provide to private contractors to allow them to efficiently prepare and complete their audits. The net result of the personnel reductions and transfers would be a savings to the Government of approximately \$3 million.

Assuming an annual 10 percent inflation factor, the estimated savings in the first three years would be:

| | (\$ millions) |
|-------------------|---------------|
| First year | \$125 |
| Second year | 53 |
| <u>Third year</u> | <u>64</u> |
| Three-year total | <u>\$247</u> |

Implementation

GSA should delegate the transportation freight bill audit function to DOD as discussed above, under the authority of 31 U.S.C. Section 224. DOD should then seek legislation that will permit it to contract out this audit function notwithstanding the current Congressional moratorium on contracting out under OMB Circular A-76.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

F. FINANCIAL ISSUES (CONT'D)

OSD 39: GOVERNMENT-FURNISHED MATERIAL

Summary Recommendation

The Department of Defense (DOD) should accelerate the implementation of DOD Instruction 4140.48 regarding Government-furnished material (GFM) provided to contractors. The Instruction should be expanded to include production as well as maintenance contractors. In addition, DOD should establish interim procedures to control GFM until DOD Instruction 4140.48 can be fully implemented.

Financial Impact

\$20-\$60 million
annually

Potential Savings: Annual savings of
\$20-\$60 million are possible by
improving controls over GFM provided
to contractors.

Background

As a general policy, contractors are responsible for furnishing all material required for the performance of Government contracts. DOD, however, furnishes materials as an exception to the general policy where opportunities of economy exist or there is a need to expedite contract performance. GFM includes any item which is used in a production or maintenance process. They range from relatively inexpensive items such as diodes to more expensive and complex components. GFM specifically excludes major equipment, i.e., Government-furnished equipment (GFE), such as trucks or cranes provided to contractors for use in production or major maintenance activities.

GFM is ultimately consumed in the production or maintenance process. GFM is provided primarily for production contracts and the two main categories of maintenance contracts -- component repairs and major system modification and overhaul work. Provision for GFM is specified as part of the contract, although terms are typically general and frequently denote only allowable GFM categories and not the amounts of GFM that will be allowed in each category.

Methodology

In order to understand the process and controls governing GFM provided to contractors, appropriate Office of the Secretary of Defense (OSD), Army, Navy, Air Force, and Defense Logistics Agency (DLA) personnel were interviewed. Interviews focused on gaining insights into the ability of each of the services and DLA to successfully implement DOD Instruction 4140.48 within the specified November 1982 timeframe. General Accounting Office (GAO) and DOD audit reports, pertinent DOD memoranda and instructions, as well as a transcript of the 1981 Government Operations Subcommittee hearing regarding GFM further served to assist in defining and assessing GFM control weaknesses.

Findings

A specific determination of the amount of GFM provided to contractors is not possible because of limited information on current and historical usage. A rough OSD Task Force estimate, however, based on extrapolating GFM figures compiled in 1976 by the Defense Supply Agency (now the DLA) conservatively places it at approximately \$1 billion each year.

GFM is regarded as an exception to general policy rather than a program of its own. As a result, only limited controls are exercised over ensuring the propriety of GFM requisitions and monitoring the effectiveness of GFM usage by contractors. In many instances, contractors have unrestricted access to DOD depots without any pre-validation of requisitions against specific contracts for the type and quantity of items requisitioned. Also, there are no control records to accurately report cumulative GFM usage by contract. In addition, property administration reviews of contractors are limited, and those that do occur rely on contractor records to ensure that GFM is being appropriately used and recorded. Finally, basic accounting and control weaknesses are compounded by a lack of specific responsibility and accountability for the GFM program as it is processed across disparate maintenance, supply, procurement, and contract administration functions.

Findings by the Defense Audit Service and Army, Navy, and Air Force audit agencies have revealed specific instances of GFM misuse and excess requisitions by contractors. Report results presented to a 1981 Government Operations Subcommittee hearing on "Inadequate Control Over Government Material Furnished to DOD Contractors" compiled \$12 million of specific instances of GFM misuse by contractors between 1976 and 1978 as well as over \$22 million of excessive requisitions.

In response to the GFM problem, DOD issued Instruction 4140.48 in 1981, which requires control of access by maintenance contractors to DOD inventories by November 1982. The Instruction specifically addresses key control elements perceived to be missing from the system:

- o the need to develop accounting control within each service over GFM provided to contractors; and
- o the need to accumulate and report this information in a manner which monitors GFM usage by contract and provides adequate reports to property administrators for periodic tests of material inventories.

More specifically, DOD Instruction 4140.48 directs the services to establish inventory control managers at requisition points in the supply system. These control managers are responsible for validation and approval of contractor requisitions for GFM; maintaining a contract, requisition, and shipment status history file that serves as an auditable record of GFM transactions; providing contract administration officers a status report on shipments of GFM to

contractors; and maintaining records necessary for status reports on the number and dollar value of requisitions filled from materials in long supply.

Currently, such an information system is not in place nor are existing operations and GFM data files in such a form that they could be easily modified to comply with all of DOD's stated control objectives. Interviews with key GFM personnel in each of the services and DLA revealed a general consensus that upgrades to existing data processing systems were necessary for adequate compliance with DOD Instruction 4140.48. Changes to current daily operating procedures and associated GFM data collection systems are of necessity an integral part of the proposed new systems development. However, DOD has not met the November 1982 deadline for implementation of DOD Instruction 4140.48. Further, the generally acknowledged historic inability of DOD to design, develop, and install data processing systems in a timely manner suggests that significant progress will not be made in the short term.

Conclusions

Opportunities exist for GFM misuse and material requisitions in excess of allowable contract limits despite efforts on the part of DOD to establish or tighten accounting and reporting controls. Control objectives addressed in DOD Instruction 4140.48, while sound in their intent, presupposed the ability to implement an information system to collect and record data across thousands of contract validation points by November 1982. DOD has been unable to design, develop, and install the data processing systems necessary to support DOD Instruction 4140.48. It appears that the existing operating environment does not offer opportunities for significant strides in improving the current weaknesses within a reasonably short timeframe.

Recommendations

Because current DOD efforts regarding GFM will realistically take some time before overall control of GFM will be in place, we are recommending that more immediate attention be paid to possible interim solutions within the current environment. We continue to advocate, however, the long-term efforts to develop a total system to support the DOD Instructions, and we recommend that the revised system be expanded to include GFM provided to production contractors.

OSD 39-1: DOD should take the following actions to improve GFM control:

- o Expand and amend DOD Instruction 4140.48 to include GFM across all Government contractors, instead of only maintenance contractors.
- o Establish a GFM project office within each of the services and DLA. Each office should be assigned authority and responsibility for determining ways to establish immediate improvements in local GFM controls and ensure successful implementation. Furthermore, each office should establish a coordinating council of executives from the key staffs involved in GFM management to work together to determine viable short-term GFM control tactics within the current operating environment. Specifically, consideration should be given to:
 - Eliminating provision of GFM to maintenance contractors that are not regularly subject to reviews by property administrators or the Defense Contract Audit Agency. Alternatively focus the experimental sale of GFM by DOD on those contractors that typically experience no checks or balances on determining the propriety of GFM requisitions.
 - Defining specific accounting procedures to govern GFM management by production and major maintenance contract program managers.
- o Review existing criteria for exceptions to the general policy requiring contractors to furnish materials in order to execute Government contracts. Limit allowable exceptions to those which are clearly economically advantageous or strategically critical situations, and clearly communicate exception policies to the Contract Administration Service.
- o Review contract specifications for GFM and, to the extent possible, define allowable quantities beyond which requisitions are determined to be excess or require exception approval.

Savings and Impact Analysis

To estimate the savings potential from greater control over GFM, the OSD Task Force has assumed that \$1 billion of GFM (an extrapolation of a 1976 Defense Supply Agency

survey) is issued from inventory each year. While a 1 percent inventory shrinkage, totaling \$10 million, would be considered average by industry standards in a reasonably controlled materials management environment, possible shrinkage in the present uncontrolled GFM environment is estimated to be 3 to 7 percent (\$30-70 million). Critical limitations in GFM controls and historical findings by various audit agencies over the past six years support the OSD Task Force estimate. For example, specific instances of noted excess inventories and contractor misuse totaled \$33 million over a three year period. Assuming only a small portion of exceptions are typically revealed through audits, savings in the range of \$20-60 million annually are believed to represent a reasonable estimate of opportunities available.

To estimate annual savings, we have used the mid-point of the estimated range of savings. Assuming an annual inflation factor of 10 percent, the estimated savings in the first three years would be:

| | (\$ millions) |
|-------------------------|---------------|
| First year | \$ 40 |
| Second year | 44 |
| <u>Third year</u> | <u>48</u> |
| <u>Three-year total</u> | <u>\$132</u> |

Implementation

The Secretary of Defense should direct that the implementation of DOD Instructions 4140.48 be accelerated and that interim procedures be established to control GFM as discussed above.

II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

F. FINANCIAL ISSUES (CONT'D)

OSD 40: FOREIGN MILITARY SALES

Summary Recommendation

The responsibility for implementing, administering, and monitoring pricing policy for foreign military sales (FMS) should be consolidated in the office of the Department of Defense (DOD) Comptroller. This would require the transfer to the DOD Comptroller's office of the pricing and financial functions of the Defense Security Assistance Agency (DSAA) related to FMS, including the Security Assistance Accounting Center.

Financial Impact

\$50-\$100 million annually

Potential Savings: Based on a review of General Accounting Office (GAO) and DOD audits of the FMS program, it is estimated that DOD loses approximately \$50-\$100 million annually due to underpricing of FMS contracts.

Background

FMS are transacted under authority of the International Security Assistance and Arms Export Control Act, P.L. 94-329. Congress enacted this law to provide a method of assisting foreign countries militarily, but with the provision that the sale of goods and services to a foreign government should result in neither a profit or loss to the United States.

In recent years, the FMS program has been under close scrutiny by Congress and GAO because of financial losses resulting from contract pricing errors. The program is managed by DSAA, which reports to the Assistant Secretary of Defense for International Security Affairs.

Methodology

The Office of the Secretary of Defense (OSD) Task Force reviewed numerous reports available on this subject, including GAO reports, Defense Audit Service reports, and some service audit agency reports. Information was also obtained from FY 1982 and 1983 hearings on FMS conducted by the Department of Defense Subcommittee of the House of Representatives Committee on Appropriations.

The OSD Task Force conducted interviews with officials responsible for the management of DSAA. Also interviewed were management personnel in the Air Force and Army Security Assistance Program as well as officials in the DOD Comptroller's office and in the Defense Audit Service.

Findings

Sales under the FMS program have grown dramatically, from less than \$1 billion in FY 1970 to over \$20 billion in FY 1982. Sales in FY 1983 are expected to be approximately \$15 billion. Each military service is responsible for negotiating and finalizing its own FMS agreements, with advice and approval from the Department of State and from DSAA.

FMS contracts must contain a clause which states that the final price will be the U.S. Government's actual cost, regardless of any variance from the contract price estimates originally provided to the foreign customer. Therefore, the contract price estimate must be carefully made, because it is often difficult to negotiate a final price which is substantially in excess of the original contract price estimate. FMS contracts must also require the foreign customer to prepay the contract price, so that U.S. funds are never

used to pay for FMS goods and so that adequate cash is on hand to cover termination costs if a contract is terminated before completion. These funds are maintained by the U.S. Treasury in a trust fund account, the balance of which runs at approximately \$5 billion.

The military services are responsible for detailed obligation, expenditure, and cost accounting; for paying contractors; for requisitioning material; and for reporting all disbursements and other financial information to the Security Assistance Accounting Center (SAAC) -- the central FMS billing and collecting organization. SAAC is located in Denver, Colorado, and was established as a separate organizational component of, and colocated with, the Air Force Accounting and Finance Center.

The Department of the Air Force has been designated the executive agent for operating the DOD centralized billing, collecting, and trust fund accounting system for security assistance. The data submitted to SAAC are not uniform since each service has developed its own system to account for and report on foreign sales. In most cases, these systems were not designed to support FMS management needs. Rather, since sales until recent years were small, the FMS requirements were filled by adding on to existing systems which were designed for other purposes. This lack of emphasis on FMS accounting within each service appears to be a major contributing factor to the program's pricing problems.

DSAA was formed in 1971 in an attempt to coordinate and centralize management of security assistance programs. At the present time, the FMS program is basically the only security assistance program and DSAA's resources are almost wholly devoted to FMS. The agency consists of 107 people, of whom 106 are located in Washington. One person is located in Denver, Colorado, at SAAC, as the Assistant for Security Assistance of DSAA. The SAAC staff is employed by the Air Force. Although the DSAA employee in Denver organizationally reports to the DSAA Comptroller in Washington, he is outranked in Denver by the Director of Air Force Accounting and Finance, who has been designated as DSAA's Deputy Director. In practical terms, this means that SAAC is under the day-to-day management of the Air Force, not the Office of the Secretary of Defense (OSD).

Conclusions

We have concluded that the FMS pricing problems relate to the pricing complexities involved in the statutory requirement that neither a profit or loss may be realized

on FMS. This requires a contract price sufficient to meet direct costs plus such indirect costs as administrative expenses, inventory losses, and stock fund replacement costs. Since FMS is administered by each service, procurement personnel are generally responsible for estimating prices. Although the procurement individuals are knowledgeable in the area of direct cost computations, they generally have little or no experience in estimating the indirect costs which must be loaded into the FMS contract price. This is where the problem generally originates, since each service manages the pricing effort differently and often interprets the pricing policies differently.

Although DSAA is responsible for directing, administering, and supervising the execution of security assistance programs, it has been ineffective in implementing FMS pricing policies as set forth by the DOD Comptroller. The OSD Task Force has concluded that many of the problems in the operation of the FMS program result from organizational problems. That is, no single entity has been vested with the responsibility and authority for managing the overall pricing and financial operations of the FMS program. The lack of any coordination of the varying methods of operations among the services is a major contributor to the existing FMS problems.

Recommendations

OSD 40-1: The DOD Comptroller should be assigned specific responsibility for formulating, implementing, administering, and monitoring FMS pricing and financial management. The DOD Comptroller is already responsible for formulating financial policy, and the strength of the Comptroller's office should also be used to ensure that the policies are implemented. This consolidation should include the transfer of both the DSAA comptroller function and the SAAC accounting function to the DOD Comptroller.

Consolidation of these functions under the DOD Comptroller will not necessarily result in elimination of pricing errors. However, we believe that aggressive, centralized management can substantially reduce the error rate. We recommend that detailed price computations continue to be performed by procurement personnel at the service level since they are most familiar with procurement costs of military hardware. However, the expertise of personnel in the DOD Comptroller's office should be utilized in estimating the indirect costs which go into FMS contracts. The consolidation of FMS financial and pricing management under

the DOD Comptroller will help ensure standardized, consistent policies, which should translate into cost savings for DOD.

Savings and Impact Analysis

Because the FMS program is administered and priced at the service level, an independent estimate of savings from the correction of pricing problems would require detailed work substantially beyond the resources available to the OSD Task Force. However, much data are available from reports issued over the past several years by GAO, the Defense Audit Service, and the service audit agencies. There is common agreement that pricing has been a problem and that substantial amounts of money which should have been billed to foreign countries have been absorbed in the DOD budget. There is no common agreement as to the amount of the losses.

GAO reports issued in 1979 and later support an average loss estimate of approximately \$140 million per year. We have conservatively estimated potential savings in the range of \$50-100 million.

To estimate annual savings for the first three years, we have used the mid-point of the estimated range of savings. Assuming an annual inflation factor of 10 percent, the estimated savings would accrue as follows:

| | (\$ millions) |
|-------------------------|---------------|
| First year | \$ 75 |
| Second year | 83 |
| Third year | 91 |
| <u>Three-year total</u> | <u>\$249</u> |

Implementation

The Secretary of Defense should direct the consolidation of all FMS financial and pricing functions under the DOD Comptroller as discussed above.

III. SUMMARY LIST OF RECOMMENDATIONS AND SAVINGS

SAVINGS SUMMARY

OSD TASK FORCE

The following pages provide the estimated savings, by issue, that could result from prompt implementation of the suggestions of the OSD Task Force.

For the first three fiscal years the total savings for all issues would be:

| | (\$ billions) |
|-------------|---------------|
| First year | \$ 8.767 |
| Second year | 16.959 |
| Third year | 18.958 |
| Total | \$44.684 |

For purposes of calculating savings, it has been presumed that

- o annual savings would start in the first year;
- o one-time savings would take place in the first year;
- o implementation costs would be incurred in the first year --

unless specific information has been developed that indicates some later years for realizing savings or incurring implementation costs. To estimate annual savings in the first three years, we have used the mid-point of the estimated range of one-time and recurring savings.

To allow for inflation, annual savings have been computed according to the following factors:

| | |
|-------------|------|
| First year | 1.0 |
| Second year | 1.1 |
| Third year | 1.21 |

As the issue analyses demonstrate, it will take several years to implement fully some of our recommendations. If all recommendations could be immediately implemented, annual savings (in 1983 dollars) of \$19.3 billion would be realized, plus \$4.9 billion of one-time savings, offset by \$1.7 billion of one-time implementation costs.

In the matrix of recommendations and savings on the following pages, the implementing authority for each issue is shown as follows: P for the President; C for the Congress; and A for the agency itself, in this case the Office of the Secretary of Defense.

Congressional action or concurrence is required with respect to most of the savings recommendations. Because of Congressional involvement with base closings, inter-service functional consolidations, and the weapons acquisition process, we cannot consider such decisions as subject to the discretion of the Secretary of Defense alone. Therefore, savings where Congressional action is required are listed under the Congressional heading, with the responsibility for effecting the recommended savings as follows:

| | (\$ billions) | | |
|-------------|----------------------|--|--------------|
| | <u>Congressional</u> | <u>President/ Secretary of Defense</u> | <u>Total</u> |
| First year | \$ 6.5 | \$2.3 | \$ 8.8 |
| Second year | \$14.4 | \$2.6 | \$17.0 |
| Third year | \$15.8 | \$3.1 | \$18.9 |
| Totals | \$36.7 | \$8.0 | \$44.7 |

| OSD Issue No. | Issue | Savings (\$ millions) | | | Impl. Auth. |
|------------------------|--|-------------------------|-----------------|-----------------|----------------|
| | | First Year | Second Year | Third Year | |
| 1 | Procurement of Petroleum Products | \$155 | \$171 | \$188 | C |
| 2 | Improved Inventory Mgmt Savings \$4,313 One-time \$1,400 Impl. Cost | 563 1,125 (1,400) | 1,238 3,188 | 1,361 | C,A |
| 3 | Transfer of Consumables \$125 Impl. Cost | 75 (125) | 83 | 91 | C,A |
| 4 | Maintenance Depot Consolidation \$350 One-time | 50 350 | 55 35 | 61 39 | C,A |
| 5 | Wholesale Depot Consolidation \$50 Impl. Cost | 50 (50) | 55 | 61 | C,A |
| 6 | Demilitarization of Conventional Ammunition | 150 | 27 | 30 | A |
| 7 | DOD Implementation of OMB Circular A - 76 | 67 | 149 | 244 | C |
| 8 | Consolidation of Base Support Operations | 300 | 330 | 363 | A |
| 9 | Base Realignments and Closures | 400 | 880 | 1,452 | P,C,A |
| 10 | Unification of Traffic Management \$20 One-time \$2 Impl. Cost | 20 20 (2) | 22 | 24 | C |
| 11 | Inland Container Transportation Services | 8 | 8 | 9 | A |
| 12 | Container Detention Charges | 2 | 2 | 2 | A |
| 13 | Cargo Data Interchange System \$5 One-time | -- 5 | -- | -- | A |
| 14 | Household Goods Moves to Alaska and Hawaii | 21 | 23 | 25 | C,A |
| LOGISTICS TOTAL | | \$1,784 | \$ 6,266 | \$ 3,950 | |

| OSD Issue No. | Issue | Savings (\$ millions) | | | Impl. Auth. |
|---------------------|---|------------------------|------------------------|------------------------|----------------|
| | | First Year | Second Year | Third Year | |
| 15 | Improved Organization of Acquisition Function | Not quantified | | | C |
| 16 | Defense Contract Administration Consolidation | 90 | 99 | 109 | C,A |
| 17 | Regulatory Constraints | Not quantified | | | C,A |
| 18 | Independent Research and Development Costs | 100 | 110 | 121 | C |
| 19 | Department of Defense Laboratories | 233 | 514 | 847 | A |
| 20 | Common Parts and Standards \$100 (Annual) Impl. Cost | 1,100 (100) | 2,420 (110) | 3,993 (121) | C,A |
| 21 | Major Systems New Starts | 223 | 491 | 809 | C,A |
| 22 | Estimated Weapons Systems Costs | Included in OSD 23 | | | C,A |
| 23 | Instability in Weapons Acquisition Process | 1,052 | 2,314 | 3,819 | C,A |
| | <u>WEAPONS TOTAL</u> | <u>\$ 2,698</u> | <u>\$ 5,838</u> | <u>\$ 9,577</u> | |
| 24 | Retirement Pay | 1,925 | 2,139 | 2,337 | C |
| 25 | Retirement Pay -- Social Security Integration | 40 | 88 | 146 | C |
| 26 | Retirement Pay -- High Three Base | 1 | 30 | 91 | C |
| 27 | Unused Leave at Retirement | 38 | 42 | 46 | C |
| | <u>RETIREMENT TOTAL</u> | <u>\$2,004</u> | <u>\$ 2,299</u> | <u>\$ 2,620</u> | |

| OSD Issue No. | Issue | Savings (\$ millions) | | | Impl. Auth. |
|---------------------|---|-----------------------|-----------------|-----------------|----------------|
| | | First Year | Second Year | Third Year | |
| 28 | CHAMPUS Revisions | 356 | 392 | 431 | A |
| 29 | Direct Health Care Consolidation | 285 | 314 | 345 | A |
| 30 | Cost Containment | 282 | 310 | 341 | C |
| 31 | Uniformed Services University | 35 | 39 | 43 | C |
| | <u>HEALTH TOTAL</u> | <u>\$ 958</u> | <u>\$ 1,055</u> | <u>\$ 1,160</u> | |
| 32 | Commissary System Changes \$113 Impl. cost | 328 (113) | 361 | 397 | C,A |
| 33 | Permanent Change of Station Moves | 100 | 110 | 121 | A |
| 34 | Selective Reenlistment Bonus Program | 189 | 208 | 229 | A |
| 35 | Aviation Career Incentive Pay | 79 | 87 | 96 | C,A |
| | <u>PERSONNEL TOTAL</u> | <u>\$ 583</u> | <u>\$ 766</u> | <u>\$ 843</u> | |
| 36 | Public Audit Committee | Not quantified | | | P,C,A |
| 37 | Procurement Audit Service | 500 | 550 | 605 | A |
| 38 | Freight Bill Audit | 125 | 58 | 64 | C,A |
| 39 | Government Furnished Material | 40 | 44 | 48 | A |
| 40 | Foreign Military Sales | 75 | 83 | 91 | A |
| | <u>FINANCIAL TOTAL</u> | <u>\$ 740</u> | <u>\$ 735</u> | <u>\$ 808</u> | |
| | <u>TOTAL SAVINGS</u> | <u>\$8,767</u> | <u>\$16,959</u> | <u>\$18,958</u> | |
| | <u>THREE-YEAR TOTAL SAVINGS</u> | | <u>\$44,684</u> | | |

SAVINGS WHEN RECOMMENDATIONS ARE FULLY IMPLEMENTED

| | <u>Annual savings</u> <u>(\$ millions)</u> | <u>One-time savings</u> <u>(\$ millions)</u> | <u>Implementation</u> <u>Costs</u> <u>(\$ millions)</u> |
|--------------|---|---|---|
| OSD 1 | \$ 155 | | |
| OSD 2 | 1,125 | \$4,313 | (\$1,400) |
| OSD 3 | 75 | | (125) |
| OSD 4 | 50 | 350 | |
| OSD 5 | 50 | | (50) |
| OSD 6 | 25 | 125 | |
| OSD 7 | 337 | | |
| OSD 8 | 300 | | |
| OSD 9 | 2,000 | | |
| OSD 10 | 20 | 20 | (2) |
| OSD 11 | 8 | | |
| OSD 12 | 2 | | |
| OSD 13 | -- | 5 | |
| OSD 14 | 21 | | |
| OSD 15 | -- | | |
| OSD 16 | 90 | | |
| OSD 17 | -- | | |
| OSD 18 | 100 | | . |
| OSD 19 | 700 | | |
| OSD 20 | 3,300 | | (\$100[annual]) |
| OSD 21 | 1,115 | | |
| OSD 22 | -- | | |
| OSD 23 | 5,260 | | |
| OSD 24 | 1,925 | | |
| OSD 25 | 160 | | |
| OSD 26 | 75 | | |
| OSD 27 | 38 | | |
| OSD 28 | 356 | | |
| OSD 29 | 285 | | |
| OSD 30 | 282 | | |
| OSD 31 | 35 | | |
| OSD 32 | 328 | | (113) |
| OSD 33 | 100 | | |
| OSD 34 | 189 | | |
| OSD 35 | 79 | | |
| OSD 36 | -- | | |
| OSD 37 | 500 | | |
| OSD 38 | 53 | 72 | |
| OSD 39 | 40 | | |
| OSD 40 | 75 | | |
| TOTAL | <u>\$19,253</u> | <u>\$ 4,885</u> | <u>(\$1,790)</u> |

IV. COST CONTROL OPPORTUNITIES FOR FURTHER STUDY

Cost Control opportunities warranting further study, to the extent they exist, are incorporated in other pertinent sections of this Task Force Report. Because some of these opportunities were interwoven with certain issue/recommendation summaries, they are presented there in an integrated fashion, rather than as stand-alone opportunities in this section of the Task Force Report.

V. TASK FORCE MEMBERSHIPOSD TASK FORCE COMMITTEECo-Chairmen

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| Oscar A. Hoffman | Special Assistant to the President | Champion International |
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| Charles J. Payne | Manager, Group Pensions | Prudential |
| Peter S. Pinkham | Manager, Productivity Resources | Coopers & Lybrand |
| Norris M. Plumley | Manager, Operations | Ethicon |
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| Eliza R. Saunders | Secretary | |
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| Richard C. Smith | Manager, Manufacturing Planning | Proctor & Gamble Co. |
| Charles H. Snyder | | U.S. Steel Corp. |
| Walter B. Stevenson | Vice President | Campbell Soup Co. |
| Penny R. Thompson | Secretary | |
| Colby Ward | Manager, International Distribution | Xerox Corporation |

A Quest for Excellence

Final Report to the President

by the President's
Blue Ribbon Commission
on Defense Management



June 1986



**PRESIDENT'S BLUE RIBBON COMMISSION
ON DEFENSE MANAGEMENT**

Chairman

Mr. David Packard

June 30, 1986

MembersMr. Ernest C. Arbuckle
Gen. Robert H. Barrow
USMC (Ret)

Mr. Nicholas F. Brady

Mr. Louis W. Cabot

Mr. Frank C. Carlucci

Mr. William P. Clark

Mr. Barber B. Conable, Jr.

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Mrs. Carla A. Hills

Adm. James L. Holloway
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Dr. William J. Perry

Mr. Charles J. Pilliod, Jr.

Lt. Gen. Brent Scowcroft
USAF (Ret)

Dr. Herbert Stein

Mr. R. James Woolsey

Director

Mr. Rherl B. Dawson

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

On behalf of your Blue Ribbon Commission on Defense Management, I have the honor to present this Final Report, which compiles the detailed findings, conclusions, and recommendations produced by our year-long study. They address, in addition to the areas on which we have reported previously, several additional aspects of defense management.

The Final Report is intended to assist the Executive and Legislative Branches as well as industry in implementing a broad range of needed improvements, including the many Commission recommendations endorsed by you in April 1986. Its title -- "A Quest for Excellence" -- reflects a basic management philosophy, as well as a standard to which those engaged in the work of our nation's defense must always aspire.

