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Audit

Report

OFFICE OF THE INSPECTOR GENERAL

**PROCUREMENT OF SERVICES FOR THE NON-
ACOUSTIC ANTI-SUBMARINE WARFARE PROGRAM
THROUGH THE TENNESSEE VALLEY AUTHORITY**

Report No. 93-068

March 18, 1993

~~**Special Warning**~~

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Department of Defense

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The following acronyms are used in this report.

ASD(C³I).....Assistant Secretary of Defense (Command, Control,
Communications and Intelligence)
COTR.....Contracting Officer's Technical Representative
DCAA.....Defense Contract Audit Agency
DCMC.....Defense Contract Management Command
DDR&E.....Director, Defense Research and Engineering
DFARS.....Defense Federal Acquisition Regulation Supplement
DSS-W.....Defense Supply Service-Washington
FAR.....Federal Acquisition Regulation
JTR.....Joint Travel Regulations for DoD Civilian Personnel
NAASW.....Non-Acoustic Anti-Submarine Warfare
OIG.....Office of the Inspector General
OSD.....Office of the Secretary of Defense
RDT&E.....Research, Development, Test, and Evaluation
TVA.....Tennessee Valley Authority
WHS.....Washington Headquarters Services

March 18, 1993

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (COMMAND, CONTROL,
COMMUNICATIONS AND INTELLIGENCE)
DIRECTOR, DEFENSE ADMINISTRATION AND MANAGEMENT

SUBJECT: Audit Report on the Procurement of Services for the
Non-Acoustic Anti-Submarine Warfare Program Through the
Tennessee Valley Authority (Report No. 93-068)

We are providing this final report for your review and comments. This report is one in a series of reports relating to interagency orders placed with the Tennessee Valley Authority under the authority of the Economy Act of 1932. Management comments from the Assistant Secretary of Defense (Command, Control, Communications and Intelligence); the Director, Defense Administration and Management; the Director, Defense Contract Audit Agency; and the Office of the Under Secretary of Defense for Acquisition were considered in preparing the final report.

DoD Directive 7650.3 requires that audit recommendations be resolved promptly; therefore, we request comments from the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), by May 17, 1993. See the Response Requirements per Recommendation in Part II.

The courtesies extended to the audit staff are appreciated. If you have any questions on the report, please contact

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(b) (6) [redacted] at (703) 692-(b) (6) (DSN 222-(b) (6)) or
(b) (6) [redacted] at (703) 692-3(b) (6) (DSN 222-(b) (6)). The
planned distribution of this report is listed in Appendix L.



Robert J. Lieberman
Assistant Inspector General
for Auditing

cc:
Under Secretary of Defense for Acquisition
Director of Defense Procurement
Director, Defense Research and Engineering
Comptroller of the Department of Defense
Inspector General, Tennessee Valley Authority

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Office of the Inspector General, DoD

Report No. 93-068
(Project No. 2CH-5003.03)

March 18, 1993

PROCUREMENT OF SERVICES FOR THE NON-ACOUSTIC ANTI-SUBMARINE
WARFARE PROGRAM THROUGH THE TENNESSEE VALLEY AUTHORITY

EXECUTIVE SUMMARY

Introduction. This report is being issued as part of our audit of interagency orders placed with the Tennessee Valley Authority (TVA) (Project No. 2CH-5003). This was a cooperative audit with the Inspector General, TVA. The report addresses the use of Economy Act orders by the Office of the Director, Defense Research and Engineering, and Assistant Secretary of Defense (Command, Control, Communications and Intelligence) (ASD(C³I)), to obtain contracting support for the Non-Acoustic Anti-Submarine Warfare (NAASW) Program through the TVA Technology Brokering Program. The NAASW Program received \$79.3 million of funding through FY 1993.

Objectives. The objective of our overall project was to evaluate DoD use of Economy Act orders to obtain contracting support from TVA. For the portion of the overall project covered in this report, our objectives were to determine whether ASD(C³I) procedures and internal controls were adequate to verify that services and supplies ordered through TVA were actually received and properly billed.

Audit Results. The NAASW Program Office lacked adequate controls over work performed and costs incurred for \$18.6 million of the Economy Act orders issued to the TVA Technology Brokering Program. The lack of adequate controls resulted in approximately \$1.5 million in additional program costs and \$2.8 million of unsupported contractor billings through TVA (Finding A). A NAASW Program official performed travel that was not properly authorized. As a result, documentation to support \$6,648 of travel expenses was inadequate. (Finding B).

Internal Controls. The NAASW Program Office did not establish adequate internal controls to review and approve work performed, costs incurred, security of classified work performed, and travel performed under the interagency agreement with TVA. The internal control weaknesses were material. See Part I for the internal controls reviewed and Findings A and B in Part II for details on the weaknesses.

Potential Benefits of Audit. A onetime monetary benefit of about \$2.8 million can be realized from the recoupment of unsupported costs paid to subcontractors. An additional monetary benefit of

approximately \$605,120 could be realized if TVA returns the remaining \$6.2 million it is holding for NAASW Program work, and if the money is placed under contract directly through DoD procurement channels. If FY 1993 appropriated funds designated for the NAASW Program are placed on contract through DoD contracting channels, and not expended under Economy Act orders with the TVA, a monetary benefit of \$1.8 million can occur. A monetary benefit of \$6,648 can result from the recoupment of unsupported travel costs. Implementation of the recommendations in this report will also improve internal controls over work performed and costs incurred through Economy Act orders with TVA. A summary of the potential monetary and other benefits is at Appendix J.

Summary of Recommendations. We recommended that ASD(C³I) request that TVA or the Defense Contract Management Command exercise adequate contract administration; request that TVA or the Defense Contract Audit Agency audit incurred costs; request that TVA withhold payment of 5 percent of funds billed by ESG, Incorporated, pending the completion of an incurred cost audit; initiate action to recoup questioned costs; request a review of the adequacy of TVA oversight of classified work; establish controls to provide for the separation of duties and avoid the performance of inherently Governmental functions by a contractor; and recover unsupported travel costs. We also recommended that the Director, Defense Administration and Management, evaluate the NAASW Program Office personnel staffing needs.

Management Comments. ASD(C³I) concurred with the recommendations and stated that his office was reviewing the NAASW Program management procedures and practices and was coordinating with TVA to ensure contract administration and program controls meet Federal Acquisition Regulation requirements. Further, ASD(C³I) has taken steps to ensure proper handling of classified material; to coordinate closeout audits by Defense Contract Audit Agency; and to establish an inventory of progress, cost, and technical reports. ASD(C³I) will also revise the interagency agreement as necessary; will request that TVA withhold an appropriate amount from payment to ESG, Incorporated, pending a closeout audit; will preclude future obligation of funds to TVA; will obtain reimbursements for unsupported travel expenses; and will take appropriate disciplinary actions. The Director, Defense Administration and Management, stated that the NAASW Program Office was reviewed, and that ASD(C³I) has taken steps to ensure that future contracts are administered through a DoD contracting agency, rather than TVA, thereby lessening the workload of the NAASW Program Office. The Defense Contract Audit Agency stated that unless appropriate contract provisions are included in the TVA contracts and subcontracts, DCAA would be unable to perform closeout audits. The full discussion of the responsiveness of management comments is in Part II and the complete text of the management comments is in Part IV of this report. Additional comments are requested from ASD (C³I) by May 17, 1993.

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This report was prepared by the Contract Management Directorate, Office of the Assistant Inspector General for Auditing, DoD. Copies of the report can be obtained from the Secondary Reports Distribution Unit, Audit Planning and Technical Support Directorate, (703) 614-6303 (DSN 224-6303).

PART I - INTRODUCTION

Background

Non-Acoustic Anti-Submarine Warfare (NAASW) Program. The NAASW Program is a research, development, test, and evaluation (RDT&E) effort within the Office of the Secretary of Defense (OSD). The program explores non-acoustic anti-submarine warfare technology. In FY 1992, Congress mandated that the OSD program be separate from Navy non-acoustic technology initiatives. The Director, Defense Research and Engineering (DDR&E), was originally delegated NAASW program management responsibility through FY 1991. In December 1991, the NAASW Program was transferred to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) (ASD(C³I)). The NAASW Program received \$49.3 million through FY 1992 and \$30 million for FY 1993 for RDT&E efforts. The NAASW Program was primarily performed through Economy Act orders issued to other Government agencies and federally funded research and development centers (Appendix A).

Washington Headquarters Services. The Washington Headquarters Services (WHS) provides to DoD activities in the National Capital area administrative and operational support including budget and accounting, civilian and military personnel management, security, travel, and other miscellaneous administrative support. Within WHS, the Directorate for Budget and Finance controls appropriated funds, issues Economy Act orders for various DoD activities including DDR&E and ASD(C³I), and provides other financial management and accounting services. WHS also coordinates administrative service policies for DoD Components serviced by the Defense Supply Service-Washington (DSS-W) which provides acquisition and contractual-related support to DoD activities in the Washington, D.C., area.

Technology Brokering Program. In 1988, the Resources Group, Tennessee Valley Authority (TVA), established the Technology Brokering Program to expand opportunities for technology-based growth in the Tennessee Valley. The Technology Brokering Program accepts Economy Act orders from other Government agencies and contracts for the work through cooperative agreements with commercial organizations in and outside the Tennessee Valley. The purpose of the Technology Brokering Program is to bring into the Tennessee Valley high technology work that can be used for future commercial purposes.

The TVA Technology Brokering Program, executed by an office of 5 persons, received \$112 million of Economy Act orders in

FY 1991 from 45 Government activities and placed the funds with 41 cooperators (contractors). The program goal is to use and develop Tennessee Valley technological capabilities and commercial potential. Four members of the Technology Brokering Program Office perform contract administration and oversight. The Office of the Inspector General (OIG), TVA, 51-person staff audits TVA programs totaling \$6 billion. OIG, TVA, does not devote audit resources specifically to the Technology Brokering Program, but has audited the program twice since 1991 and plans additional audits of the program in FY 1993.

Between April 1991 and March 1992, DDR&E and ASD(C³I) sent \$18.6 million of Economy Act orders for the NAASW Program through WHS to the TVA Technology Brokering Program. As of May 1992, the Director of the Technology Brokering Program had authorized ESG, Incorporated (ESG), to expend \$17.2 million of the funds for the NAASW Program through a cooperative agreement, and ESG had billed TVA \$11.5 million for support provided to the NAASW Program Office. ESG provides direct support subcontracts with other organizations to support the NAASW Program.

Objectives

On October 11, 1991, we announced a joint audit with the OIG, TVA, to evaluate DoD activities' use of Economy Act orders to obtain contracting support through TVA. The joint objectives were to determine whether:

- o contract offloading by DoD activities to TVA was appropriate, justified, and properly approved;

- o DoD activities adequately verified that the services and supplies ordered were actually received and properly billed; and

- o internal controls, as they relate to these procurements, were effective.

OIG, DoD, Report No. 92-069, "Quick-Reaction Report on DoD Procurements Through the Tennessee Valley Authority," April 3, 1992, addressed the first objective. This audit report addresses the second and third objectives as they relate to ASD(C³I) NAASW Program management.

Scope

We examined the interagency agreement between TVA and the NAASW Program Office and the seven related Economy Act orders totaling \$18.6 million, the cooperative agreement between TVA and ESG, and the ESG workplan and budget for the NAASW Program. We examined vouchers and supporting documentation ESG submitted to TVA and examined detailed supporting documentation maintained by ESG

first-, second-, and third-tier subcontractors for \$8.2 million in costs invoiced through TVA from the inception of the NAASW Program in 1988 through FY 1991. We examined vouchers and supporting documentation for \$3.1 million of invoices ESG submitted to TVA for FY 1992 through May 20, 1992. We reviewed the DoD NAASW Program Security Classification Guide, which provides guidance for the security of classified information. We interviewed NAASW Program officials, TVA officials, and ESG personnel. We interviewed officials from the Defense Contract Audit Agency (DCAA), the Defense Investigative Service, and WHS, and reviewed WHS documentation supporting \$30.7 million in Economy Act orders. The Economy Act orders for NAASW support were issued to and accepted by other DoD and non-DoD activities between February 1991 and April 1992.

The audit was performed from January through July 1992, and covered contracting support provided by the TVA from April 1991 through May 1992. We did not rely on computerized data to conduct this review. This economy and efficiency audit was performed in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD. Accordingly, we included such tests of internal controls as were considered necessary. The activities contacted are listed in Appendix K.

Internal Controls

The audit identified material internal control weaknesses as defined by Public Law 97-255, Office of Management and Budget Circular No. A-123, and DoD Directive 5010.38. The NAASW Program Office did not establish effective internal controls to review and approve work performed by ESG and its subcontractors, to review and approve the receipt of deliverables, or to review and approve costs incurred under the Economy Act orders issued for the NAASW Program.

The NAASW Program Office also did not establish internal controls through the Technology Brokering Program for a security program that covers classified information and security clearances for TVA, ESG, and ESG subcontractors. Further, the Offices of the DDR&E and ASD(C³I) did not establish internal controls for travel by NAASW Program personnel.

Implementation of Recommendations A.1.a., A.1.d., A.1.e., A.1.f., and B.2. in this report will correct the internal control weaknesses. We did not quantify a potential monetary benefit that would result from correcting the internal control weaknesses because the level of NAASW support ASD(C³I) planned to acquire through TVA was not clear. However, implementing our recommendations should help prevent the future payment of unsupported, unallowable, or questioned costs related to the

\$6.2 million in funds remaining at TVA and the \$30 million designated for the NAASW Program in FY 1993. A copy of the final report will be provided to the senior official responsible for internal controls within OSD.

Prior Audits and Other Reviews

In the last 2 years, the OIG, DoD, and the OIG, TVA, issued five audit reports on the use of Economy Act orders for procurements through the Library of Congress, the Department of Energy, and the TVA. In 1991, the Army Audit Agency issued two reports on contract offloading. Also, the OIG, DoD, has an audit in process on DoD procurements through the National Aeronautics and Space Administration. The reports generally stated that DoD officials were improperly issuing unauthorized Economy Act orders to other Federal agencies. See Appendix B for details.

PART II - FINDINGS AND RECOMMENDATIONS

A. ADMINISTRATION OF ECONOMY ACT ORDERS

The DDR&E and ASD(C³I) did not properly control and administer the expenditure of \$18.6 million of funds for the NAASW Program. This lack of control occurred because DDR&E and ASD(C³I) sent Economy Act orders to TVA to support the NAASW Program. Further, the failure of ASD(C³I) to adequately staff the NAASW Program Office contributed to insufficient oversight of contractors. BY sending Economy Act orders to TVA, DDR&E and ASD(C³I) avoided the controls and support normally provided at no charge to the NAASW Program by:

- o a DoD contracting office for award of contracts,
- o the Defense Contract Management Command for contract administration,
- o the DCAA for contract audit, and
- o the Defense Investigative Service for security of classified data handled by contractors.

As a result, the Government spent about \$1.5 million unnecessarily for program and contracting support by TVA and ESG, the prime contractor to TVA for the program. In addition, \$2.8 million of contractor billings were not supported by documentation.