Without exception, the recommendations of our Final Report have the support of all members of the Commission. All members have contributed invaluable to this work, and I am deeply grateful for their unstinting efforts. We are most fortunate to have had the assistance of a talented and dedicated staff.

We have tried to conduct a study of the important dimension you intended. We are gratified by your confidence in us and your support of our recommendations. We hope that, under your leadership, they will help realize a new era in defense management for the benefit of all Americans.

Sincerely,

David Packard

736 Jackson Place, N.W.

Washington, D.C. 20503

(202) 395-7365



**PRESIDENT'S BLUE RIBBON COMMISSION
ON DEFENSE MANAGEMENT**

Chairman

Mr. David Packard

June 30, 1986

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Mr. Charles J. Pilliod, Jr.

Lt. Gen. Brent Scowcroft
USAF (Ret)

Dr. Herbert Stein

Mr. R. James Woolsey

Director

Mr. Rhen B. Dawson

Dear Mr. Secretary:

On behalf of the President's Blue Ribbon Commission on Defense Management, I have the privilege to present a copy of our Final Report, which was submitted to the President today.

We hope this Final Report will assist the Department of Defense to implement a range of management improvements. Among these are the many Commission recommendations which the President designated in April 1986 for quick and decisive implementation. For this purpose, I would be pleased to continue to work with you in any way possible. I look forward to joining you, as the President recently requested, in a progress report in early 1987.

Please accept our sincere thanks for the responsive manner in which your Office, and the Department of Defense generally, assisted in the work of the Commission.

Sincerely,

David Packard

The Honorable Caspar Weinberger
Secretary of Defense
Washington, D. C. 20301

736 Jackson Place, N.W.

Washington, D.C. 20503

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LIST OF APPENDED MATERIAL

*Appendix**

- A. Detailed Recommendations, President's Blue Ribbon Commission on Defense Management
- B. Executive Order 12526 (July 15, 1985)
- C. National Security Decision Directive 219 (April 1, 1986), *White House Summary*
- D. President's Special Message to the Congress (April 24, 1986)
- E. Recommended Process for National Security Planning and Defense Budgeting
- F. A Comparison of Cost Growth in Defense and Non-Defense Programs
- G. An Illustrative Organization of the Acquisition Staff of the Secretary of Defense
- H. Wendy T. Kirby, *Expanding the Use of Commercial Products and "Commercial-Style" Acquisition Techniques in Defense Procurement: A Proposed Legal Framework* (1986)
- I. Logistics Management Institute, *The Department of Defense and Rights in Technical Data* (1986)
- J. The Navy Demonstration Project: An Alternative Personnel Management System
- K. *Survey of Department of Defense Acquisition Workforce* (1986)
- L. *U.S. National Survey: Public Attitudes on Defense Management* (1986)
- M. *Defense Industry Initiatives on Business Ethics and Conduct*
- N. Ethics Resource Center, *Final Report and Recommendations on Voluntary Corporate Policies, Practices, and Procedures Relating to Ethical Business Conduct* (1986)
- O. Peat, Marwick, Mitchell & Co., *Report on Survey of Defense Contractors' Internal Audit Processes* (1986)
- P. Arthur Andersen & Co., *Study of Government Audit and Other Oversight Activities Relating to Defense Contractors* (1986)

*Appended material is contained in a separate *Appendix to Final Report*.

FOREWORD

By David Packard, Chairman

Less than one year ago, President Reagan established his Blue Ribbon Commission on Defense Management to “study the issues surrounding defense management and organization, and report its findings and recommendations.” In February 1986, the Commission submitted an *Interim Report to the President*. Intended as a blueprint for overall improvement in defense management, the *Interim Report* provided initial recommendations concerning key aspects of national security planning and budgeting, military organization and command, acquisition organization and procedures, and government-industry accountability. This *Final Report* compiles the Commission’s full findings and recommendations in each of these areas. I wish to add a final personal word on the “Quest for Excellence”—a standard to which defense management must always aspire.

As the Commission concludes its efforts, the urgent need we have found for reforms in defense management should not obscure accomplishments of recent years. The American people justly continue to have high confidence in the United States military as an institution, and in the ability of our men and women in uniform to defend the nation. The morale and fighting ability of our Armed Forces have achieved a level higher than at any time in my recent memory.

Despite many positive achievements, however, I believe the importance of revitalizing defense management has become ever more apparent. The paramount purpose of the Commission’s work has been to identify and develop solutions for those structural problems—and to ease the stifling burdens of regulation, reporting, and oversight—that have long limited the success of the many people in government and industry on whose talents and dedication the nation’s defense depends. Innovations in American industrial management, yielding products of ever higher quality and lower cost, have provided a key insight: human effort must be channeled to good purpose through sound centralized policies, but free expression of people’s energy, enthusiasm, and creativity must be encouraged in highly differentiated settings.

The Commission’s recommendations are intended to help establish strong centralized policies that are both sound in themselves and rigidly adhered to throughout the Department of Defense (DoD). In any large organization, policies must be executed through discrete structures. In the large, complex enterprise of national defense, *centers of management excellence* dedicated to advancing

DoD's overall goals and objectives. The Commission's recommendations, if fully implemented, will help create an environment in which each DoD component can achieve ever higher standards of performance by summoning forth the enthusiasm and dedication of every man and woman involved in accomplishing its mission. Excellence can flourish, I believe, only where individuals identify with a team, take personal pride in their work, concentrate their unique efforts, develop specialized know-how, and above all constantly explore new and better ways to get their job done. Freedom and incentives of just this sort, President Reagan has observed, "unleash the drive and entrepreneurial genius that are the core of human progress."

This technique—establishment of strong centralized policies implemented through highly decentralized management structures—has its legacies at DoD. On this model, for example, Navy-industry teams working together as one brought the Polaris submarine-launched missile system from initiation to successful operational test in one-third the time it would take now. In today's advance development work, centers of excellence should include select program management and industry teams working more closely together on new prototype weapons. If DoD truly is to fly and know the cost before it buys, the early phase of research and development must be one of surpassing quality, following procedures and meeting timetables distinct from those of approved production programs.

Despite formidable bureaucratic obstacles, I believe that a centers-of-excellence approach can tangibly improve productivity and quality. If widely adopted and steadfastly supported, it could achieve revolutionary progress throughout defense management. The potential applications are almost without number. In 1984, for example, DoD began to apply this concept to managing its installations as potential centers of excellence, by according installation commanders much greater latitude to run things their own way, cut through red tape, and experiment with new ways of accomplishing their missions. As a result, commanders and their personnel have found more effective means to do their jobs, identified wasteful regulations, and reduced costs while improving quality. The program has shown the increased defense capability that comes by freeing talented people from over-regulation and unlocking their native creativity and enthusiasm.

Excellence in defense management will not and can not emerge by legislation or directive. Excellence requires the opposite—responsibility and authority placed firmly in the hands of those at the working level, who have knowledge and enthusiasm for the tasks at hand. To accomplish this, ways must be found to restore a sense of shared purpose and mutual confidence among Congress, DoD, and industry. Each must forsake its current ways of doing business in favor of a renewed quest for excellence.

Congress must resist its inveterate tendency to legislate management practices and organizational details for DoD. Excellence in defense management will not come from legislative efforts to control and arrange the minutest aspects of DoD's operations. Congress can more usefully contribute by concentrating on larger, often neglected issues of overall defense posture and military performance.

DoD must displace systems and structures that measure quality by regulatory compliance and solve problems by executive fiat. Excellence in defense management can not be achieved by the numerous management layers, large staffs, and countless regulations in place today. It depends, as the Commission has observed, on reducing all of these by adhering closely to basic, common-sense principles: giving a few capable people the authority and responsibility to do their job, maintaining short lines of communication, holding people accountable for results.

Defense contractors and DoD must each assume responsibility for improved self-governance to assure the integrity of the contracting process. Excellence in defense management will not be achieved through legions of government auditors, inspectors, and investigators. It depends on the honest partnership of thousands of responsible contractors and DoD, each equally committed to proper control of its own operations.

Summary

Final Report to the President

In July 1985, this Commission was charged by the President to conduct a defense management study of important dimension. Our findings and recommendations, summarized below, concern major features of national security planning and budgeting, military organization and command, acquisition organization and procedures, and government-industry accountability. This summary represents, with certain important additions, the blueprint for overall improvement in defense management presented as our *Interim Report to the President* on February 28, 1986.

National Security Planning and Budgeting

The Commission finds that there is a great need for improvement in the way we think through and tie together our security objectives, what we spend to achieve them, and what we decide to buy. The entire undertaking for our nation's defense requires more and better long-range planning. This will involve concerted action by our professional military, the civilian leadership of the Department of Defense, the President, and the Congress.

Today, there is no rational system whereby the Executive Branch and the Congress reach coherent and enduring agreement on national military strategy, the forces to carry it out, and the funding that should be provided—in light of the overall economy and competing claims on national resources. The absence of such a system contributes substantially to the instability and uncertainty that plague our defense program. These cause imbalances in our military forces and capabilities, and increase the costs of procuring military equipment.

Better long-range planning must be based on military advice of an order not now always available—fiscally constrained, forward looking, and fully integrated. This advice must incorporate the best possible assessment of our overall military posture vis-a-vis potential opponents, and must candidly evaluate the performance and readiness of the individual Services and the Unified and Specified Commands.

To conduct such planning requires a sharpened focus on major defense missions in the Department's presentation, and Congress' review, of the defense budget. The present method of budget review, involving duplicative

*The Commission's recommendations are set forth in full and detailed form at Appendix A to this *Final Report*. All appended material is collected in a separate *Appendix to Final Report*.

effort by numerous congressional committees and subcommittees, centers on either the minutiae of line items or the gross dollar allocation to defense, and obscures important matters of strategy, operational concepts, and key defense issues. As Senator Goldwater, Chairman of the Senate Armed Services Committee, recently observed, "The budget process distorts the nature of congressional oversight by focusing primarily on the question of how much before we answer the key questions of what for, why, and how well."

Of greater concern, congressional approval of the budget on a year-to-year basis contributes to and reinforces the Department's own historical penchant for defense management by fits and starts. Anticipated defense dollars are always in flux. Individual programs must be hastily and repeatedly accommodated to shifting overall budgets, irrespective of military strategy and planning. The net effect of this living day-to-day is less defense and more cost. Although often hidden, this effect is significant—and it can be avoided.

Biennial budgeting, authorization and appropriation of major programs not annually but only at key milestones, and a focus on strategy and operational concepts instead of line items are among the most important changes that could be made to improve defense planning. They would enhance the congressional role in framing good national security policy.

Budgeting based on strategy and operational concepts also would provide a far greater improvement in the performance of the Office of the Secretary of Defense than would any legislated reorganization of that Office. In general, we believe, Congress should permit the Secretary to organize his Office as he chooses to accomplish centralized policy formulation and decentralized implementation within the Department.

The Commission concludes that new procedures are required to help the Administration and the Congress do the necessary long-range planning and meaningfully assess what military forces are needed to meet our national security objectives. Public and official debate must be brought to bear on these larger defense policy questions. The Commission strongly urges adoption of a process that emphasizes the element of sound, professional military advice provided within realistic confines of anticipated long-term funding.

Recommendations

To institutionalize, expand, and link a series of critical determinations within the Executive Branch and Congress, we recommend a process that would operate in substance as follows:

Defense planning would start with a comprehensive statement of national security objectives and priorities, based on recommendations of the National Security Council (NSC).

Based on these objectives, the President would issue, at the outset of his Administration and thereafter as required, provisional five-year budget levels to the Department of Defense (DoD). These budget levels would reflect competing demands on the federal budget and projected gross national product and revenues and would come from recommendations of the NSC and the Office of Management and Budget.

The Secretary of Defense would instruct the Chairman of the Joint Chiefs of Staff (JCS) to prepare a military strategy for the national objectives, and options on operational concepts and key defense issues for the budget levels provided by the President.

The Chairman would prepare broad military options with advice from the JCS and the Commanders-in-Chief of the Unified and Specified Commands (CINCs). Addressing operational concepts and key defense issues (e.g., modernization, force structure, readiness, sustainability, and strategic versus general purpose forces), the Chairman would frame explicit trade-offs among the Armed Forces and submit his recommendations to the Secretary of Defense. The Secretary of Defense would make such modifications as he thinks appropriate and present these to the President.

The Chairman, with the assistance of the JCS and the Director of Central Intelligence, would prepare a net assessment of the effectiveness of United States and Allied Forces as compared to those of possible adversaries. The net assessment would be used to evaluate the risks of options and would accompany the recommendations of the Secretary of Defense to the President.

The President would select a particular military program and the associated budget level. This program and budget level would be binding on all elements of the Administration. DoD would then develop a five-year defense plan and a two-year defense budget conforming to the President's determination.

The President would submit to the Congress the two-year budget and the five-year plan on which it is based. Congress would be asked to approve the two-year budget based upon this plan. It would authorize and appropriate funding for major weapon systems at the two key milestones of full-scale engineering development and high-rate production.

DoD would present the budget to Congress on the basis of national strategy and operational concepts rather than line items. The details of such presentation would be worked out by the Secretary of Defense and appropriate committees of Congress.

Military Organization and Command

In our *Interim Report*, the Commission recommended the changes in military organization and command described below. These were designed to assure unified action by our Armed Forces. On April 24, 1986, in a Special Message to Congress, the President endorsed these recommendations and requested early enactment of legislation required to implement them. As the culmination of a major legislative effort begun in the House of Representatives in 1982 and joined in the Senate by passage of the Barry Goldwater Department of Defense Reorganization Act of 1986, we anticipate enactment of our basic recommendations by the end of 1986.

Recommendations

Current law should be changed to designate the Chairman of the Joint Chiefs of Staff (JCS) as the principal uniformed military advisor to the President, the National Security Council, and the Secretary of Defense, representing his own views as well as the corporate views of the JCS.

Current law should be changed to place the Joint Staff and the Organization of the Joint Chiefs of Staff under the exclusive direction of the Chairman, to perform such duties as he prescribes to support the JCS and to respond to the Secretary of Defense. The statutory limit on the number of officers on the Joint Staff should be removed to permit the Chairman a staff sufficient to discharge his responsibilities.

The Secretary of Defense should direct that the commands to and reports by the Commanders-in-Chief of the Unified and Specified Commands (CINCs) should be channeled through the Chairman so that the Chairman may better incorporate the views of senior combatant commanders in his advice to the Secretary.

The Service Chiefs should serve as members of the JCS. The position of a four-star Vice Chairman should be established by law as a sixth member of

the JCS. The Vice Chairman should assist the Chairman by representing the interests of the CINCs, co-chairing the Joint Requirements and Management Board, and performing such other duties as the Chairman may prescribe.

The Secretary of Defense, subject to the direction of the President, should determine the procedures under which an Acting Chairman is designated to serve in the absence of the Chairman of the JCS. Such procedures should remain flexible and responsive to changing circumstances.

Subject to the review and approval of the Secretary of Defense, Unified Commanders should be given broader authority to structure subordinate commands, joint task forces, and support activities in a way that best supports their missions and results in a significant reduction in the size and numbers of military headquarters.

The Unified Command Plan should be revised to assure increased flexibility to deal with situations that overlap the geographic boundaries of the current combatant commands and with changing world conditions.

For contingencies short of general war, the Secretary of Defense, with the advice of the Chairman and the JCS, should have the flexibility to establish the shortest possible chains of command for each force deployed, consistent with proper supervision and support. This would help the CINCs and the JCS perform better in situations ranging from peace to crisis to general war.

The Secretary of Defense should establish a single unified command to integrate global air, land, and sea transportation, and should have flexibility to structure this organization as he sees fit. Legislation prohibiting such a command should be repealed.

Acquisition Organization and Procedures

Action within the Administration and in Congress to improve national security planning and budgeting and military organization—as recommended by the Commission—will provide the element of stability required for substantial improvement of the acquisition system. This element is critical, and has been missing. While significant savings can be and have been made through better procurement techniques, more impressive savings will come from eliminating the hidden costs that instability imposes.

Our study of acquisition reveals, and our collective experience fully confirms, that there are certain common characteristics of successful commercial and governmental projects. Short, unambiguous lines of communication among levels of management, small staffs of highly competent professional personnel, an emphasis on innovation and productivity, smart buying practices, and, most importantly, a stable environment of planning and funding—all are characteristic of efficient and successful management.

These characteristics should be hallmarks of defense acquisition. They are, unfortunately, antithetical to the process the Congress and the Department of Defense have created to conduct much of defense acquisition over the years. With notable exceptions, weapon systems take too long and cost too much to produce. Too often, they do not perform as promised or expected. The reasons are numerous.

Over the long term, there has been chronic instability in top-line funding and, even worse, in programs. This eliminates key economies of scale, stretches out programs, and discourages contractors from making the long-term investments required to improve productivity.

Federal law governing procurement has become overwhelmingly complex. Each new statute adopted by Congress has spawned more administrative regulation. As law and regulation have proliferated, defense acquisition has become ever more bureaucratic and encumbered by unproductive layers of management and overstaffing.

Responsibility for acquisition policy has become fragmented. There is today no single senior official in the Office of the Secretary of Defense (OSD) working full-time to provide overall supervision of the acquisition system. While otherwise convinced that the Secretary should be left free to organize his Office as he sees fit, the Commission concludes that the demands of the acquisition system have become so weighty as to require organizational change within that Office.

In the absence of such a senior OSD official, policy responsibility has tended to devolve to the Services, where at times it has been exercised without the necessary coordination or uniformity.

Authority for acquisition execution, and accountability for its results, have become vastly diluted. Program managers have in effect been deprived of control over programs. They are confronted instead by never-ending bureaucratic obligations for making reports and gaining approvals that bear no relation to program success.

Deficiencies in the senior-level appointment system have complicated the recruitment of top executive personnel with industrial and acquisition experience. Recent steps to improve the professionalism of military acquisition personnel have been made within the Department of Defense and reinforced by

legislation. The existing civilian personnel management system has not, however, allowed similar improvements in career paths and education for civilian acquisition personnel. To attract and retain a good work force requires a more flexible system for management of contracting officers and other senior acquisition personnel—one comparable to the successful system for scientists and engineers recently demonstrated in the Navy's so-called China Lake personnel project. Major innovations in personnel management and regulations are needed. The Commission's recommendations in this critical area can and should be acted upon quickly and are of the highest priority.

A better job of determining requirements and estimating costs has been needed at the outset of weapons development. More money and better engineering invested at the front end will get more reliable and better performing weapons into the field more quickly and cheaply. For example, recent improvements in budgeting to most-likely cost have demonstrated that this approach can result in a reduction in overruns.

All too often, requirements for new weapon systems have been overstated. This has led to overstated specifications, which has led to higher cost equipment. Such so-called goldplating has become deeply embedded in our system today. The current streamlining effort in the Defense Department is directed at this problem.

Developmental and operational testing have been too divorced, the latter has been undertaken too late in the cycle, and prototypes have been used and tested far too little.

In their advanced development projects, the Services too often have duplicated each other's efforts and disfavored new ideas and systems. The Defense Advanced Research Projects Agency has not had a sufficient role in hardware experimentation and prototyping.

Common sense, the indispensable ingredient for a successful system, has not always governed acquisition strategies. More competition, for example, is beneficial, but the mechanistic pursuit of competition for its own sake would be inefficient and sacrifice quality—with harmful results. Multi-year procurement, baselining, and the use of non-developmental items all entail costs to management flexibility, but would yield far greater benefits in program stability. The Defense Department has initiated some baselining (the B-1 is an example) and has made progress in gaining congressional acceptance of multi-year contracting.

In sum, the Commission finds that there is legitimate cause for dissatisfaction with the process by which the Department of Defense and Congress buy military equipment and material. We strongly disagree, however, with the commonly held views of what is wrong and how it must be fixed. The nation's defense programs lose far more to inefficient procedures than to fraud and

dishonesty. The truly costly problems are those of overcomplicated organization and rigid procedure, not avarice or connivance.

Chances for meaningful improvement will come not from more regulation but only with major institutional change. Common sense must be made to prevail alike in the enactments of Congress and the operations of the Department. We must give acquisition personnel more authority to do their jobs. If we make it possible for people to do the right thing the first time and allow them to use their common sense, then we believe that the Department can get by with far fewer people.

The well-publicized spare parts cases are only one relatively small aspect of a far costlier structural problem. Each spare parts case has its own peculiarities, but there are several major recurring causes that are systemic in nature. Many of these causes have been identified by the Defense Department.

It is undoubtedly important to buy spare parts with care and at reasonable cost. It is yet more important not to let the spare parts cases lead us to ignore larger problems or, even worse, to aggravate them. Policy makers must address the root causes of inefficiency, not dwell on marginal issues. The prescription we offer for those larger problems will, we believe, result in savings on major weapon systems and minor spare parts alike.

Recommendations

Notwithstanding our view that the Secretary of Defense should be free to organize his Office as he sees fit, we strongly recommend creation by statute of the new position of Under Secretary of Defense (Acquisition) and authorization of an additional Level II appointment in the Office of the Secretary of Defense. This Under Secretary, who should have a solid industrial background, would be a full-time Defense Acquisition Executive. He would set overall policy for procurement and research and development (R&D), supervise the performance of the entire acquisition system, and establish policy for administrative oversight and auditing of defense contractors.

The Army, Navy, and Air Force should each establish a comparable senior position filled by a top-level civilian Presidential appointee. The role of the Services' Acquisition Executives would mirror that of the Defense Acquisition Executive. They would appoint Program Executive Officers (PEO), each of whom would be responsible for a reasonable and defined number of acquisition programs. Program Managers for these programs would be responsible directly to their respective PEO and report *only* to him on program matters. Each Service should retain flexibility to shorten this reporting chain even further, as it sees fit.

Establishing short, unambiguous lines of authority would streamline the acquisition process and cut through bureaucratic red tape. By this means, the Department of Defense (DoD) should substantially reduce the number of acquisition personnel.

Congress should work with the Administration to recodify all federal statutes governing procurement into a single government-wide procurement statute. This recodification should aim not only at consolidation, but more importantly at simplification and consistency.

DoD must be able to attract, retain, and motivate well qualified acquisition personnel. Significant improvements, along the lines of those recommended in November 1985 by the National Academy of Public Administration, should be made in the senior-level appointment system. The Secretary of Defense should have increased authority to establish flexible personnel management policies necessary to improve defense acquisition. An alternate personnel management system, modeled on the China Lake Laboratory demonstration project, should be established to include senior acquisition personnel and contracting officers as well as scientists and engineers. Federal regulations should establish business-related education and experience criteria for civilian contracting personnel, which will provide a basis for the professionalization of their career paths. Federal law should permit expanded opportunities for the education and training of all civilian acquisition personnel. This is necessary if DoD is to attract and retain the caliber of people necessary for a quality acquisition program.

The Joint Requirements and Management Board (JRMB) should be co-chaired by the Under Secretary of Defense (Acquisition) and the Vice Chairman of the Joint Chiefs of Staff. The JRMB should play an active and important role in all joint programs and in appropriate Service programs by defining weapons requirements, selecting programs for development, and providing thereby an early trade-off between cost and performance.

Rather than relying on excessively rigid military specifications, DoD should make much greater use of components, systems, and services available "off the shelf." It should develop new or custom-made items only when it has been established that those readily available are clearly inadequate to meet military requirements.

A high priority should be given to building and testing prototype systems and subsystems before proceeding with full-scale development. This early phase of R&D should employ extensive informal competition and use streamlined procurement processes. It should demonstrate that the new

technology under test can substantially improve military capability, and should as well provide a basis for making realistic cost estimates prior to a full-scale development decision. This increased emphasis on prototyping should allow us to “fly and know how much it will cost before we buy.”

The proper use of operational testing is critical to improving the operations performance of new weapons. We recommend that operational testing begin early in advanced development and continue through full-scale development, using prototype hardware. The first units that come off the limited-rate production line should be subjected to intensive operational testing and the systems should not enter high-rate production until the results from these tests are evaluated.

To promote innovation, the role of the Defense Advanced Research Projects Agency should be expanded to include prototyping and other advanced development work on joint programs and in areas not adequately emphasized by the Services.

Federal law and DoD regulations should provide for substantially increased use of commercial-style competition, relying on inherent market forces instead of governmental intervention. To be truly effective, such competition should emphasize quality and established performance as well as price, particularly for R&D and for professional services.

DoD should fully institutionalize “baselining” for major weapon systems at the initiation of full-scale engineering development. Establishment of a firm internal agreement or baseline on the requirements, design, production, and cost of weapon systems will enhance program stability.

DoD and Congress should expand the use of multi-year procurement for high-priority systems. This would lead to greater program stability and lower unit prices.

DoD must recognize the delicate and necessary balance between the government’s requirement for data and the benefit to the nation that comes from protecting the private sector’s proprietary rights. That balance must exist to foster technological innovation and private investment which is so important in developing products vital to our defense. DoD should adopt a data rights policy that reflects the following principles:

- If a product has been developed with private funds, the government should not demand, as a precondition for buying that product, unlimited data rights even if the government provides the only market. The government should acquire only the data necessary for installation, operation, and maintenance.
-

- **If a product is to be developed with joint private and government funding, the government's needs for data should be defined during contract negotiations. Government contribution to development funding should not automatically guarantee it rights to all data.**
- **If a product is developed entirely with government funds, the government owns all the rights to it but may under certain circumstances make those rights available to the private sector.**

The President, through the National Security Council, should establish a comprehensive and effective national industrial responsiveness policy to support the full spectrum of potential emergencies. The Secretary of Defense, with advice from the Joint Chiefs of Staff, should respond with a general statement of surge and mobilization requirements for basic wartime defense industries, and logistic needs to support those industries and the essential economy. The DoD and Service Acquisition Executives should consider this mobilization guidance in formulating their acquisition policy, and program managers should incorporate industrial surge and mobilization considerations in program execution.

Government-Industry Accountability

In recent years there has been increasing public mistrust of the performance of private contractors in the country's defense programs. Numerous reports of questionable procurement practices have fostered a conviction, widely shared by members of the public and by many in government, that defense contractors place profits above legal and ethical responsibilities. Others argue that contractors have been unfairly discredited through ill-conceived official actions, exaggerated press, and mistaken public dialogue. The depth of public sentiment and prospect of continuing tensions and divisions between government and industry are cause for concern.

Our nation relies heavily upon the private sector in executing defense policy. Cooperation between government and industry is essential if private enterprise is to fulfill its role in the defense acquisition process. Contractor or government actions that undermine public confidence in the integrity of the contracting process jeopardize this needed partnership.

Aggressive and sustained enforcement of civil and criminal laws governing procurement punishes and deters misconduct by the few, vindicates the vast majority who deal with the government lawfully, and recoups losses to the Treasury. As President Reagan emphasized in public remarks announcing the

formation of this Commission, "Waste and fraud by corporate contractors are more than a ripoff of the taxpayer—they're a blow to the security of our nation. And this the American people cannot and should not tolerate." Specific measures can and should be taken to make civil and criminal enforcement still more effective.

Management and employees of companies that contract with the Defense Department assume unique and compelling obligations to the people of our Armed Forces, the American taxpayer, and our nation. They must apply (and be perceived as applying) the highest standards of business ethics and conduct. Significant improvements in contractor self-governance, addressing problems unique to defense contracting, are required. Contractors have a legal and moral obligation to disclose to government authorities misconduct discovered as a result of self-review.

Improvements also should be made in the Department's administration of current standards of conduct for military personnel and civilian employees. Additional enforcement and compliance, and complementary efforts to address the respective ethical concerns of government and industry, are required.

Despite an unquestioned need for broad administrative oversight of contractor performance, defense programs have too often suffered from lack of clear direction and cooperation among oversight agencies. Proliferation of uncoordinated contractor oversight—both administrative and congressional—has added unnecessary cost and inefficiency in the procurement process.

Government action should not impede efforts by contractors to improve their own performance. The Commission is concerned that, for example, overzealous use of investigative subpoenas by Defense Department agencies may result in less vigorous internal corporate auditing.