DISCUSSION OF DETAILS

Background

In February 1991, the DDR&E requested WHS to provide funds to the Aviation Supply Office, Philadelphia, Pennsylvania, for a prototype system for test and evaluation, and to the Naval Weapons Center, China Lake, California, to contract for RDT&E program requirements under the NAASW Program. However, both activities returned the funds without contract execution for a variety of reasons.

To accomplish the NAASW Program requirements, NAASW Program officials stated that they considered alternative contracting methods, including using contracting offices of DSS-W and the Navy. DDR&E officials concluded that TVA could meet operational time constraints and that TVA offered an economical and efficient means to accomplish program needs without adhering to regular Federal acquisition procedures. The DDR&E assumed that TVA would provide contract management support, and that TVA had access to Government organizations, national laboratories, colleges and

universities, international scientific and technical communities, and contractors. On February 25, 1991, the ASD(C³I) sent \$500,000 to TVA on an Economy Act order to initiate contracting for the NAASW Program.

TVA Technology Brokering Program

TVA has taken an official position that it is not required to comply with the Federal Acquisition Regulation (FAR) for procurements under the Technology Brokering Program. In August 1992, TVA issued, "Technology Brokering Program Overview and Guidelines," reiterating TVA independence from the FAR. The August 1992 TVA guidance also stipulated that the requesting agency must include a determination and finding signed by a contracting officer stating that acquiring the goods or service with an Economy Act order submitted to TVA is in the best interest of the Government and that the order does not conflict with other authority.

Under the Technology Brokering Program, TVA approves contractor workplans and budgets, processes and pays invoices, receives deliverables, and provides limited RDT&E management oversight. The requesting activity retains technical oversight and acceptance responsibility for work performed. To process and administer the procurement, TVA assesses a fee that ranges from 5 percent to 10 percent of the amount of the Economy Act order.

Role of Washington Headquarters Services (WHS)

Between February 1991 and February 1992, WHS issued to TVA seven Economy Act orders totaling \$18.6 million for the NAASW Program (Appendix A). DDR&E officials stated that they requested WHS to send the orders to TVA because OSD did not have a contracting office, because the NAASW Program Office had insufficient resources to handle both technical oversight and contract administration, and because, by using TVA, the NAASW Program Office could quickly obligate funds and obtain the support of a specific contractor without having to advertise or compete the requirement. A WHS budget officer certified that program funds were available and prepared and signed a DD Form 448, "Military Interdepartmental Purchase Request," that was forwarded to TVA. Upon acceptance of the DD Form 448, TVA submitted a voucher to WHS for reimbursement of the total amount of funds identified on the DD Form 448, and WHS transferred the funds to TVA.

Use of Economy Act Orders

Approval of orders. WHS issued the first four Economy Act orders before the NAASW Program Office established an interagency agreement in May 1991. A senior staff specialist in DDR&E signed

the NAASW Program Office and TVA interagency agreement. The Director, Tactical Warfare Programs, Office of the DDR&E, approved the first four Economy Act orders and the WHS budget officer approved the DD Forms 448. DDR&E and ASD(C³I) approved the fifth and sixth orders respectively, and WHS subsequently issued the orders after the NAASW Program Office and TVA interagency agreement was signed in May 1991. The Principal Deputy for Intelligence, Office of the ASD(C³I), approved the seventh order, which was issued by WHS. Neither the OSD General Counsel nor a DoD contracting officer reviewed the interagency agreement or the Economy Act orders. Defense Federal Acquisition Regulation (DFARS) 217.502, "Interagency Agreements Under the Economy Act," requires that Economy Act orders be reviewed and approved by a DoD contracting officer.

Contract oversight. The offices of DDR&E and ASD(C³I) did not establish any controls over contract oversight, contract administration, contractor evaluations, or subcontractor costs for the NAASW Program. The Economy Act orders for the NAASW Program sent to TVA resulted in contract work that had none of the normal DoD contract oversight controls in place. Under a standard DoD contract, DCAA and the Defense Contract Management Command (DCMC) would provide oversight of contractor costs and contract administration. DCAA evaluates contractor operations for economy, efficiency, and adequacy of controls, and examines contractor and subcontractor costs for reasonableness, allocability, and compliance with FAR restrictions. DCMC performs pre-award evaluations of the competency, capability, and reliability of potential contractors; performs post-award technical and administrative oversight in support of program managers; and performs contract termination and completion actions. DCAA and DCMC also work together to evaluate proposals and contractor financial systems. None of these pre- and post-award checks and reviews occurred.

Responsibilities identified in interagency agreements. The May 1991 interagency agreement between the NAASW Program Office and TVA states that:

- o contract administration shall be performed in TVA by the Manager of Technology Utilization or a designee,

- o DoD shall designate a project director for each project who will authorize work on the basis of detailed Economy Act orders submitted by the NAASW Program Office, and

- o the NAASW Program Office has the right to audit TVA records to verify the accuracy of amounts invoiced by TVA.

The cooperative agreement between TVA and ESG states that ESG shall submit a workplan and budget to TVA, and that the Vice

President of the Resources Group, TVA, or a designee of the Vice President of the Resources Group shall act for TVA in all matters relating to the administration of the cooperative agreement, and that ESG shall designate a project director for each project. The TVA-ESG agreement also states that "TVA, its agents, and the General Accounting Office have the right to audit, without restrictions, costs incurred by ESG and billed to TVA and cost data supporting the approved workplan and budget." No other details regarding contract administration or oversight are specified in either the interagency agreement or the cooperative agreement.

WHS policy revision. During the audit, we advised the Deputy Director, Budget and Finance, WHS, that a DoD contracting officer should review and approve Economy Act Orders before issuance. On August 7, 1992, the Director, Budget and Finance, WHS, issued the memorandum, "Off-Loading of Contract Actions," that stated, "effective immediately, all requests for contractual support from non-DoD sources under the authority of the Economy Act must include a determination and finding signed by a DoD contracting officer" (Appendix C).

Contract Administration

Performance of administration and oversight. The interagency agreement between the NAASW Program Office and TVA allowed DDR&E to request the TVA Technology Brokering Program to designate ESG as the primary contractor to perform the work under the Economy Act orders. ESG is a small, woman-owned business in Laurel, Maryland, staffed with former DoD personnel known to the DDR&E officials responsible for the NAASW Program. TVA approved the workplan and budget ESG submitted that described, in general terms, the tasks to be performed, budgeted costs, projected milestones for completion of tasks, and planned deliverables. TVA ensured that the invoices ESG submitted did not exceed the budgeted costs identified in the approved workplan and budget. Either the NAASW Program Office or ESG was responsible for all technical oversight. Neither DCAA or DCMC was included in the oversight process.

An ESG official responsible for managing subcontracts informed us that ESG performs contract administration in accordance with the FAR. However, TVA is not required to follow the FAR, and no language was included in the cooperative agreement between TVA and ESG to establish the requirement.

Oversight performed by the NAASW Program Office. The program plan for the NAASW research effort DDR&E submitted to Congress in April 1990 stated that one full-time program oversight manager in OSD would approve program plans and disseminate FY 1990 funds. The program plan also stated that,

"individual projects will be managed by project managers at each major participating organization." The program plan did not identify TVA as part of the NAASW program management organization. A GM-15 engineer was assigned to the NAASW Program Office as the project director. The project director had not received training at the Defense Systems Management College to be a program manager or to be a contracting officer's technical representative (COTR). For the contractor support subsequently obtained through TVA, this project director was responsible for monitoring work performed by ESG and its subcontractors. The project director stated that she was the COTR; however, we determined that TVA never formally appointed her to be a COTR or specified in writing her technical oversight responsibilities. TVA should have formally acknowledged her technical oversight responsibilities with regard to the cooperative agreement. Office of Federal Procurement Policy Memorandum, "Government-Wide Guidance on Contract Administration," March 15, 1991, states that the COTR should be designated in writing and that the designation should define the scope of duties and responsibilities and the limitations of the COTR's authority. The memorandum also states that COTRs must have appropriate training, time, and resources to effectively monitor contracts.

The NAASW project director approved the ESG workplan and budget, but was unable to provide documentation of subsequent oversight actions taken with regard to formal approvals of the work performed or costs incurred by ESG. Approvals, if made, were apparently verbal and not documented. The project director stated that it was TVA's responsibility, not hers, to review costs invoiced by ESG, and that it was ESG's responsibility to monitor subcontractor costs.

According to subcontractor plans, the project director was to receive quarterly progress reports, monthly financial status reports on subcontractor efforts, and copies of deliverables. However, we could not establish that the project director had received copies of progress reports or deliverables from TVA, ESG, or its subcontractors. When interviewed, she was unsure of the status of the reports, stating that such documents were maintained by the contractor. The project director recalled taking two trips to monitor contractor performance, but stated that no trip reports were completed to document the trips. Subsequently, she provided copies of some notes that she claimed were taken during the trips. We identified eight trips that she took in support of the NAASW Program (Finding B).

Responsibilities of ESG as a TVA contractor. ESG was primarily responsible for developing a project master plan for current and ongoing research efforts to support the NAASW Program, and for assisting the NAASW project director by performing the following duties. ESG was responsible for:

- o identifying contractors to support the research effort and identifying procedures for subcontracting the work, evaluating proposed research projects and their applicability to the NAASW Program, and recommending issuance of subcontracts;

- o preparing subcontract documents, conducting cost analyses, and participating in evaluations of proposed new technology;

- o developing budgets and schedules for individual NAASW taskings;

- o obtaining technical consultants to assist the project director in testing and evaluating the utility of technologies developed by NAASW research projects;

- o monitoring subcontractor performance; and

- o attending progress reviews with subcontractors and advising the NAASW Program Office of potential problems.

ESG also prepared justification and approval documents for non-competitively awarding the subcontracts based on the proposed projects submitted by prospective firms to the NAASW Program Office. ESG assigned one full-time employee and one part-time employee to perform NAASW-related work in its Laurel office and maintained a one-person office in Knoxville, Tennessee, to support the NAASW Program.

Separation of duties. DDR&E and ASD(C³I) personnel responsible for managing the NAASW Program did not establish adequate internal controls to preclude a potential conflict of interest by ESG. The officials did not separate the duties of evaluating projects and proposed costs, selecting subcontractors, or approving subcontractor costs. As the prime contractor, ESG advised the NAASW project director and helped her manage the NAASW Program. ESG was also responsible for the actual research efforts, thus DoD could not ensure that advice rendered by ESG was independent, that assessments made of proposals were unbiased, and that costs incurred were reasonable and appropriate. NAASW Program Office personnel could not demonstrate that they had reviewed project expenditures in detail for technical accuracy. For each of the projects approved by the project director for further consideration, ESG performed cost and price analyses, developed support for Government negotiation positions, prepared the subcontracts, and performed contract administration.

The firms that proposed the approved projects became sole-source subcontractors to ESG. This placed ESG in the position of evaluating and recommending projects to be funded as well as controlling and approving the expenditures by those subcontractors. In addition, ESG charged costs to the NAASW Program for administering and managing the work performed by the subcontractors.

FAR 9.505-3, "Providing Technical Evaluation of Advisory and Assistance Services," states that contracts requiring a contractor to technically evaluate other contractors' offers or products and to advise the Government shall not generally be awarded without proper safeguards to ensure objectivity and to protect the Government's interest. To preclude the potential for conflicts of interest, ASD(C³I) should establish internal controls by either increasing the staffing of the NAASW Program Office or by using separate contractors to provide the management support services and to be responsible for the research efforts.

Inherently Governmental functions. ESG's extensive program management responsibilities and support to the NAASW project director allowed ESG to perform duties and make decisions inherent to the Government. ESG prepared evaluation proposals, program budgets, and documents defining requirements and evaluation criteria, and attended progress reviews on behalf of the NAASW project director. The NAASW project director relied on ESG to make decisions and interpret policy. We believe the NAASW project director gave ESG this authority because adequate in-house contract oversight capability was not available within the NAASW Program Office.

Office of Federal Procurement Policy Letter 92-1, "Inherently Governmental Functions," September 23, 1992, states that agencies must have sufficient numbers of trained and experienced staff to properly manage Government programs. The greater the degree of reliance on contractors, the greater the need for oversight by agencies. Because of the limited ASD(C³I) staff dedicated to monitoring the NAASW Program, we believe the Director, Defense Administration and Management, should perform a manpower survey to determine the number and the training of the staff required to manage the NAASW Program and to monitor contractor support.

FAR 37.102, "Service Contracting," prohibits contracting officers from awarding contracts for the performance of inherently Governmental functions. Office of Management and Budget Circular A-76, "Performance of Commercial Activities," defines an inherently Governmental function as policy making, policy interpretation and enforcement, financial accountability, decisionmaking, or managerial in nature. The extent of the contractor's direct involvement is the key distinguishing factor between allowable management support services and inherently

Governmental tasks. Office of Federal Procurement Policy Letter 92-1 lists functions such as determining what supplies and services are to be acquired and approving contractual documents defining requirements, incentive plans, and evaluation criteria as "inherently Governmental functions." ASD(C³I) needs to establish controls that separate duties, prevent potential conflicts of interest, and preclude a contractor from performing inherently Governmental functions.

Use of subcontractors. ESG subcontracted the technical work requirements that accounted for \$10.9 million (96 percent) of the \$11.4 million in costs billed by ESG as of May 20, 1992 (Appendix D). The subcontracts were not publicized in the Commerce Business Daily and were not competed. ESG subcontracted work on a sole-source basis using cost-plus-fixed-fee contracts, and, in some cases, used third-tier subcontractors.

Percent of subcontract. If a DoD contracting office had supported the NAASW Program, the FAR policies and procedures for contracts and subcontracts would have applied. FAR 52.219-14, "Limitations on Subcontracting," states that, in the case of a contract for services, the contractor must agree to use its own employees to complete at least 50 percent of the cost of the contract performance incurred for personnel. In other words, ESG should not subcontract for more than 49 percent of the total personnel costs for contract performance. Accordingly to FAR 52.219-4, subcontracting more than 49 percent of the contract represents an unacceptable amount of "layering costs."

ASD(C³I) approval of subcontractors. The NAASW Program Office was able to provide documentation to show that only one (Norden) of the second- and third-tier subcontractors identified in Appendix D was approved by ASD(C³I) or by TVA. Unless otherwise established in the contract, FAR 44.202, "Contracting Officer's Evaluation," requires a contracting officer to evaluate a contractor request to subcontract and to notify the contractor in writing of consent or the withholding of consent. The contracting officer evaluation should consider, for example, whether:

- o adequate price competition existed, or whether lack of adequate competition was properly justified;

- o the subcontractor was on the Consolidated List of Debarred, Suspended, and Ineligible Contractors;

- o the proposed subcontract type was appropriate for the risks involved and consistent with current policy;

o the contractor had a sound basis for selecting and determining the responsibilities of the subcontractor; and

o the contractor had adequately translated prime contractor technical requirements into subcontract requirements.

The FAR further states that the contracting officer should give particularly careful and thorough consideration to subcontract proposals for cost-reimbursement contracts and to proposals awarded on a noncompetitive basis.

An ESG official stated that DCAA reviewed the rates for ESG and each subcontractor before the contracts were awarded; however, we were only provided evidence of two DCAA approvals. These approvals were for Norden and Global Associates and were obtained by phone. ESG also provided us two business clearance memorandums signed by the NAASW project director and ESG officials that identified proposed and negotiated rates of subcontractors. We contacted the cognizant DCAA offices, and the supervisory auditors at each of the DCAA offices denied approving or releasing the labor and overhead rates to ESG for the NAASW Program.

Security clearances of TVA and contractor personnel.

Government personnel and contractors are responsible for protecting all classified information to which they have access or for which they have custody. ESG and its subcontractors performed work for the NAASW Program that required access to classified information. TVA was responsible for administering the contracts and approving costs incurred by ESG and its subcontractors for work performed, including classified work, under the NAASW Program. The interagency agreement between the NAASW Program Office and TVA did not identify security requirements for TVA. However, the NAASW Program Office issued a DD Form 254, "Contract Security Classification Specification," to TVA that identified the Director of the Technology Brokering Program as the person responsible for compliance with security requirements and that specified the required clearance level for ESG.

The Director of the Technology Brokering Program stated that he and Technology Brokering Program personnel did not have security clearances, and that TVA had not performed any steps to ensure that ESG and other contractors and their subcontractors maintained adequate security clearances and procedures. We also confirmed that the Defense Investigative Service had not performed security investigations of TVA personnel in the Technology Brokering Program, and that the NAASW Program Office did not provide the Technology Brokering Office with a copy of the NAASW Program Security Guide, which was a classified document.

The TVA personnel cannot properly administer the cooperative agreement with ESG because of a lack of security clearances. The lack of clearances prevents TVA personnel from being aware of the taskings that ESG and its subcontractors must perform. Further, the lack of awareness of security issues and the lack of security clearances at TVA increases the risk of unauthorized disclosure of classified information. Since TVA is responsible for contract administration and approval of costs, either provisions should be made to ensure that TVA has the requisite clearances, or procurements through TVA involving classified programs should be discontinued.

Costs Incurred For Classified Work Performed Through TVA

The interagency agreement between the NAASW Program Office and TVA stipulated that DoD pay in full upon acceptance of the interagency order by the Technology Brokering Program and upon receiving an invoice from TVA. The NAASW Program Office received invoices from TVA for the entire amount of each DD Form 448 submitted to TVA, and WHS transferred a total of \$18.6 million to TVA for the seven Economy Act orders issued through FY 1992. TVA retained a "brokering fee" of \$1,080,450 (see Appendix D) for accepting the orders, issuing cooperative agreements to ESG and any other contractors, and paying invoices from the subcontractors. As work was performed, subcontractors submitted invoices to ESG for approval and payment, and ESG submitted invoices to TVA for approval before payment. The NAASW project director did not receive or review invoices from ESG or ESG subcontractors.

ESG invoices. From April 1991 through May 20, 1992, ESG submitted invoices to TVA and was reimbursed \$11.4 million. The cooperative agreement between ESG and TVA stipulated that the invoices should include sufficient detail so that each item could be separately documented. The agreement stated that invoices must cite:

- o the unit price, model numbers, etc., for goods or materials purchased by the contractor, and

- o the names and positions of persons providing services, their hourly rates, the number of hours of services provided, and the amount paid for services.

ESG provided invoices and supporting documentation to the TVA. The invoices did not include details such as names, positions, and hourly rates as required by the interagency agreement. ESG also did not provide detailed costs or supporting documentation of costs incurred by the subcontractors. Appendix E is an

example of an ESG invoice. The director of the Technology Brokering Program stated that the TVA review of contractor invoices is intended to ensure only that actual costs do not exceed budgeted costs, and that the contractors, such as ESG, are responsible for reviewing and approving subcontractor costs.

Subcontractor invoices. ESG did not request or receive detailed support for invoiced costs from its subcontractors. The President of ESG stated that the ESG review is not designed to identify unallowable costs because an audit of incurred costs by DCAA should uncover such costs. Our audit showed that DCAA has no right to audit ESG and ESG subcontractors. After our request for supporting details for billings in May 1992, ESG required about 4 weeks to obtain the detailed supporting documentation from its subcontractors. Further, the documentation ESG provided us in support of the \$10.9 million in subcontractor invoices could not be reconciled to individual invoices submitted to ESG. In October 1992, an ESG official stated that she had begun to review subcontractor invoices to reconcile costs incurred to costs billed. Based upon the documentation provided to support the \$10.9 million, we identified more than \$2.8 million as questioned costs (Appendix F).

We also determined that labor rates charged by subcontractors and ESG and paid by TVA were higher than those ESG identified as approved by DCAA. For example, ESG requested approval of labor rates from DCAA by phone for the subcontractor Global Associates, and DCAA recommended that the rate be \$20.48 per hour for an engineer and \$27.57 per hour for a senior engineer. Global Associates invoiced ESG at \$22.74 per hour for engineers and \$31.55 per hour for senior engineers.

Close-out audit. We questioned personnel in the Office of the ASD (C³I) and ESG regarding the performance of the close-out audit, since TVA was the contracting activity. They stated that DCAA would perform the close-out audit in accordance with FAR part 31, "Contract Cost Principles and Procedures," and that 5 percent of the ESG invoiced costs would be withheld pending completion of a close-out audit. The TVA and ESG cooperator agreement contained no provisions for either the pre-award approval of labor rates or the close-out audit and no provisions were made verbally or in the interagency agreements for a close-out audit by the NAASW Program Office, TVA, or ESG. The TVA and ESG cooperator agreement stipulated that TVA would withhold payment of 5 percent of the ESG invoiced costs pending acceptable completion of the work. According to DCAA, either the contracting officer--in this case, TVA--or the DoD requesting activity must request the DCAA close-out audit. The 5 percent is withheld to protect the interest of the Government. We believe 5 percent should be withheld because of the large amount of

unsupported costs identified and the increased labor rates billed by subcontractors to ESG. The NAASW Program Office has the right to, and should request, that TVA retain 5 percent of the \$11.4 million paid to date to ESG, pending the completion of a close-out audit.

If ASD (C³I) requests the audit from DCAA and receives approval from TVA for access to the contractors, DCAA would perform the audit on a non-reimbursable basis. However, if TVA requests the audit, a DCAA hourly rate would be charged because TVA is not part of DoD. On March 18, 1992, before the completion of an audit of incurred costs, the NAASW project director issued a memorandum to TVA authorizing the release to ESG of the 5 percent withheld through Invoice No. 10 totaling \$281,000 (Appendix G). The NAASW project director stated that she responded to a telephone call from TVA requesting that the funds be released after a request to TVA from ESG.

Additional costs. DoD may have incurred as much as \$1.5 million of additional costs by obtaining contract support services through TVA. The \$1.5 million includes the \$1.1 million brokering fee charged by TVA for issuing a cooperative agreement to ESG and for disbursing DoD funds, and \$452,674 in costs incurred by ESG for program management as of May 20, 1992 (Appendix F). If the NAASW Program Office had used existing contracting channels within DoD, the \$1.1 million TVA brokering fee would have been avoided. Contracting support provided by one DoD Component to another is generally nonreimbursable. Further, the NAASW Program Office could have then used DCMC to help administer the contract and used the Defense Finance and Accounting Services to help pay bills, also on a nonreimbursable basis. DCMC and the Defense Finance and Accounting Service could also perform many of the other services provided by ESG. We believe that hiring additional personnel to work in the NAASW Program Office would have cost less than paying ESG to support the NAASW Program.

The intent of the Technology Brokering Program was to help transfer and commercialize work performed in the Tennessee Valley. However, of the \$18.6 million transferred to TVA as of May 20, 1992, only a small amount was transferred to organizations in the Tennessee Valley including \$870 to the University of Tennessee and an unknown amount to the ESG office in Knoxville.

The Knoxville office was established in May 1991 to support contract-related efforts by providing direct interface with TVA and other organizations, by providing programmatic and technical support through research libraries and data bases of research information, and by receiving and monitoring contractually required data and performing analyses of cost and performance of

projects to ensure that they are progressing in accordance with expected results. During a visit to Knoxville in June 1992, we determined that the one-person ESG office at Knoxville had not performed any substantive work to date, and did not expect to until the Spring of 1993, at which time a technical library would be established for the NAASW Program. The office manager intends to develop a data base that would be used by ESG to identify firms in the Tennessee Valley region that can contribute to the NAASW Program. Costs incurred by this office should not be allocated to the NAASW Program unless ESG can demonstrate that the office is performing worthwhile work in support of the NAASW Program.

ESG staff members are currently providing information management sciences technology support to continue development of the NAASW Program. The activities are performed according to a TVA-approved workplan and budget based on the scope of work as provided by TVA.

New TVA guidelines. TVA issued revised guidance for the Technology Brokering Program in August 1992 based on the results of the OIG, TVA, audit of the Technology Brokering Program. The guidance states that, in FY 1992 and succeeding years, the Technology Brokering Program will emphasize projects that directly benefit the Tennessee Valley region and Tennessee Valley technology organizations. Projects accepted must meet the following criteria.

- o The cooperator must have a physical presence in the Tennessee Valley, or commit to utilizing Tennessee Valley organizations as subcontractors for significant portions of the project.

- o The project must have identifiable research and development value-added components.

- o The project should have identifiable potential for commercialization in the Tennessee Valley region. Preference will be given to projects of agencies that commit to joint technology transfer efforts with TVA and TVA contractors.

Given TVA's new criteria for accepting projects, and since the NAASW Program is being performed primarily by organizations outside the Tennessee Valley, it is possible that TVA will not approve future work requests for the NAASW Program.

Benefits of direct contracting. By using DoD contract offices instead of TVA and ESG, Inc. for contracting support, NAASW Program managers can use \$2.4 million of additional funds for program research and development. If the unexpended \$6.2 million of FY 1992 funds transferred to TVA as of May 1992 are

returned to DoD, and are placed on contract through existing DoD contracting channels, a potential monetary benefit of approximately \$605,120 can be realized. We computed \$372,000 of this by applying the average TVA FY 1992 brokering fee of 6 percent to the \$6.2 million balance of unexpended funds. Further, if DoD places the projects on contract directly, rather than through ESG, an additional \$233,120 benefit could also be realized. We calculated the \$233,120 by applying the approximately 4 percent retained by ESG to date of the total of \$11.4 million invoiced to the remaining \$6.2 million, less the TVA fee.

TVA fee \$6,200,000 x 6 percent	\$372,000
ESG costs (\$6,200,000 - \$372,000) x 4 percent	<u>233,120</u>
Total benefit	<u>\$605,120</u>

The FY 1993 DoD Appropriations Act provided an additional \$30 million for the NAASW Program. If the \$30 million is used to procure NAASW requirements through in-house DoD contracting channels rather than through the TVA, an additional monetary benefit of \$1.8 million can be made available for research.

Conclusions

The Economy Act orders issued to TVA for the NAASW Program were not reviewed and approved by a DoD contracting officer and neither DDR&E nor ASD(C³I) required TVA to perform contracting and contract administration in accordance with the FAR. Consequently, controls were not established to ensure that work performed and deliverables received met requirements; that costs incurred were reasonable, allowable, and supported; that classified materials were properly safeguarded and disposed of; and that potential conflicts of interest were avoided. In addition, ASD(C³I), TVA, and ESG did not establish a framework of controls to ensure the allowability and validity of costs billed to the contracts and to the NAASW Program. As a result, DoD paid \$1.5 million in additional costs for work performed through TVA and ESG, and paid \$10.9 million for costs invoiced that were not adequately supported by ESG subcontractors.

WHS took appropriate corrective actions by issuing the August 7, 1992, memorandum, "Off-Loading of Contract Actions". This guidance should preclude the issuance of future Economy Act orders that are not reviewed or are not approved by a DoD contracting officer. Accordingly, we are not recommending that WHS make further changes to its operating procedures.

ASD(C³I) needs to take steps to eliminate the possible waste of funds on the Economy Act orders issued to TVA in support of the NAASW Program. ASD(C³I) should ensure that TVA performs the required level of contract and security administration on the

cooperative agreements awarded to support the NAASW Program, or should ensure that DoD contract administration, contract audit, and security organizations perform the tasks and that an appropriate adjustment is requested from TVA for its fee in processing the orders. Before expending more funds through TVA, ASD(C³I) should perform a cost-benefit analysis to determine whether using TVA to support the NAASW Program is more economical than using a DoD contracting office. Also, steps should be taken to ensure ASD(C³I) is authorized a sufficient number of trained personnel to manage the NAASW Program and to carry out program management responsibilities.

The NAASW Program, valued at more than \$80 million through FY 1993, is managed by one GM-15 project director. We believe that a manpower survey of the NAASW Program office should be performed by the Director, Defense Administration and Management, to validate the adequacy of qualified, trained staff needed to properly manage the NAASW Program.

RECOMMENDATIONS, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

1. We recommend that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence):

a. Obtain agreement from the President, Resources Group, Tennessee Valley Authority, that the Tennessee Valley Authority Technology Brokering Program will perform contract administration on the cooperative agreements in support of the Non-Acoustic Anti-Submarine Warfare Program in accordance with Federal Acquisition Regulation part 42, "Contract Administration". The controls and verification should provide that:

- (1) Required reports are received,
- (2) Technical data is received,
- (3) Subcontractors are approved and subcontractor overhead rates are certified,
- (4) Subcontractor costs are audited when the subcontract is complete,
- (5) Classified materials are entrusted to authorized personnel only and properly disposed of,
- (6) Close out audits are performed when the orders are physically complete by the contractor, and
- (7) Any overpayments to the prime contractors and subcontractors are recovered.

b. Revise the existing interagency agreement between DoD and the Tennessee Valley Authority for the Non-Acoustic Anti-Submarine Warfare Program to reflect any agreement on contract administration and contract audits.

c. Request the Tennessee Valley Authority to:

(1) Withhold \$568,189 (5 percent times \$11,363,791 billed) of payments to ESG, Incorporated, pending the receipt of the results of the audit of incurred costs;

(2) Disallow costs for the ESG, Incorporated, office in Knoxville, Tennessee, pending receipt of verification that the office performed work for the Non-Acoustic Anti-Submarine Warfare Program; and

(3) Initiate action to collect \$2.8 million for the questioned costs in Appendix F for which documentation was not adequate.

d. Request the Defense Investigative Service to review the security requirements, as defined in DoD 5220.22-M, "Industrial Security Manual for Safeguarding Classified Information," for:

(1) Work performed by the Tennessee Valley Authority, by TVA contractors, and by subcontractors under Economy Act orders issued in support of the Non-Acoustic Anti-Submarine Warfare Program; and

(2) Non-Acoustic Anti-Submarine Warfare technologies transferred to the Tennessee Valley Authority, its contractors, or their subcontractors for commercialization purposes.

e. Establish internal controls to adequately secure any classified information in the possession of the Tennessee Valley Authority; ESG, Incorporated; and other contractors and their subcontractors and secure classified information that has been or will be transferred to the Tennessee Valley Authority, its contractors, or their subcontractors for commercialization purposes.

f. Establish controls to separate duties performed by the contractor and to avoid the contractor performing inherently Governmental functions.

g. Withdraw any remaining funds from the Tennessee Valley Authority that were not obligated on a cooperative agreement, and perform a cost benefit analysis to determine whether to continue future procurements through the Tennessee Valley Authority for the Non-Acoustic Anti-Submarine Warfare Program.

h. Provide program management and contracting officer's technical representative training to the Non-Acoustic Anti-Submarine Warfare Program project director.