The Services and the Defense Logistics Agency are authorized to suspend or debar contractors, prohibiting the award of new government contracts for a particular period. Suspension and debarment are powerful administrative tools. Existing regulations provide insufficient guidance, however, as to when and how these sanctions should be used to protect legitimate government interests. If poorly administered, used for impermissible purposes, or applied too broadly, the sanctions can foreclose important sources of supply and inflict substantial harm on responsible contractors. A uniform policy and more precise administrative criteria are required to assure predictable and equitable application of these sanctions throughout the Department of Defense.

Recommendations

The Commission's recommendations address each of the above aspects of the Defense Department's relations with industry—law enforcement, corporate governance, official ethics, and contractor oversight.

We recommend continued, aggressive enforcement of federal civil and criminal laws governing defense acquisition. Specific measures can be taken to make enforcement still more effective, including the passage of Administration proposals to amend the civil False Claims Act and to establish administrative adjudication of small, civil false claims cases.

To assure that their houses are in order, defense contractors must promulgate and vigilantly enforce codes of ethics that address the unique problems and procedures incident to defense procurement. They must also develop and implement internal controls to monitor these codes of ethics and sensitive aspects of contract compliance.

The Department of Defense (DoD) should vigorously administer current ethics regulations for military and civilian personnel to assure that its employees comply with the same high standards expected of contractor personnel. This effort should include development of specific ethics guidance and specialized training programs concerning matters of particular concern to DoD acquisition personnel, including post-government relationships with defense contractors.

Oversight of defense contractors must be better coordinated among the various DoD agencies and Congress. Guidelines must be developed to remove undesirable duplication of official effort and, where appropriate, to encourage sharing of contractor data by audit agencies.

Government actions should foster contractor self-governance. DoD should not, for example, use investigative subpoenas to compel such disclosure of contractor internal auditing materials as would discourage aggressive self-review. The new Under Secretary of Defense (Acquisition) should establish appropriate overall audit policy for DoD agencies and generally supervise the DoD's oversight of contractor performance.

Suspension and debarment should be applied only to protect the public interest where a contractor is found to lack "present responsibility" to contract with the federal government. Suspension and debarment should not be imposed solely as a result of an indictment or conviction predicated upon former (not ongoing) conduct, nor should they be used punitively. The Federal Acquisition Regulation should be amended to provide more precise

criteria for applying these sanctions and, in particular, determining present responsibility. Administration of suspension and debarment at DoD should be controlled by a uniform policy promulgated by the Secretary of Defense.

Final Report to the President

Introduction

I. Background

In July 1985, the Commission was charged by the President to conduct a defense management study of important dimension, including:

the budget process, the procurement system, legislative oversight, and the organizational and operational arrangements, both formal and informal, among the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, the Unified and Specified Command systems, the Military Departments, and Congress.*

The Commission held its first organizational meeting on August 15–16, 1985, and received briefings from Secretary of Defense Weinberger and other officials. Following this meeting, Commissioners were organized into six panels: Strategy and Resource Planning; Military Organization and Command; Acquisition; the Human Element—Personnel; Conduct and Accountability; and Implementation.

In all, between August 1985 and June 1986 the Commission had some 30 day-long working sessions. Included among these were five days of public hearings at which the Commission took testimony on a variety of defense management issues. Witnesses at these and other meetings included members of the Senate and House of Representatives, officials of the Office of the Secretary of Defense (OSD) and Military Departments, industry leaders and associations, public interest organizations, defense experts, and private citizens. In response to its published requests, the Commission received and considered numerous public comments on a wide range of acquisition-related issues. The Commission also met with the three former Presidents, as well as former Secretaries of Defense and Assistants to the President for National Security Affairs. We received presentations from a broad range of current and former civilian officials and military officers. Among these were Chairmen of the Joint Chiefs of Staff, Service Secretaries and Service Chiefs, combatant and logistics commanders, other military leaders, and high-ranking civilian officials of the OSD and Military Departments. We also had the benefit of numerous briefings by major defense research centers.

*See Executive Order 12526 (July 15, 1985), included as Appendix B to this *Final Report*.

On February 28, 1986, the Commission presented its *Interim Report to the President*, which contained our initial findings and recommendations. These recommendations were offered as a single blueprint for overall improvement in defense management. They have provided the framework for three subsequent Reports to the President: *Defense Acquisition*, which we submitted on April 7, 1986; *National Defense Planning and Budgeting*, submitted June 12; and *Conduct and Accountability*, submitted June 30. The present document, *A Quest for Excellence: Final Report to the President*, compiles our detailed findings, conclusions, and recommendations from each of these separate submissions.

II. Purpose

We have tried to take a broad and searching look at defense issues, and to address the root causes of defense problems. Our overall blueprint for change flows from certain enduring propositions of sound national security policy, effective government, and basic management.

The Armed Forces of the United States are now and for the foreseeable future an essential bulwark against the advance of tyranny. The purpose set forth two centuries ago by the drafters of the Constitution—to “provide for the common defense”—is one that we can meet today only with Armed Forces of the utmost strength and readiness. Maintaining peace and freedom requires nothing less.

To achieve this military capability, a sense of shared purpose must prevail in relations between the Executive Branch and the Congress, and between government and defense industry. Public and private institutions must cooperate well, to serve the national good rather than mere partisanship or special interest. The spirit of cooperation needed to promote the common defense is today in jeopardy. This vital spirit must be preserved. Like the effectiveness of our forces, it cannot simply be taken for granted.

The United States' defense effort is an enormous and complex enterprise. It poses unique challenges—to plan sensibly for an uncertain future, to answer new and unexpected threats to our security, to husband our technological and industrial capacities and resources. Meeting these challenges will require, we believe, a rededication by all concerned to some basic principles of management. Capable people must be given the responsibility and authority to do their job. Lines of communication must be kept as short as possible. People on the job must be held accountable for the results. These are the principles that guide our recommendations on defense organization and acquisition. They apply whether one is fighting a war or managing a weapons program.

The present structure of the Department of Defense (DoD) was established

by President Eisenhower in 1958. His proposed reforms, which sprang from the hard lessons of command in World War II and from the rich experience of his Presidency, were not fully accomplished. Intervening years have confirmed the soundness of President Eisenhower's purposes. The Commission has sought to advance on the objectives he set for DoD.

Together, our recommendations are designed to achieve the following significant results:

Overall defense decision-making by the Executive Branch and the Congress can be improved.

Our military leadership can be organized and chartered to provide the necessary assistance for effective long-range planning.

Our combatant forces can be organized and commanded better for the attainment of national objectives.

Control and supervision of the entire acquisition system—including research, development, and procurement—can be strengthened and streamlined.

Waste and delay in the development of new weapons can be minimized, and there can be greater assurance that military equipment performs as expected.

DoD and defense industry can have a more honest, productive partnership working in the national interest.

III. Implementation

Having called in our earlier Reports for a new spirit of cooperation among the Executive Branch, Congress, and industry, we are especially gratified to note that important actions have been and are being taken, by each of these

institutions which share responsibility for the nation's defense, to implement the Commission's recommendations.

- On April 1, 1986, the President issued National Security Decision Directive (NSDD) Number 219, directing DoD and other responsible Executive agencies to implement virtually all of those recommendations contained in our *Interim Report* that do not require legislative action.* On the same day, the Secretary of Defense issued detailed instructions to DoD for this purpose.
- On April 24, 1986, the President sent to Congress a Special Message requesting the early enactment of legislation in order to implement the balance of the recommendations in the Commission's *Interim Report*. This included statutory designation of the Chairman of the Joint Chiefs of Staff as the principal military adviser to the President, the Secretary of Defense, and the National Security Council; provision for the Chairman's exclusive direction of the Joint Staff and the Organization of the Joint Chiefs of Staff; and creation of the new position of Under Secretary of Defense for Acquisition at Level II of the Executive Schedule. The President also asked Congress to take recommended action to simplify and consolidate procurement laws, develop procedures for the authorization and appropriation of defense budgets on a biennial basis, encourage the use of multiyear procurement, and support milestone funding for major weapon systems.†
- Both the House and Senate have passed legislation, now awaiting conference, which substantially achieves the objectives of our *Interim Report* with respect to the role and authority of the Chairman of the Joint Chiefs of Staff, the establishment of a Vice Chairman, and the authority of Commanders-in-Chief of the Unified Commands. By late June 1986, both the House and Senate had approved legislation establishing the Under Secretary of Defense for Acquisition at Level II.

*The unclassified portions of NSDD 219, as announced in summary form by the White House, are included as Appendix C to this *Final Report*.

†The President's April 24 Special Message to Congress is included as Appendix D to this *Final Report*.

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- A substantial number of leading defense contractors recently have pledged to adopt and implement principles of business ethics and conduct that acknowledge corporate responsibilities under federal procurement laws. This important initiative, discussed more fully in our report on *Conduct and Accountability*, is in keeping with the Commission's recommendations on improvements in contractor self-governance.

It is only through a willingness to change by both public and private institutions that our recommendations will achieve their ultimate purpose of restoring stability to defense programs, saving money, and fielding better military forces. These steps toward implementation are a promising beginning. But much more remains to be accomplished. As an aid to the complete implementation of our recommendations, we offer the succeeding portions of our *Final Report*.

Chapter One

**National Security
Planning and Budgeting**

I. Introduction

Among the major tasks assigned to the Commission by the President in July 1985 was the study of resource allocation for defense, including the legislative process. While national security planning is primarily the responsibility of the Executive Branch, principally the President, the National Security Council, the Secretary of Defense, and the Joint Chiefs of Staff, the defense of the nation requires constructive collaboration between the President and Congress. Although the planning process has improved in recent years, we believe that further reforms are required. Reforms must deal with three major problems in the current national security planning and budgeting process: the need to relate military plans more adequately to available resources; the instability of the defense budget process in both the Executive Branch and Congress; and the inefficient role of Congress in the review of the defense budget. Our work has addressed each of these problems in turn.

This Chapter sets forth our findings and recommendations* on the role of the President in national security planning, a new process for planning national military strategy, and an improved defense budget process in the Executive and Legislative Branches. (A schematic representation of the process we propose is provided in Appendix E to this *Final Report*.)

*Amplifying on our *Interim Report*, these were presented earlier in *National Security Planning and Budgeting: A Report to the President*, submitted June 12, 1986.

II. The Role of the President in National Security Planning

In our *Interim Report*, the Commission found that there is a need for more and better long-range planning to bring together the nation's security objectives, the forces needed to achieve them, and the resources available to support those forces. It is critically important that this relationship be clearly established through a national military strategy. At the same time, military strategy cannot be carried out in isolation from the larger questions of the nation's overall foreign policy and its domestic economic and fiscal objectives. Within the Executive Branch, only the President can make the decisions necessary to balance these elements of national policy. For this reason, the Commission sees a need to streamline the present extensive process for defense planning and budgeting within the Executive Branch by establishing a mechanism for early, firm Presidential guidance.

Today, the President provides national security objectives to the Executive Branch in the form of National Security Decision Directives (NSDDs) that are issued through the National Security Council (NSC). Formulated by an incoming President as policy guidance, these directives are updated periodically, either as a result of a continuing review of major national security issues or as additional guidance in response to crises.

Historically, this process has yielded unclear guidance for national security planning because objectives have been stated in NSDDs without recognition of the limits to fiscal resources that are finally made available. Because of the lack of early Presidential guidance on fiscal limits, defense resource plans are subject to debate and change within the Administration up to the moment the President makes final decisions before sending his annual budget to Congress. These changes can ripple throughout the entire five years of the planning period, resulting in annual change—sometimes quite large—to each year of the Five-Year Defense Program.

Based on Presidential guidance contained in NSDDs, the Secretary of Defense currently issues his own Defense Guidance document, early in the budget planning year, for development of detailed programs and budgets by the Military Departments and agencies of the Department of Defense (DoD). The Secretary's Defense Guidance incorporates fiscal guidance to the Military Departments and Defense Agencies for a five-year period. His guidance is built on a judgment of the threats to national interests and the adequacy of our

military forces to meet those threats. But it also reflects such changeable near-term factors as the previous year's congressional decisions, the current budget debate in Congress, guidance from the Office of Management and Budget (OMB) to DoD based on Presidential decisions during the previous year's budget formulation, and recent international events with national security implications.

Late in the year, two events can cause extensive changes to the Secretary's budget plan. First, Congress makes decisions on the budget submitted to it at the beginning of each calendar year. Typically, these decisions are postponed by Congress as long as possible. Congress usually does not enact a defense budget until after the fiscal year has begun on the first of October, with obvious disruptive effects not only for execution of the budget, but also for planning a defense program for subsequent years. Recently, moreover, congressional decisions increasingly have diverged not only from the President's budget proposal, but also from Congress' own pronouncements on future defense budgets as projected in earlier concurrent budget resolutions.

Second, in November of each year before the President transmits his budget to Congress in late January, OMB conducts an independent review of the Secretary's budget plan, drawing upon updated economic projections, recently enacted congressional budget decisions, and the President's budget priorities. As late as December, based on issues raised by the OMB review, the President often directs changes to the Secretary's budget plan that affect thousands of line items and require major revisions to the Five-Year Defense Program. Such Presidential decisions on the defense budget, so close in time to presentation of the President's budget to Congress, do not allow the Secretary of Defense sufficient time to review and advise the President of their effects on the national defense program.

In the Commission's view, the instability induced by the present planning and budgeting process can be substantially reduced, and its effects can be made far less disruptive. As the Commission recommended in our *Interim Report*, defense planning should start with a comprehensive Presidential statement of national security objectives and priorities based on recommendations of the NSC. On this basis, the President would issue provisional five-year budget levels to the Secretary of Defense reflecting competing demands on the federal budget as well as projections of gross national product and revenues. These budget levels would be based on recommendations from the NSC with the advice and assistance of the OMB.

Upon receipt of Presidential planning guidance, the Secretary of Defense would instruct the Chairman of the Joint Chiefs of Staff (JCS) to prepare a national military strategy that best achieves the national security objectives within provisional budget levels. The Chairman would also be instructed to

develop strategy options for each of the provisional budget levels, based on consideration of major defense policies and operational concepts, to meet the entire range of threats to these national security objectives. A recommended national military strategy and options would be prepared by the Chairman with the assistance of the other members of the JCS and the Commanders-in-Chief (CINCs) of the Unified and Specified Commands. The military capabilities provided by this strategy and options would be compared with the present and projected capabilities of potential opponents in a military net assessment.

The Secretary of Defense would review the Chairman's recommendations as described, and make such modifications as he deems appropriate. Upon completing that phase of the new defense planning process, the Secretary, and the Chairman as the principal military adviser, would present to the President a recommended national military strategy, strategy options, and the net assessment.

After review by the NSC, the President would select his preferred national military strategy and its corresponding five-year defense budget level, based upon his national security objectives and priorities, and an acceptable level of risk. He would provide this decision to the NSC, the OMB, and the Secretary of Defense. The Presidential decision, including the five-year fiscal guidance, would be binding on the Executive Branch unless changed by further Presidential decision.

Based on the President's decision, the Secretary of Defense would develop a detailed Defense Guidance for the Military Departments and Defense Agencies to launch the Planning, Programming, and Budgeting System (PPBS) internal to the DoD. The final version of the Defense Guidance would contain the Secretary's detailed guidance on defense objectives, policy, strategy, force levels, and fiscal guidance, all based on the President's decisions. The detailed fiscal guidance would be the basis for a new Five-Year Defense Program and for detailed pricing and scheduling of the new defense budget.

The Commission strongly believes that an early Presidential decision on a five-year defense budget level, clearly linked to a Presidentially approved national military strategy, is necessary to achieve a more orderly and more stable process for executive and congressional planning and budgeting for defense. Early Presidential determination of an appropriate five-year budget level would better integrate all elements of the Executive Branch in the resource allocation process, result in more coherent and stable long-range planning for national defense, and provide the Congress a proposed defense program more readily explained and justified in terms of national security requirements.

Our recommended improvements in national security planning and defense budgeting process (outlined in Appendix E to this *Final Report*) should

be commenced immediately to assist the defense planning and budgeting activities now underway in DoD and in Congress to construct the first biennial defense budget. The budget to be submitted to Congress in January 1987 for fiscal years 1988 and 1989 should be the transitional budget for the new planning process. The new defense planning and budgeting process would thereby be fully implemented for the fiscal year 1990–91 budget. To achieve that end, the President should provide the strongest guidance possible to the NSC, the OMB, the Secretary of Defense, the Chairman of the JCS, and the Military Departments.

Recommendations

To institutionalize, expand, and link a series of critical Presidential determinations, we recommend a process (Appendix E) that would operate in substance as follows:

The National Security Council would develop and direct a national security planning process for the President that revises current national security decision directives as appropriate and that provides to the Secretary of Defense Presidential guidance that includes:

- **A statement of national security objectives;**
- **A statement of priorities among national security objectives;**
- **A statement of major defense policies;**
- **Provisional five-year defense budget levels, with the advice and assistance of the Office of Management and Budget, to give focus to the development of a fiscally constrained national military strategy. Such budget levels would reflect competing demands on the federal budget as well as projections of gross national product and revenues; and**
- **Direction to construct a proposed national military strategy and strategy options for Presidential decision in time to guide development of the first biennial defense budget for fiscal years 1988 and 1989.**

Following receipt of the Secretary's recommended national military strategy, accompanying options, and a military net assessment, the President, with the advice of the NSC, would approve a particular national defense program and its associated budget level. This budget level would then be

provided to the Secretary of Defense as five-year fiscal guidance for the development of biennial defense budgets such that:

- The five-year defense budget level would be binding on all elements of the Administration.
 - Presidential guidance, as defined above, would be issued in mid-1986 to guide development in this transitional year of the first biennial defense budget for fiscal years 1988 and 1989 to the maximum possible extent.
 - The new national security planning process would be fully implemented to determine the course of the defense budget for fiscal years 1990 to 1994.
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III. A New Process for Planning National Military Strategy

To provide the President and the Secretary of Defense with military advice that better integrates the views of the nation's combatant commands and Military Services, the Commission in our *Interim Report* recommended legislation creating new duties for the Chairman of the Joint Chiefs of Staff (JCS). In the Commission's view, the Chairman should become the principal military adviser to the President, the National Security Council, and the Secretary of Defense, representing his own views as well as the corporate views of the JCS. The Chairman should be given exclusive direction of the Joint Staff, and other elements of the Organization of the Joint Chiefs of Staff, to perform such duties as he prescribes to support the JCS and to respond to the Secretary of Defense. To further assist the Chairman in performing his new duties, a new position of Vice Chairman of the JCS should be created. We note that in a message to Congress on April 24, 1986, the President endorsed these recommendations and that the Senate and House have separately passed legislation along these lines.

In making these recommendations, the Commission envisioned that the new duties of the Chairman would include a major role in national security planning. The Commission recommended that the Chairman, with the advice of the other members of the JCS and the Commanders-in-Chief (CINCs) of the combatant commands, be given responsibility for preparing and submitting to the Secretary of Defense a fiscally constrained national military strategy, with strategy options, based on the President's initial guidance on national security objectives and priorities, and his provisional five-year budget levels. The Chairman would also, with the assistance of the other members of the JCS, and in consultation with the Director of Central Intelligence, prepare a military net assessment of the capabilities of United States and Allied Forces as compared to those of potential adversaries. The net assessment would be used to evaluate the risks of the strategy and the strategy options.

On April 1, 1986, the President issued a directive to the Secretary of Defense (see Appendix C to this *Final Report*) calling for a new process for planning national military strategy. The following section of this report elaborates the Commission's views on the new process to aid in implementing our recommendations.

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Improved Defense Strategy Development

Just as the President's guidance on national security objectives and priorities should provide a clear statement of what we must achieve, military strategy should provide a clear statement of how we will achieve it. That strategy must address how we plan to achieve particular national ends with available, or reasonably anticipated, military means. Specifically, a strategy must relate proposed military force levels to available resources.

It is incumbent upon our senior military leaders, as they chart a course for the nation's military forces into the next century, to apply financial limits to military force planning in a way not previously attempted. The questions that such planning entails must be answered in that light. These include:

- What kind and what numbers of forces should we field in the future?
- What kind of equipment should they have?
- How rapidly should we modernize their equipment?
- How, and at what pace, can we best incorporate the benefits of technological advances?
- How much should we spend on readiness and sustainability, on the one hand, and modernization, on the other?
- What balance should we strike between strategic nuclear and general purpose forces?
- How can we keep the overall cost of building and maintaining military forces within limits while achieving performance objectives?

To develop a well-designed national military strategy, the Chairman should first ensure that he has a full range of views from the Joint Chiefs, who as individual Service Chiefs are charged with developing and providing the nation's Armed Forces, and from the combatant commanders, who are charged with employing them. Second, the Chairman should integrate the sometimes conflicting perspectives arising from the different responsibilities held by these officers into a coherent military strategy. This strategy thus would reflect the best thinking of the nation's senior military leadership.

The product of such a strategy-development process would reflect the fiscal

constraints directed by the President for the planning period and would include:

- an appraisal of threats to the achievement of our national objectives across the full range of potential conflict during the five-year planning period;
- a recommended strategy to meet our objectives and to respond to these threats during the planning period; and
- the force requirements and capabilities to support the strategy.

In order to frame a wide range of decision alternatives for the President, the Chairman would be directed to provide the Secretary with strategy options resulting from the President's five-year budget levels and from variations within a given budget level. These would reflect explicit trade-offs among the Services and among competing requirements from the combatant commands. In addressing options to the proposed national military strategy, the Chairman would consider major defense policies and operational concepts (e.g., modernization, force structure, readiness, sustainability, security assistance policy and funding levels, strategic nuclear forces versus general purpose forces, etc.).

In order for the Chairman of the Joint Chiefs of Staff to provide sound military advice on the various strategy options, a companion analysis should be prepared that would identify:

- adjustments to current force levels in accordance with the President's provisional budget levels and the associated costs or savings;
 - problems that may preclude attainment of needed force levels or capabilities without mobilization (e.g., personnel quality or quantity unattainable without conscription, and the adequacy of the industrial base to support force levels);
 - unique regional considerations that may restrict our ability to employ military force (e.g., political or other potential disadvantages to the use of U.S. forces, maintainability of lines of supply, access to friendly ports of entry, etc.); and
 - limits on deployment or mobilization that may restrict our ability to employ military forces in conflict (e.g., the availability of transport, the adequacy of the training base, etc.).
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Our proposed process for strategy development does not diminish the value of force planning as currently provided in the Joint Strategic Planning Document (JSPD). The JSPD serves as the JCS contribution to the planning phase of DoD's Planning, Programming, and Budgeting System, but it could be revised to provide a more meaningful overarching framework for strategy and force planning. The analytical value of the JSPD lies in its identification of force levels for global general war that could guide the development of related *peacetime*, resource-constrained forces. Specifically, the JSPD planning force could be linked to a peacetime mobilization base for a "worst case" contingency of a global general war. The mobilization base derived from the JSPD planning force could be developed to achieve the shortest possible time to expand from mobilization base levels to planning force levels—consistent with the President's fiscal guidance. Such a peacetime posture should be a central consideration in developing the recommended national military strategy and strategy options provided to the President. In addition, forces for support of regional unified commanders in pursuit of U.S. national security objectives in peacetime, as well as the more probable, less intense forms of conflict, should also be identified in the JSPD mobilization base planning force.

An Improved Net Assessment

As an element of the planning process we propose, it would be necessary to make a more comprehensive effort to assess the capabilities of our forces to accomplish their missions in the light of projected military threats posed by potential adversaries. Where appropriate, Allied Forces should be included in this analysis.

A net assessment of military capabilities, projected five years into the future, can help identify the risks associated with alternative military strategies and force postures. It would be of major assistance to the Chairman, the Secretary of Defense, and the President in framing and selecting a defense budget level and force posture better tied to national security objectives and priorities. As an adjunct to the new strategy planning process, the net assessment could help identify existing or emerging problems and opportunities that need to be brought to the attention of the Secretary of Defense and the Chairman for further study in the development of strategy options.

The expanded planning responsibilities to be assigned to the Chairman of the Joint Chiefs of Staff would require that he prepare an independent, comprehensive military net assessment in order to evaluate the recommended national military strategy and any strategy options proposed. The Commission

has recommended that the Chairman prepare this assessment for the Secretary of Defense with the assistance of the other members of the JCS and in consultation with the Director of Central Intelligence. He should also draw upon the advice of the combatant commanders.

Recommendations

The Secretary of Defense, following receipt of the Presidential guidance described previously, should direct the Chairman of the Joint Chiefs of Staff (JCS), with the advice of the other members of the Joint Chiefs of Staff and the Commanders-in-Chief (CINCs) of the Unified and Specified Commands, to:

- **Appraise the complete range of military threats to U.S. interests and objectives worldwide;**
- **Derive national military objectives and priorities from the national security objectives, major defense policies, and priorities received from the President; and**
- **Provide the Secretary of Defense a recommended national military strategy that:**
 - Best attains those national security objectives provided by the President, in accordance with his policies and priorities;**
 - Identifies the forces and capabilities necessary to execute the strategy during the five-year planning period; and**
 - Meets fiscal and other resource constraints directed by the President during the five-year planning period.**

At the direction of the Secretary of Defense, the Chairman also should develop strategy options to achieve the national security objectives. Such strategy options would:

- **Frame explicit trade-offs among the Armed Forces;**
 - **Reflect major defense policies and different operational concepts, in terms of different mixes of forces or different degrees of emphasis on modernization, readiness, or sustainability;**
 - **Respond to each provisional budget level provided by the President;**
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- Explore variations within a particular provisional budget level; and
 - Highlight differences in capability between the recommended national military strategy, on the one hand, and feasible alternatives, on the other.

At the direction of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, with the assistance of the other members of the JCS and the CINCs, and in consultation with the Director of Central Intelligence, should also prepare a military net assessment that would:

- Provide comparisons of the capabilities and effectiveness of U.S. military forces with those of forces of potential adversaries for the Chairman's recommended national military strategy and other strategy options;
- Reflect the military contributions of Allied Forces where appropriate;
- Evaluate the risks of the Chairman's recommended national military strategy and any strategy options that he develops for the Secretary of Defense and the President; and
- Cover the entire five-year planning period.

The Secretary of Defense, following his review and analysis of the Chairman's recommendations, should provide to the President:

- The Secretary's recommended national military strategy and its corresponding five-year defense budget level, consistent with the President's policy and fiscal guidance;
 - Appropriate strategy options and corresponding five-year defense budget levels sufficient to provide the President a wide range of alternatives in choosing a national defense program; and
 - A military net assessment of the recommended national military strategy and strategy options.
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IV. The Congressional Defense Budget Process—A Need for Change

The recommendations discussed above, when implemented by the President and the Secretary of Defense, will go a long way toward making defense planning and budgeting within the Executive Branch more rational and stable. But this effort will fail to achieve the desired results if Congress does not do its part to improve its role in the process. Realism in long-range planning and budgeting for defense within the Executive Branch must be met by a responsible exercise of congressional power in budget review and oversight.

In defense budgeting, as in most other matters of national policy, the President proposes but Congress disposes. The national defense program depends upon steady, long-term vision if it is to meet our long-term security needs effectively. Congressional focus, however, is myopic and misdirected. Only the upcoming budget year gets real attention, and this attention is directed at the budget's microscopic pieces, its line items.

Problems inherent in Congress' defense budget review manifest themselves in budget resolutions that reflect little or no consistency from year to year; in changes to thousands of line items within the defense budget that, taken together on this kind of scale, verge on randomness; and in defense appropriations that are invariably late in enactment.

It is true that changing political and economic circumstances may require the Congress to adjust its plans from time to time. But the Commission believes that both the number and the magnitude of changes resulting from congressional review of the defense budget are excessive and harmful to the long-term defense of the country.

Where national defense is concerned, today's congressional authorization and appropriation processes have become mired in jurisdictional disputes, leading to overlapping review of thousands of line items within the defense budget. A growing rivalry between the Armed Services Committees and the Defense Appropriations Subcommittees over the line-item makeup of the defense budget has played a major role in moving congressional review of the defense budget toward narrowly focused financial action on individual items and away from oversight based on operational concepts and military effectiveness. During the review of the 1985 defense budget, for example, Congress made changes to over 1,800 separate defense programs and directed DoD to conduct 458 studies ranging from the feasibility of selling lamb

products in commissaries to the status of retirement benefits for Philippine scouts.