Management comments. The Assistant Secretary (Command, Control, Communications and Intelligence) concurred with Recommendation A.1.a., stating that his office is reviewing the NAASW Program management procedures and practices and that his office found that coordination is proceeding with TVA to ensure contract administration and program controls meet FAR requirements. He further stated that steps had been taken to ensure that classified material is handled properly; that closeout audits are conducted by the Defense Contract Audit Agency; and that an inventory is established of progress, cost, and technical reports. The Assistant Secretary concurred with Recommendation A.1.b., stating that, while no plans exist to initiate new tasks through the Tennessee Valley Authority, his office will review the interagency agreement and realign it with actual practices. The Assistant Secretary concurred with Recommendation A.1.c., stating that his office had requested that the appropriate amount be withheld from ESG pending planned closeout audits by the Defense Contract Audit Agency and reconciliation of contractor costs, and that a review would be made to determine the allowability of costs for the ESG Knoxville office. Also, the \$2.8 million identified as unsupported costs will be reviewed as to validity of charges during closeout audits.

The Assistant Secretary concurred with Recommendations A.1.d. and A.1.e. and stated that his office, in concert with the Defense Investigative Service, will review current methods of securing NAASW classified information and will recommend corrections. He stated that his office would establish a consolidated list of classified documents in the hands of contractors to ensure proper handling upon completion of the work. The Assistant Secretary also concurred with Recommendation A.1.f., stating that his office will review current practices to determine whether contractors are performing inherently Governmental functions and make the necessary corrections. The Assistant Secretary concurred with Recommendation A.1.g., stating that his office initiated action to preclude obligating new funds to the Tennessee Valley Authority and to make a final determination for the withdrawal of funds from the Tennessee Valley Authority pending the results of closeout audits. In response to Recommendation A.1.h., the Assistant Secretary stated that the project director already completed contracting officer's technical representative training, and that opportunities for additional training will be pursued.

Audit response. We consider the comments to Recommendations A.1.a., A.1.b., A.1.d., A.1.e., A.1.f., A.1.g., and A.1.h. to be responsive, and we request the Assistant Secretary to provide completion dates for the planned and ongoing actions. We consider the comments to Recommendation A.1.c. to be partially responsive. The comments to Recommendation A.1.c. are not specific regarding the amount of withholding that was requested. Also, as of February 15, 1993, the Defense Contract Audit Agency had not been contacted by the Office of the Assistant Secretary, the Tennessee Valley Authority, or ESG, to perform closeout audits. Further, no provisions were incorporated into the interagency agreements or cooperative agreements to allow for closeout audits to be performed by the Defense Contract Audit Agency. According to the Defense Contract Audit Agency, unless appropriate contract provisions such as FAR 52.216.7, "Allowable Cost and Payment," are included in contracts and subcontracts, then an auditor may be unable to gain access to records and may be unable to audit costs (refer to Defense Contract Audit Agency comments to this report in Part IV). Accordingly, we request that the Assistant Secretary provide comments on Recommendation 1.c. that explains how and when the closeout audits will be performed by the Defense Contract Audit Agency.

2. We recommend that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) establish an agreement with Tennessee Valley Authority to delegate future contract administration responsibilities to the Defense Contract Management Command, delegate the contract audit to the Defense Contract Audit Agency, or make a direct request to these Defense Components for support.

Management comments. The Assistant Secretary of Defense (Command, Control, Communications and Intelligence) concurred with Recommendation A.2., stating that existing work through the Tennessee Valley Authority is being completed, pending final deliverables and closeout audits by the Defense Contract Audit Agency. He also stated that no future work through the Tennessee Valley Authority was planned, and that future contract administration responsibilities will not be handled by the Defense Contract Management Command, but by another DoD Component. The Defense Contract Audit Agency responded to Recommendation A.2., stating that, unless appropriate contract provisions are included in TVA related contracts and subcontracts, DCAA will be unable to conduct adequate audits.

Audit response. We consider the comments by the Assistant Secretary to be responsive, and request the Assistant Secretary provide a completion date for ongoing actions. We

provided the Defense Contract Audit Agency comments to the NAASW Program Office for their use in future contract actions.

3. We recommend that the Director, Defense Administration and Management, perform a manpower survey of the Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) to validate the number of qualified, trained staff needed to manage the Non-Acoustic Anti-Submarine Warfare Program and to monitor contractor support to the program.

Management comments. The Director, Defense Administration and Management, concurred with Recommendation A.3. He stated that his office determined that the Office of the Assistant Secretary had already taken steps to strengthen the administration of the Non-Acoustic Anti-Submarine Warfare Program. These steps include ensuring that future contracts are administered through a DoD contracting agency, rather than the Tennessee Valley Authority, thereby providing for oversight consistent with the Federal Acquisition Regulations, and lessening the workload of the NAASW Program Manager.

Defense Contract Audit Agency comments on the Recommendations. The Defense Contract Audit Agency stated that TVA is not required to follow the Federal Acquisition Regulation, and no language was included in the cooperative agreement between TVA and ESG, Inc. to establish the requirement. Thus, unless appropriate contract provisions are included in TVA-related contracts and subcontracts, as required by the FAR, then Defense Contract Audit Agency auditors will be unable to conduct adequate audits. Defense Contract Audit Agency believes that this report should recommend that the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement be revised to require that appropriate contract provisions be provide regulatory coverage for procurements under the Economy Act.

Audit response. We support the opinion of Defense Contract Audit Agency; however, this portion of the audit addressed only the Non-Acoustic Anti-Submarine Warfare Program, and was not structured to make recommendations to change the Federal Acquisition Regulation or the Defense Federal Acquisition Regulation Supplement. We will include a recommendation in a planned future summary report on interagency agreements with TVA that will address the Defense Contract Audit Agency concerns.

RESPONSE REQUIREMENTS PER RECOMMENDATION

<u>Number</u>	<u>Addressee</u>	<u>Response Should Cover</u>	
		<u>Proposed Action</u>	<u>Completion Date</u>
A.1.a.	ASD(C ³ I)		X
A.1.b.	ASD(C ³ I)		X
A.1.c.	ASD(C ³ I)	X	X
A.1.d.	ASD(C ³ I)		X
A.1.e.	ASD(C ³ I)		X
A.1.f.	ASD(C ³ I)		X
A.1.g.	ASD(C ³ I)		X
A.1.h.	ASD(C ³ I)		X
A.2	ASD(C ³ I)		X

B. TRAVEL AUTHORIZATION AND FUNDING

A NAASW Program official inappropriately requested TVA to pay travel costs for the NAASW Program and subsequently performed travel that was not properly authorized. Travel management was improper because the Offices of the DDR&E and ASD(C³I) did not require the NAASW Program Office to use the WHS Travel Office, and permitted civilian travel through the use of Economy Act orders through TVA. The TVA does not have internal controls similar to the WHS Travel Office, does not require the use of travel orders, and does not have documentation requirements similar to DoD for completed travel. As a result, documentation to support \$6,648 of travel expenses was inadequate.

DISCUSSION OF DETAILS

Travel Funding and Costs

In March 1990, the Acting Deputy DDR&E (Tactical Warfare Programs) requested WHS to obligate \$27,000 of RDT&E, Defense Agencies, funds for travel by OSD personnel in support of the NAASW Program. WHS denied the request, stating that DDR&E travel funds had to be depleted before any funds could be transferred. In July 1991, the NAASW project director sent a letter to TVA requesting that \$25,000 of RDT&E, Defense Agencies, funds transferred to TVA for the NAASW Program be used to reimburse OSD personnel for travel costs related to the program. According to the project director, TVA was requested to fund the travel costs because the travel budget for DDR&E was not sufficient to fund anticipated travel requirements. The NAASW project director sent the July 1991 request to the TVA without informing WHS. The NAASW Program project director subsequently took trips without travel orders authorized by the WHS Travel Office.

Joint Travel Regulations (JTR). DoD civilian personnel are required to follow the JTR when traveling. TVA does not follow the JTR, but must comply with Federal travel regulations. The JTR states that travel orders should be issued before travel is performed unless an urgent or unusual situation prevents prior issuance. The JTR further states that travel for DoD civilian employees is subject to approval, that vouchers for reimbursement shall be supported by evidence of actual costs, and that lodging and meals are limited to established per diem rates.

Travel costs paid by TVA. TVA paid a total of \$10,096 for travel performed by the NAASW project director. The TVA does not issue or require travel orders for official business as does DoD. TVA paid \$4,633 to acquire airline tickets for the NAASW project director for eight trips between June 1991 and April 1992 (Appendix H), and reimbursed the Project Director \$5,463 for expenses incurred for two trips (July 1991 and August 1991) based

on vouchers submitted to TVA (Appendix I). The DD Form 1351-2, "Travel Voucher," submitted by the project director to TVA for reimbursement was not reviewed by her supervisor and was not accompanied by complete supporting documentation required by the JTR. The vouchers, as submitted, were approved and paid by TVA. Travel vouchers were not submitted for six trips dating back to June 1991.

Based upon the documentation accompanying the two vouchers submitted to TVA for reimbursement, we determined that \$2,015 of the \$5,463 that was reimbursed was not adequately supported in accordance with the JTR (Appendix I). For example, the project director requested reimbursement for \$874 for telephone calls during a trip to the United Kingdom in July 1991. The JTR states that long distance calls will be allowed provided they are certified as necessary in the interest of the Government by an approving officer who has been authorized in writing by the head of the DoD Component. The JTR also requires that the voucher show, for each call made, the parties involved, the date and cost of each call, and a statement that the call was for official business. TVA reimbursed the project director in full; however, no approvals were obtained or documentation provided for the calls.

For the same trip, TVA purchased a \$699 round-trip ticket to the United Kingdom for the project director. However, documentation provided by the project director indicates that the Government paid twice for the travel. The voucher submitted to and paid by TVA indicated that the project director flew on a Government aircraft to the United Kingdom at no cost to the project director, that the project director was personally reimbursed \$349.50 for a return airline ticket, and that the original ticket for \$699 was not returned to the TVA. The disregard for DoD travel regulations and procedures, and the failure to document significant expenditures of DoD funds for travel by a GM-15 project director should result in the initiation of disciplinary action.

Conclusions

The TVA was inappropriately requested to pay travel costs for OSD personnel traveling in support of the NAASW Program. Eight trips made by the project director for the NAASW Program did not have proper authorization. TVA paid a total of \$6,648 in unsupported travel expenses. TVA paid \$4,633 for airline tickets and reimbursed the NAASW project director a total of \$5,463 on two vouchers for which documentation supported only \$3,448 of expenses, and no documentation supported \$2,015.

RECOMMENDATIONS, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

We recommend that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), in coordination with the Director, Defense Research and Engineering:

1. Verify that trips in Appendix H by the project director supported the Non-Acoustic Anti-Submarine Warfare Program and prepare travel orders that obligate proper funds for the trips.

Management comments. The Assistant Secretary of Defense (Command, Control, Communications and Intelligence) concurred and stated that, with the Director, Defense Research and Engineering, his office verified that the eight trips listed in Appendix H were taken. Further, the trips were taken in support of the Non-Acoustic Anti-Submarine Warfare Program. Appropriate documentation for these trips will be prepared and processed by a DoD Component.

Audit response. We consider the management comments to be responsive, and we request that comments to the final report state when corrective actions will be completed.

2. Direct the project director to obtain travel orders documenting proper supervisory approval for trips already taken in support of the Non-Acoustic Anti-Submarine Warfare Program, and to submit travel vouchers and documentation for all trips paid by TVA to the Washington Headquarters Services and a DoD accounting and finance office for payment within 10 working days after the travel orders are issued.

Management comments. The Assistant Secretary (Command, Control, Communications and Intelligence) concurred, stating that in August 1992 the project director's supervisor reviewed and approved all trips, and that all travel vouchers were submitted to a DoD Component for review.

3. Request the project director to reimburse \$2,015 for the unsupported travel-related costs (Appendix I) that were paid by the Tennessee Valley Authority.

Management comments. The Assistant Secretary (Command, Control, Communications and Intelligence) concurred and stated he will ensure that the project director reimburses the Tennessee Valley Authority for all unsupported travel-related expenditures.

Audit response. We consider the management comments to be responsive, and we request comments to the final report specify when corrective actions will be completed.

4. Notify the President, Resources Group, Tennessee Valley Authority to:

a. Stop payment or reimbursement of travel costs incurred by DoD personnel in support of the Non-Acoustic Anti-Submarine Warfare Program.

b. Release remaining funds set aside for travel costs of DoD personnel in support of the Non-Acoustic Anti-Submarine Warfare Program.

Management comments. The Assistant Secretary (Command, Control, Communications and Intelligence) concurred, and stated that all travel since April 1992 has been handled through a DoD Component, and that his office has requested that the Tennessee Valley Authority stop reimbursement of travel costs by releasing remaining funds set aside for travel.

5. We request that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) initiate appropriate disciplinary action against the project director for not obtaining proper authorization of the travel, for submitting travel vouchers that did not comply with the Joint Travel Regulations, for obtaining excessive reimbursements, and for not filing vouchers in a timely manner for the trips taken or returning tickets if travel was not taken.

Management comments. The Assistant Secretary stated that it is inappropriate for the Tennessee Valley Authority to initiate disciplinary action against a DoD employee. ASD(C³I) will determine the accuracy of documentation supporting the travel vouchers submitted by NAASW Program officials and if appropriate will take disciplinary action accordingly.

Audit response. We consider the management comments to be generally responsive to the recommendation. It is appropriate for DoD, and not the Tennessee Valley Authority, to take disciplinary actions if necessary; therefore, we have reassigned the recommendation to the Assistant Secretary and renumbered the recommendation from B.4.c. to B.5. We request comments to the final report specify when action on the recommendation will be completed.

Management comments to the finding. The Assistant Secretary stated that the reputation of the NAASW Program project director, who has an excellent national and international reputation as a scientist, was tarnished as a result of this report. Further, other examinations of the program found no evidence of wrongdoing, but of a dedicated and highly qualified Government

physicist, who despite administrative, diplomatic, and technical challenges, is realizing the goals of the program under very difficult circumstances.

Audit response. The audit was not an attempt to tarnish the reputation or to question the technical capabilities of the project director. The report presented the facts as identified during the audit process through detailed reviews of documentation and interviews with officials from the NAASW Program Office, TVA, and its cooperators.

RESPONSE REQUIREMENTS PER RECOMMENDATION

<u>Number</u>	<u>Addressee</u>	<u>Response Should Cover</u>	
		<u>Proposed Action</u>	<u>Completion Date</u>
B.1.	ASD(C ³ I)		X
B.3.	ASD(C ³ I)		X
B.5.	ASD(C ³ I)		X

PART III - ADDITIONAL INFORMATION

- APPENDIX A - List of Economy Act Orders Issued by the Non-Acoustic Anti-Submarine Warfare Program in FY 1991 and FY 1992
- APPENDIX B - Summary of Prior Audits and Other Reviews
- APPENDIX C - Washington Headquarters Services Memorandum, "Off-Loading of Contract Actions," August 7, 1992
- APPENDIX D - Flow of Funds for the Non-Acoustic Anti-Submarine Warfare Program as of May 20, 1992
- APPENDIX E - Sample ESG, Incorporated, Invoice Submitted to the Tennessee Valley Authority
- APPENDIX F - Summary of Additional and Questioned Costs
- APPENDIX G - Release of Funds Memorandum
- APPENDIX H - Travel Costs Paid by the Tennessee Valley Authority
- APPENDIX I - Travel Costs Paid to Project Director
- APPENDIX J - Summary of Potential Benefits Resulting from Audit
- APPENDIX K - Activities Visited or Contacted
- APPENDIX L - Report Distribution

APPENDIX A - LIST OF ECONOMY ACT ORDERS ISSUED BY THE NON-ACOUSTIC ANTI-SUBMARINE WARFARE PROGRAM IN FY 1991 AND FY 1992

<u>Recipient</u>	<u>Interagency Order No.</u>	<u>Date of Order</u>	<u>Dollar Value</u>	<u>Purpose</u>
Tennessee Valley Authority	DWAM10050	02/91	\$ 500,000	NAASW/Research and Development Funding Support
Tennessee Valley Authority	DWAM00148	04/91	58,000	NAASW/Research and Development Funding Support
Tennessee Valley Authority	DWAM10092	04/91	4,751,000	NAASW/Research and Development Funding Support
Tennessee Valley Authority	DWAM10093	04/91	290,000	NAASW/Research and Development Funding Support
Tennessee Valley Authority	DWAM10133	05/91	1,000,000	NAASW/Research and Development Funding Support
Tennessee Valley Authority	DWAM10141	08/91	10,000	NAASW/Research and Development Funding Support
Tennessee Valley Authority	DWAM20023	02/92	<u>12,000,000</u>	NAASW/Research and Development Funding Support
Subtotal			<u>\$18,609,000</u>	
Naval Oceans Systems Center	DWAM10032	02/91	\$ 400,000	NAASW/Reports to OSD Program Review Group
Aviation Supply Office	DWAM10033	02/91	4,500,000	CANCELED
NASA	DWAM10046	02/91	1,000,000	NAASW/Reports to OSD NAASW Advisory Council
U.S Air Force Space Systems Division	DWAM10047	02/91	294,000	NAASW/Ocean Surface Surveillance
Naval Oceanographic and Atmospheric Research Lab	DWAM10072	03/91	35,000	NAASW/Research and Development Funding Support
Los Alamos National Lab	DWAM10073	03/91	165,000	NAASW/Evaluation of Infrared Laser Imaging System
Lawrence Livermore National Lab	DWAM10074	03/91	4,800,000	NAASW/Research and Development Funding Support
Department of Energy	DWAM10114	05/91	420,000	Radar Ocean Imaging
NASA	DWAM10115	05/91	300,000	NAASW/Reports to OSD NAASW Advisory Council
Pacific Missile Center	DWAM10134	05/91	2,400,000	TADMS-II Program
Hanscom AFB	DWAM10145	06/91	200,000	NAASW/Reports to OSD NAASW Advisory Council
Space and Naval Warfare Systems Command	DWAM10086	07/91	3,000,000	Radar Detection Program
NCCOSC	DWAM20031	02/92	500,000	NAASW/FY92 Optics Test and Data Analysis
Pacific Missile Test Center	DWAM20032	02/92	2,300,000	TADMS-II Program
Naval Explosive Ordnance Technology Center	DWAM20038	03/92	9,657,000	STS Program Management and Oversight

Acronym and abbreviation list at end of appendix.

APPENDIX A - LIST OF ECONOMY ACT ORDERS ISSUED BY THE NON-ACOUSTIC ANTI-SUBMARINE WARFARE PROGRAM IN FY 1991 AND FY 1992 (cont'd)

<u>Recipient</u>	<u>Interagency Order No.</u>	<u>Date of Order</u>	<u>Dollar Value</u>	<u>Purpose</u>
AFDW/FMAO	DWAM20050	03/92	\$ 25,000	NAASW Travel Requirements
U.S. Air Force Space Systems Division	DWAM20052	04/92	209,000	NAASW/Filter Dev. for Data Collection
Naval Research Laboratory Space and Naval Warfare	DWAM20053	04/92	130,000	NAASW Systems Eval./Hardware Modification
Systems Command	DWAM20054	04/92	2,100,000	NAASW/Pretest, Test, Data Collection/Analysis
724th Air Base Squadron	DWAM20063	04/92	2,980,000	CANCELED
1/	DWAM20064	04/92	1,350,000	NAASW/Pretest, Test, Data Collection/Analysis
NASA	DWAM20065	04/92	1,410,000	NAASW/Pretest, Test, Data Collection/Analysis
Subtotal			\$30,695,000 2/	
Total			\$49,304,000	

1/ Classified information deleted.

2/ Amount does not include \$4,500,000 from the Aviation Supply Office and \$2,980,000 from the 724th Air Base Squadron. These orders were not accepted.

Acronyms and Abbreviations

AFB.....	Air Force Base
AFDW/FMAO	Air Force District of Washington/Financial Management Accounting Office
Dev	Development
Eval.....	Evaluation
Lab.....	Laboratory
NASA.....	National Aeronautics and Space Administration
NCCOSC.....	Naval Command, Control, and Ocean Surveillance Center
STS.....	Special Technology Support
TADMS-II.....	TR-1 ASARS-2 (Advanced Synthetic Aperture Radar System) Data Manipulation System II

APPENDIX B - SUMMARY OF PRIOR AUDITS AND OTHER REVIEWS

Office of the Inspector General, Department of Defense

Report No. 93-059, "Army Acquisition of Services Through the Jet Propulsion Laboratory (JPL)," February 25, 1993. The report stated that Army program officials circumvented established policy and exceeded their authority by not obtaining required contract officer approvals in placing \$10.5 million of interagency acquisitions through JPL. As a result, the Army paid \$1.5 million for add-on costs for services chiefly performed by JPL subcontractors. The report recommended that the Army prohibit the placement of supplemental work under interagency agreements unless approved by a DoD contracting officer, take disciplinary actions against those officials who knowingly exceeded their authority by placing work with JPL, and establish procedures for the use of interagency acquisitions. Generally, management concurred with all recommendations.

Report No. 93-042, "Allegations of Improprieties Involving DoD Acquisitions of Services Through the Department of Energy (DoE)," January 21, 1993. The report stated that the Military Departments did not adequately strengthen controls over the use of interagency agreements after we issued OIG, DoD, Report No. 90-085, "DoD Hotline Allegations of Irregularities in DoD Contractual Arrangements With the Department of Energy," June 30, 1990. DoD activities did not obtain prior approval from a DoD contracting officer before placing Economy Act orders with the DoE Oak Ridge Field Office. For the sample of 196 orders reviewed, DoD paid about \$11.6 million in additional costs, and internal controls were not incorporated into interagency agreements and orders to ensure that deliverables met requirements and that vouchers totaling \$78.4 million were accurate. The report also stated that DoD management information systems could not identify the number, the value, the issuing activity, or the recipient of Economy Act orders. The report recommended that DoD establish criteria and specify details to be included in interagency agreements, discipline DoD program officials, establish internal controls to ensure adequate administration of DoD Economy Act orders, establish a system for tracking DoD interagency procurements, and establish a central DoD point of contact for interagency acquisitions. The Director of Defense Procurement concurred with the need for a contracting officer's approval of orders and nonconcurred with the need for a tracking system for interagency acquisitions. The Military Departments and the Defense Logistics Agency generally concurred that interagency agreements and related orders should be reviewed then ratified or terminated, but disagreed that the task should be performed by a contracting officer. The Comptroller of the Department of Defense agreed to establish a requirement where finance and accounting officers would not authorize funds for interagency orders unless a contracting officer had certified that the orders were proper.

APPENDIX B - SUMMARY OF PRIOR AUDITS AND OTHER REVIEWS (cont'd)

Report No. 92-069, "Quick-Reaction Report on DoD Procurements Through the Tennessee Valley Authority," April 3, 1992. The report stated that DoD officials, who lacked authority under the FAR and DFARS to approve interagency acquisitions, improperly authorized interagency orders to transfer \$84.8 million of expiring funds during August and September 1991 to TVA to achieve technical obligation of those funds. The report recommended that the DDR&E, the Service Acquisition Executives, and the Director, Defense Logistics Agency, cancel those interagency orders issued to TVA that had not been placed on contract; prohibit placement of supplemental work under existing interagency agreements if not properly approved by a contracting officer; discontinue the use of military interdepartmental purchase requests and similar ordering forms to acquire goods and services from other Federal agencies; and develop a form that includes sections to be completed by a contracting officer. The Army, Navy, Air Force, and Defense Logistics Agency generally concurred with the finding and recommendations. However, DDR&E did not concur with the recommendation to discipline program managers because DDR&E stated the managers had not exceeded their authority.

Report No. 92-091, "Final Quick-Reaction Report on Accountability of Government Automatic Data Processing Equipment (ADPE) at U.S. Army Special Operations Command," May 15, 1992. This audit disclosed that the command at Fort Bragg, North Carolina, neither established adequate property records for automatic data processing equipment nor complied with Army regulations, policy, and procedures for property accountability. The report recommended that the Commanding General, Army Special Operations Command, establish property book controls for automatic data processing equipment, conduct a physical inventory of data equipment to determine what equipment was missing, report any shortages in accordance with Army Regulations, and establish procedures for the property book officer and contracting officer's representative to jointly inventory and sign for future automatic data processing equipment. Management concurred with the recommendations and initiated corrective actions.

Report No. 90-085, "DoD Hotline Allegation of Irregularities in DoD Contractual Arrangements With the Department of Energy," June 30, 1990. The audit determined that program officials circumvented established policy and exceeded their authority by not obtaining required approvals from DoD procurement officials or designated senior DoD officials when placing orders for interagency acquisitions. Also, DoD internal controls were not adequate to ensure compliance with the FAR and DFARS when program officials placed orders with the Department of Energy. The report recommended that the Under Secretary of Defense for Acquisition improve DoD internal control procedures to minimize the risk of placing orders for interagency acquisitions, that appropriate training be provided to DoD program officials, and that disciplinary actions be considered against those DoD program

APPENDIX B - SUMMARY OF PRIOR AUDITS AND OTHER REVIEWS (cont'd)

officials who exceeded their authority. Management concurred with the findings and recommendations, and the Principal Deputy Assistant Secretary of Defense (Production and Logistics) issued a memorandum to the Military Departments and Defense Logistics Agency on May 10, 1990, that solicited support in training program officials and in establishing internal control procedures to prevent placement of interagency orders by unauthorized DoD program officials.

Report No. 90-034, "Contracting Through Interagency Agreements With the Library of Congress," February 9, 1990. The audit determined that DoD program officials circumvented established policy and exceeded their authority by not obtaining required approvals from DoD procurement officials or designated senior DoD officials when placing orders for interagency acquisitions. Also, DoD internal controls were not adequate to ensure compliance with the FAR and DFARS when program officials placed orders with the Library of Congress. The report concluded that these weaknesses increased the risks of overpricing and susceptibility of interagency procurements to mismanagement, abuse, and fraud. The report recommended that the Under Secretary of Defense for Acquisition improve DoD internal control procedures to minimize the risk of placing orders for interagency acquisitions by unauthorized DoD program officials, that appropriate training be provided to DoD program officials, and that disciplinary actions be considered against those DoD program officials who exceeded their authority. Management generally concurred with the findings and recommendations after the draft report was revised.

Office of the Inspector General, Tennessee Valley Authority

Report No. 92-0250, "Tennessee Center for Research and Development," December 8, 1992. The report identified three findings related to work performed by the Tennessee Center for Research and Development (TCRD) for TVA. First, TCRD functioned in a dual role by assisting TVA in managing and administering the TVA Technology Brokering Program, and by participating in the programs as a cooperator, thus creating an unfair advantage over other companies in receiving work. This conflict of interest resulted in 35 percent of total Technology Brokering Program dollars being awarded to TCRD in FY 1991. Second, oversight and administration of TCRD was not adequate to preclude the payment of unsupported TCRD bills and improper use of funds. Third, TVA funds were inappropriately used to procure furniture and equipment for the Technology Resources Development division of TCRD. The OIG, TVA, recommended resolving the conflict of interest by eliminating TCRD's dual roles, improving oversight of cooperative agreements with TCRD, and inventorying and tagging all TVA equipment in the possession of TCRD. TVA management concurred with the findings and recommendations.

APPENDIX B - SUMMARY OF PRIOR AUDITS AND OTHER REVIEWS (cont'd)

Report No. 91-076G, "Technology Brokering Program (The Program)," March 31, 1992. The report stated that TVA relied on DoD activities to certify that proper procedures and regulations were followed by DoD activities when placing Economy Act orders with the TVA, relied on cooperators to market the program to funding agencies, accepted interagency orders that did not meet the objectives of the program, and inappropriately used cooperative agreements to procure goods and services for DoD. TVA's passive role in marketing and explaining the program may have resulted in misunderstandings regarding the legal responsibilities of the funding agencies and TVA. The OIG, TVA, recommended that TVA explain its role as contract administrator to funding agencies, ensure that DoD interagency agreements are signed by a DoD contracting officer, develop criteria for RDT&E work, develop a database or inventory of TVA capabilities, enter into agreements only with firms that are established in the Tennessee Valley area, reconsider the use of cooperative agreements and, if used, clearly justify their use, and revise payment terms to define allowable costs in sufficient detail to adequately monitor contractor billings. TVA management generally concurred with the findings and recommendations.

Army Audit Agency

Report No. WE 91-A1, "Advisory Report Contract Offloading," September 11, 1991. The report was based on several audits that determined Army activities and installations did not have policies and procedures in place to control contract offloading. These problems resulted from ineffective managerial controls and contracting practices, improper use of service contracts and contractor payments, lack of property accountability, and inappropriate use of military interdepartmental purchase requests. The report contains checklists that the Army Audit Agency developed to help commanders and managers evaluate contract offloading at their commands and activities. The report was advisory in nature and summarized common problems in contract offloading. The report contained no recommendations.

Report No. SW 91-200, "Contract Offloading," January 22, 1991. The report stated that contracts were offloaded to expedite the acquisition of goods and services that frequently violated acquisition and funding regulations and statutes. The violations were not detected because the flow of acquisition and funding documents bypassed knowledgeable installation contracting, resource management, and legal personnel. The report recommended that policy and procedures be reinforced to require contracting, legal, and resource management personnel to review purchase requests made with other Government agencies. Also recommended was the establishment of a reporting system for interagency acquisitions for automatic data processing purchases. Management concurred with the findings and recommendations.