This kind of tinkering and financial fine-tuning has heightened defense program instability because of its wide reach and lack of broader operational focus. Congressional action on the 1985 budget reduced the President's request by \$20.5 billion, but, of that amount, only \$0.5 billion (or 2 percent) involved outright program cancellations or procurement terminations. The other 98 percent of the reduction came from changes to procurement rates and mixes, level-of-effort cuts, miscellaneous personnel trims, and financing adjustments.

In addition, DoD now finds itself involved in a new congressional budgeting phenomenon in which the Appropriations Committees have funded programs that the Armed Services Committees have not authorized. In fiscal year 1986, the DoD Appropriation Act included over 150 line items, valued at \$5.7 billion, that were authorized at a lower level or were not authorized at all. As of this date, the fiscal year is more than half over but DoD cannot obligate funds nor conclude contract negotiations for almost \$6 billion of programs while the disagreement continues between congressional committees.

Under these circumstances, the Secretary of Defense and the Military Departments find themselves in the position of making final decisions in formulating a budget for the next fiscal year while Congress is still debating its own wide-ranging differences on the budget for the ongoing fiscal year. When Congress finally makes its appropriation decision, the Secretary and the Services are forced to adjust the proposed budget for the upcoming fiscal year, late in the budget-formulation process within the Executive Branch, in order to incorporate the impact of congressional changes. The timing and scope of these changes prevent the DoD from making coherent linkages among the three defense budgets that it manages at any one time—the budget being executed, the budget under review by Congress, and the budget that DoD is developing for the upcoming fiscal year.

Meanwhile, defense managers and defense procurement personnel around the world must implement late congressional decisions after the fiscal year has started. They are confronted with numerous changes that alter and delay their program plans, schedules, and contract decisions. This instability, in turn, spreads outward to the defense industry, whose investment and production plans must be hastily adjusted annually as a result of late congressional appropriations.

Finally, instability in defense budget planning has been further exacerbated as a result of the new Gramm-Rudman-Hollings legislation. In March 1986, the sixth month of the fiscal year, DoD was forced to take a 4.9 percent reduction in each of almost 4,000 programs, projects, and activities, for a total cut of \$13.6

billion in budget authority and \$5.2 billion in outlays. These across-the-board, automatic cuts allowed no analysis or management judgment to be exercised about priorities or about their effect on defense programs and forces. The essence of budgeting is setting priorities. Our recommendations depend upon a rational choice of priorities by responsible defense managers, as opposed to a mechanistic allocation of resources across all activities. We must assume that government will remain a place of judgment.

Many of the problems described above affecting congressional action result from major differences of opinion within Congress on the funds to be provided for defense in any one year. However, as this debate continues from year to year, congressional budget resolutions show very little consistency regarding national defense funds, and, as a result, their projections of defense budgets for future years have become unreliable measures of congressional intent.

Shortly after congressional budget resolution projections are made, the budget-formulation process begins in the Executive Branch to build budgets for the years covered by such projections. As the last guideposts of congressional intent before Executive Branch budget formulation, budget resolution projections play a central role in decisions on the levels for defense that are used for planning within DoD and that the President ultimately will propose to Congress. To the extent, then, that Congress has reflected unrealistic levels for future defense budgets in its budget resolutions, lack of realism will also affect the President's budget. This document to a large degree each year mirrors the congressional budget resolution of the previous year. That is why congressional budget resolution projections should be made with great care, with full commitment to those projections from key committees that review the defense budget.

The Commission urges the leaders of Congress to develop ways to relate projections in budget resolutions to the five-year budget levels developed within the Executive Branch (as described in the previous sections of this report) for provision, in turn, to Congress. We believe that a much-improved linkage between the new proposed process for defense planning and budgeting within the Executive Branch, and the current budget resolution process within Congress, is central to responsible decision-making on matters of national security.

Another concern is the role budget resolutions play in later phases of the overall congressional process. The practice has been for the authorizing and appropriations committees to treat Budget Committee targets as ceilings from which they could depart, rather than as congressional commitments. The steadiness that should mark long-term planning for the nation's defense has suffered as a result.

The Commission is also concerned about the lack of cooperation in review of the defense budget that marks authorization and appropriation actions today in Congress.

The Armed Services Committees need to become less concerned with attempting to control line items through authorization action and need to concentrate more on the task for which they are best suited, allocation of funds between and within major operational categories of the defense budget. In the Commission's view, the Armed Services Committees also should have an important role to play in ensuring that new weapon programs in fact contribute to military effectiveness within major operational categories. They should be the primary congressional agents for approval of acquisition programs entering full-scale development and high-rate production as recommended by the Commission in its report on *Defense Acquisition* and described later in this Chapter.

The Armed Services Committees cannot, however, simply take on such roles unilaterally. The leadership of the authorizing and appropriations bodies that deal with the defense budget must agree on a division of labor that lessens considerably the overlap and consequent rivalry that marks the process today. We agree completely with the observations made by the Senate Armed Services Committee, in an April 1986 report, on the need for congressional reform in providing for the nation's defense:

Congressional reform must extend beyond the confines of defense oversight. Ultimately, fundamental patterns of congressional behavior must change. Committee jurisdictions must be reasserted and tightened to minimize overlap and duplication. Redundant legislative phases of budgeting, authorizing, and appropriating must be consolidated.

Procedural Reforms

If leadership problems within Congress can be overcome, and stability of the defense budget and a more appropriate division of labor among committees can be achieved, procedural reforms can have further beneficial effect. The most important reform, in the Commission's view, is adoption by Congress of biennial defense budgets tied to a five-year plan.

A. Biennial Budgeting and Five-Year Planning for Defense

In our *Interim Report*, we recommended that the President submit to Congress a two-year defense budget and the five-year plan on which it is based. Congress would be asked to approve a two-year budget based upon this plan. It would do so through a two-year authorization and appropriation for national defense. We note that the 1986 Defense Authorization Act calls for the submission to Congress by the President of a two-year defense budget for fiscal years 1988 and 1989 in early 1987. DoD is now preparing such a budget. We applaud this initiative by the House and Senate Armed Services Committees, and we believe that, if Congress decides to adopt this new method of budgeting, it can lead to the two-year defense authorization and appropriation that we have recommended. We are mindful, however, that for some years the President has, at congressional direction, provided requests for two-year defense authorizations, but only the first year of each of these requests has ever been acted upon.

The Commission believes that a biennial budget process for defense, tied to a five-year defense plan, would promote stability by providing additional time to do a better job—to think through military planning options, to evaluate results of current and prior-year execution of the defense budget, and to ensure that each phase of the cycle has the attention needed. A two-year cycle also would, in particular, allow DoD to pay more attention to programming, the second phase of the Planning, Programming, and Budgeting System (PPBS) where individual defense programs are put together, refined, and compared to each other to respond to defense needs.

A new biennial defense programming process would need to be fashioned to precede the process through which biennial budgets are formulated. Stability obtained from such two-year processes would provide many benefits throughout DoD not the least of which would be found at the operational level in the field, where installation and activity commanders and program managers turn budget decisions into action.

A two-year defense budget cycle could also allow the Executive and Legislative Branches of government to spend one of the two years on a necessary, but generally ignored, evaluation process. It should help the Services to better manage their programs, and Congress to stick to its deadlines and schedules. Having spent a year reviewing ongoing activities, Congress should be able to begin earlier and move faster in the appropriation year.

One of the major arguments against biennial budgeting is that it builds too much inflexibility into the system. National security objectives and priorities,

however, ordinarily do not change appreciably from year to year, nor should military strategy or the military force structure change radically over a two-year period. In addition, the appropriate tools needed to make any changes required in the second year of budget execution are already in existence. Current reprogramming, supplemental, and budget amendment procedures are more than adequate to address the need. Reprogramming thresholds and transfer limitations within program categories should be reviewed by both Congress and DoD in a biennial budget context, and additional flexibility should be provided if needed. Rescissions and deferrals are also techniques that can be used when necessary.

Primarily, however, a two-year appropriation for defense would stop the yearlong chaos of budget-making that we now have, or at minimum, allow it to happen only every two years rather than annually. This would surely provide a greater degree of stability over a longer period of time.

We applaud DoD support for two-year defense budgets and growing support within the Congress. We are particularly encouraged by Secretary Weinberger's commitment to the concept. He echoed the Commission's sentiments in his letter transmitting the April 1, 1986, Report on Two-Year Defense Budgeting to the Armed Services Committees and Appropriations Committees when he stated:

... The resulting improved stability could increase the efficiency of defense operations. Such an approach could also serve to simplify the currently lengthy and time consuming budget process. Both Congress and the Executive Branch would have significantly more time to focus on the resolution of policy issues and the establishment of priorities. Moreover, the adoption of biennial budgeting should reduce the need for Congress to fund our (defense) operations through limited and ineffective Continuing Resolution Authority procedures. . . .

B. Milestone Authorization, Baselineing, and Multi-Year Procurement

To complement biennial budgeting, the Commission believes that milestone authorization, baselineing, and multi-year procurement should be instituted and expanded by both DoD and Congress for all major defense programs.

Milestone authorization would allow the Armed Services Committees to focus their review of major acquisition programs on two key program milestones, the beginning of full-scale engineering development and the start of

high-rate production. Programs advancing through these milestones in either the first or second year of a particular biennial authorization request would be identified to Congress by DoD, which would provide a program baseline for each identified program. A program baseline would describe the cost, schedule, and operational performance of the systems to be acquired during the production lifetime of the program, would be certified at the highest level of responsible officials within DoD, and would establish a contract between the Executive and Legislative Branches based on mutual expectations for the program.

If such a process were in place, the Armed Services Committees would not need to subject defense programs performing well, relative to an approved baseline previously established at a key milestone, to the same level of scrutiny as programs arriving at key milestones. In fact, to the maximum possible extent, programs that proceed successfully through congressional authorization at the high-rate production milestone should be executed through multi-year procurement. Once multi-year procurement is initiated, changes to a program baseline, either through DoD action or through later congressional authorization or appropriation action, should be avoided because of the financial penalties involved. In the Commission's view, milestone authorization, baselining, and multi-year procurement would promote the kind of stability and proven cost savings in budgeting for national defense that are central objectives of our recommendations.

C. Changing the Structure of the Defense Budget

Finally, the Commission believes that the Congress, DoD, and the Office of Management and Budget must together begin the hard work necessary to reduce an overly detailed line-item review of the defense budget and to bring a broader, operational perspective to the defense budget and its companion Five-Year Defense Program.

The Five-Year Defense Program has been constructed to provide a crosswalk between the input (financial) side of the nation's defense budget and the output (forces, weapon systems, manpower, etc.) side where defense programs are grouped according to the operational purposes they serve. However, the relative lack of attention historically directed at operational concepts to guide defense spending has resulted in relatively poor structural development of the output side. While the basic foundation of an operationally oriented structure has been in place in the Five-Year Defense Program for some time, much more work must be done to build a new, and more adequate, budget structure for congressional biennial defense authorizations and appropriations.

For example, such a new budget structure might better show the contribution of the B-1 bomber to national defense by grouping the B-1 program and other appropriate programs within a budget account titled "Modernization of Strategic Nuclear Forces" rather than, as is now the case, a budget account called "Aircraft Procurement, Air Force." A revised budget structure of this type would allow a better review of the different types of strategic nuclear systems, in relationship to each other and to overall national security objectives, than is now the case.

In addition, it would allow for more management judgment to be introduced by aggregating, consolidating, and reorganizing thousands of line items into fewer budget activities within the Military Departments. For example, if all Army cargo and utility helicopters and their modifications, spares, and simulators were placed in a new, single, aggregated activity, 39 line items could be reduced to 4. Similarly, 358 line items for trucks could be reduced to 11. This would permit more reasoned, practical, and balanced decisions to be made.

Recommendations

CONGRESS

A joint effort among the Appropriations Committees, the Armed Services Committees, the Office of Management and Budget (OMB), and the Department of Defense (DoD) should be undertaken as soon as possible to work out the necessary agreements, concepts, categories, and procedures to implement a new biennial budget process for defense. Biennial budgeting for defense should be instituted in 1987 for the fiscal year 1988-89 defense budget. Congress should authorize and appropriate defense funding for those two years. The second year of this new biennial budgeting process should be used by both Congress and DoD to review program execution where appropriate.

Congress should reduce the overlap, duplication, and redundancy among the many congressional committees and subcommittees now reviewing the defense budget.

The leadership of both parties in the House and the Senate should review the congressional process leading up to annual budget resolutions with the intent of increasing stability in forecasts for defense budgets for future years. We cannot stress strongly enough that a responsible partnership in providing

for the national defense means agreement between Congress and the President on an overall level of a five-year defense program early in a new President's term in office and adherence to this agreement during his Administration.

The chairmen and ranking minority members of the Armed Services Committees and the Defense Appropriations Subcommittees should agree on a cooperative review of the defense budget that has the following features:

- Review by the Armed Services Committees of the defense budget in terms of operational concepts and categories (e.g., force structure, modernization, readiness, and sustainability, etc.);
- Review and authorization of individual programs by the Armed Services Committees that concentrate on new defense efforts at key milestones—specifically the beginning of full-scale development and the start of high-rate production—in terms of their contributions to major defense missions; and
- Review by the Appropriations Committees, using the new budget structured in terms of operational concepts and categories, to adjust the President's defense budget to congressional budget resolution levels through refinements based on information not available when the President's budget was formulated months earlier.

Congress should adhere to its own deadlines by accelerating the budget review process, so that final authorizations and appropriations are provided to DoD on time, and less use is made of continuing resolutions.

Congress should review and make major reductions in the number of reports it asks DoD to prepare and should closely control requirements for new reports in the future.

EXECUTIVE BRANCH

The President should direct the Secretary of Defense and OMB to institute biennial budgeting for defense in 1987 for the fiscal year 1988–89 defense budget and budgets thereafter.

The Secretary of Defense should develop and submit to Congress defense budgets and five-year plans within an operationally oriented structure. He should work with the appropriate committees of Congress and with OMB to

establish the necessary mechanisms and procedures to ensure that a new budget format is established.

The Secretary of Defense should institute a biennial programming process within DoD to complement the proposed biennial planning and budgeting processes.

The Secretary of Defense should work with the Armed Services Committees to define procedures for milestone authorization of major defense programs.

Baselining and multi-year procurement should be used as much as possible to reinforce milestone authorization.

V. Conclusion

Defense of the nation demands that better links be forged among national security objectives, national military strategy, and defense budgets.

The President must initiate the effort. He must challenge the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the nation's key military leaders to create a national military strategy that can become the basis of America's protection into the next century. Only the President can define the terms and boundaries necessary to set such a broad gauge effort in motion, and he must be confident that it will yield the proper result.

Prepared with this kind of a national military strategy, the President can provide Congress a blueprint for national security, and a constructive partnership can be formed to carry it out—through a five-year national defense program that logically follows. This partnership will, however, require Congress to improve its methods and make them more responsive to the requirements of national defense.

In the end, all responsible senior officials must exercise leadership if better methods are to take hold and yield a better national defense. We must depend upon dedicated and talented people to take the concepts we have presented and build upon them for the future.

Chapter Two

Military Organization and Command

To accomplish meaningful, long-range defense planning, certain modifications are needed in our defense establishment.*

The President and the Secretary of Defense require military advice that better integrates the individual views of the nation's combatant commanders and the Chiefs of the Services. Today, there is no one uniformed officer clearly responsible for providing such an integrated view, who can draw upon the best thinking of, and act as an effective spokesman for, our senior military leadership. The current authority of the Chairman of the Joint Chiefs of Staff is insufficient to enable him to perform effectively in this capacity. The Chairman's advisory relation to the President and the Secretary of Defense, the Chairman's mandate over the Joint Staff and the Organization of the Joint Chiefs of Staff, and the Chairman's place in the channel of communications between the Secretary of Defense and the Commanders-in-Chief of the Unified and Specified Commands (CINCs), all must be strengthened to this end.

So, too, must the views of the CINCs be more strongly and purposefully represented than they are at present within the councils of the Joint Chiefs and in weapons requirements decision-making. Because it is the responsibility of the Chairman to integrate the sometimes conflicting advice of the Service Chiefs and the CINCs into a national strategy, the necessity for impartiality and objectivity in doing so argues for another voice in the Joint Chiefs of Staff to represent the views of the CINCs. For these purposes, and to assist the Chairman in his existing and additional responsibilities, we conclude that the position of Vice Chairman of the Joint Chiefs of Staff should be established.

There is an important need to provide for continuity of advice to the Secretary of Defense and the President in the absence of the Chairman of the Joint Chiefs of Staff. The current system, in which the members of the Joint Chiefs of Staff (JCS) rotate quarterly as Acting Chairman, has provided continuity better than earlier systems. It also has served to enhance a needed joint perspective among the Service Chiefs and increase their effectiveness in both their JCS and Service roles. The establishment of a Vice Chairman as a member of the Joint Chiefs of Staff having special responsibilities for representing the interests of the CINCs and reviewing weapons requirements would be an important innovation. While underscoring the importance of continuity, the

*With certain important additions, this Chapter represents relevant findings and recommendations presented earlier in our *Interim Report*.

Commission believes the procedures under which an Acting Chairman is designated should remain flexible. Under the President's direction, the Secretary of Defense should be permitted to adopt those procedures which are best suited to the particular circumstances and to revise them in accordance with changing needs.

The Commission believes that the present authority of the Chairman of the Joint Chiefs of Staff to influence the quality of the personnel assigned by the Armed Services to the Joint Staff is adequate to assure proper support for him, and for the Joint Chiefs of Staff. We note that the JCS corporately control all military personnel, and therefore are in the best position to provide the Chairman with the best possible staff. We do not believe that Congress can usefully legislate new rules for selecting and promoting Joint Staff officers.

We find that improvements also are needed in the several Unified (i.e., multi-Service) and Specified (i.e., single Service) Commands into which our combat forces are organized.

The measure of command now accorded the nation's combatant commanders is not always sufficient for our forces to perform with high confidence of success and coherence of effort. Unified Commanders require broader authority than "operational command," as now understood and practiced, in order to meet the heavy responsibilities that their missions place on them.

In our *Interim Report*, we expressed the conviction that, were combatant commanders authorized and directed to do so, they could reduce significantly the numbers of headquarters subordinate to them and their components, as well as the numbers of personnel assigned to staff duties in these headquarters. We remain convinced that increased authority for each CINC should enable him so to rationalize his command structure. We therefore urge that the Secretary of Defense elicit, through the JCS, specific recommendations to that end.

The Unified Command Plan divides responsibilities among combatant commanders too arbitrarily on the basis of geographical boundaries. Today, some threats overlap those boundaries and must be dealt with functionally.

Moreover, the current command structure reflects command arrangements that evolved during World War II to deal with high-intensity conflict across vast regions of the globe. However well the layers of the present command structure suit the contingency of general war, they are not always well-suited to the regional crises, tensions, and conflicts that are commonplace today.

Finally, loose coordination of strategic lift of military forces throughout the world now constrains military effectiveness. There are demonstrated managerial shortfalls in our ability to allocate available air, land, and sea transportation among many claimants.

The specific changes recommended by the Commission are necessary to assure unified action by our Armed Forces. On April 24, 1986, in a Special Message to Congress (see Appendix D to this *Final Report*), the President endorsed our recommendations on military organization and command and requested early enactment of legislation required to implement them. As the culmination of a major legislative effort begun in the House of Representatives in 1982 and joined in the Senate by passage of the Barry Goldwater Department of Defense Reorganization Act of 1986, we anticipate enactment of our basic recommendations by the end of 1986.

Recommendations

The Commission recommends the following reforms in federal law and DoD practices.

Current law should be changed to designate the Chairman of the Joint Chiefs of Staff (JCS) as the principal uniformed military advisor to the President, the National Security Council, and the Secretary of Defense, representing his own views as well as the corporate views of the JCS.

Current law should be changed to place the Joint Staff and the Organization of the Joint Chiefs of Staff under the exclusive direction of the Chairman, to perform such duties as he prescribes to support the JCS and to respond to the Secretary of Defense. The statutory limit on the number of officers on the Joint Staff should be removed to permit the Chairman a staff sufficient to discharge his responsibilities.

The Secretary of Defense should direct that the commands to and reports by the Commanders-in-Chief of the Unified and Specified Commands (CINCs) should be channeled through the Chairman so that the Chairman may better incorporate the views of senior combatant commanders in his advice to the Secretary.

The Service Chiefs should serve as members of the JCS. The position of a four-star Vice Chairman should be established by law as a sixth member of the JCS. The Vice Chairman should assist the Chairman by representing the interests of the CINCs, co-chairing the Joint Requirements and Management Board, and performing such other duties as the Chairman may prescribe.

The Secretary of Defense, subject to the direction of the President, should determine the procedures under which an Acting Chairman is designated to serve in the absence of the Chairman of the JCS. Such procedures

should remain flexible and responsive to changing circumstances.

Subject to the review and approval of the Secretary of Defense, Unified Commanders should be given broader authority to structure subordinate commands, joint task forces, and support activities in a way that best supports their missions and results in a significant reduction in the size and numbers of military headquarters.

The Unified Command Plan should be revised to assure increased flexibility to deal with situations that overlap the geographic boundaries of the current combatant commands and with changing world conditions.

For contingencies short of general war, the Secretary of Defense, with the advice of the Chairman and the JCS, should have the flexibility to establish the shortest possible chains of command for each force deployed, consistent with proper supervision and support. This would help the CINCs and the JCS perform better in situations ranging from peace to crisis to general war.

The Secretary of Defense should establish a single unified command to integrate global air, land, and sea transportation, and should have flexibility to structure this organization as he sees fit. Legislation prohibiting such a command should be repealed.

Chapter Three

**Acquisition
Organization
and Procedures**

I. Introduction

The President established the Blue Ribbon Commission on Defense Management in part because public confidence in the effectiveness of the defense acquisition system has been shaken by a spate of "horror stories"—overpriced spare parts, test deficiencies, and cost and schedule overruns. Unwelcome at any time, such stories are particularly unsettling when the Administration and Congress are seeking ways to deal with record budget deficits. A major task of this Commission has been to evaluate the defense acquisition system, to determine how it might be improved, and to recommend changes that can lead to the acquisition of military equipment with equal or greater performance but at lower cost and with less delay. For this purpose, the Commission formed an Acquisition Task Force.*

We analyzed the horror stories, as others have done, but concluded that a diagnosis based on recognized deficiencies could lead only to band-aid treatments for a system more fundamentally ill. Therefore, our basic methodology has been deliberately quite different.

We compared the defense acquisition system with other systems, both government and commercial, that develop and produce equipment of comparable complexity, in order to find success stories that could provide a model on which reforms of the defense acquisition system could be based. Defense acquisition represents the largest and, in our judgment, the most important business enterprise in the world. It deserves to be managed with the highest standards. We therefore conducted a "search for excellence" by examining organizations that had been most successful in acquisition, in order to find a model of excellence for defense acquisition.

Chances for meaningful improvement will come not from more regulation but only with major institutional change. During the last decade or so a new theory of management has evolved. It has been developed by a limited number of U.S. companies, and it has flourished in Japan. These new management

*The findings and recommendations of this Chapter are substantially those presented earlier in *A Formula for Action: A Report to the President on Defense Acquisition*, submitted April 7, 1986. Additional recommendations, first presented here, relate to rights in technical data and industrial mobilization.

The work of the Acquisition Task Force was directed by William J. Perry. In addition to David Packard, its members included Louis W. Cabot, Charles J. Pilliod, Jr., R. James Woolsey, and the late Ernest C. Arbuckle.

practices have resulted in much higher productivity and much higher quality in the products being produced. They involve the participation of all of the people in the organization in deciding among themselves how the job can best be done. They involve, above all, trust in people. They involve the belief that people in an organization want to do a good job, and that they will—if given the opportunity—all contribute their knowledge, skill, and enthusiasm to work together to achieve the aims and goals of their organization. Supervision can be minimized, and detailed review of work can be greatly reduced. A real sense of teamwork can be established. Every group in an organization can become a center of excellence, and in this way the entire organization achieves a level of excellence in every aspect of its work.

Centers of excellence have evolved here and there in the acquisition process, in the form of project teams that have developed and produced new weapons rapidly, efficiently, and with high quality performance. Unfortunately, this is not the way DoD typically operates. All too many people in DoD work in an environment of far too many laws, regulations, and detailed instructions about how to do their work. Far too many inspectors and auditors check their work, and there is a hierarchy of oversight in far too many layers, requiring much wasteful reporting and paperwork.

The quest for excellence in defense management will be successful only if a new management philosophy can replace the old. Instead of concentrating on the things that are being done wrong and trying to fix them with more laws, more regulations, and more inspectors, DoD should concentrate on those things that are done right and use them as models.

Common sense must be made to prevail alike in the enactments of Congress and the operations of the Department. We must give acquisition personnel more authority to do their jobs. We must make it possible for people to do the right thing the first time and allow them to use their common sense. When this is done, layers of supervision can be eliminated, reporting can be minimized, and DoD can get by with far fewer people. Only then will productivity and quality become hallmarks of defense acquisition.

II. The Scope of the Defense Acquisition System

Defense acquisition is the largest business enterprise in the world. Annual purchases by the Department of Defense (DoD) total almost \$170 billion—more than the combined purchases of General Motors, EXXON, and IBM. DoD's research and development (R&D) expenditures are more than fifteen times those of France, Germany, or the United Kingdom, and eighty times those of Japan. Defense acquisition involves almost 15 million separate contract actions per year—or an average of 56,000 contract actions every working day.

DoD makes only a small percentage of its equipment. It depends primarily on the nation's industrial companies to develop its weapons and to manufacture everything from belt buckles to aircraft carriers. In general, these companies do not work solely on defense contracts. Most of the top 50 defense contractors also engage in substantial commercial production. Boeing, for example, supplies aircraft both to DoD and to commercial airlines. IBM supplies computers for military and commercial applications. In this way, the technological base developed for commercial products can be effectively applied to military products, and vice versa. On the other hand, this dual commercial-military product base greatly complicates DoD's task of regulating and auditing the technical and financial performance of industry.

DoD employs more than 165,000 people, both civilian and military, to manage this vast array of R&D, procurement, and logistics programs. Nearly all of these people work for the Services, which directly manage these programs subject to the oversight of a relatively small staff in the Office of the Secretary of Defense (OSD). Further oversight is provided by the Executive Office of the President, including the Office of Management and Budget, particularly in connection with the President's defense budget. And the Congress, in exercising its constitutional responsibility to provide for our Armed Forces, authorizes and appropriates funds for each of more than 2,600 specified procurement and R&D line items, and plays a major role in overseeing acquisition programs.

A responsible analysis of problems in the defense acquisition system must take into account the complexity and scope of acquisition programs. A responsible prescription for change must address the actions of everyone who—for better or worse—can influence these programs, from defense contractors and program managers to OSD officials and Members of Congress.

III. Problems With the Present Acquisition System

All of our analysis leads us unequivocally to the conclusion that the defense acquisition system has basic problems that must be corrected. These problems are deeply entrenched and have developed over several decades from an increasingly bureaucratic and overregulated process. As a result, all too many of our weapon systems cost too much, take too long to develop, and, by the time they are fielded, incorporate obsolete technology.

Recent public attention has focused on cases of spare parts overpricing that have been prominently reported by the media. Many of these cases were uncovered by DoD itself, which has a major effort underway to detect spare parts overpricing and to minimize such problems in the future. By contrast, we have focused on the acquisition of major weapon systems, because improved efficiency there can lead to cost savings greater by orders of magnitude. We nonetheless also analyzed the spare parts cases to determine whether they are indicative of systemic problems and, if so, how these should be addressed. Although each of the cases we examined had its own peculiarities, we identified a number of problems that frequently recurred: for example, government insistence on rigid custom specifications for products, despite the commercial availability of adequate alternative items costing much less; the ordering of spare parts so late in a program, after the close of the production line, that they must be expensively hand tooled; the use of unsuitable cost allocation procedures that grossly distort the price tags of inexpensive spare parts; the buying of spare parts in uneconomically small quantities and hence at higher prices; and the simple exercise of poor judgment by acquisition personnel.

In general, we discovered, these problems were seldom the result of fraud or dishonesty. Rather they were symptomatic of other underlying problems that affect the entire acquisition system. Ironically, actions being prescribed in law and regulation to correct spare parts procurement tend to exacerbate these underlying problems by making acquisition procedures even more inflexible and by removing whatever motivation exists for the exercise of individual judgment. This Chapter will concentrate on ways of improving the efficiency of the overall acquisition system. Removing bureaucratic inefficiencies in our acquisition of major weapon systems also will realize significant improvements in our procurement of associated spare parts.

Problems with the present defense acquisition system begin with the establishment of approved "military requirements" for a new weapon, a step that occurs before development starts. Two common methods exist for establishing the need for a new system—"user pull" and "technology push." Both methods are unsatisfactory.

User pull defines the institutional process by which users (notably the Services) assess the adequacy of existing weapons to meet military needs, and state the characteristics of the next generation of equipment desired to overcome identified inadequacies. In general, this process does not adequately involve participants with a sophisticated knowledge of the cost and schedule implications of technical improvements required to satisfy these characteristics. Consequently, user pull often leads to goldplating—that is, the inclusion of features that are desirable but whose cost far exceeds their real value. If users understood the likely impact of their requirements on the schedule, quantity, and maintainability of the weapons they eventually received, they would have strong motivation for compromise. Generally, however, that compromise—a conscious trade-off between performance and cost—does not take place to an adequate degree. Implicitly, it is assumed that military requirements should be "pure," and that any necessary trade-offs will take place later in the process.

Alternatively, requirements often are established by technology push. A government or industry team conceives of a new or advanced technology. It then tries to persuade users to state requirements that will exploit the new technology. Most of the really significant improvements in military technology—radar, jet engines, and the atomic bomb, for example—have occurred by technology push rather than by an abstract statement of requirements. Because participants in this process tend to push technology for its own sake, however, this method is no less prone to result in goldplating than user pull.

Once military requirements are defined, the next step is to assemble a small team whose job is to define a weapon system to meet these requirements, and "market" the system within the government, in order to get funding authorized for its development. Such marketing takes place in a highly competitive environment, which is desirable because we want only the best ideas to survive and be funded. It is quite clear, however, that this competitive environment for program approval does not encourage realistic estimates of cost and schedule. So, all too often, when a program finally receives budget approval, it embodies not only overstated requirements but also understated costs.

Funding having been approved, the DoD program team is then enlarged and given the task of preparing detailed specifications. Weapon system

specifications for a major program typically run to thousands of pages, not counting generic military specifications included by reference. System specifications effectively become a surrogate for overstated military requirements, which tend to fade from view.

DoD then invites industry to bid on the program. The overly detailed system specifications serve as a basis for defense contractors to prepare competitive proposals describing how they would meet the specifications, and at what cost to them and price to the government. The preparation of competitive proposals may very well expose technical problems with the specifications, or reveal modifications that would be cost effective. The environment in which program competition typically takes place, however, encourages improvements *within* specifications, but discourages modifications that *deviate* from specifications. This effectively forecloses one principal factor—trade-offs between performance and cost—on which the competition should be based. The resulting competition, based instead principally on cost, all too often goes to the contractor whose bid is the most optimistic.

In underbidding, contractors assume there will be an opportunity later in a program to negotiate performance trade-offs that make a low bid achievable, or to recover overstated costs through engineering change orders. Today, however, most production and many development contracts are negotiated on a firm, fixed-price basis. For the government, the advantages of a fixed-price arrangement, particularly the incentives it creates for realistic bidding, are obvious. The disadvantages to the government, while more subtle, are nevertheless of real concern. Fixed-price contracts effectively can enshrine overstated requirements and understated costs in a legal arrangement that allows little or no flexibility for needed trade-offs between cost and performance. This contractual arrangement, intended to protect the government, may cause both sides to lose.

In the face of these daunting problems, DoD selects a successful bidder and launches the program. The DoD program manager sets out to accomplish the improbable task of managing his overspecified and underfunded program to a successful conclusion.

But what was merely improbable soon becomes impossible. The program manager finds that, far from being the manager of the program, he is merely one of the participants who can influence it. An army of advocates for special interests descends on the program to ensure that it complies with various standards for military specifications, reliability, maintainability, operability, small and minority business utilization, and competition, to name a few. Each of these advocates can demand that the program manager take or refrain from taking some action, but none of them has any responsibility for the ultimate cost, schedule, or performance of the program.

None of the purposes they advocate is undesirable in itself. In the aggregate, however, they leave the program manager no room to balance their many demands, some of which are in conflict with each other, and most of which are in conflict with the program's cost and schedule objectives. Even more importantly, they produce a diffusion of management responsibility, in which everyone is responsible, and no one is responsible.

Meanwhile, throughout this process, various committees of Congress are involved. During the marketing phase, it is not enough for the program manager to sell the program to his Service leaders and the various staffs in the Office of the Secretary of Defense. He also must sell the program to at least four committees and to numerous subcommittees of Congress, and then resell it for each fiscal year it is considered. In so doing, the program manager is either assisted or opposed by a variety of contractors, each advocating its own views of the program on Capitol Hill. While congressmen have an abstract interest in greater program effectiveness, they also have an intense pragmatic interest in their own constituencies. These two interests are frequently in conflict, as they exert pressure on specific programs through legislative oversight.

All of these pressures, both internal and external to DoD, cause the program manager to spend most of his time briefing his program. In effect, he is reduced to being a supplicant for, rather than a manager of, his program. The resulting huckster psychology does not condition the program manager to search for possible inconsistencies between performance and schedule, on the one hand, and authorized funding, on the other. Predictably, there is a high incidence of cost overruns on major weapon systems programs.

But a much more serious result of this management environment is an unreasonably long acquisition cycle—ten to fifteen years for our major weapon systems. This is a central problem from which most other acquisition problems stem:

- It leads to unnecessarily high costs of development. Time is money, and experience argues that a ten-year acquisition cycle is clearly more expensive than a five-year cycle.
- It leads to obsolete technology in our fielded equipment. We forfeit our five-year technological lead by the time it takes us to get our technology from the laboratory into the field.
- And it aggravates the very goldplating that is one of its causes. Users, knowing that the equipment to meet their requirements is fifteen years away, make extremely conservative threat estimates. Because long-term forecasts are uncertain at best, users tend to err on the side of overstating the threat.

This description of the acquisition system is stark, but it by no means exaggerates the environment of many, if not most, defense programs. Given this pernicious set of underlying problems, it is a tribute to the dedication of many professionals in the system, both in and out of DoD, that more programs do not end up in serious trouble.

IV. An Acquisition Model To Emulate

Problems attendant to defense acquisition are not new, nor are such problems unique to DoD. Rather, they are typical of the way in which large bureaucracies, particularly government bureaucracies, manage large, complex projects. With this in mind, we compared how other large institutions have managed programs of similar complexity—that is, multi-year, multi-billion dollar programs incorporating state-of-the-art technology.

Two recent efforts have been made to draw such a comparison (see Appendix F). Notably, average cost growth in major defense programs has been found to be less than that experienced by many comparable civil programs, including highway projects, water projects, public buildings, and large processing plants. The good news from these studies is that DoD is no worse than other large bureaucratic organizations in managing major programs.

This leaves unanswered, however, what level of excellence can be achieved in defense programs. To answer this question, a landmark study was undertaken by the Defense Science Board (DSB) last year. The DSB compared typical DoD development programs with successful programs from private industry. It used as case studies the development of the IBM 360 computer, the Boeing 767 transport, the AT&T telephone switch, and the Hughes communication satellite. Each of these programs compares in complexity and size to a major weapon system development, yet each took only about half as long to develop and cost concomitantly less. These commercial programs clearly represent the models of excellence we are seeking, but it is not obvious that DoD, or any large bureaucratic organization, can follow successfully the management procedures used in private industry.

To address that question, the Acquisition Task Force examined several DoD programs that were developed under special streamlined procedures—the Polaris missile, the Minuteman missile, the air-launched cruise missile (ALCM), and several highly classified projects. We found that, in these programs, DoD achieved the accelerated schedules of the successful commercial programs.

It is clear that major savings are possible in the development of weapon systems if DoD broadly emulates the acquisition procedures used in outstanding commercial programs. In a few programs, DoD has demonstrated that this can be done. The challenge is to extend the correct management

techniques to all major defense acquisitions, and more widely realize the attendant benefits in schedule and costs.

To this end, we analyzed a number of successful programs to identify management features that they had in common, and that could be incorporated in the defense acquisition system. We identified six underlying features that typified the most successful commercial programs:

1. **Clear command channels.** A commercial program manager has clear responsibility for his program, and a short, unambiguous chain of command to his chief executive officer (CEO), group general manager, or some comparable decision-maker. Corporate interest groups, wishing to influence program actions, must persuade the responsible program manager, who may accept or reject their proposals. Major unresolved issues are referred to the CEO, who has the clear authority to resolve any conflicts.

2. **Stability.** At the outset of a commercial program, a program manager enters into a fundamental agreement or "contract" with his CEO on specifics of performance, schedule, and cost. So long as a program manager lives by this contract, his CEO provides strong management support throughout the life of the program. This gives a program manager maximum incentive to make realistic estimates, and maximum support in achieving them. In turn, a CEO does not authorize full-scale development for a program until his board of directors is solidly behind it, prepared to fund the program fully and let the CEO run it within the agreed-to funding.

3. **Limited reporting requirements.** A commercial program manager reports only to his CEO. Typically, he does so on a "management-by-exception" basis, focusing on deviations from plan.

4. **Small, high-quality staffs.** Generally, commercial program management staffs are much smaller than in typical defense programs, but personnel are hand-selected by the program manager and are of very high quality. Program staff spend their time managing the program, not selling it or defending it.

5. **Communications with users.** A commercial program manager establishes a dialogue with the customer, or user, at the conception of the program when the initial trade-offs are made, and maintains that communication throughout the program. Generally, when developmental problems arise, performance trade-offs are made—with the user's concurrence—in order to protect cost and schedule. As a result, a program manager is motivated to seek out and address problems, rather than hide them.

6. **Prototyping and testing.** In commercial programs, a system (or critical subsystem) involving unproven technology is realized in prototype hardware and tested under simulated operational conditions before final design approval or authorization for production. In many cases, a program manager establishes

a "red team," or devil's advocate, within the program office to seek out pitfalls—particularly those that might arise from operational problems, or from an unexpected response by a competitor. Prototyping, early operational testing, and red teaming are used in concert for the timely identification and correction of problems unforeseen at a program's start.

It is clear from our earlier description that defense acquisition typically differs from this commercial model in almost every respect. Yet a number of successful DoD programs have incorporated some or all of these management features to a greater or lesser degree. We therefore concentrated our efforts on deriving a formula for action—steps by which defense acquisition can come to emulate this model to the maximum extent practical.

V. A Formula for Action

While we would model defense acquisition after the practices of the best industrial companies, we recognize the unique problems DoD faces. Management of the acquisition of military equipment requires a unique blend of flexibility and judgment. The contributions of innovative scientists and engineers, necessary for equipment to achieve maximum performance, must be matched by those of military personnel who will use and maintain the equipment. Overlaying these complexities is the need for an informed trade-off between quantity and quality. At some point, more weapons of lower performance can overcome fewer weapons of higher performance. Hence it is necessary to achieve a critical balance between high military capability and low life cycle cost. In these and other respects, defense acquisition is one of the most difficult management jobs.

Despite the difficulties, we believe it is possible to make major improvements in defense acquisition by emulating the model of the most successful industrial companies. Surely this will not be easy, because present procedures are deeply entrenched. Acquisition problems have been with us for several decades, and are becoming more intractable with the growing adversarial relationship between government and the defense industry, and the increasing tendency of Congress to legislate management solutions. In frustration, many have come to accept the ten-to-fifteen-year acquisition cycle as normal, or even inevitable.

We believe that it is possible to cut this cycle in half. This will require radical reform of acquisition organization and procedures. It will require concerted action by the Executive Branch and Congress, and the full support of defense industry. Specifically, we recommend that the Administration and Congress join forces to implement the following changes in the defense acquisition system.

A. Streamline Acquisition Organization and Procedures

As we noted in our *Interim Report*, federal law governing acquisition has become steadily more complex, the acquisition system more bureaucratic, and acquisition management more encumbered and unproductive. In the absence of a single, senior DoD official working full time to supervise the overall

acquisition system, policy responsibility has become fragmented. As a result, the Services have tended to assume policy responsibilities and to exercise them at times without necessary coordination or uniformity. Worse still, authority for executing acquisition programs—and accountability for their results—has become vastly diluted.

For these reasons, it is fundamental that we establish unambiguous authority for overall acquisition policy, clear accountability for acquisition execution, and plain lines of command for those with program management responsibilities. It is also imperative that we streamline acquisition procedures. This can be facilitated by five related actions:

1. We strongly recommend creation by statute of the new position of Under Secretary of Defense (Acquisition) and authorization of an additional Level II appointment in the Office of the Secretary of Defense (OSD).

This new Under Secretary should have full-time responsibility for managing the defense acquisition system. He should be a Level II Presidential appointee and should have a solid industrial background in the management of complex technical programs. The new Under Secretary should be the Defense Acquisition Executive. As such, he should supervise the performance of the entire acquisition system and set overall policy for R&D, procurement, logistics, and testing. He should have the responsibility to determine that new programs are thoroughly researched, that military requirements are verified, and that realistic cost estimates are made before the start of full-scale development. (In general, we believe, cost estimates should include the cost of operating and maintaining a system through its life.) He should assure that an appropriate type of procurement is employed, and that adequate operational testing is done before the start of high-rate production. He also should be responsible for determining the continuing adequacy of the defense industrial base.

Appendix G sets out an illustrative reorganization of acquisition responsibilities within OSD. Reporting to the new Under Secretary should be a Director of Research and Engineering*; an Assistant Secretary of Defense for Production and Logistics*; the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence; the Director of Operational Test and Evaluation; and such other offices and agencies as the Secretary of Defense may designate. The Under Secretary should be responsible to the Secretary of Defense for balancing the sometimes conflicting views and interests of these various offices. He should establish overall acquisition policy.

*We use these new titles to represent a reorganization of acquisition responsibilities for officials reporting to the new Under Secretary.

as well as contract audit policy; should promulgate and issue appropriate directives and regulations; and, except for criminal investigations, should supervise oversight of defense contractors. Finally, he should prepare annual and other reports to Congress on major issues of acquisition policy and on acquisition programs.

2. The Army, Navy, and Air Force should each establish a comparable senior position filled by a top-level civilian Presidential appointee.

The Commission considered recommendations to consolidate all defense acquisition activities under the Defense Acquisition Executive, but concluded that such centralization would not serve the cause of reducing the bureaucracy, because it would tend to separate further the acquisition staff from the military user. We believe that it is important to maintain the Services' traditional role in managing new weapon programs.

Accordingly, we recommend that each of the Military Departments establish a Service Acquisition Executive selected by the Service Secretary in consultation with the Defense Acquisition Executive. The Service Acquisition Executive should be a top-level civilian Presidential appointee, of rank equivalent to a Service Under Secretary. He should be responsible for administering Service acquisition programs under policy guidance from the Defense Acquisition Executive; accordingly, he should have substantial experience in acquisition and should devote full time to his acquisition responsibilities. For major programs, the Defense Acquisition Executive and his Service counterpart should function respectively like chief executive officers of a corporation and a principal corporate subsidiary. They should resolve major issues and conflicts as they arise, and represent programs before most senior decision-makers (here, the Secretary of Defense, the President, and Congress, rather than a board of directors).

3. Each Service Acquisition Executive should appoint a number of Program Executive Officers.

Each Service Acquisition Executive should appoint a number of Program Executive Officers (PEO) who, like group general managers in industry, should be responsible for a reasonable and defined number of acquisition programs. Program managers for these programs should be responsible directly to their respective PEO and, on program matters, report *only* to him. In other words, every major program should be set up as a center of excellence and managed with modern techniques. The Defense Acquisition Executive should insure that no additional layers are inserted into this program chain of command.

4. Federal laws governing procurement should be recodified into a single, greatly simplified statute applicable government-wide.

A streamlined organization for defense acquisition is not enough. It must

be matched by streamlined procedures. Over the years, Congress and DoD have tried to dictate management improvements in the form of ever more detailed and extensive laws or regulations. As a result, the legal regime for defense acquisition is today impossibly cumbersome. For example, we have identified 394 different regulatory requirements in the Federal Acquisition Regulation (FAR) and the DoD FAR supplement that are pegged to some 62 different dollar thresholds, ranging from as little as \$15 to as much as \$100 million or more. In our judgment, there can be far fewer of these requirements, and those that are retained can apply at far fewer dollar thresholds.

The sheer weight of such requirements often makes well-conceived reform efforts unavailing. At operating levels within DoD, it is now virtually impossible to assimilate new legislative or regulatory refinements promptly or effectively. For these reasons, we recommend that Congress work with the Administration to recodify federal laws governing procurement in a single, consistent, and greatly simplified procurement statute.

5. DoD should substantially reduce the number of acquisition personnel.

The fundamental intent of the Commission's recommendations is to simplify the acquisition system by consolidating policy and oversight, reducing reporting chains, eliminating duplicative functions and excessive regulations, and establishing an environment in which program managers and their staffs can operate as centers of excellence. This should allow for a substantial reduction in the total number of personnel in the defense acquisition system, to levels that more nearly compare with commercial acquisition counterparts. Eliminating a layer of management by moving the functions and people of that layer to some other layer clearly will not suffice.

B. Use Technology to Reduce Cost

We recommend a high priority on building and testing prototype systems to demonstrate that new technology can substantially improve military capability, and to provide a basis for realistic cost estimates prior to a full-scale development decision. Operational testing should begin early in advanced development, using prototype hardware. The early phase of R&D should employ extensive informal competition and use streamlined procurement processes. To promote innovation, the Defense Advanced Research Projects Agency should engage in prototyping and other advanced development work on joint programs and in areas not adequately emphasized by the Services.

Fully exploiting our technological leadership is critical to the national security. The Soviet Union has twice as many personnel in its armed forces,

and produces military equipment in far greater quantities than the United States. We depend on our technological advantage to offset this quantitative disadvantage. But our technology can be exploited in two quite different ways: to reduce cost (so that we can better compete in quantity), or to increase performance (so that we can compensate for our smaller quantity).

We believe that DoD should place a much greater emphasis on using technology to reduce cost—both directly by reducing unit acquisition cost and indirectly by improving the reliability, operability, and maintainability of military equipment. Cost reduction has been a primary motivation in the introduction of new technology to commercial products. This emphasis has led to a tenfold reduction in the cost of computer products during the past decade. DoD should give a similar high priority to cost reductions by exerting greater discipline in the setting of performance requirements for new platforms, and by increasing the use of technology to extend the life of existing platforms. We could, for example, extend the effective life of most of our existing aircraft ten to twenty years by replacing their electromechanical subsystems with modern microelectronics. This would reduce the cost of operating and maintaining our aircraft, and at the same time improve their performance.

In some of our new weapon systems—fighter aircraft, for example—the need for maximum performance will be sufficiently compelling to justify the introduction of state-of-the-art technology. But this is not the case for all new systems. A weapon system should be predicated on state-of-the-art technology only when the benefits of the new technology offset the concomitant risks. This principle, easy to state, is hard to apply because of the difficulty in getting reliable information with which to make the trade-off of risks and benefits.

The only consistently reliable means of getting such information is by building prototypes that embody the new technology. Accordingly, we recommend that such prototyping, either at the system or critical subsystem level, be done as a matter of course for all major weapon systems. Operational tests should be combined with developmental tests of the prototype to uncover operational as well as technical deficiencies before a decision is made to proceed with full-scale development.

The early phase of R&D should follow procedures quite different from those of approved production programs, in order to complete the entire prototyping cycle in two or three years. Contracting should be streamlined to speed up the process of evaluating diverse new ideas. In the advanced technology phase of a program, competition should play a critical role, but the emphasis should be on an informal competition of ideas and technologies, rather than a formal competition of cost. At this stage, a formal competition based on detailed specifications not only is ineffective, but also introduces

substantial delay. In fact, recent emphasis on cost competition has stretched out the time required to let some R&D contracts from a few months to as much as a year.

In general, prototyping and testing in the early stage of R&D should be done by the Service that would be the primary user of the resulting system. In order to promote the use of prototyping, however, we recommend expanding the role of the Defense Advanced Research Projects Agency (DARPA).

At present, DARPA conducts research and exploratory development in high-risk, high-payoff technologies. DARPA should have the additional mission of stimulating a greater emphasis on prototyping in defense systems. It should do this by actually conducting prototype projects that embody technology that might be incorporated in joint programs, or in selected Service programs. On request, it also should assist the Services in their own prototyping programs. The common objective of all of these prototyping programs should be to determine to what extent a given new technology can improve military capability, and to provide a basis for making realistic cost estimates prior to a decision on full-scale development. In short, the prototype program should allow us to fly—and know how much it will cost—before we buy.

C. Balance Cost and Performance

A restructured Joint Requirements and Management Board (JRMB), cochaired by the Under Secretary of Defense (Acquisition) and the Vice Chairman of the Joint Chiefs of Staff, should play an active and important role in all joint programs and in all major Service programs. The JRMB should define weapon requirements for development, and provide thereby an early trade-off between cost and performance.

Full-scale development of a new weapon system is the single most critical step in the acquisition process. At this point, a number of fundamental decisions must be made—whether to undertake a new development or adapt an existing system, how far to push the new technology being incorporated in the system, what cost and schedule to authorize, and what the management structure will be. Misjudgment about any of these items can start a program off on a course that dooms it to failure. Currently, this critical decision is made by the Secretary of Defense, acting on advice from the Defense Systems Acquisition Review Council (DSARC), after the DSARC has made a detailed review of whether the proposed system will meet the stated user requirements and whether the cost and schedule estimates are credible. The recommended new emphasis on prototyping will contribute materially to improving the

judgments about cost and schedule estimates. But the DSARC process, while adequate to determine whether the proposed specifications will meet the stated user requirements, lacks a viable mechanism for *challenging* those requirements.

Fundamental to the ultimate success of a new program is an informed trade-off between user requirements, on the one hand, and schedule and cost, on the other. A delicate balance is required in formulating system specifications that allow for a real advance in military capability but avoid goldplating. Generally, users do not have sufficient technical knowledge and program experience, and acquisition teams do not have sufficient experience with or insight into operational problems, to strike this critical balance. It requires a blend of diverse backgrounds and perspectives that, because the pressures for goldplating can be so great, must be achieved at a very high level in DoD.

The DSARC is not the proper forum for effecting this balance. It has had very little success, for example, in stimulating the use of nondevelopmental items as an alternative to developing unique military products. Any time the military needs new trucks, tractors, radios, computers, and transport aircraft, for example, it should be the rule rather than the exception that DoD adapts products already developed by industry or by the armed forces of an allied nation. Much greater reliance on such items could realize major savings of money and time, but experience indicates that a decision to use nondevelopmental items must come from a high level in DoD, and must reflect operational judgment as well as technical sophistication.

We recommend, therefore, that the JRMB be restructured to make such trade-offs and then to decide whether to initiate full-scale development. The JRMB should have this authority for all joint programs and appropriate Service programs. It should evaluate major trade-offs proposed as a program progresses. Its determination, in effect, should substitute for the decision now made by the DSARC at what is called Milestone II. The JRMB should be cochaired by the Under Secretary of Defense (Acquisition) and the Vice Chairman of the Joint Chiefs of Staff.

Thus, the JRMB should be responsible for two decisions commonly made in industry, but not now an explicit part of DoD's decision-making process. One of these is the "affordability" decision, and the other is the "make-or-buy" decision.

The affordability decision requires that a subjective judgment be made on how much a new military capability is worth. If a new weapon system can be developed and produced at that target cost, it may be authorized for development; otherwise, ways should be found to extend the life of the existing system. Determining a target cost is difficult, to be sure, but CEOs in industry must make comparably difficult decisions on which their companies' survival depends.

The make-or-buy decision requires that the JRMB assess the need for a unique development program, and determine if it is possible instead to buy or adapt an existing commercial or military system. At present, DoD passes up many valid opportunities for adapting existing systems, opportunities that could improve military capability more quickly and at reduced cost.

D. Stabilize Programs

Program stability must be enhanced in two fundamental ways. First, DoD should fully institutionalize “baselining” for major weapon systems at the initiation of full-scale engineering development. Second, DoD and Congress should expand the use of multi-year procurement for high-priority systems.

In connection with the decision to begin full-scale development of a major new program, the program manager should prepare a brief baseline agreement describing functional specifications, cost, schedule, and other factors critical to the program's success. This baseline agreement should be submitted, through the responsible Program Executive Officer and the Service Acquisition Executive, for approval by the Defense Acquisition Executive.

Within the terms of this agreement, the program manager should have full authority to execute the program. He should be fully committed to abide by the program's specified baseline and, so long as he does so, the Defense and Service Acquisition Executives should support his program and permit him to manage it. This arrangement would provide much-needed program stability, which could be enhanced significantly if the program were approved for multi-year funding. We recommend that Congress approve multi-year funding for the development and low-rate production of all major programs approved for full-scale development by the JRMB. In this way, Congress could join in the baseline agreement with the program manager, enhance program stability, and promote lower unit prices.

A program manager should agree to a baseline for all phases of his program. For the Acquisition Executives, however, the agreement should extend only to the first two phases of a program, full-scale development and low-rate production. Before a program could enter its third phase, high-rate production, it must be subjected to developmental and operational testing. Operational tests are particularly critical, and should continue through full-scale development. The first units that come off a low-rate production line should be subjected to intensive operational testing. Low-rate production should continue during testing, but a program should not be approved for high-rate production until the results of these tests are evaluated.

The JRMB should then reconsider the program at its second major milestone—whether to authorize high-rate production, at what level of

funding, and on what schedule. At this stage, available test results should provide a realistic portrait of the weapon's probable performance under operational conditions, current intelligence data should yield a realistic threat estimate, and low-rate production experience should provide a realistic estimate of production costs. Thus, the JRMB would possess the necessary data to make an informed judgment on high-rate production.

If the JRMB so determines, a program manager could proceed in accordance with the balance of his baseline agreement. Congress would be asked to authorize multi-year funding for the production phase of the program.

E. Expand the Use of Commercial Products

Rather than relying on excessively rigid military specifications, DoD should make greater use of components, systems, and services available "off-the-shelf." It should develop new or custom-made items only when it has been established that those readily available are clearly inadequate to meet military requirements.

No matter how DoD improves its organization or procedures, the defense acquisition system is unlikely to manufacture products as cheaply as the commercial marketplace. DoD cannot duplicate the economies of scale possible in products serving a mass market, nor the power of the free market system to select and perpetuate the most innovative and efficient producers. Products developed uniquely for military use and to military specifications generally cost substantially more than their commercial counterparts. DoD program managers accordingly should make maximum use of commercial products and devices in their programs.

A case in point is the integrated circuit or microchip—an electronic device used pervasively in military equipment today. This year DoD will buy almost \$2 billion worth of microchips, most of them manufactured to military specifications. The unit cost of a military microchip typically is three to ten times that of its commercial counterpart. This is a result of the extensive testing and documentation DoD requires and of smaller production runs. (DoD buys less than ten percent of the microchips made in the U.S.) Moreover, the process of procuring microchips made to military specifications involves substantial delay. As a consequence, military microchips typically lag a generation (three to five years) behind commercial microchips.