APPENDIX C - WASHINGTON HEADQUARTERS SERVICES MEMORANDUM,
"OFF-LOADING OF CONTRACT ACTIONS," AUGUST 7, 1992



(Budget & Finance)

DEPARTMENT OF DEFENSE
WASHINGTON HEADQUARTERS SERVICES
WASHINGTON, DC 20301-1188



7 August 1992

MEMORANDUM FOR: (SEE DISTRIBUTION)

SUBJECT: Off-Loading of Contract Actions

Recent audits of DOD contractual practices have indicated a need for strengthened controls over the use of non-assigned and non-DOD contracting offices. The practice of obtaining support from other government contracting offices, termed "off-loading", is not specifically prohibited. However, experience shows that it increases the potential for abuse and loss of management control. Inspector General, Army Audit Agency, and procurement management reviews reveal that management control weaknesses occur when contract actions that should have been accomplished in-house, are "off-loaded" for convenience or expediency.

Defense Supply Service - Washington (DSS-W) is the contracting activity assigned to support this organization. DOD Directive 5335.3 prescribes policies and responsibilities for providing a central service to obtain "administrative acquisition, supply, contractual, and related services" for all DoD Components located in the National Capital Region. The scope of this directive specifically includes activities administratively supported by the Washington Headquarters Services.

Effective immediately, all requests for contractual support through sources other than DSS-W processed by this office shall be accompanied by a written statement citing the authority for off-loading the acquisition. If the Economy Act (31 USC 1535) is the authority for the action, and the contractual support is to be obtained from a non-DoD source, then the requesting Agency must provide a Determination and Finding (DaF) statement in accordance with FAR 17.3 DFARS 217.5. Otherwise, the request will be returned without action.

Under the Economy Act (31 U.S.C. 1535), "an agency may place orders with any other agency for supplies or services that the servicing agency may be in a position or equipped to supply, render, or obtain by contract if it is determined by the head of the requesting agency, or designee, that it is in the Government's best interest to do so." For this purpose, the DoD FAR Supplement (Part 217.502) states that the "designee of the head of the requesting agency within DoD is the Contracting Officer."

APPENDIX C - WASHINGTON HEADQUARTERS SERVICES MEMORANDUM,
"OFF-LOADING OF CONTRACT ACTIONS," AUGUST 7, 1992 (cont'd)

The required D&F prepared for the Contracting Officer's signature must accompany each Request for Contract Services (SD Form 419), MOU, IAA, or other obligating document as applicable covered by the Economy Act or other authority. The determination must state that the "interagency acquisition" is in the Government's best interest (FAR 17.503) and include findings (FAR 17.503) that:

(1) legal authority for the acquisition otherwise exists;
and,

(2) the action does not conflict with any other agency's authority or responsibility.

The cognizant DSS-W Contracting Officer will review the proposed "interagency acquisition" and determine if it is in the Government's best interest to proceed as proposed or acquire through DSS-W.

Any questions pertaining to off-loading should be directed to Mr. Christensen at 614-0987.

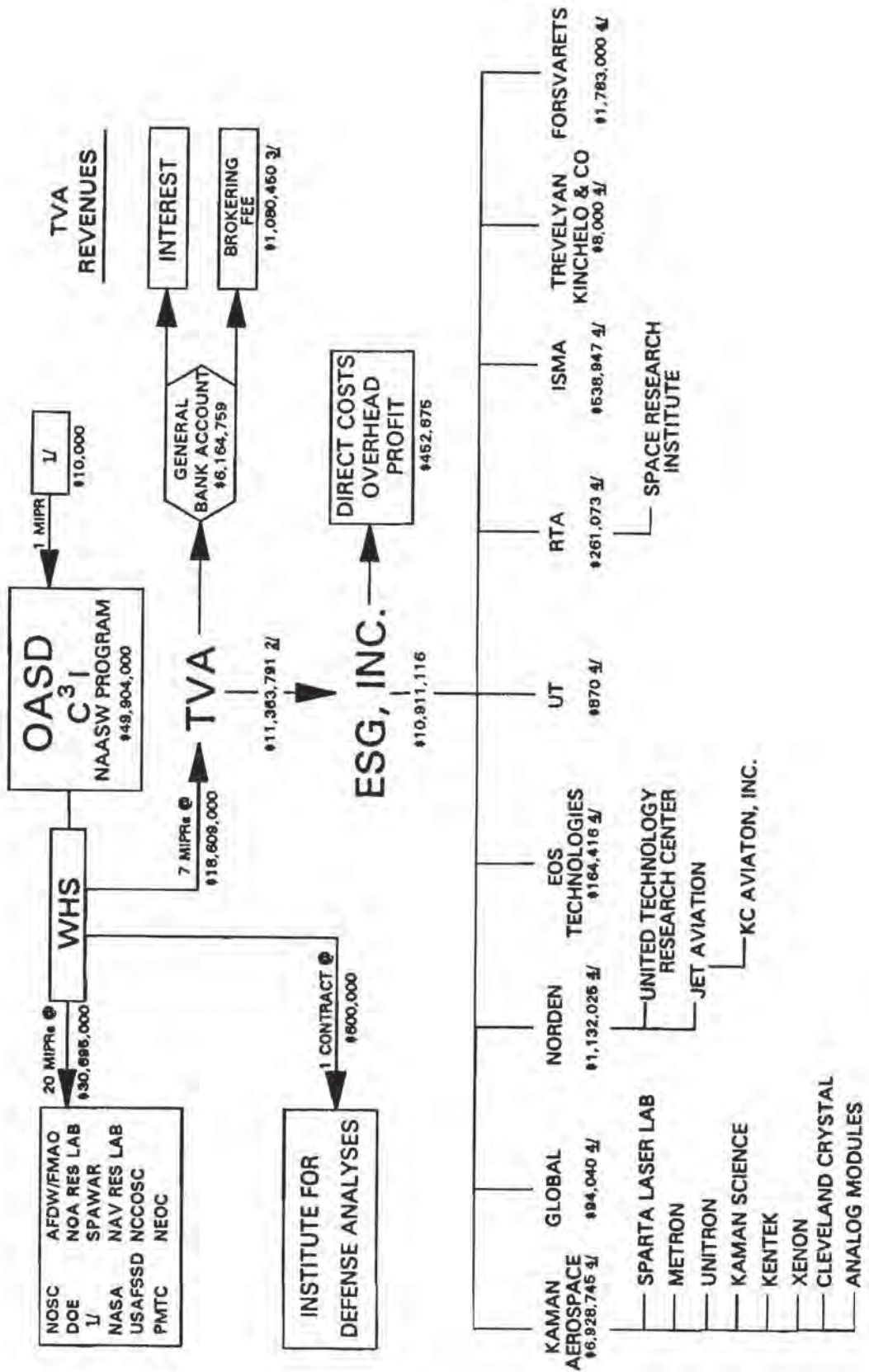
It is requested that this new policy receive the widest possible dissemination to affected program managers.

Your cooperation in this matter is appreciated.


Joe Friedl
Director

Note: Distribution list included the Administrative Assistant (DDR&E) and the Executive Assistant (ASD(C³I)).

APPENDIX D - FLOW OF FUNDS FOR THE NON-ACOUSTIC ANTI-SUBMARINE WARFARE PROGRAM AS OF MAY 20, 1992



Footnotes, acronyms, and abbreviations listed at end of appendix.

APPENDIX D - FLOW OF FUNDS FOR THE NON-ACOUSTIC ANTI-SUBMARINE WARFARE PROGRAM AS OF
MAY 20, 1992 (cont'd)

- 1/ Classified information has been deleted.
- 2/ Amount ESG, Inc., invoiced to TVA.
- 3/ TVA 6.0 percent brokering fee on the seven MIPRs worth \$18,609,000.
- 4/ Amount invoiced by the subcontractor.

Acronyms and Abbreviations

AFDW/FMAO	Air Force District of Washington/Financial Management Accounting Office
DOE	Department of Energy
FORSVARETS	Forsvarets Forskningsstift Instituttstaben
ISMA	International Space Monitoring Association
MIPR	Military Interdepartmental Purchase Request
NASA	National Aeronautics and Space Administration
NAV RES LAB	Naval Research Laboratory
NCCOSC	Naval Command, Control, and Ocean Surveillance Center
NEOC	Naval Explosive Ordnance Center
NOSC	Naval Ocean Systems Center
NOA RES LAB	National Oceanographic and Atmospheric Research Laboratory
OASD	Office of the Assistant Secretary of Defense
PMTC	Pacific Missile Test Center
RTA	Rekenthaler Technology Associates Corporation
SPAWAR	Space and Naval Warfare Systems Command
USAFSSD	U.S. Air Force Space Systems Division
UT	University of Tennessee

APPENDIX E - SAMPLE ESG, INCORPORATED, INVOICE SUBMITTED TO THE TENNESSEE VALLEY AUTHORITY*

Project Title: System Engineering Support to NAASW Program
 Contract Funding: \$17,440,550

	Budget	Current	Cumulative
Total Hours	-	-	-
Total Labor	<u>\$771,130</u>	<u>34,949</u>	<u>411,280</u>
Other Direct Costs (ODC)			
Hardware/Software Tools	\$90,000	0	12,819
Travel	\$80,000	0	27,949
Consultant	\$35,000	0	0
Miscellaneous	<u>\$10,000</u>	<u>0</u>	<u>627</u>
Total ODC	<u>\$215,000</u>	<u>0</u>	<u>41,395</u>
Total Program Management	<u>\$986,130</u>	<u>34,949</u>	<u>452,674</u>
Technology (Subcontractors)			
Task A - Radar Imaging	\$7,406,156	2,103,907	3,982,373
Task B - Optics	\$8,948,264	0	6,928,744
Task C - Electro-Magnetics	0	0	0
Task D - Environmental	0	0	0
Task E - Intelligence	<u>\$100,000</u>	<u>0</u>	<u>0</u>
Total Costs	<u>\$17,440,550</u>	<u>2,138,857</u>	<u>11,363,791</u>

Subcontractor Costs:

Task A:	
International Space Monitoring Association	\$298,947
Rekenthaler Technology Associates Corporation	13,960
Trevelyan, Kinchelo and Company	8,000
Norden Systems	<u>1,783,000</u>
Total Task A	<u>\$2,103,907</u>

I certify that all amounts hereby invoiced were incurred in accordance with the provisions of Contract No. TV-84200V and the workplan and budget and that these amounts have not otherwise been paid to ESG, Inc. by any other party.

By: _____ May 20, 1992

*The wording, format, and figures in this sample ESG, Inc., invoice are shown as in the original ESG, Inc., invoice.

APPENDIX F - SUMMARY OF ADDITIONAL AND QUESTIONED COSTS

<u>Additional Costs</u>		<u>Purpose</u>
TV A	\$1,080,450.00	6-percent TVA brokering fee. <u>1/</u>
ESG, Inc.	452,675.00	ESG Program management fee and cost for ESG, Inc., Knoxville office. <u>2/</u>
Subtotal	\$1,533,125.00	
<u>Questioned Costs</u>		<u>Stated Purpose on Subcontractor Supporting Documentation</u>
<u>Firm</u>	<u>Invoiced <u>3/</u> Costs</u>	<u>Bill Date and/ or Bill Number</u>
RTA	\$ 879.82	June 1991- July 1991
RTA	269.36	Dec. 4, 1991
RTA	90.00	Mar. 11, 1991
RTA	1,741.37	Nov. 1991
Kaman	73,440.00	June 5, 1991 PO 013420 B
Kaman	19,739.00	Sept. 11, 1991 PO 019403 B
Kaman	50,000.00	July 18, 1991 PO 018792 B
Kaman	4,785.00	PO 027573 B PO 026238 B

Footnotes, acronyms, and abbreviations listed at end of appendix.

APPENDIX F - SUMMARY OF ADDITIONAL AND QUESTIONED COSTS (cont'd)

<u>Firm</u>	<u>Invoiced 3/ Costs</u>	<u>Bill Date and/ or Bill Number</u>	<u>Stated Purpose on Subcontractor Supporting Documentation</u>
<u>Questioned Costs (cont'd)</u>			
Kaman	\$ 8,500.00	PO 023986 B PO 019438 B	Engineering services billed by Kaman subcontractors, Xenon and Kentek, that could not be identified as an NAASW Program cost.
Kaman	8,100.00	Dec. 18, 1990 C-1396-90	\$6,100 for a corporate jet to ferry five employees from an unknown origin to San Diego and \$2,000 for two other flights, each 2 hours long with unknown origin and destination.
Kaman	15,510.00	Various Dates	Procurement of automatic data processing equipment.
Norden	89.15	July 6, 1991	Guest dinner of a Norden employee.
Norden	233.22	July 27, 1991	Personal phone calls and personal postage for a Norden employee.
Norden	3,151.85	July 6, 1991	Car rental for one person in England for 4 days.
Norden	988.75	Aug. 3, 1991	Car rental for one person in England for 2 days.
Norden	298,803.00	June 1991- Sept. 1991 47094, 47341, 47502, 47471	One-half of costs for repairs, maintenance, etc., incurred for 3 months for aircraft used by NAASW Program normally charged to another unrelated program.
Norden	44,942.00	Aug. 31, 1991	Airplane maintenance.
Norden	213,082.87	Oct. 1991 Dec. 1991	Unidentifiable costs invoiced October through that could not be identified as an NAASW Program cost.
Global	3,173.61	Various Dates	Purchase and repair of safes and transfer of documents to new building for NAASW Program Office

Footnotes, acronyms, and abbreviations listed at end of appendix.

APPENDIX F - SUMMARY OF ADDITIONAL AND QUESTIONED COSTS (cont'd)

<u>Firm</u>	<u>Invoiced 3/ Costs</u>	<u>Bill Date and/ or Bill Number</u>	<u>Stated Purpose on Subcontractor Supporting Documentation</u>
<u>Questioned Costs (cont'd)</u>			
Global	\$ 73.08	PO 91-0121	Soda and cookies for 25 people.
Global	446.93	PO M 0228	Sandwiches, salads, and pastries for meeting.
Global	395.00	PO 91-0243	Contractor personnel training.
Global	1,000.00	May 1, 1991	Kauder Assoc. billed Global for participating in a meeting with Johns Hopkins University.
EOS Tech.	320.00	Oct. 17, 1991	Fee for EOS employee to attend seminar given by the Assistant Secretary of Defense (C-1).
EOS Tech.	375.25	Oct. 17, 1991	Fee to send EOS employee to training course on "Remote Sensing of the Oceans."
EOS Tech.	19,185.00	Various Dates	Procurement of automatic data processing equipment.
EOS Tech.	153.35	Mar. 1991- Oct. 1991	AT&T charges that could not be identified as an NAASW Program cost.
ISMA	123,200.00	# 920001-2	Lodging for third-tier subcontractor personnel at Wallops Island, MD, for 14 days.
ISMA	100,000.00	# 920001-2	Ship bunkering and related charges.
ISMA	6,872.00	# 920001-2	Travel and per diem for four third-tier subcontractor personnel from unknown origin to Washington, D.C.
ISMA	21,003.00	# 920001-2	Travel and per diem for third-tier subcontractor personnel from unknown origin to Clear Lake, TX.
ISMA	4,872.00	# 920001-2	Computer equipment and other hardware.