When military specifications for microchips were first established, they assured a high standard of quality and reliability that was worth a premium price. The need for quality and reliability in military equipment is as great as

ever. In the last few years, however, industrial consumers of microchips have come to demand equivalent standards, and manufacturing processes and statistical methods of quality control have been greatly improved. It is now possible for DoD program managers to buy the bulk of their microchips from commercial lines with adequate quality and reliability, and thus to get the latest technology at a substantially lower cost. The Electronic Systems Division, responsible in the Air Force for the quality of electronic devices, recently began revising its procedures to achieve these objectives. We recommend that the Air Force accelerate its efforts and that the other Services follow its lead.

This same principle—the expanded use of commercial items—can apply to a great variety of products and services bought by DoD. These range from personal computers, computer software, and professional services, to a host of non-technical products such as bath towels and steak sauce.

We recommend that the Defense Acquisition Executive take steps to assure a major increase in the use of commercial products, as opposed to those made to military specifications. He should direct that program managers get a waiver before using a product made to military specifications, if there is an available commercial counterpart. When a “make-or-buy” decision must be made, the presumption should be to buy. This would invert present procedures, biasing the system in favor of commercial products and services, but permitting the use of items made to military specifications whenever a program manager believes it necessary to do so.

In addition, we recommend that the DoD Supplement to the Federal Acquisition Regulation be changed to encourage streamlining military specifications themselves. Applying full military specifications, far from being ideal, can be wasteful. A program manager should strive to invoke neither minimum nor maximum, but only relevant, requirements; and he should think in terms of optimization rather than deviations and waivers.

Thus, DoD should reduce its use of military specifications when they are not needed, and should take steps to improve the utility of military specifications when they are needed. This will require a serious effort to harmonize military specifications with the various commercially used specifications. For example, required military drawings for integrated circuits could incorporate a manufacturer's standard design specifications, test methods, and test programs. More generally, military specifications could be based on industry standards, such as those promulgated by the American National Standards Institute and the American Society for Testing and Materials. This would provide the technical underpinning for DoD to make substantially greater use of commercial devices and products, and thereby take advantage of the much lower costs that result from larger production runs.

One indirect benefit of buying commercial products is that the price is determined by market forces. This should relieve DoD of the administrative burden and cost of verifying a producer's overhead costs. For DoD to realize the full benefit of commercial buying, it should let competitive market forces provide a check on price and direct its own attention to validating quality.

A more detailed explanation of current issues concerning the expanded use of commercial products is contained in Appendix H.

F. Increase the Use of Competition

Federal law and DoD regulations should provide for substantially increased use of commercial-style competition, emphasizing quality and established performance as well as price.

Even when commercial products are not suitable for DoD's purposes, it can still use commercial buying practices to real advantage. Foremost among these practices is competition, which should be used aggressively in the buying of systems, products, and professional services. DoD clearly understands the need for such competition, which was articulated in the 1981 Carlucci Initiatives. Although DoD has made major efforts in this direction, much more can be done. It is particularly important to focus on achieving more effective competition, modeled after the competitive procurement techniques used in industry.

Commercial procurement competition simultaneously pursues several related objectives: attracting the best qualified suppliers, validating product performance and quality, and securing the best price. Price is, of course, as important a factor in commercial procurement as it is in DoD procurement. But it is only one of several equally important factors. Price should not be the sole determinant, especially for procurement of complex systems and services. Defense procurement tends to concentrate heavily on selecting the lowest price offeror, but all too often poorly serves or even ignores other important objectives.

In validating product quality, for example, DoD places too much emphasis on specific details of how the manufacturing process is to be done and too little on modern techniques of quality control. Industry makes extensive use of statistical sampling, and will accept or reject an order on that basis. Typically, an industrial company will keep lists of qualified suppliers that have maintained historically high standards of product quality and reliability. As long as these standards are maintained, industrial buyers do not require exhaustive inspection, and thereby save expense on both sides. Suppliers are highly motivated to get—and stay—on lists of qualified suppliers by

consistently exceeding quality control standards.

Moreover, because competition is not a one-way street for the buyer, defense procurement practices must be less cumbersome if DoD is to attract the best suppliers. Procurement officers must be allowed and encouraged to solicit bids through purchase descriptions that are stated as functional performance characteristics rather than through detailed design and "how-to" specifications; to limit bids to qualified suppliers; to give preference to suppliers that have demonstrated the quality and reliability of their products; and to recognize value (quality and price) based on products' commercial acceptance in the marketplace. These practices have been found to yield effective competition in the commercial field, and their use in defense acquisition could provide better military equipment at no increase in cost.

Although Congress has ardently advocated increasing competition, some provisions of recent legislation in fact work at cross purpose to that objective. For example, burdening suppliers of off-the-shelf catalog items to identify all component parts and their producers, or to submit detailed pricing certifications, inhibits qualified companies from competing for government contracts. Regulatory implementation—for example, DoD's efforts to require contractors to release rights in technical data on their products—has a similar effect.

A further problem stems from confusion regarding the intent of recent legislation—notably the Competition in Contracting Act's (CICA) requirement of "full and open competition," which some have interpreted to mean that the government *must* buy from the lowest offeror. CICA sought to make it clear that the award of a contract through competitive negotiation is a method of procurement no less acceptable than an award using formal advertising or sealed bids, and thus to recognize that competition entails more than just an assessment of lowest price. This goal has been obscured by the notion that full and open competition precludes the government from establishing qualification criteria, and forces the award of a contract based on price without regard, for example, to technical expertise or life cycle costs. This reinforces DoD's proclivity for writing detailed military specifications rather than functional product descriptions—in this context, in order to insure that all bidders offer identical items. At the same time, however, these narrow product specifications preclude the acquisition of most commercial products and, in effect, DoD's doing business with many qualified suppliers. Thus, the full potential of CICA is not being realized because of a focus on the quantity rather than the quality of competition.

In sum, we believe that DoD should greatly increase its use of truly effective competition, using as a model the competitive buying practices of

major corporations and their suppliers. We recommend the elimination of those legal and regulatory provisions that are at variance with full establishment of commercial competitive practices.

G. Clarify the Need for Technical Data Rights

DoD must recognize the delicate and necessary balance between the government's requirement for technical data and the benefit to the nation that comes from protecting the private sector's proprietary rights. That balance must be struck so as to foster technological innovation and private investment which is so important in developing products vital to our defense. DoD should adopt a technical data rights policy that reflects the following principles:

- **If a product has been developed with private funds, the government should not demand, as a precondition for buying that product, unlimited data rights (except as necessary for installation, operation, and maintenance), even if the government provides the only market. Should the government plan later to seek additional (competitive) sources, the required data rights should be obtained through the least-obtrusive means (e.g., directed licensing) rather than through the pursuit of unlimited rights.**
- **If a product is to be developed with mixed private and government funding, the government's rights to the data should be defined during contract negotiations. Significant private funding should entitle the contractor to retain ownership of the data, subject to a license to the government on a royalty-free or fair royalty basis.**
- **If a product is developed entirely with government funds, the government normally acquires all the rights in the resulting data. To foster innovation, however, the government should permit the rights to reside in the contractor, subject to a royalty-free license, if the data are not needed for dissemination, publication, or competition.**

DoD is a major developer and user of high technology, most of which comes from government contractors. DoD can use its unique position to enhance U.S. industry's worldwide technological position; or unwittingly, through the pursuit of other shorter term goals, to reduce incentives for developing new technology; or, even worse, make commercially valuable technology available to

international competitors. It is in our national interest to encourage innovation in the U.S.; and we should heed the words of Abraham Lincoln: "The patent system added the fuel of interest to the fire of genius."

In order to operate and maintain the systems it acquires, DoD must have certain rights to use internally technical data pertaining to products developed by its contractors. DoD's suppliers fully understand this need. Recently, however, these suppliers have become alarmed by DoD's increasingly vigorous pursuit of unlimited rights in technical data to be used in fostering competition.

DoD's search for technical data needed to obtain competition is reflected in the Department's new rights-in-data regulations and in its contracting actions. This search has been intensified as a result of unfavorable publicity, as well as recent legislative initiatives regarding competitive procurement practices in both DoD and the civil agencies. The two principal statutes resulting from these initiatives are broad and are thus susceptible to varying interpretation, particularly where the statutes use different words to address the same point. But DoD's approach to these problems is shaped less by statute than by its own policies. Because no concrete, plainly stated government-wide rights-in-data policy has been adopted or insisted upon, the Department (and each of the Services within DoD) has been left to develop an individual approach.

An authoritative statement of government-wide policy on balancing the interest of the parties in technical data is required. This in turn must be followed by specific implementing guidance in the Federal Acquisition Regulation (FAR), supplemented as necessary in the DoD FAR Supplement (DFARS). This guidance must embody uniform concepts and definitions to overcome the confusion and disagreement that now prevail among the separate components of DoD and among the departments and agencies of the executive branch.

The technical data rights regulations as now proposed need much work if they are to be fully responsive to the statutes, clear and consistent enough to be followed, and equitable. In this regard, DoD's rights-in-technical-data contract clause should be simplified and made more precise and workable.

In addition to refinement of the statutes and basic reworking of the procurement regulations touching on technical data, improvements are needed in the areas of commercial product data, software (which should have special treatment), and technical data management. A detailed analysis of the technical data rights issue is contained in Appendix I.

H. Enhance the Quality of Acquisition Personnel

DoD must be able to attract and retain the caliber of people necessary for a quality acquisition program. Significant improvements should be made in the senior-level appointment system. The Secretary of Defense should have

increased authority to establish flexible personnel management policies necessary to improve defense acquisition. An alternate personnel management system should be established to include senior acquisition personnel and contracting officers as well as scientists and engineers. Federal regulations should establish business-related education and experience criteria for civilian contracting personnel, which will provide a basis for the professionalization of their career paths. Federal law should permit expanded opportunities for the education and training of all civilian acquisition personnel.

Our study convinces us that lasting progress in the performance of the acquisition system demands dramatic improvements in our management of acquisition personnel at all levels within DoD.

A pivotal recommendation of the Commission is the establishment of the position of Under Secretary of Defense (Acquisition) and comparable Service positions, all to be filled by leaders with outstanding business management credentials. Recruiting the most capable executives for jobs of such importance to the nation is extremely difficult, however, in the face of current disincentives to entering public service. A recent report of the Presidential Appointee Project of the National Academy of Public Administration* analyzes this problem and details twenty-three separate recommendations for improving the recruitment of senior-level Executive Branch personnel. These include, for example, specific suggestions for simplifying financial disclosure reports and for allowing Presidential appointees to defer capital gains taxes incurred by divesting assets to comply with conflict-of-interest provisions. Such steps would improve the government's ability to attract and retain the highly qualified people needed for effective senior management of defense acquisition. We strongly support these proposals.

Comparable improvements also are required for effective middle management and better line personnel. The defense acquisition work force mingles civilian and military expertise in numerous disciplines for management and staffing of the world's largest procurement organization. Each year billions of dollars are spent more or less efficiently, based on the competence and experience of these personnel. Yet, compared to its industry counterparts, this workforce is undertrained, underpaid, and inexperienced. Whatever other changes may be made, it is vitally important to enhance the quality of the defense acquisition workforce—both by attracting qualified new personnel and

**Leadership In Jeopardy: The Fraying of the Presidential Appointments System* (Final Report of the Presidential Appointee Project), November 1985.

by improving the training and motivation of current personnel.*

The General Accounting Office (GAO) has been engaged in an important study to evaluate the capabilities of DoD program managers and contracting officers. The results of GAO's study[†] confirm the central importance of improving the quality of training for these two critical acquisition specialties.

The caliber of uniformed military personnel engaged in program management has improved significantly of late. Military officers manage over 90 percent of DoD's roughly 240 program offices. Their ranks range from 0–5 (lieutenant colonel/commander) to 0–8 (major general/rear admiral). Each of the Services has established a well-defined acquisition career program for its officers. These include the Army's Materiel Acquisition Management (MAM) program, the Navy's Materiel Professional (MP) programs, and detailed career planning regulations for Air Force technical personnel and program managers. We strongly support these measures. We also support recent legislation that has further defined career paths for all program managers. In 1984, Congress established a minimum four-year tenure for program management assignments. The 1986 Authorization Act prescribed requisite qualifications and training, including at least eight years of acquisition-related experience and appropriate instruction at the Defense Systems Management College (or equivalent training).

By contrast, much more remains to be done concerning civilian acquisition personnel generally. Civilians frequently cite the rigid pay grades and seniority-based promotion standards of the federal civil service as disincentives to continued employment. Higher pay and better opportunities in private industry lure the best college graduates and the brightest trainees away from government, particularly in such highly competitive fields as science, engineering, and contracting. One extremely important means to improve the acquisition workforce is to establish an alternative personnel management

*To this end, the Assistant Secretary of Defense for Acquisition and Logistics recently proposed creating a single Defense Acquisition Corps, modeled after the State Department's Foreign Service. See *DoD Acquisition Improvement—The Challenges Ahead*, Perspectives of the Assistant Secretary of Defense for Acquisition and Logistics: White Paper No. 2—Revitalization of the DoD Acquisition and Logistics Workforce (Nov. 5, 1985). We studied this proposal carefully, and support many of its specific features. Because it would have the undesirable result of putting too much distance between acquisition programs and users, however, we do not support the proposal in its full form.

[†]See U.S. General Accounting Office, *DoD Acquisition: Capabilities of Key DoD Personnel in System Acquisition* (GAO/NSIAD-86-45).

system permitting greater flexibility with respect to the status, pay, and qualifications of civilian employees.

We reviewed the results of the Navy's so-called China Lake personnel project, in which recruitment and retention of key civilians were correlated with pay, incentives, and advancement based on performance. The China Lake experiment, which is outlined briefly in Appendix J, served to increase the retention of engineers and scientists, improve supervisor-employee relationships, and dramatically reduce management paperwork. Legislation is now pending to implement such a system for all federal scientists and engineers. The China Lake personnel system has produced significant benefits. It merits expansion. We therefore recommend that federal law permit the Secretary of Defense to include other critical acquisition personnel in such a system, and facilitate greater professionalism among civilian acquisition employees through government sponsorship of graduate instruction in acquisition management.

Among acquisition personnel, contract specialists have an especially critical role. More than 24,000 members of DoD's acquisition workforce specialize in the award and administration of contracts. Eighty-five percent of these contract specialists are civilians. Contract specialists must master the extensive, complex body of knowledge encompassing materials and operations management, contract law, cost analysis, negotiation techniques, and industrial marketing. Yet, the Office of Personnel Management designates the Contract Specialist personnel series (GS 1102) as an administrative and not a professional series under Civil Service Title VIII. This administrative designation prohibits the establishment of *any* business education requirement for contract specialists. As a result, only half of DoD's contract specialists have college degrees, which may or may not be business-related. We recommend establishing a minimum education and/or experience requirement for the Contract Specialist series. Such a requirement, similar to that now established for the Accounting personnel series, would mandate an entry-level criterion of twenty-four semester hours in business-related courses or equivalent experience.

Independently, DoD should enhance the professional status of contract specialists by increasing the number of outside hires, conducting on-campus recruitment, mandating the use of written tests for in-service placement and promotion, and establishing upward mobility programs for purchasing agents (GS 1105) and procurement clerks (GS 1106). DoD already has established acquisition training programs at five major facilities, and requires that all civilian contract specialists complete an average of six-hundred hours of mandatory training. According to a 1984 report of the DoD Inspector

General,* however, approximately two-thirds of all DoD contract specialists had not completed this training. In a recent report, the Executive Committee on Federal Procurement Reform[†] also recognized the inadequate training given contract specialists.

Insufficient management attention and financial resources are serious impediments to adequate training of contract specialists and, for that matter, all acquisition personnel. Such training—like that provided generally in DoD intern programs—should be centrally managed and funded. This is necessary to improve the utilization of teaching faculty, to enforce compliance with mandatory training requirements, and to coordinate overall acquisition training policies.

Training, promotion opportunities, acquisition regulations, education levels, and public perceptions were among the many issues addressed in the Commission-sponsored 1986 *Survey of Department of Defense Acquisition Workforce*. The Commission conducted its survey to determine the opinions and perceptions of those who must translate procedures and policy into contract decisions and to learn from the workers themselves how to attract, motivate, and retain a team of excellence. The study, which is summarized in Appendix K, focuses on contract specialists, with a matched sample of other acquisition team members responding for comparison.

This survey provides powerful support for many key Commission recommendations—clarifying regulations, streamlining organization, enhancing education and training, building a personnel system based on performance, and designing a compensation system sufficiently flexible to attract and retain the best available team players.

Key findings of the survey are:

- DoD's acquisition team members say they operate under inefficient, confusing regulations which often are inconsistent with sound business practices.
- In evaluating the relative competence of their fellow DoD team players, contract specialists, in every case, express greater confidence in the capabilities of defense industry personnel.

*Office of the Inspector General, DoD, *Report on the Audit of Department of Defense Procurement Training*, No. 84-047 (Feb. 14, 1984).

†Executive Committee on Federal Procurement Reform Task Group No. 6, *Guidance on Establishing Procurement Career Management Programs*, Vol. I (May 1985).

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- Members of headquarters staff are rated as least likely to provide needed support to other team members.
 - Nearly one-third of the respondents feel that their supervisors do not really know whether or not jobs are performed well. Another 30 percent feel their formal evaluations do not accurately reflect performance.
 - Civilians, who form the majority of the work force, name pay and benefits as their most valued work reward and overwhelmingly believe private sector compensation for similar work to be much greater.
 - A majority of the respondents say that important resources such as time, office space and equipment, and clerical support are lacking to such a degree that professional effectiveness is significantly hampered.

In spite of such difficulties, these acquisition workers describe themselves as possessing a healthy self-respect, taking great pride in meeting the challenges of defense acquisition, and using their talents to serve their country. They want to provide quality defense products and services to the American military. They take seriously their moral responsibilities to the taxpayers, saying that the nature of defense contracting requires higher ethical standards than does normal business practice.

The wealth of data produced by the survey has immense potential for use by management to improve both efficiency and effectiveness of the acquisition process. The Commission commends the survey and its data base to the new Under Secretary for Acquisition, with a strong recommendation to make maximum use of them as management tools in striving for excellence.

I. Improve the Capability for Industrial Mobilization

We recommend that the President, through the National Security Council, establish a comprehensive and effective national industrial responsiveness policy to support the full spectrum of potential emergencies. The Secretary of Defense, with advice from the Joint Chiefs of Staff, should respond with a general statement of surge mobilization requirements for basic wartime defense industries, and logistic needs to support those industries and the essential economy. The DoD and Service Acquisition Executives should consider this mobilization guidance in formulating their acquisition policy, and program managers should incorporate industrial surge and mobilization considerations in program execution.

Historically, the United States has not worried much during peacetime about industrial mobilization. All the major wars fought in this century have allowed ample time for unhindered industrial buildup after the beginning of hostilities. At this time there is no effective national policy on industrial mobilization even though the missions of various agencies include responsibilities in these areas.

The DoD's own industrial facilities (e.g. arsenals, shipyards, and manufacturing equipment) are aging. United States industry is becoming increasingly dependent on foreign sources for not only strategic raw materials but subassemblies and manufactured components. American industry essentially does no mobilization planning. With a few exceptions, contractors are not given firm requirements upon which to base their planning; and in any case, the preparation of such plans is not funded by DoD.

Our concepts of stockpiling—historically done at the raw-materials level and driven by domestic politics—need modernization. Components and structures that can make a difference in the early period of a crisis should be stockpile candidates—not solely ores (that require a year or more to move through the economy).

In mobilizing industry to meet crisis and wartime needs, time, not money, is the major constraint. DoD can no longer assume that American industry will be able to respond automatically to production surge requirements. Additionally, dependence on foreign sources is becoming common for economic reasons. This can have serious consequences for maintenance of our technology base for the next generation of weapons and equipment.

Finally, DoD's procurement practices lead to significant disincentives for U.S. manufacturers to modernize their production processes, and thus impact both peacetime efficiency as well as crisis responsiveness.

Production surge capability is essential for improved readiness and sustainability of United States forces. Up to now, planning for surge and industrial mobilization has been an ad hoc affair, largely the result of individual initiatives rather than done on a regular basis or in response to a shift in the threat, U.S. national strategy, or world economic conditions. Industrial preparedness typically loses out in the competition for DoD funds. The problem has been studied, reviewed, and analyzed by many—with documented findings. There is a need now for selective and prudent investments to obtain real improvement in industrial base responsiveness.

Chapter Four

**Government-Industry
Accountability**

I. Introduction

Our study of defense management compels us to conclude that nothing merits greater concern than the increasingly troubled relationship between the defense industry and government. We have, therefore, given highest priority to development of recommendations which, if implemented, will result in a more satisfactory working relationship between government and that industry. In our *Interim Report*, we made six broad recommendations directed toward improving that relationship. In this conclusion of our work, we offer more detailed observations that will treat the more troublesome aspects of government-industry accountability.

From its earliest days, the United States has relied on private industry for procurement of needed military equipment. The vigor of industry is indispensable to the successful defense of America and the security of our people.

The Department of Defense (DoD) annually conducts business with some 60,000 prime contractors and hundreds of thousands of other suppliers and subcontractors.¹ In 1985, the Department placed contracts worth approximately \$164 billion, seventy percent of which went to a group of 100 contractors. Twenty-five contractors did business of \$1 billion or more, 147 did \$100 million or more, and almost 6,000 did \$1 million or more.

Acquisition of the tools of defense is an immense and complex enterprise. The Commission believes that DoD reliance on private industry has not been misplaced. The success of this enterprise, however, is now clouded by repeated allegations of fraudulent industry activity. With notable results, DoD has devoted increased attention and resources to detecting and preventing unlawful practices affecting defense contracts.² But a plethora of departmental auditors

¹See *The Government's Role in Preventing Contractor Abuse: Hearings before the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce*, 99th Cong., 1st Sess. 402 (1985) (Statement of Joseph H. Sherick, Inspector General, DoD). As noted in our *Report on Defense Acquisition*, defense contracting is a business of nearly 15 million separate contract actions each year — an average of 56,000 such actions every working day. Contract goods and services sustain 5,500 defense installations and activities throughout the world.

²As of May 1985, 131 separate investigations were pending against 45 of the DoD's 100 largest contractors. These involved such issues as defective pricing, cost and labor mischarging, product substitution, subcontractor kickbacks, and false claims. From June 1983 to April 1985, 12 separate investigations were instituted against one major contractor alone.

and other overseers—and the burgeoning directives pertaining to procurement—also have tended to establish a dysfunctional and adversarial relationship between DoD and its contractors.

Widely publicized investigations and prosecutions of large defense contractors have fostered an impression of widespread lawlessness, fueling popular mistrust of the integrity of defense industry. A national public opinion survey, conducted for the Commission in January 1986, revealed that many Americans believe defense contractors customarily place profits above legal and ethical responsibilities. The following specific conclusions can be drawn from this survey:³

- Americans consider waste and fraud in defense spending a very serious national problem and one of major proportions. On average, the public believes almost *half* the defense budget is lost to waste and fraud.
- Americans believe that fraud (illegal activity) accounts for as much loss in defense dollars as waste (poor management).
- While anyone involved in defense procurement is thought likely to commit fraudulent and dishonest acts, defense contractors are widely perceived to be *especially* culpable for fraud in defense spending.
- In overwhelming numbers, Americans support imposition of the severest penalties for illegal actions by contractors—including more criminal indictments—as a promising means to reduce waste and fraud.
- Nine in ten Americans believe that the goal of reduced fraud and waste also could be served through development and enforcement of strict codes of conduct. Americans are almost evenly divided, however, on whether defense contractors can be expected to live up to codes they develop for themselves.

³The survey — *U.S. National Survey: Public Attitudes on Defense Management* (Jan. 1986) — was designed to provide the Commission information about American public opinion on a broad range of defense management issues. These included, among others, the seriousness and causes of waste and fraud in defense spending, as well as possible solutions for these problems. The survey was performed by Market Opinion Research, whose compilation and analysis of survey results are included as Appendix L to this *Final Report*.

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- Four in five Americans think that defense contractors should feel an obligation, when doing business with DoD, to observe ethical standards higher than those observed in their normal business practices.

The depth of public mistrust of defense contracting is deeply disquieting for a number of reasons. First, the public is almost certainly mistaken about the extent of corruption in industry and waste in the Department. While fraud constitutes a serious problem, it is not as extensive or costly as many Americans believe. The nation's defense programs lose far more to inefficiency than to dishonesty.

Second, a lack of confidence in defense contractors may affect public support for important defense programs, and thus weaken our national security. Restoring public confidence in our acquisition system is essential if we are to ensure our defense.

Third, the current popular impression of runaway fraud and waste undermines crucial support for implementing precisely those management reforms that would increase efficiency. These include executive and congressional support for sensible new longer-term planning and budgeting procedures, recommended by the Commission, to eliminate major but hidden costs that instability imposes on our overall defense effort.

Fourth, the Commission is concerned that the current adversarial atmosphere will harm our industrial base. It is important that innovative companies find it desirable to contract with DoD. In current circumstances, important companies could decide to forego this opportunity.

Finally, it is significant that private businesses bear the brunt of public indignation over waste and fraud in our defense programs. With most Americans, we believe that those who contract in the defense of our country must perform at a higher level than business as usual. It stands repeating, from our *Interim Report*, that:

management and employees of companies that contract with the Defense Department assume unique and compelling obligations to the people of our Armed Forces, the American taxpayer, and our nation. They must apply (and be perceived as applying) the highest standards of business ethics and conduct.

By this measure, the national opinion survey represents a striking vote of no confidence in defense contractors generally.

Though government oversight is critically important to the acquisition process, no conceivable number of additional federal auditors, inspectors, investigators, and prosecutors can police it fully, much less make it work more

effectively. Nor have criminal sanctions historically proved to be a reliable tool for ensuring contractor compliance.⁴ We conclude there is a particular urgency in dealing affirmatively with contractor practices.

To this end, leaders in the defense industry recently have committed themselves to an initiative, consistent with recommendations of our *Interim Report on Government-Industry Accountability*, that promises collective and highly constructive action. This noteworthy effort is embodied in a document signed to date by at least 32 major defense contractors who pledge to adopt and to implement a set of principles of business ethics and conduct that acknowledge and address their corporate responsibilities under federal procurement laws and to the public.⁵ All signatories pledge to:

- have and adhere to written codes of conduct;
- train their employees in such codes;
- encourage employees to report violations of such codes, without fear of retribution;
- monitor compliance with laws incident to defense procurement;
- adopt procedures for voluntary disclosure of violations and for necessary corrective action;
- share with other firms their methods for and experience in implementing such principles, through annual participation in an industry-wide "Best Practices Forum"; and
- have outside or non-employee members of their boards of directors review compliance.

⁴Prosecutorial resources are limited. Evidence of criminal conduct is often insufficient for proof beyond reasonable doubt. Some cases lack prosecutive merit or jury appeal. In others, criminal sanctions are deemed less appropriate than administrative remedies. Still other cases involve little or no financial loss to the federal government. For these and other reasons, the Department of Justice declines to prosecute approximately six in ten possible fraud cases referred to it by federal agencies. See U.S. General Accounting Office, *Fraud in Government Programs: How Extensive Is It? How Can It Be Controlled?* GAO/AFMD-81-57, at 28-30 (May 7, 1981).

⁵See *Defense Industry Initiatives on Business Ethics and Conduct* (June 1986), included as Appendix M to this *Final Report*.

To lend additional force and credibility to their initiative, these contractors further propose that a respected organization, independent of both the government and defense industry, be commissioned to report annually the results of a survey assessing compliance with the above principles.

Such a commitment by its leaders would be an impressive undertaking for any industrial group, and it is particularly appropriate for defense contractors. We hope many other firms will make this pledge of self-governance and share in an initiative voluntarily begun and freely joined by defense contractors themselves. At least one major industry association is, we understand, considering making adherence to these principles a condition of membership.

We are convinced that significant improvements in corporate self-governance can redress shortcomings in the procurement system and create a more productive working relationship between government and industry. Corporate managers must take bold and constructive steps that will ensure the integrity of their own contract performance. Systems that ensure compliance with pertinent regulations and contract requirements must be put in place so that violations do not occur. When they do occur, contractors have responsibilities not only to take immediate corrective action but also to make disclosures to DoD.

We do not underestimate this task—it is enormous and demanding. Requirements of diligence imposed on contractor management are unquestionably stringent but are not more stringent than the public has a right to expect of those who hold positions of authority with businesses on which the national security depends. Contractor effort to improve performance should not be impeded by DoD action; instead DoD should foster effective contractor self-governance. It is in this context that we offer the recommendations that follow.

II. Industry Accountability: Contractor Self-Governance

In our view major improvements in contractor self-governance are essential.

Contracting with DoD is markedly different from other commercial contracting activity. Defense contractors must observe various unique and complex contractual, regulatory, and statutory requirements in bidding for, performing, and warranting fixed-price and cost-type contracts. A distinct body of contract principles has evolved in the defense contracting field.

Recent cases have involved violations of specific contractual and regulatory provisions. Many of these violations have resulted from management failure to establish internal controls to assure compliance with unique DoD requirements. Contractors historically relied on DoD auditors to identify instances where standards were not followed, and contractor failure to establish internal controls has developed in this regulated environment. Also in this environment, contractor defaults were largely resolved contractually rather than through criminal or civil actions.

Today, defense contractors should be aware that a concerned and responsible government will aggressively enforce compliance. Contractors will be required to do *much more* than they have done in the past to comply with contractual, regulatory, and statutory standards and to provide adequate supervision and instruction for employees. To do so will necessitate their putting in place broad and effective systems of internal control. The effectiveness of such systems depends upon a host of factors, including:

- good organizational structure, providing for proper delegation of authority and differentiation of responsibilities;
 - clear policies and procedures, well adapted to business objectives and to specific tasks and functions;
 - training of and communication with employees at all performance levels; and
 - ongoing arrangements to monitor compliance with, and to evaluate the continuing efficacy of, internal control.
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The requirements of defense contracting establish an especially high standard against which the adequacy of systems of contractor internal control must be measured. It is not prudent or possible to detail specific systems of control adequate to the needs of every defense contractor. This must be determined in light of each contractor's circumstances, including its size, operating habits, nature of business, range of products and services, and geographical dispersion of operations. Contractors should undertake careful review of the adequacy of their specific internal control systems, evaluate potential improvements, and determine what steps will provide greater assurance of compliance with contracting requirements.

Information developed by the Commission indicates that corporate controls could be greatly improved in at least three fundamental areas:

- development of codes of conduct addressing problems and procedures incident to defense procurement;
- promulgation and enforcement of more effective internal control systems to ensure compliance with those codes and the establishment of internal auditing capacity to monitor, among other things, compliance with codes and the efficacy of the control systems; and
- establishment of a more effective oversight of the entire process by an independent committee, such as an outside audit committee of the board of directors.

A. Contractor Standards of Conduct

Defense contractors must promulgate and enforce codes of conduct that address their unique problems.

Written standards of conduct are necessary to establish an environment in which a contractor's goals and its administrative and accounting controls become understood and functional. A well-drafted code is more than a mere direction to employees on what is and what is not permissible conduct, although that is certainly a major function of the code. It can provide a conceptual framework for both management and employees to understand how company policy interrelates with other applicable policies. It can articulate principles on the basis of which decisions should be made when government regulations fail to address issues specifically. In the broad sense, a code of conduct should be designed to

preserve or enhance a contractor's reputation for integrity. In our *Interim Report* we recommended:

Defense contractors must promulgate and vigilantly enforce codes of ethics that address the unique problems and procedures incident to defense procurement. They must also develop and implement internal controls to monitor these codes of ethics and sensitive aspects of contract compliance.

This recommendation was based, in part, on a study undertaken for the Commission by the Ethics Resource Center, Inc.⁶ In surveying the practices of a representative sampling of major defense contractors, the Center inquired about the:

- processes for establishing, and the form and content of, corporate policies and procedures for ensuring ethical conduct in dealings with the federal government and with subcontractors, suppliers, and others;
- means contractors use for communicating these policies and procedures;
- internal systems contractors use for monitoring and enforcing their policies and procedures; and
- internal contractor systems for adjudicating and punishing violations.

The Center's survey documents more widespread adoption of business codes of conduct among defense firms than among American companies generally, and suggests relatively greater appreciation by contractors of the risks of unethical conduct and the value of explicit standards of behavior. The survey also indicates, however, that contractors' codes often fail to address areas in government contracting where the incidence of misconduct is highest. For example, matters such as cost allocation, quality control, bidding and billing practices, defective pricing, materials substitution, contract negotiation, the monitoring of contract compliance, and the hiring of former Defense Department personnel were explicitly addressed in only a third of the codes of those defense contractors surveyed.

⁶Ethics Resource Center, Inc., a non-profit organization located in Washington, D.C., has done extensive study of issues involved in ethical corporate governance. The results of its work for the Commission are set forth in a *Final Report and Recommendations on Voluntary Corporate Policies, Practices, and Procedures Relating to Ethical Business Conduct* (Feb. 18, 1986), which is included as Appendix N to this *Final Report* of the Commission.

There are also inadequacies in the communication and enforcement of standards of conduct. For example, only half the contractors with written codes indicated that they distribute copies to all employees, and many reported that distribution was limited to only senior management. Only half the codes specified procedures for employees to follow in reporting possible misconduct, and barely one in five provided procedures for protecting employees who bring unethical practices to light. Finally, although trends indicate an increasing attention by upper management to business ethics issues, the survey documents the need for much better mechanisms at highest corporate levels to monitor and enforce compliance. Too often industry regards promulgation of a code of conduct as the end product and does not aggressively pursue its enforcement.

The Commission makes the following specific recommendations regarding codes of conduct for defense contractors:

1. Each contractor should review its internal policies and procedures to determine whether, if followed, they are sufficient to ensure performance that complies with the special requirements of government contracting. Contractors should adopt—or revise, if they have adopted—written standards of ethical business conduct to assure that they reasonably address, among other matters, the special requirements of defense contracting. Such standards of conduct should include:

- a. procedures for employees to report apparent misconduct directly to senior management or, where appropriate, to a member of the committee of outside directors—ideally the audit committee—that has responsibility for oversight of ethical business conduct; and**
- b. procedures for protecting employees who report instances of apparent misconduct.**

2. To ensure utmost propriety in their relations with government personnel, contractor standards of ethical business conduct should seek to foster compliance by employees of DoD with ethical requirements incident to federal service. To this end, contractor codes should address real or apparent conflicts of interest that might arise in conducting negotiations for future employment with employees of DoD and in hiring or assigning responsibilities to former DoD officials. Codes should include, for example, existing statutory reporting requirements that may be applicable to former DoD officials in a contractor's employ.

3. Each contractor must develop instructional systems to ensure that its internal policies and procedures are clearly articulated and understood by all corporate personnel. It should distribute copies of its standards of ethical business conduct to all employees at least annually and to new employees when hired. Review of standards and typical business situations that require ethical judgments should be a regular part of an employee's work experience and performance evaluations.

4. Contractors must establish systems to monitor compliance with corporate standards of conduct and to evaluate the continuing efficacy of their internal controls, including:

a. organizational arrangements (and, as necessary, subsequent adjustments) and procedural structures that ensure that contractor personnel receive appropriate supervision; and

b. development of appropriate internal controls to ensure compliance with their established policies and procedures.

5. Each major contractor should vest its independent audit committee—consisting entirely of nonemployee members of its board of directors—with responsibility to oversee corporate systems for monitoring and enforcing compliance with corporate standards of conduct. Where it is not feasible to establish such a committee, as where the contractor is not a corporation, a suitable alternative mechanism should be developed. To advise and assist it in the exercise of its oversight function, the committee should be entitled to retain independent legal counsel, outside auditors, or other expert advisers at corporate expense. Outside auditors, reporting directly to the audit committee or an alternative mechanism, should periodically evaluate and report whether contractor systems of internal controls provide reasonable assurance that the contractor is complying with federal procurement laws and regulations generally, and with corporate standards of conduct in particular.

The Commission believes that *self-governance* is the most promising mechanism to foster improved contract compliance. It follows that each contractor must individually initiate, develop, implement, and enforce those elements of corporate governance that are critical to contract compliance, including a proper code of conduct. The extent of each contractor's efforts in doing so will reflect the level of reputation for integrity it intends to set for itself.

B. Contractor Internal Auditing

Contractors must develop and implement internal controls to ensure compliance with corporate standards of conduct and the requirements of defense contracting.

Contractors must also establish an internal audit capacity to monitor whether the controls they have put in place are effective. Internal auditing will help ensure contractor compliance with internal procedures, standards of conduct, and contractual requirements. An internal audit organization, to serve these purposes, must be staffed with competent personnel able to operate with the requisite degree of independence and candor.

Use of internal auditing to review adherence to procurement requirements involves a significant broadening of the traditional application of this monitoring device. In developing new auditing processes to review these issues, contractors must consider which areas are most sensitive and in need of audit review, as well as which auditing devices will be most cost-effective and efficient.

Recommendations in our *Interim Report* encouraging increased self-governance were based, in part, on an internal audit study completed for the Commission by the certified public accounting firm of Peat, Marwick, Mitchell & Co.⁷ Over 210 business units—aggregating approximately \$90 billion in DoD fiscal year 1985 outlays for negotiated contracts—participated in the survey. The survey was designed to ascertain, among other things, the following:

- the extent to which internal auditing, in addition to its traditional applications, has been utilized to monitor defense contract compliance;
- the scope and coverage of such expanded auditing efforts;
- the effectiveness and usefulness of such internal auditing; and
- the extent to which, in view of recent developments, contractors intend to expand their internal audit capability or coverage.

⁷Peat, Marwick's *Report on Survey of Defense Contractors' Internal Audit Processes* (Feb. 1986) is included as Appendix O to this *Final Report* of the Commission. For survey purposes, "internal auditing" was considered to include any regular, cyclical, or special examination conducted by or on behalf of a company's management to assess the extent of compliance with the company's established policies, procedures, and systems of internal controls. This excluded normal supervisory efforts as well as financial audits performed by a company's independent accountants.

The survey indicates that most contractors have internal audit functions of some kind and that many companies recently have expanded internal auditing to cover more aspects of their government contract operations. But it also provides compelling evidence of a need for defense industry generally to upgrade the capabilities and broaden the mission of its internal auditors. Among other important results of the survey are the following:

Internal Auditing Capacity. Over one-quarter of the business units surveyed had *no* formal internal audit function; over two-thirds had no such function at their operating levels. Seven in ten indicated that they rely for audit coverage, in whole or in part, on the work of independent accountants and on government auditors. Given the added degree of effort needed to monitor government contract work, internal audit staffs are too small: 58 percent of the business units surveyed had fewer than 10 internal auditors, and almost two-thirds reported that their internal audit staffs do not complete a full cycle of auditable areas within a three-year period.

Scope of Internal Auditing. To serve the purpose of improving compliance with federal procurement laws, internal auditing must address a variety of practices specific to government contracts. Effective audits of such practices require more penetrating evaluations performed more frequently than do traditional financial audits. The survey shows that, despite recent efforts by contractors to broaden internal auditing efforts, sensitive issues of contract compliance are not reviewed adequately. These include key areas of labor cost distribution and controls, material management, estimating practices, cost allowability, accuracy of costing and reporting, and contract administration.

Competence of Internal Audit Staff. Internal audit staffs—where they exist—generally have a satisfactory professional background. They need substantially more formal training, however, in areas critical to compliance with federal procurement law, including Cost Accounting Standards, Federal Acquisition Regulation, Truth in Negotiations Act, and fraud detection. Approximately a quarter of the units surveyed provide training in none of these areas, and less than a quarter provide training in all of them.

Effectiveness of Internal Auditing. Internal auditors must operate with independence and objectivity.⁸ By this measure, the basic design of contractors' internal audit programs appears to be good. The survey nonetheless indicates

⁸The independence of internal auditors depends in part upon the organizational levels to which they communicate results of their work and to which they report administratively. These are indicative of internal auditors' ability to act independently of individuals responsible for the functions being audited. The objectivity of internal auditors may be judged from findings and recommendations made in their reports, the frankness of which can depend in important part

several areas of concern. Audit design may be inadequate because its scope is determined largely by management requests. Management may not in all cases be assuming proper responsibility or taking necessary action for follow-up on problems identified through internal auditing. Moreover, the wide availability to government personnel of internal audit reports and supporting work papers may not be conducive to auditors' candor and objectivity concerning the performance of the individuals responsible for the functions being audited.

We conclude that defense contractors have failed to take advantage of assistance that internal auditors may provide to management responsible for the design and function of systems of internal control of government contracting. Identifying important elements of such systems and remedying their weaknesses and deficiencies should be matters of the highest priority to all defense contractors. This demands ongoing study and evaluation of a sort that cannot be provided by either a company's outside auditors or by government auditors.⁹

Defense contractors must individually develop and implement better systems of internal controls to ensure compliance with contractual commitments and procurement standards. To assist in this effort and to monitor its success, we recommend contractors take the following steps:

1. Establish internal auditing of compliance with government contracting procedures, corporate standards of conduct, and other requirements. Such auditing should review actual compliance as well as the effectiveness of internal control systems.

2. Design systems of internal control to ensure that they cover, among

on the extent to which such reports are regularly accessible to others, particularly to government agencies. See American Institute of Certified Public Accountants, *Statement on Auditing Standards No. 9*, "The Effect of an Internal Audit Function on the Scope of the Independent Auditor's Examination."

⁹A company's outside auditors ordinarily review and evaluate internal control (primarily accounting control) only to determine the nature, extent, and timing of audit tests they must conduct annually in examining a contractor's financial statements. Even for this limited purpose, however, internal control of government contracting poses audit considerations broader than has yet been reflected in the accounting profession's formal guidance to its own members on traditional financial audits of government contractors. See American Institute of Certified Public Accountants, *Audits of Government Contractors* (2d ed. 1983). A Task Force of the American Institute of Certified Public Accountants is now at work on a revised industry audit guide that promises to be of greater assistance to outside auditors, internal auditors, and contractor management.

other things, compliance with the contractor's standards of ethical business conduct.

3. Establish internal audit staffs sufficient in numbers, professional background, and training to the volume, nature, and complexity of the company's government contracts business.

4. Establish sufficient direct reporting channels from internal auditors to the independent audit committee of the contractor's board of directors to assure the independence and objectivity of the audit function. Auditors should *not* report to any management official with direct responsibility for the systems, practices, or transactions that are the subject of an audit. Such structure assures frank reporting of and prompt action on internal audit results. To encourage and preserve the vitality of such an internal auditing and reporting process, DoD should develop appropriate guidelines heavily circumscribing the use of investigative subpoenas to compel disclosure of contractor internal auditing materials.

Major contractor improvements in recommended self-governance will, no doubt, require considerable effort over several years. Making these improvements will also require greater involvement by contractors' boards of directors and top management. The importance of the executive leadership role in achieving a proper control environment cannot be overemphasized. The necessary initiatives must be instituted by industry, not government. Defense contractors must take the steps described above or run the risk of action by government, in response to public expectations, that may be both excessive and unavailing. We share the concerns of the Ethics Resource Center that:

intensive federal regulation has not only increased costs and lead-time, but may have actually decreased the sense of individual and corporate responsibility for the quality of products and services delivered to the federal government. The standard of ethical business conduct seems to have become regulatory compliance, rather than responsible decision making. In areas where these are not coincidental or where regulations do not dictate conduct, the management conscience may fail. The sense of moral agency and ethical responsibility may be overridden by the "gamesmanship" attitude fostered by regulatory adversarialism.

Whatever actions the present Administration or the Congress may take to improve the effectiveness of federal regulations and oversight activities, serious attention must be paid to the inherent limitations and possible

counter-productivity of an approach that is almost entirely a matter of external policing.¹⁰

The process by which a contractor recognizes and distinguishes responsibility for compliance from a mere facade of compliance is self-governance, and essential elements of that process are implementation and enforcement of proper codes of conduct and internal auditing systems.

Vigorous programs of the sort recommended hold far greater potential for ensuring the integrity of defense contracting than does increased government oversight. Successful self-policing by defense contractors has the considerable advantage of making such oversight more efficient and effective. For very practical reasons, therefore, government must exert its authority to oversee the defense acquisition process in ways calculated to hasten the progress of responsible companies toward improved self-governance. Our study of DoD practices—with respect to administering its own standards of ethical conduct, coordinating its own auditing and oversight efforts, and employing the range of possible sanctions against contractor misconduct—suggests various areas for improvement. These we address below.

¹⁰See Ethics Resource Center, *Final Report and Recommendations*, Appendix N.

III. Government Accountability: DoD Auditing and Oversight, Standards of Conduct, and Enforcement

To ensure accountability for its own operations and programs, the federal government has systems of administrative and accounting control that are analogous to those in the private sector. Their effectiveness is dependent on comparable factors such as organization, policies and procedures, and personnel. Our study persuades us that, much as with defense industry, DoD must exert substantially better internal control if it is to improve the effectiveness of its programs for contract auditing and oversight, employee standards of conduct, and civil and administrative enforcement.

A. Department of Defense Auditing and Oversight

Oversight of defense contractors must be better coordinated among DoD agencies and Congress. Guidelines must be developed to remove undesirable duplication of official effort and, when appropriate, to encourage sharing of contractor data by audit agencies. The new Under Secretary of Defense (Acquisition) should establish appropriate overall contract audit policy.

As stated in our *Interim Report*, there is an unquestioned need for broad and effective administrative oversight of defense acquisition. DoD monitors the performance of defense contractors and the integrity of contractor compliance by a number of processes, including investigations, inspections, and special-purpose reviews conducted by personnel of:

- the Defense Contract Administration Services (DCAS) of the Defense Logistics Agency (DLA);
 - the Services' respective plant representative offices (PRO), audit agencies, investigative services, and inspectors general;
 - the Defense Contract Audit Agency (DCAA);
 - the Defense Criminal Investigative Service;
-

- the DoD Office of the Inspector General (OIG); and
- DoD's many procurement and contract management organizations.

Overseeing these efforts are the General Accounting Office (GAO), committees and subcommittees of Congress, and congressional staff.

The oversight apparatus within DoD has evolved over time. As various organizations and activities have been established, their jurisdictions, functions, and responsibilities have emerged, often without clear delineation. Today, a distinction may be drawn between criminal investigative and internal auditing responsibility—largely consolidated under the OIG—and procurement and contract administrative responsibility—traditionally exercised by the DCAS and cognizant Service PRO with the advice and assistance of DCAA auditors. Proper coordination and economy of oversight effort have proven particularly difficult to achieve in view of the multiplicity of DoD organizations involved.

At the outset of our work we were aware of concerns that control over DoD contract oversight efforts had degenerated. Most notably, the Senate Armed Services Committee has expressed the view that contract auditing requires sound overall coordination to promote efficiency and minimize duplication of effort.¹¹ In December 1985, the OIG reported the results of a survey conducted by that office to determine whether effective coordination exists among various DoD organizations involved in the oversight of contractor operations in order to avoid unnecessary duplicative efforts.¹² The survey examined 25 separate DoD reviews conducted in 1984 at two major contractor locations. Fourteen of these 25 oversight exercises—involving altogether some 13 different DoD organizations, the GAO, and a prime contractor—were found to involve elements of needless duplication. The Inspector General concluded, “Unless specific actions are taken to address the problems of coordination, unnecessary duplicative reviews (of this sort) are likely to continue.”

Our own work confirms the Inspector General's conclusion. It also underscores the enormity of the problem.

In December 1985, we engaged the certified public accounting firm of Arthur Andersen & Co. to study DoD contract auditing and oversight, including

¹¹S. Rep. No. 41, 99th Cong., 1st Sess., 214 (1985).

¹²See Office of the Inspector General, DoD, *Report on The Survey of Department of Defense Oversight of Contractors' Operations*, No. APO 86-001, at 4 (Dec. 1985).

its overall design and any duplication of effort.¹³ Arthur Andersen & Co. reviewed pertinent laws and regulations, consulted with responsible DoD officials, and made nationwide field visits to ascertain the recent experience of some 15 major defense contractors that together do substantial work for each of the Services and for the DLA. Figure 1 reflects the principal findings and recommendations that emerged from this study. It is noteworthy that Arthur Andersen & Co. and the OIG found identical problems of a systemic nature among DoD contract oversight organizations:

- Their efforts lack advance planning and coordination.
- Their respective responsibilities are ill-defined.
- They are unwilling to rely on each other's work.
- They are reluctant to share information.

Arthur Andersen & Co. concluded that "duplication in the oversight process is *extensive*. Changes are clearly required to enhance efficiency and reduce costs to both contractors and the government." (Emphasis added.)

In our view, necessary changes are not likely to be accomplished, however, without first consolidating the authority to make and implement contract audit policy in a senior DoD official.

For these purposes, we recommend the following:

1. Among his other responsibilities, the new Under Secretary of Defense (Acquisition) should:

a. oversee DoD-wide establishment of contract audit policy, particularly policy for audits conducted in support of procurement and contract administration;

b. except for criminal investigations and DoD internal audits, supervise establishment of policy for all DoD oversight of defense contractors, including oversight performed by procurement and contract management organizations; and

c. recognize established GAO and professional auditing standards.

¹³The full report of Arthur Andersen & Co.'s work — *Study of Government Audit and Other Oversight Activities Relating to Defense Contractors* (Feb. 25, 1986) — is included as Appendix P to this *Final Report*.

Figure 1
ARTHUR ANDERSEN & CO.
STUDY OF GOVERNMENT OVERSIGHT ACTIVITIES

PRINCIPAL PROBLEMS IDENTIFIED

**PERVASIVE LACK OF COORDINATION
AMONG DoD ORGANIZATIONS**

- * Reluctant to rely on each other's work
- * Unwilling to share information
- * Deficient in advance planning
- * Inconsistent in interpreting
 - contract and other requirements
 - results of audits and reviews
- * Respective responsibilities poorly defined
 - e.g., increased DCAA involvement in non-financial areas
- * Not observing DoD regulations designed to ensure coordination of audit and oversight
- * Organizations possess no centralized coordinating authority

**INDISCRIMINATE APPROACH BY DoD
ORGANIZATIONS**

- * Nature, timing, and extent of audit and oversight shows inadequate attention to
 - contractors' past performance
 - results of prior and ongoing reviews
 - relative costs and benefits

**ERODING AUTHORITY OF ADMINISTRATIVE
CONTRACTING OFFICERS (ACOs)**

- * DoD Directive 7640.2 (Dec. 29, 1982) limits ACO authority to resolve audit recommendations
- * ACO no longer functioning as government's "team leader"
- * Indecision, delays, unnecessary and costly disputes

RECOMMENDATIONS AND COMMENTS

REAFFIRM AUTHORITY OF ACO

- * To function as DoD's team leader in all dealings with contractor
- * Responsible for
 - determining final overhead rates
 - coordinating all DoD auditing and other oversight at contractor location
- * Supported by DCAA in advisory capacity
 - reevaluate DoD Directive 7640.2

**REEVALUATE AND CLARIFY RESPECTIVE
AUDIT AND OVERSIGHT RESPONSIBILITIES**

- * For example, those of contract administrative organizations versus DCAA in the areas of
 - operational auditing
 - compensation and insurance reviews
- * More generally, to improve planning, organization, and control

**IMPROVE DAY-TO-DAY WORKING
RELATIONSHIPS**

- * Organizations should rely on each other's work
- * Share data base of contractor information

**ADHERE TO REGULATORY PRINCIPLES THAT
PROMOTE EFFICIENCY**

- * Audit and oversight plans should reflect appropriate consideration of
 - contractors' past performance
 - effectiveness of their internal control systems
 - results of prior and ongoing reviews
 - relative costs and benefits

2. To optimize the use of available oversight resources by eliminating undesirable duplication of official effort, contract audit policy should be designed to:

a. delineate clearly respective responsibilities and jurisdictions of DoD oversight organizations;

b. develop guidelines and mechanisms for DoD oversight organizations to share contractor data and otherwise to rely more extensively upon each other's work; and

c. improve audit strategies for the conduct, scope, and frequency of contract auditing. These strategies should reflect due consideration for contractors' past performance, the proven effectiveness of their internal control systems, the results of prior and ongoing reviews conducted by DoD organizations and by contractors themselves, and relative costs and benefits.

B. Department of Defense Standards of Conduct

DoD should vigorously administer current ethics regulations for military and civilian personnel to assure that its employees comply with the same high standards expected of contractor personnel. This effort should include development of specific ethics guidance and specialized training programs concerning matters of particular concern to DoD acquisition personnel, including post-government relationships with defense contractors.

An extensive body of law and regulation exists to prevent conflicts between personal interest and public duty of current and former uniformed personnel and civilian employees of DoD. These laws and regulations:

- impose financial disclosure reporting obligations on broad categories of DoD personnel, including extremely detailed reporting by the most senior officials;
 - describe standards of behavior for all DoD personnel, including the general requirement that they avoid any circumstance, whether or not expressly prohibited, that might create the "appearance" of impropriety;
 - broadly penalize conduct by DoD or other federal employees that could involve personal enrichment in connection with ongoing official duty, including bribes and gratuities, the so-called private supplementation of federal salaries, representation of private parties in matters of federal concern, and official acts that affect personal or family finances or the financial interests of a prospective private employer; and
-

- restrict in various ways what former federal employees generally, and DoD personnel specifically, may do upon leaving government service. Figure 2 summarizes current post-employment disqualifications and certain related statutory provisions.

Standards thus established for the conduct of current and former DoD acquisition personnel seek to maintain an environment in which DoD's internal fiscal and managerial controls can work. Like codes of conduct adopted by private contractors, they help protect the integrity and promote the efficiency of the contracting process, minimize conflicts of interest, and assure the public that defense contracting is managed effectively and honestly.

The Commission conducted a careful review of the adequacy of DoD's ethics programs for military and civilian acquisition personnel.¹⁴ Several facts prompted this review. In defense acquisition, as throughout the government, there is a substantial incidence of federal employee involvement in reported cases of fraud and other unlawful conduct. Many cases have involved bribery or other criminal activity by relatively low-level purchasing officials at military procurement facilities, and others have involved gratuities for senior personnel. Such official misconduct in the acquisition system is doubly destructive: it subverts operations of DoD and defense industry, and corrodes public confidence in government and business generally. It is critical in defense management to establish and maintain an environment where official standards of conduct are well understood, broadly observed, and vigorously enforced. We believe that significant improvements are required.

Our study indicates, for example, that—much as is the case with the defense industry—DoD's published conduct regulations do not provide timely or effective guidance to personnel engaged in the acquisition process. DoD Directive 5500.7, Standards of Conduct, has not been updated since 1977 or revised to reflect such subsequent legal developments as passage of the Ethics in Government Act of 1978. Even in its current version, Directive 5500.7 provides only general ethical guidance to personnel and components throughout DoD. No comparable directive provides more specific guidance to all of DoD's acquisition personnel.

Nor does any system exist to ensure that all DoD acquisition personnel receive, on a periodic basis, a prescribed minimum of ethics training specifically

¹⁴Our public meeting of May 5, 1986, was devoted exclusively to testimony on this subject. As part of our review of relevant laws and administrative practices, we received an extensive briefing and detailed conclusions and recommendations from the Office of the Inspector General.

related to the acquisition function. Just as among defense contractors, considerable disparity exists in the efforts that DoD acquisition organizations expend in this area. An effective program of instruction and compliance concerning ethics matters, including post-employment disqualifications and reporting, should be established and implemented. To do so will require sustained leadership throughout DoD and a commitment of greater personnel and administrative resources.¹⁵

In our *Interim Report*, we thus expressed the general view that the important challenge for defense management lies in improving compliance with existing ethical standards, not in defining new or more stringent standards. We nonetheless also have reviewed the substance of current laws and regulations from two distinct points of view: first, for their effect on recruitment of capable senior-level personnel to run the acquisition system; and second, for their adequacy to protect the integrity of that system from perceived dangers posed by the so-called revolving door phenomenon. The "revolving door" refers, in this context, to the movement of a DoD acquisition employee into a position with a private company for whose government contracts he has or had some official responsibility.