APPENDIX F - SUMMARY OF ADDITIONAL AND QUESTIONED COSTS (cont'd)

<u>Firm</u>	<u>Invoiced ^{3/} Costs</u>	<u>Bill Date and/ or Bill Number</u>	<u>Stated Purpose on Subcontractor Supporting Documentation</u>
<u>Questioned Costs (cont'd)</u>			
UT	\$ 870.00	Mar. 12, 1992 B0158345-01	Salaries for academicians who provided unknown services to the NAASW Program.
Forsvarets	1,783,000.00	May 14, 1992	Radar/sonar equipment procured.
Trevelyan	8,000.00	May 15, 1992	Professional services in unknown area.
Subtotal	\$2,817,284.61		
Total	\$4,350,409.61		

1/ Represents a 5- to 10- percent fee that TVA charged to the NAASW Program Office for setting up the cooperative agreement with ESG, Inc.

2/ Represents ESG, Inc., direct and indirect costs associated with passing NAASW Program requirements through ESG, Inc., and tiers of subcontractors.

3/ All costs cited for subcontractors reflect subcontractor-invoiced costs only, and do not reflect additional overhead and added costs for other tiers of subcontractors or for ESG and TVA.

Acronyms and Abbreviations

Assoc.....	Association
AT&T.....	American Telephone and Telegraph
Forsvarets.....	Forsvarets Forskningstift Institutstaben
Global.....	Global Associates, Limited
Kaman.....	Kaman Aerospace Corporation
PO.....	Purchase Order
UT.....	University of Tennessee

APPENDIX G - RELEASE OF FUNDS MEMORANDUM



COMMUNICATIONS
AND INTELLIGENCE

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON DC 20301 3040

18 MAR 71

Tennessee Valley Authority
ATTN: Mr. H. Brown Wright, Manager
Technology Brokering Program
OCH 1G, 601 W. Summit Hill Drive
Knoxville, Tennessee 37902-1499

Dear Mr. Wright:

All work accomplished and billed in Vouchers 1 through 10 (reference: TVA Contract No. TV-64200V) has been completed and delivered to the Government in a satisfactory manner. Please release the five percent amount that has been held in abeyance.

If you have any questions, please contact me at (703) 697-6826. Thank you for your continued support in this effort.

Sincerely,


Donna G. Kulla
NAT Program

APPENDIX H - TRAVEL COSTS PAID BY THE TENNESSEE VALLEY AUTHORITY

Dates	Itinerary		Purpose of Trip	Airline Costs Paid By TVA ^{1/}		Cost Reimbursed To NAAASW Officials By TVA ^{2/}	
	From	To		Amount	Purpose	Amount	Purpose
Feb. 23, 1991 - Feb. 23, 1991	Washington, DC	Knoxville, TN	Unknown	\$ 352	\$ 0		
June 11, 1991 - June 12, 1991	Washington, DC	West Palm Beach, FL	Unknown	290	0		
July 13, 1991 - July 29, 1991	Washington, DC	Heathrow, UK	Wave Wake Experiment	699	5,376 ^{3/}	Hotel, Airline, Per Diem, and Phone Calls	
Aug. 25, 1991 - Aug. 26, 1991	Washington, DC	Denver, CO, and Tucson, AZ	Laser Systems Development	338	88 ^{4/}	Hotel, Parking	
Oct. 27, 1991 - Nov. 2, 1991	Washington, DC	San Francisco, CA	Unknown	456	0		
Dec. 19, 1991 - Dec. 20, 1991	Washington, DC	Denver, CO and Tulsa, OK	Unknown	362	0		
Feb. 29, 1992 - Mar. 14, 1992	Washington, DC	Heathrow UK, and Frankfurt and Bonn, GR	Multi-National Test	1,878	0		
Apr. 15, 1992 - Apr. 15, 1992	Washington, DC	Norfolk, VA	Unknown	<u>258</u>	<u>0</u>		
			Subtotal	<u>\$4,633</u>	<u>\$ 5,464</u>		
			Total amount paid by TVA		<u>\$10,097</u>		

^{1/} TVA purchased airline tickets for OSD travelers and charged the costs against funds paid to TVA under NAAASW program.

^{2/} Costs reimbursed to NAAASW official in addition to airfare paid for by TVA.

^{3/} OSD traveler submitted vouchers to TVA and was reimbursed for actual costs. See Appendix I, Trip 1, for breakout of trip cost.

^{4/} See Appendix I, Trip 2, for breakout of trip cost.

APPENDIX I - TRAVEL COSTS PAID TO PROJECT DIRECTOR

Trip 1 - To the United Kingdom

	<u>Amount Claimed and Paid by TVA</u>	<u>Costs Supported by Documentation</u>	<u>Costs Not Properly Supported</u>
Lodging	\$1,848.08	\$1,386.86	\$ 461.22
Meal Expense	1,504.08	1,280.00	224.08
Car Rental	448.06	448.06	0
Other Travel	701.52	277.02	424.50
Telephone	<u>873.94</u>	<u>0</u>	<u>873.94</u>
Subtotal	<u>\$5,375.68</u>	<u>\$3,391.94</u>	<u>\$1,983.74</u>

Trip 2 - To Tucson, Arizona

Lodging	\$ 63.82	\$ 56.00	\$ 7.82
Parking	<u>24.00</u>	<u>0</u>	<u>24.00</u>
Subtotal	<u>\$ 87.82</u>	<u>\$ 56.00</u>	<u>\$ 31.82</u>
Total	<u>\$5,463.50</u>	<u>\$3,447.94</u>	<u>\$2,015.56</u>

APPENDIX J - SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT

<u>Recommendation Reference</u>	<u>Description of Benefits</u>	<u>Amount and Type of Benefit</u>
A.1.a.	Internal Control. Obtain agreement from TVA that proper contract administration will be performed.	Nonmonetary.
A.1.b.	Economy and Efficiency. Revise interagency agreement between NAASW Program Office and TVA to reflect contract audit and contract administration agreements.	Nonmonetary.
A.1.c.	Economy and Efficiency. Request that TVA withhold \$568,189 in payments to ESG pending audit of incurred costs and disallow costs for ESG's Knoxville, TN, office if not applicable to the NAASW Program; and collect questioned costs.	Questioned costs of \$2.8 million (Appendix F).
A.1.d.	Internal Control. Request Defense Investigative Service review the adequacy of security over classified information.	Nonmonetary.
A.1.e.	Internal Control. Establish internal controls adequate to secure classified information in the possession of TVA, ESG, or subcontractors.	Nonmonetary.
A.1.f.	Internal Control. Provide for the separation of duties and avoidance of the performance of inherently governmental functions by ESG.	Nonmonetary.
A.1.g.	Economy and Efficiency. Withdraw any remaining funds from TVA that were not obligated and perform a cost benefit analysis to determine whether to continue using TVA.	FY 1992 funds put to better use of up to \$605,120 and up to \$1.8 million in FY 1993 funds.

APPENDIX J - SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT
 (cont'd)

<u>Recommendation Reference</u>	<u>Description of Benefits</u>	<u>Amount and Type of Benefit</u>
A.1.h.	Program Results. Provide program management training to the NAASW program director.	Nonmonetary.
A.2.	Program Results. Establish an agreement with TVA to assign contract administration responsibilities to DCMC, and contract audit responsibilities to DCAA if TVA is unwilling to perform them.	Nonmonetary.
A.3.	Program Results. Perform a manpower survey to validate the adequacy of qualified DoD personnel to manage and monitor the NAASW Program.	Nonmonetary.
B.1.	Economy and Efficiency. Verify that trips made by the project director were in support of NAASW Program.	Nonmonetary.
B.2.	Internal Control. Direct the NAASW project director to obtain approval for trips already taken and submit travel vouchers through proper DoD channels within 10 working days after issuance of authorized travel orders.	Nonmonetary.
B.3.	Economy and Efficiency. Request NAASW project director to reimburse DoD for unsupported travel costs paid by TVA.	Funds put to better use of \$6,648, RDT&E, Defense Agencies, funds.
B.4.a.	Program Results. Request that TVA stop the payment of travel costs in support of the NAASW Program.	Nonmonetary.

APPENDIX J - SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT
(cont'd)

<u>Recommendation Reference</u>	<u>Description of Benefits</u>	<u>Amount and Type of Benefit</u>
B.4.b.	Economy and Efficiency. Request that TVA release remaining funds set aside for NAASW Program travel.	Nonmonetary.
B.5.	Program Results. Initiate appropriate disciplinary actions against the project director.	Nonmonetary.

APPENDIX K - ACTIVITIES VISITED OR CONTACTED

Office of the Secretary of Defense

Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), Washington, DC
Comptroller of the Department of Defense, Washington, DC
Director, Tactical Warfare Programs/Naval Warfare and Mobility, Office of the Under Secretary of Defense for Acquisition, Washington, DC

Defense Activities

Headquarters, Defense Contract Audit Agency, Alexandria, VA
Defense Contract Audit Agency Regional Office, Bloomfield, CT
Defense Contract Audit Agency Regional Office, Los Angeles, CA
Defense Investigative Service, Alexandria, VA
Defense Supply Service-Washington, Washington, DC
Washington Headquarters Services, Washington, DC

Non-Defense Federal Organizations

Office of the Inspector General, Tennessee Valley Authority, Knoxville, TN
Technology Brokering Program Office, Tennessee Valley Authority, Knoxville, TN

Non-Government Activities

ESG, Incorporated, Laurel, MD, and Knoxville, TN
United Information Systems, Incorporated, Beltsville, MD

APPENDIX L - REPORT DISTRIBUTION

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition
Director of Defense Procurement
Assistant Secretary of Defense (Command, Control,
Communications and Intelligence)
Director, Defense Research and Engineering
Comptroller of the Department of Defense
Director, Defense Administration and Management

Defense Activities

Director, Defense Contract Audit Agency
Director, Defense Contract Management Command, Defense Logistics
Agency
Director, Defense Investigative Service

Non-Defense Activities and Individuals

Office of Management and Budget
Office of Federal Procurement Policy
General Accounting Office, National Security and
International Affairs Division, Technical Information
Center

Chairperson and Ranking Minority Member of the following
Congressional Committees:

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on
Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
Senate Select Committee on Intelligence
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Subcommittee on Oversight and Investigations, Committee
on Armed Services
House Committee on Government Operations
House Subcommittee on Oversight and Evaluation, House
Permanent Select Committee on Intelligence
House Subcommittee on Legislation and National Security,
Committee on Government Operations

The Honorable David Pryor, United States Senate
The Honorable James Sasser, United States Senate
The Honorable Howard Metzenbaum, United States Senate

Inspector General, Tennessee Valley Authority

PART IV - MANAGEMENT COMMENTS

Assistant Secretary of Defense (Command, Control, Communications
and Intelligence)

Defense Contract Audit Agency

Defense Administration and Management

Under Secretary of Defense for Acquisition

ASSISTANT SECRETARY OF DEFENSE (COMMAND, CONTROL, COMMUNICATIONS
AND INTELLIGENCE) COMMENTS



COMMAND CONTROL
COMMUNICATIONS
AND
INTELLIGENCE

ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, DC 20301 3040

9 February 1993

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Draft Report on the Procurement of Services for the Non-Acoustic Anti-Submarine Warfare (NAASW) Program Through the Tennessee Valley Authority

My staff has reviewed the draft report and we concur with all of the report's recommendations. Specific comments and actions taken or ongoing relative to the recommendations are addressed in Attachment 1. We appreciate your suggestions and recommendations.

Although funds were transferred earlier to TVA in accordance with WHS procedures in place at the time of transfers, we expect that all existing contracts will be completed within the next two months and no further transfers are contemplated except as they may possibly relate to contract closeout. At the completion of DCAA closeout audits, the OASD (C3I) program with TVA will terminate.

The Non-Acoustic ASW program is quite controversial and subject to political, technical and security disagreements at the highest levels of government. Key to the success or failure of the program is the project director, who has an excellent national and international reputation as a scientist. Her reputation has been tarnished by the draft report, contrary to assurances by your staff that such was not intended.

This program has been repeatedly examined in order to answer the frequent inquiries that have surfaced about various aspects of the program as well as to review the results of your audit. In these examinations, we have found evidence, not of wrongdoing, but of a dedicated and highly qualified government physicist who, despite administrative, diplomatic, and technical challenges, is successfully realizing the goals of a research effort that is being conducted under very difficult circumstances and is executing that effort in the manner prescribed by the Congress.

ASSISTANT SECRETARY OF DEFENSE (COMMAND, CONTROL, COMMUNICATIONS
AND INTELLIGENCE) COMMENTS (cont'd)

My staff is preparing what we believe to be constructive comments on the text of the report to improve its accuracy. I encourage your review of the draft report and our comments when they are complete. I plan to provide these comments by February 16.



Charles A. Hawkins, Jr.
Acting

Attachment

ASSISTANT SECRETARY OF DEFENSE (COMMAND, CONTROL, COMMUNICATIONS AND INTELLIGENCE) COMMENTS (cont'd)

ATTACHMENT 1 - RECOMMENDATIONS FOR CORRECTIVE ACTION

A. ADMINISTRATION OF ECONOMY ACT ORDERS

Recommendation 1: "We recommend that the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence):

Recommendation 1a. Obtain agreement from the President, Resources Group, Tennessee Valley Authority, that the Tennessee Valley Authority Technology Brokering Program will perform contract administration on the cooperative agreements in support of the Non-Acoustic Anti-Submarine Warfare Program in accordance with Federal Acquisition Regulation Part 42, "Contract Administration." The controls and verification should provide that:

- required receipts are received
- technical data is received
- subcontractors are approved and subcontractor overhead rates are certified
- subcontractor costs are audited when the subcontract is complete
- classified materials are entrusted to authorized personnel only and properly disposed of
- closeout audits are performed when the orders are physically complete by the contractor, and
- any overpayments to the prime contractors and subcontractors are recovered."

Response: Concur. OASD(C3I) is reviewing the procedures and practices for management of the NAASW Program. Coordination is proceeding with TVA to assure contract administration and program controls meet the requirements of the FAR. Steps have been taken to ensure classified material is handled by authorized personnel only and will be properly disposed of in the approved manner. Closeout audits will be conducted by DCAA as planned to assure that the costs claimed by contractors are allowable and allocable. An inventory will be established of the progress and cost reports, as well as scientific and technical reports, to ensure complete and comprehensive documentation of those activities for which TVA has been responsible.

Recommendation 1b. "Revise the existing interagency agreement between DoD and the Tennessee Valley Authority for the Non-Acoustic Anti-Submarine Warfare Program to reflect any agreement on contract administration and contract audits."

Response: Concur. OASD(C3I) will, after appropriate review of the situation, review the interagency agreement with the TVA for the NAASW Program to determine changes, if any, that need to be made. This will align the interagency agreement with actual required practices. Note, however, that there are no plans to initiate new tasks with the TVA. No funds have been transferred to TVA since February of 1992 when funds were transferred to continue efforts under existing contracts.

ASSISTANT SECRETARY OF DEFENSE (COMMAND, CONTROL, COMMUNICATIONS AND INTELLIGENCE) COMMENTS (cont'd)

Recommendation 1c. "Request the Tennessee Valley Authority to:

(1) Withhold \$568,189 (5 percent times \$11,363,791 billed) of payments to ESG, Incorporated, pending the receipt of the results of the audit of incurred costs.

(2) Disallow costs for the ESG, Incorporated office in Knoxville, Tennessee pending receipt of verification that the Knoxville office performed work for the Non-Acoustic Anti-Submarine Warfare Program.

(3) Initiate action to collect \$2.8 million for questioned costs in Appendix F for which documentation was not adequate."

Response: Concur. OASD (C3I) has requested that the appropriate amount of withholding is retained from ESG pending closeout audits and reconciliation of contractor costs. This will ensure an adequate safeguard of the government's interest and permit recovery of any unallowable charges that may exist. A review will be made of the ESG Knoxville office to determine whether there are charges by that office that should be disallowed. As previously stated, the \$2.8 million identified by the DoD IG as possible unsupported costs will be reviewed as to validity of charges during the closeout audits. Audits will be conducted by DCAA as planned.

Recommendation 1d. "Request the Defense Investigative Service to perform a review of the security requirements, as defined in DoD 5220.22-M, "Industrial Security Manual for Safeguarding Classified Information," for:

(1) Work performed by the Tennessee Valley Authority, its cooperators, and their subcontractors under Economy Act orders issued in support of the Non-Acoustic Anti-Submarine Warfare Program.

(2) Non-Acoustic Anti-Submarine Warfare technologies transferred to the Tennessee Valley Authority, its cooperators, or their subcontractors for commercialization purposes."

Response: Concur. OASD (C3I), in concert with DIS, will review the current method of providing security to NAASW classified information. The recommendations of DIS will be used to correct any identified practices dangerous to security or to correct the methods currently used to administer the NAASW security program.

Recommendation 1e. "Establish internal controls to adequately secure any classified information in the possession of the Tennessee Valley Authority, ESG, Incorporated; and other cooperators and their subcontractors, and secure classified information that has been or will be transferred to the Tennessee Valley Authority, its cooperators, or their subcontractors for commercialization purposes."

ASSISTANT SECRETARY OF DEFENSE (COMMAND, CONTROL, COMMUNICATIONS AND INTELLIGENCE) COMMENTS (cont'd)

Response: Concur. OASD (C3I) has initiated a full inventory of NAASW classified documents in the hands of contractors. A consolidated inventory list will be established and maintained to ensure proper handling of classified documentation upon completion of contracts.

Recommendation 1f. "Establish controls to separate duties performed by the contractor and to avoid the contractor performing inherently governmental functions."

Response: Concur. OASD (C3I) will review current practices for the purpose of identifying any governmental functions that may be conducted by contractors in support of the NAASW Program. Should there be infringement upon governmental prerogatives, immediate action will be taken to correct the situation.

Recommendation 1g. "Withdraw any remaining funds from the Tennessee Valley Authority that were not obligated on a cooperative agreement and perform a cost benefit analysis to determine whether to continue any future procurements through the Tennessee Valley Authority for the Non-Acoustic Anti-Submarine Warfare Program."

Response: Concur. OASD (C3I) has initiated action to preclude obligating funds for any new projects and to determine the amount of unobligated funds remaining at TVA. Final determination for the withdrawal of funds from TVA will be held in abeyance pending closeout audits of contractors, reconciliation of contractor charges and determination of funds remaining at TVA.

Recommendation 1h. "Provide program management and contracting officer's technical representative training to the Non-Acoustic Anti-Submarine Warfare Program project director."

Response: Concur. The project director has already successfully completed COTR training in her previous position in the Navy. Opportunities for additional training will also be pursued.

Recommendation 2. "Establish an agreement with Tennessee Valley Authority to delegate future contract administration responsibilities to the Defense Contract Management Command, and delegate the contract audit to the Defense Contract Audit Agency, or make a direct request to these Defense Components for support."

Response: Concur. Existing contracts at TVA are in the process of being completed. Pending final deliverables and closeout audits by DCAA, no future activities with TVA will be initiated. Future contract administration responsibilities will not be handled by the Defense Contract Management Command but by another DoD Component which will ensure that the DFAR is followed.

Recommendation 3. "We recommend that the Director, Administration and Management, Office of the Secretary of Defense, perform a manpower survey of the Office of the Assistant Secretary of Defense (Command, Control, Communications,

ASSISTANT SECRETARY OF DEFENSE (COMMAND, CONTROL, COMMUNICATIONS AND INTELLIGENCE) COMMENTS (cont'd)

and Intelligence) to validate the number of qualified, trained staff needed to manage the Non-Acoustic Anti-Submarine Warfare Program and to monitor contractor support to the program."

Response: Concur. OASD (C3I) was assigned the NAASW Program in December 1991 in response to Congressional language. In January 1992, OASD (C3I) requested the support of a DoD Component and hired a Project Director. Additional administrative support, financial, auditing, travel was obtained from a DoD Component by April 1992. For FY93, all financial transactions will be handled by the DoD Component. Contracting for DoD will be handled by DoD contracting offices. The Director, Administration and Management completed this review on January 27 and reported directly to the Inspector General. Briefly, the review concludes that steps already taken by OASD (C3I) "are adequate to effectively maintain appropriate control over the NAASW Program."

B. TRAVEL AUTHORIZATION AND FUNDING

Recommendation 1. "We recommend that the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) (ASD(C3I)), in coordination with the Director, Defense Research and Engineering (DDR&E), verify that trips in Appendix H made by the project director were in support of the Non-Acoustic Anti-Submarine Warfare Program and prepare travel orders that obligate proper funds for the trips."

Response: Concur. In August 1992, OASD (C3I), in coordination with DDR&E, verified that the eight trips listed in Appendix H were taken in support of NAASW Program activities. Appropriate documentation for these trips will be prepared using a DoD Component.

Recommendation 2. "We recommend that the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence), in coordination with the Director, Defense Research and Engineering, direct the project director to obtain proper supervisory approval for trips already taken in support of the Non-Acoustic Anti-Submarine Warfare Program, and to submit travel vouchers and documentation for all trips and the \$4,633 of expenditures for travel by TVA through the Washington Headquarters Services and a DoD accounting and finance office for payment within 10 working days after the travel orders are issued."

Response: Concur. In August 1992, the project director's supervisors reviewed trips and certified that all trips were approved. In addition, all travel vouchers have been submitted to a DoD Component for review. The project director has been directed to exert best efforts to submit travel vouchers within 10 days of returning from a trip. Since April 1992, OASD (C3I) has ensured that all DoD personnel on travel under the NAASW Program obtained written supervisory approval for trips and that travel requests, vouchers and documentation for trips were submitted to a DoD Component.

ASSISTANT SECRETARY OF DEFENSE (COMMAND, CONTROL, COMMUNICATIONS AND INTELLIGENCE) COMMENTS (cont'd)

Final Report

Recommendation 3. "We recommend that the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence), in coordination with the Director, Defense Research and Engineering, request the project director to reimburse \$2,015 for the unsupported travel-related costs (Appendix I) that were paid by the Tennessee Valley Authority."

Response: Concur. OASD (C3I) will ensure that the Project Director reimburses TVA for all travel-related expenditures determined to be unsupported, if any.

Recommendation 4. "We recommend that the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence), in coordination with the Director, Defense Research and Engineering, notify the President, Resources Group, Tennessee Valley Authority to:

Recommendation 4a. Stop the payment or reimbursement of travel costs incurred by DoD personnel in support of the Non-Acoustic Anti-Submarine Warfare Program.

Recommendation 4b. Release remaining funds set aside for travel costs of DoD personnel in support of the Non-Acoustic Anti-Submarine Warfare Program."

Response to 4a. and 4b.: Concur. All travel since April 1992 has been handled through a DoD Component. OASD (C3I) requested that TVA stop reimbursement of travel costs by releasing remaining funds set-aside for travel. All travel funds at TVA have been released.

Recommendation 4c. "Initiate appropriate disciplinary action against the project director for not obtaining proper authorization of the travel, for submitting travel vouchers that did not comply with the Joint Travel Regulations, for obtaining excessive reimbursements, and for not filing vouchers in a timely manner for the trips taken or returning tickets if travel was not taken."

Comment. It is obviously inappropriate for the president of TVA to initiate disciplinary action against a DoD employee. This must be an error. All travel taken under TVA (eight trips) is being reviewed by a DoD Component. If appropriate, upon completion of that review, disciplinary action will be taken by the project director's DoD supervisors.

Recommen-
dation 5.

DEFENSE ADMINISTRATION AND MANAGEMENT COMMENTS



OFFICE OF THE SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1090



27 JAN 1993

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Draft Report on the Procurement of Services for the Non-Acoustic Anti-Submarine Warfare Program (NAASW) through the Tennessee Valley Authority (Project No. 2CH-5003.03)

This is in reply to your memorandum of December 31, 1992, same subject, in which you requested our comments on the draft IG report, also same subject. Our comments are confined to recommendation 3, which would require the Director, Administration and Management to validate the staff necessary to manage the NAASW Program.

We have looked into this matter and found that the Office of the Assistant Secretary of Defense (Command, Control, and Communications), (OASD(C3I)), has already taken steps to strengthen the administration of the NAASW Program. In the future, OASD(C3I) will ensure that NAASW contracts are administered through a DoD contracting agency, rather than TVA, thereby providing for oversight consistent with the FARS/DFARS and lessening the workload of the Program Manager. In this process, sufficient manpower to oversee the contracts will be included in the arrangements developed with the contracting activity.

We believe that these steps are adequate to effectively maintain appropriate control over the NAASW Program.

D. J. Cooke
D. O. Cooke
Director

DEFENSE CONTRACT AUDIT AGENCY COMMENTS

Final Report



IN REPLY REFER TO

DEFENSE CONTRACT AUDIT AGENCY
CAMERON STATION
ALEXANDRIA, VA 22304-4178

1 FEB 1993

PLD 225.4.2

MEMORANDUM FOR THE ASSISTANT INSPECTOR GENERAL FOR AUDITING, OFFICE OF THE
INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Draft Audit Report on the Procurement of Services for the
Non-Acoustic Anti-Submarine Warfare Program Through Tennessee
Valley Authority (Project No. 2CH-5003.03)

We appreciate the opportunity to comment afforded by the Contract Management Directorate's 31 December 1992 memorandum relaying the subject draft report. This draft report includes a recommendation (No. 2, page 40) that TVA either delegate contract audit authority to DCAA or make direct requests to DCAA for support.

P. 22

Page 16 of the draft report states that "... TVA is not required to follow the FAR, and no language was included in the cooperative agreement between TVA and ESG to establish the requirement." As the audit agency responsible for performing all contract audit work for the Department of Defense, we are concerned about any delegations of contract audit for DoD-funded contracts that do not contain appropriate contract provisions.

P. 8

Unless appropriate contract provisions are included in TVA-related contracts and subcontracts, DCAA auditors will be unable to conduct adequate audits. For example, agencies covered by FAR are required by FAR 15.106-2 to include an "Audit - Negotiation" clause (FAR 52.215-2) in negotiated contracts. If this or an equivalent clause is not included in the contract or subcontract, the DCAA auditor will almost certainly encounter access to records problems. Without an Allowable Cost and Payment (FAR 52.216.7) or equivalent clause, the contract auditor would be unable to audit to any established body of contract cost principles and procedures.

The final report should recommend that the FAR and DFARS be revised to include regulatory coverage for the Economy Act which would require that appropriate contract provisions be included in any contracts or subcontracts which are awarded based upon DoD appropriated funds. This recommendation should be implemented prior to TVA delegating the contract audit to DCAA or directly requesting support from DCAA.


DEFENSE CONTRACT AUDIT AGENCY COMMENTS (cont'd)

1 559 000

PLD 225.4.2

SUBJECT: Draft Audit Report on the Procurement of Services for the
Non-Acoustic Anti-Submarine Warfare Program Through Tennessee
Valley Authority (Project No. 2CH-5003.03)

We will be pleased to discuss our comments further with you or your
staff. Please direct questions concerning our response to
Mr. John A. Wares, Program Manager, Policy Liaison Division at
(703) 274-7521.

for 
Michael J. Thibault
Assistant Director
Policy and Plans

UNDER SECRETARY OF DEFENSE FOR ACQUISITION COMMENTS



ACQUISITION

OFFICE OF THE UNDER SECRETARY OF DEFENSE

WASHINGTON, DC 20301-3000

03 FEB 1993

MEMORANDUM FOR THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL

FROM: DEPUTY DIRECTOR, MARITIME SYSTEMS

SUBJECT: PROJECT NO. 2CH-5003

I have reviewed your draft report on the procurement of services for the non-acoustic anti-submarine warfare program through the Tennessee Valley Authority. The report should include the February 26, 1992, memorandum from the Director, Defense Research and Engineering, which provided his response to your recommendations in the draft quick-reaction report. A copy of this memo is provided as an attachment to this memorandum.


C. Joseph Martin
Deputy Director,
Maritime Systems

Attachment

UNDER SECRETARY OF DEFENSE FOR ACQUISITION COMMENTS (cont'd)



DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

WASHINGTON, DC 20301-3010

01/10/92

MEMORANDUM FOR THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Project No. 2CH-5003.01

This is in response to your Draft Quick-Reaction Report on DoD Procurements through the Tennessee Valley Authority (TVA). Of the \$106,471,747.00 in contracts that you refer to, DDR&E issued one \$10,000.00 MIPR on August 7, 1991. The contract was for a four-month effort to produce a report in support of a Congressionally-directed program. This was not an attempt to transfer expiring funds. It was a necessary and legitimate business practice used to maintain program continuity. In response to your recommendations:

1a. "Cancel all interagency orders to the Tennessee Valley Authority listed in Enclosure 2 that have not been placed on contract or that have letters of commitment to contractors but where no costs were incurred."

--- I concur. The single DDR&E MIPR, DWAM10141, expired 31 December. I have no plans to renew it.

1b. "Determine the appropriateness of terminating or reducing interagency orders where the Tennessee Valley Authority has only issued letters of commitment to contractors and ensure proper funding is used on any contracts that are awarded."

--- I concur. The single MIPR, DWAM10141, has expired after a contract was awarded with proper funding which has been expended. Responsibility for the program supported by this contract has been transferred to the Assistant Secretary of Defense for Command, Control, Communications and Intelligence.

1d. "Initiate disciplinary action against program officials who exceeded their authority by placing interagency orders with the Tennessee Valley Authority."

--- I concur. The single MIPR, DWAM10141, was placed with the Tennessee Valley Authority in full compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement and complies with all internal Office of the Secretary of Defense and Washington Headquarters Services Regulations and Instructions. The MIPR was reviewed and approved by all the appropriate authorities. No disciplinary action is necessary as authority was not exceeded.


Victor H. Reis

LIST OF AUDIT TEAM MEMBERS

(b) (6) [REDACTED], Director, Contract Management Directorate
(b) (6) [REDACTED] Audit Program Director
(b) (6) [REDACTED] Audit Project Manager
(b) (6) [REDACTED], Senior Auditor
(b) (6) [REDACTED], Senior Auditor
(b) (6) [REDACTED], Auditor
(b) (6) [REDACTED], Auditor
(b) (6) [REDACTED], Auditor
(b) (6) [REDACTED], Auditor
(b) (6) [REDACTED], Editor

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~~FOR OFFICIAL USE ONLY~~