Both our *Interim Report* and our *Report on Defense Acquisition* emphasize the importance of improving the government's ability to attract and retain the highly qualified people needed for effective senior management of defense acquisition. We agree with the Presidential Appointee Project of the National Academy of Public Administration that ethics regulations:

have assumed a very important role in the appointment process. Their impact is mixed. In some ways, these laws have brought genuine benefits to the American people by eliminating blatant potential conflicts of interest and enhancing opportunities for the identification and prosecution of those who would violate the public trust. On the other hand, these changes have been costly: *costly to the government's ability to recruit presidential appointees*, costly to the relations between the news media and public

¹⁵At the Commission's May 5, 1986, meeting, DoD's General Counsel reviewed plans, pursuant to the President's April 1986 directive, for improved administration of current ethics regulations for DoD personnel, as recommended in our *Interim Report*. We support this effort. It should, we believe, focus in important part on the need for specialized guidance and training of DoD acquisition personnel. It should also seek to establish better mutual understanding between, and promote complementary efforts to address the respective ethical concerns of, government and industry.

officials, and costly in financial sacrifices to a number of honest and dedicated public officials.¹⁶

Our examination of the substance of current ethics regulations underscores an important truth: ethical standards are only as easy to observe, administer, and enforce as they are certain in scope, simple in concept, and clear in application. Undue complexity and vagueness—for example, that we believe characterizes current financial disclosure reporting requirements—serve no legitimate public purpose. Either can transform ethical standards from matters of principle to mere traps for the unwary, and put at risk the reputation of anyone who enters or leaves a responsible position in government.

Figure 2 outlines established criminal statutory restrictions on what federal employees and retired military officers may or may not do once they have left government. Actions of officials still in federal service have been restricted to exclude matters in which they, or prospective private employers with whom they are negotiating, have a financial interest. These statutes should be enforced more vigorously, and their import made clear to DoD employees far more effectively, than is now done.

Figure 2 also outlines the one current criminal statute, Public Law 99-145, concerning for whom defense acquisition officials may work after they have left DoD. This new provision, and comparable measures now pending in Congress, significantly depart from prior law in attempting to define as criminal conduct certain post-government employment *per se*. They do so on a highly selective basis—applying only to personnel involved in the acquisition process, and only to such personnel as are employed by DoD. More significantly, they pose serious problems of definition, never satisfactorily resolved in statutory form, concerning precisely which DoD personnel should be covered and precisely what sort of exposure to a contractor should lead to the employment prohibition. In practice, these definitions are very difficult to work out sensibly and fairly. This is reflected in the confusion concerning the applicability of Congress' one current venture into restricting post-government employment *per se*, Public Law 99-145. The highly uncertain impact of these new and proposed statutes, and the understandable desire of law-abiding individuals to avoid even the remote chance of a criminal violation, may well prompt talented people not to work for DoD in the first place or to leave once such restrictions appear imminent.

¹⁶*Leadership in Jeopardy: The Fraying of the Presidential Appointments System* (Final Report of the Presidential Appointee Project), November 1985, at 13 (emphasis added).

Figure 2
**THE REVOLVING DOOR: CURRENT POST-EMPLOYMENT
 DISQUALIFICATIONS AND CERTAIN RELATED PROVISIONS**

| STATUTE | PROVISIONS |
|------------------------------|---|
| 18 U.S.C. 207(a) | Permanently bans representation to the government of any person on any "particular matter involving a specific party" in which a former Executive Branch employee "participated personally and substantially" while in government.* |
| 18 U.S.C. 207(b)(i) | Bans for two years representation to the government of any person on any particular matter over which a former Executive Branch employee exercised "official responsibility" while in government.* |
| 18 U.S.C. 207(b)(ii) | Bans for two years representation by a former "senior employee" of Executive Branch, through his "personal presence at any formal or informal appearance" before the government, of any person on any particular matter in which such former employee personally and substantially participated while in government.* |
| 18 U.S.C. 207(c) | Bans for one year representation by a former "senior employee" of Executive Branch of any person to his former agency on any particular matter before or of substantial interest to that agency.* |
| 18 U.S.C. 208 | Prohibits an employee of Executive Branch from participating "personally and substantially" as such in any "particular matter" in which any person with whom he is "negotiating" or has any "arrangement" concerning post-government employment has a financial interest.* |
| 18 U.S.C. 281 | Prohibits retired military officers from representing any person in the sale of anything to the government through their former department.* |
| 18 U.S.C. 283 | Bans for two years following retirement participation by military officers in prosecution of claims against the United States involving their former department.* |
| 37 U.S.C. 801 | Prohibits payment of compensation to military officers engaged, within three years after retirement, "in selling, or contracting or negotiating to sell, supplies or war materials" to DoD or other agencies. |
| 10 U.S.C. 2397 | Requires reporting by certain military personnel and civilian officials of DoD of employment by defense contractors occurring within two years prior or subsequent to government service.† |
| 10 U.S.C. 2397a | Requires reporting by military personnel and civilian officials having procurement responsibilities in DoD of "contacts" regarding post-government employment opportunities with certain defense contractors.† |
| P.L. 99-145, 99 Stat. 693 | Prohibits a "Presidential appointee" who acts as a "primary government representative" in the "negotiation" or "settlement" of a contract with a defense contractor to accept, within two years thereafter, employment from that contractor.* |

*Violation punishable by fine and/or imprisonment.

†Violation subject to administrative penalty in amount up to \$10,000.

While mindful of the critical need to recruit and retain capable acquisition personnel, we do not minimize the importance of upholding the real and apparent integrity of the acquisition process. Our recommendations seek to achieve vigorous enforcement of ethical requirements and steadfast attention to ethics programs and training by government and industry alike. We believe that our recommendations, if fully implemented, would go much further toward improving the ethical environment of defense acquisition than would any legislative proposal. Had such administrative efforts been undertaken by DoD heretofore, the adequacy of the existing legislative scheme would be far more evident.

Public Law 99-145, and the additional revolving-door restrictions now proposed, in part reflect a legitimate dissatisfaction with individual enforcement of existing DoD standards of conduct. They also reflect a widespread concern that opportunities for post-government employment with defense contractors may seem to tempt acquisition officials to favor improperly those contractors over whose affairs they exercise authority. We do not dismiss this concern. Acquisition officials must scrupulously avoid any action that might create even the appearance of giving preferential treatment to any contractor or losing complete independence or impartiality of action. Existing standards of conduct demand nothing less. The real challenge, we believe, is to establish and maintain an ethical environment for defense acquisition that applies this principle across the board. This will not be accomplished through piecemeal legislation that subjects special classes of government employees to imprecise standards, unpredictable restrictions on future conduct, and harsh criminal penalties.

Instead, the revolving-door concern must be addressed where it originates, in the relations of DoD and the defense industry. Complementary efforts must be undertaken by DoD and defense industry to define appropriate and highly specific limitations in the area of post-government employment relationships. These limitations should not be legislated but instead should be articulated through complementary prohibitions in both government and industry standards of conduct, for the clear guidance of putative employers (i.e., contractors) and employees (i.e., former DoD officials) alike. This exercise would reinforce a healthy, ongoing dialogue between industry and government. Appropriate voluntary disqualifications by private employers and prospective employees could and should become an accepted aspect of the official and professional responsibilities assumed by those who work in and contract with DoD. Were statutory requirements to report employment with defense contractors properly observed and administered, DoD, industry, and the public could monitor the success of the approach we recommend. In this way, DoD and defense industry could assume leadership roles for the public and private

sectors, and set a standard that others—notably Congress and other Executive departments—should emulate.

For these purposes, we recommend the following:

1. DoD standards of conduct directives should be developed and periodically reviewed and updated, to provide clear, complete, and timely guidance:

- a. to all components and employees, on ethical issues and standards of general concern and applicability within DoD; and**
- b. to all acquisition organizations and personnel, on ethical issues and standards of particular concern to DoD acquisition process.**

2. The acquisition standards of conduct directive should address, among other matters, specific conflict-of-interest and other concerns that arise in the course of official dealings, employment negotiations, and post-government employment relationships with defense contractors. With respect to the last category, the Secretary of Defense should develop norms concerning the specific personnel classification, type of official responsibility, level of individual discretion or authority, and nature of personal contact that, taken together, should disqualify a former acquisition official from employment with a given contractor for a specified period after government service. These recommended norms, observance of which should be monitored through existing statutory reporting requirements, would establish minimum standards to guide both acquisition officials and defense industry.*

***Comment by Herbert Stein:**

Although I do not disagree with what the Commission says about the “revolving door,” I wish to add the following comment:

Department of Defense officials whose position in the acquisition process enables them to affect substantially the interests of particular contracting companies should not be employed by those companies for a period, such as two years, after leaving the Department, except in special cases where the national security clearly dictates otherwise. This principle is not now adequately recognized in the standards of proper conduct in the Department or among defense contractors. For the Department, the Secretary should clearly state the principle, define the categories of officials to which it applies and identify the individual officers and their contractor-relationships covered. Undoubtedly the line between covered and uncovered relationships will be difficult to draw, but

3. DoD should vigorously administer and enforce ethics requirements for all employees, and commit necessary personnel and administrative resources to ensure that relevant standards of conduct are effectively communicated, well understood, and carefully observed. This is especially important for all acquisition personnel, to whom copies of relevant standards should be distributed at least annually. Review of such standards should be an important part of all regular orientation programs for new acquisition employees, internal training and development programs, and performance evaluations.

C. Civil and Administrative Enforcement

Suspension and debarment should be applied only to protect the public interest where a contractor is found to lack "present responsibility" to contract with the federal government. The Federal Acquisition Regulation should be amended to provide more precise criteria for applying these sanctions and, in particular, determining present responsibility.

Specific measures should be taken to make civil enforcement of laws governing defense acquisition still more effective.

Failure to establish internal disciplines necessary to responsible self-governance subjects a defense contractor to a variety of governmental enforcement remedies. Thus, the government may seek relief against a contractor for breach of contract and, even in the absence of technical breaches, criminal and civil sanctions for contractor and contractor-employee misconduct. Our *Interim Report* recommended "continued, aggressive enforcement of federal civil and criminal law governing defense acquisition." This was predicated on the view that such enforcement "punishes and deters misconduct by the few, vindicates the vast majority who deal with the government lawfully,

Comment cont'd.

it will be better to draw the line imperfectly than either to ignore the revolving door problem or to leave officials and contractors in a state of uncertainty. Contractors' codes of conduct should include a bar to employment that violates this principle.

I believe that if the standards of permissible employment are clearly defined both officials and contractors will voluntarily abide by them. In line with the Commission's desire to foster an atmosphere of trust among the Department, contractors and the public, I would much prefer to see the problem handled in this voluntary way. But if experience shows that reliance on voluntary observance of the principle is inadequate, legislative remedies should be considered.

and recoups losses to the Treasury." In this section we discuss noncriminal sanctions by which the government can protect its interests.

Unlike criminal or other punitive measures, suspension and debarment are sanctions intended to ensure that DoD may "solicit offers from, award contracts to, and consent to subcontracts with *responsible contractors only*."¹⁷ The Federal Acquisition Regulation sets forth specific circumstances in which suspension (disqualification pending the completion of investigation or legal proceedings) or debarment (disqualification for a specific period of time) may be applied.¹⁸ Imposed in appropriate circumstances, these sanctions seek to serve "a public interest for the Government's protection" rather than to provide for increased punishment for wrongdoing.¹⁹

While suspension and debarment are indispensable tools in assuring that DoD not contract with those lacking present responsibility, they nevertheless are severe remedies that should be applied only in accordance with their stated purpose and legal standards. Members of the defense contracting industry claim that neither the purpose nor the standards have been observed, and that the threat of imposition of the sanctions has become the government's primary negotiating weapon in criminal prosecutions to force contractors to enter guilty pleas to avoid suspension or debarment.²⁰ There is concern that DoD has improperly concluded that the fact of a criminal indictment of a contractor or a management employee is an "automatic" ground for suspension, without sufficient regard for corrective actions already taken.²¹ Such claimed abuses are said not only to constitute arbitrary denials of protected personal and property

¹⁷Federal Acquisition Regulation (hereinafter FAR) § 9.402(a) (emphasis added).

¹⁸FAR §§ 9.406-1, 9.407-1(b). Following imposition of the sanction, a contractor and its subcontractors may continue to perform work on ongoing contracts, but the contractor is rendered ineligible for future awards during the period of suspension or debarment.

¹⁹FAR § 9.402(b).

²⁰There is little doubt that suspension or debarment, whether properly or improperly imposed, can be devastating to a contractor wholly or heavily engaged in the defense industry. While such contractors may suffer but survive heavy civil and criminal penalties, they may not survive a lengthy suspension or debarment. Not intended and not imposed as punitive measures, suspension or debarment may nevertheless be the most severe sanction confronting a wayward contractor.

²¹It is generally conceded by suspending/debarring authorities that suspension occurs upon issuance of an indictment, and that the contractor is thereafter afforded opportunity to show cause why the suspension should not be terminated. Any one of the three Military Services and the Defense Logistics Agency (DLA) may suspend or debar a contractor, and the other Services and the DLA will honor the sanction.

rights, but also to eliminate as the criteria for suspension, the measure of a contractor's "present" responsibility.²²

Whatever the merit of defense industry claims, it is clear that nowhere is the attitude of mutual mistrust between DoD and the defense industry more in evidence than in DoD's exercise of its powers of suspension and debarment.

In recent years there has been a marked increase in the number of actions taken to suspend or debar individual or corporate contractors from entering into new contracts with DoD. In 1975 there were 57 suspensions and debarments by DoD; in 1980 there were 78. In 1985 there were 652 suspensions and debarments, a greater than eightfold increase in just five years. This increase is due in part to a more determined and aggressive enforcement stance by DoD and a greater willingness to apply the sanctions.

Today's problems can be addressed by developing a sounder basis for both government and industry to carry out their respective functions. By working together with more cooperation and dedication to performance and less mistrust and suspicion, a renewed commitment to excellence can be made.

1. Circumstances in Which a Contractor May Be Suspended or Debarred

a. Current Rules for Suspension

Suspension of a contractor is in the nature of a preliminary remedy available to the government before full development of the facts. It should be imposed "on the basis of adequate evidence . . . when it has been determined that immediate action is necessary to protect the government's interest."²³ Adequate evidence is defined as "information sufficient to support the reasonable belief that a particular act or omission has occurred."²⁴

²²While contractor conduct that justifies a criminal indictment may be *prima facie* evidence of irresponsibility, such conduct often precedes an indictment in the contracting industry by two or more years. The bare fact of an indictment may thus be an improper measure of the contractor's "present responsibility" should suspension occur at the time of indictment. During the period following the misconduct alleged in the indictment, the contractor may have replaced employees guilty of wrongdoing, corrected faulty systems, made restitution, better communicated and implemented a corporate code of conduct, improved internal auditing practices, and otherwise taken actions demonstrating its current responsibility. An "automatic" suspension does not afford opportunity for such proof, and may defeat incentives for implementing more responsible self-governance.

²³FAR § 9.407-1(b).

²⁴FAR § 9.403.

The Federal Acquisition Regulation sets forth particular conditions in which suspension may be applied. A contractor may be suspended, for example, upon "adequate evidence" of the commission of a fraud or criminal offense in the procurement process, the violation of federal or state antitrust statutes, the commission of various other criminal offenses, and the commission of any other offense showing "lack of business integrity or business honesty" that "directly affects" the contractor's present responsibility. Indictment for any of these delineated actions constitutes adequate evidence for suspension. A contractor may also be suspended for any other cause that shows an absence of present responsibility.²⁵

b. Current Rules for Debarment

Regulations governing debarment provide that the responsible official "may debar" a contractor if it has been convicted for any offense listed above that may provide a basis for suspension. The regulations further state that the existence of one of the described causes does not require debarment. "[T]he seriousness of the contractor's acts or omissions and any mitigating factors should be considered in making any debarment decision."²⁶

²⁵FAR § 9.407-2, Causes for Suspension, provides:

- (a) The suspending official may suspend a contractor suspected, upon adequate evidence, of—
- (1) Commission of a fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;
 - (2) Violation of Federal or State antitrust statutes relating to the submission of offers;
 - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
 - (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of Government contractor or subcontractor.
- (b) Indictment for any of the causes in paragraph (a) above constitutes adequate evidence for suspension.
- (c) The suspending official may upon adequate evidence also suspend a contractor for any other cause of so serious or compelling a nature that it affects the present responsibility of a Government contractor or subcontractor.

²⁶FAR § 9.406-1(a).

2. Improvements in Regulations Governing Conditions Under Which a Contractor May Be Suspended or Debarred

Existing regulations can be improved in crucial respects by providing criteria for government officials making present responsibility determinations.

a. Determination of Present Responsibility

The requirement that all suspension/debarment decisions be based on a present responsibility determination should be more clearly set forth by amendment of particular provisions of the Federal Acquisition Regulation. Such amended provisions should include an explicit requirement that suspension and debarment must be related to a lack of present responsibility before either sanction is applied. For example, adequate evidence of the occurrence of a criminal offense by a contractor or its employee should not necessarily result in suspension. Nor should conviction for a prior offense be the sole predicate for debarment. Basis for imposition of suspension or debarment is lacking unless the suspending or debaring authority determines that conditions causing the criminal misconduct are *present* problems within the company. Provisions referred to above setting forth particular conditions in which a contractor may be suspended or debarred should be amended to clarify that such a condition is a sufficient basis *only* if it can be linked to a lack of contractor present responsibility.²⁷

b. Criteria for Present Responsibility

Administration of suspension/debarment would also be improved if regulations were amended to include specific criteria to be considered in determining whether a contractor is "presently responsible." Such criteria are not now set forth in the regulations. The following are recommended for consideration as proper criteria:

²⁷The cited regulatory provision (FAR 9.407-2(b)), stating that indictment for any of the listed causes "constitutes adequate evidence of suspension," is particularly troublesome. Given the time-consuming nature of litigation, indictments are invariably based on prior misconduct. The events causing an indictment generally precede an indictment by one or more years. Thus, where an agency suspends a contractor on the sole basis of an indictment, it applies this sanction without regard to the requirement that suspension should be predicated on lack of *present* responsibility. Such administrative action involves an abdication of the suspending authority's obligation under current law. This provision of the Federal Acquisition Regulation — stating that indictment constitutes adequate evidence — should be reexamined.

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- The nature of integrity programs, if any, currently being implemented by the contractor. The debarring/suspending authority should be particularly interested in the extent of the contractor's affirmative efforts to implement ethical standards of conduct that address contract performance and systems of internal controls to monitor compliance with those standards.
 - The contractor's reputation for probity on recent procurements with DoD and other federal agencies.
 - The reputation of the contractor's management and directors in recent circumstances as persons of good character and integrity.
 - The extent to which misconduct is symptomatic of basic systemic problems within the corporation as opposed to isolated, aberrational corporate behavior.
 - The nature and extent of voluntary disclosure and cooperation offered by the contractor in identifying and investigating the misconduct.
 - The sufficiency of remedial measures taken to eliminate the causes of the misconduct.

c. Determination of Public Interest

Before suspending or debarring a contractor the responsible official must determine, in addition to present responsibility, whether such action serves the "public interest." To an extent, consideration of public interest is subsumed in the determination whether the contractor is currently responsible. Some factors affecting public interest are, however, distinct from those affecting present responsibility and should be considered separately. Except where a contractor's misconduct endangers life or property, in which case the government's interest is clearly indicated, the Federal Acquisition Regulation should be amended to mandate review of the effect a proposed suspension/debarment might have on the ability of DoD and other government agencies to obtain needed goods or services.

In making the public interest determination, the suspending or debarring agency should consult with agencies both within and outside DoD. The decision that suspension or debarment will serve the public interest requires a careful

balancing of public needs against any potential harm that might occur from continued dealings with the contractor.

d. Cursory Suspension of Contractors

The current practice of "automatic" suspension of contractors following indictment on contract fraud should be reconsidered by DoD with a view that it be more discriminating and take into account all circumstances of a particular situation. In our *Interim Report* we stated, "Suspension and Debarment should not be imposed solely as a result of an indictment or conviction predicated upon former (not ongoing) conduct"

A device that has been used by a military department in lieu of "automatic" suspension is the so-called "shock and alarm" letter. Such a letter brings sharply to the attention of the executive of a defense firm DoD's cause for concern of wrongdoing, and the executive is urged to take immediate corrective action. What distinguishes the "shock and alarm" technique is that it does not carry with it the formal and immediate sanction of suspension. It provides the contractor an opportunity to put its own house in order before suspension becomes imperative.

e. Scope of Suspension or Debarment Orders

Once a determination is made to suspend or debar a contractor, the Military Service or DLA must determine the appropriate scope of the order. The government may elect to suspend or debar a particular division or similar organizational component of the contractor, a number of divisions or organizational components, or the entire corporate structure of which the contractor is a part.

An overly broad suspension or debarment of a contractor involved in numerous procurements can deny DoD important sources of supply and cause economic and commercial harm to the contractor. On the other hand, an inappropriately narrow application of these sanctions can lead to continued government dealings with irresponsible parties.

Current regulations give the responsible agency wide authority to tailor the scope of a suspension or debarment order without providing guidance about how the agency should exercise its discretion. Suspension applies to "all divisions or other organizational elements of the contractor, unless the suspension decision is limited by its terms to specific divisions, organizational elements or

commodities.”²⁸ Similarly, “debarment constitutes debarment of all divisions or other organizational elements of the contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements or commodities.”²⁹

Given the significance and difficulty of these determinations, responsible officials should have more specific guidance in considering the scope of possible suspension or debarment actions. The Federal Acquisition Regulation should mandate review of the following criteria:

- the extent to which the misconduct was confined to a particular organizational unit and the autonomy of that unit;
- the extent of knowledge corporate management and directors had of the relevant misconduct;
- the extent to which sanctions must be imposed to provide minimum protection of the public interest; and
- other effects that could occur if organizational units other than that within which the misconduct occurred are suspended or debarred.

Suspending and debarring authorities should craft application of these sanctions as narrowly as possible to exclude only those organizational units that threaten the integrity of the procurement process.

f. Independence of Determinations

The government, because of broad discretionary powers entailed in declaring contractors ineligible for awards, carries a heavy burden. It must affirmatively seek to avoid arbitrary action. DoD should ensure that opportunities for abuse are reduced by insulating decisionmakers in the suspension and debarment process from untoward pressure from within or without DoD. Present policies do not provide sufficient insulation for officials involved in the process.

²⁸FAR § 9.407-1(c).

²⁹FAR § 9.406-1(b).

g. Procedures Guiding Suspension and Debarment Within Components of DoD

Under current regulations, the several suspending and debarment authorities are given discretion to “establish procedures” governing suspension and debarment “decision-making” processes.³⁰ This discretion has resulted in each of the authorized agencies developing different and somewhat inconsistent procedures. The Inspector General made the following pertinent observations:

Each suspension/debarment authority within DoD has developed its own method of processing suspension and debarment determinations and implementing suspension and debarment procedures regarding the provision of notice to contractors and the conduct of hearing procedures.

For example, if a contractor requests and is provided a hearing on a debarment matter in DLA, the General Counsel, as the suspension/debarment authority, conducts the hearings. Argument and testimony is directly presented to the suspension/debarment authority, who can assess the credibility of witnesses and can examine all evidence. In the Air Force, suspension and debarment hearings are held before the Debarment and Suspension Review Board, which in turn makes recommendations to the suspension/debarment authority.³¹

Given the severity of suspension and debarment, the Commission believes that uniform procedures should guide the review and decision-making process in each of the agencies. It is, for example very important that debarment officials in each agency should be of a similar stature and that hearing procedures should be comparable. In the absence of uniformity, inconsistent and unfair results may follow. The Secretary of Defense should ensure that uniform policies govern each agency’s decision-making process and the Federal Acquisition Regulation should be amended to so require.

h. Alternative Civil Remedies

The government should expand its use of and more aggressively pursue civil remedies. To make civil enforcement more effective, our *Interim Report* recommended specific measures that included the passage of Administration

³⁰FAR §§ 9.406-3(b)(1), 9.407-3(b)(1).

³¹Office of the Inspector General, DoD, *Review of Suspension and Debarment Activities within the Department of Defense*, at 86-87 (May 1984).

proposals to amend the Civil False Claims Act and to establish administrative adjudication of small civil false claims cases.

It is suggested that those officials charged with administration of suspension/debarment — in particular instances when the propriety of imposition of suspension is questionable — give greater consideration to civil sanctions as a complete remedy. For such an alternative to be effective, DoD must have available to it expanded civil remedies for recovery of assets. Expansion of traditional civil money judgments is a much needed resource, and by endorsing legislation still pending in the Congress — i.e., the Program Fraud Civil Remedies Act — the Commission has sought to encourage the grant of sweeping new administrative powers to levy fines more effectively against individuals and corporations engaged in wrongdoing of a lesser nature.

3. Voluntary Disclosure of Irregularities

Contractors have a legal and moral obligation to report to government authorities misconduct discovered in the process of self-review. The Departments of Defense and Justice should jointly initiate a program encouraging the voluntary disclosure of irregularities by contractors. Such a program, if successful, could afford the government timely notice of improprieties that otherwise might not be available, and provide details of known wrongdoing without the expense and compulsion of an adversarial investigation.

A voluntary disclosure program will be effective if there are inducements that assure skeptical contractors they will not suffer greater sanctions by coming forward. Private companies that fail to disclose should not be rewarded by the fortuitous inability of government investigators to make a timely discovery of an irregularity. Nor should contractors benefit that come forward only under compulsion of imminent discovery.

Guidelines considered by DoD in a voluntary disclosure program should include:

- The timing of the disclosure with respect to the contractor's initial awareness of the irregularity and the proximity of government oversight action.
 - The completeness, accuracy, and truthfulness of the disclosure, as well as other factors supporting voluntariness.
 - Management levels at which the wrongdoing occurred and at which the decision to disclose was made.
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- Whether internal corporate procedures or standards of conduct covered the conduct of those involved in the wrongdoing and in the disclosure decision.
 - Whether there were in place internal auditing systems that, when properly implemented, addressed the irregularity.

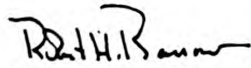
For these purposes, we recommend the following:

- 1. The Federal Acquisition Regulation should be amended:**
 - a. to state more clearly that a contractor may not be suspended or debarred except when it is established that the contractor is not “presently responsible,” and that suspension or debarment is in the “public interest”; and
 - b. to set out criteria to be considered in determining present responsibility and public interest.
 - 2. The Department of Defense should reconsider:**
 - a. “automatic” suspensions of contractors following indictment on charges of contract fraud;
 - b. suspending and debarring the whole of a contractor organization based on wrongdoing of a component part;
 - c. insulating its suspending/debarring officials from untoward pressures; and
 - d. establishing uniform procedures to guide the review and decision-making process in each agency exercising suspension/debarment authority.
 - 3. DoD should give serious consideration to:**
 - a. greater use of broadened civil remedies in lieu of suspension, when suspension is not mandated; and
 - b. implementation of a voluntary disclosure program, and incentives for making such disclosures.
 - 4. Specific measures should be taken to make civil enforcement of laws governing defense acquisition still more effective. These include passage of Administration proposals to amend the Civil False Claims Act and to establish administrative adjudication of small, civil false claims cases. In appropriate circumstances, officials charged with administration of suspension/debarment should consider application of civil monetary sanctions as a complete remedy.**
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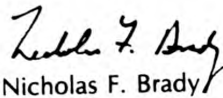
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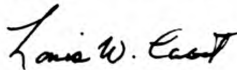
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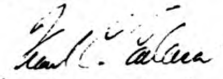
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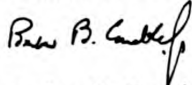
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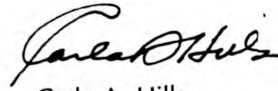
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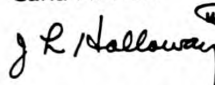
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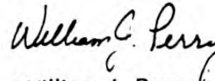
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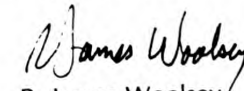
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