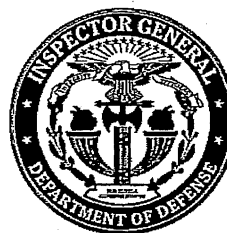


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January 11, 2006



Export Controls

Controls Over the Export of Joint Strike
Fighter Technology
(D-2006-044)

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Acronyms

| | |
|------|--|
| DTSA | Defense Technology Security Administration |
| GAO | Government Accountability Office |
| GPA | Global Project Authorization |
| JSF | Joint Strike Fighter |



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884

January 11, 2006

MEMORANDUM FOR JOINT STRIKE FIGHTER PROGRAM EXECUTIVE
OFFICER

SUBJECT: Report on Controls Over the Export of Joint Strike Fighter Technology
(Report No. D-2006-044)

We are providing this report for review and comment. We requested and received comments from the Program Executive Officer for the Joint Strike Fighter. The Office of the Secretary of Defense for Acquisition, Technology, and Logistics and the Defense Technology Security Administration provided unsolicited comments. All comments were considered in preparing the final audit report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. The Joint Strike Fighter Program Executive Officer comments were partially responsive; therefore, we request additional comments on Recommendations 1. through 5. by February 13, 2006. We revised Recommendation 2. and Recommendation 5. based on Defense Technology Security Administration comments.

If possible, please send management comments in electronic format (Adobe Acrobat file only) to AudRLS@dodig.osd.mil. Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Questions should be directed to [REDACTED] (703) 604-[REDACTED] (DSN 664-[REDACTED]) or [REDACTED] at (703) 604-[REDACTED] (DSN 664-[REDACTED]). The team members are listed inside the back cover. See Appendix C for the report distribution.

By direction of the Deputy Inspector General for Auditing:

Wanda A. Scott

Director

Readiness and Logistics Support

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Department of Defense Office of Inspector General

Report No. D-2006-044
(Project No. D2004-D000LG-0155.000)

January 11, 2006

Controls Over the Export of Joint Strike Fighter Technology

Executive Summary

Who Should Read This Report and Why? Civil service and uniformed officers who manage the export of technology to foreign countries should read this report. The report discusses the initial use of an accelerated method for processing exports of technology used in the development of the Joint Strike Fighter.

Background. The U.S. and eight foreign countries cooperated in designing the Joint Strike Fighter to replace existing fighter aircraft that the Air Force, Navy, Marine Corps, and U.S. allies use. The Joint Strike Fighter program, which will cost \$256.6 billion to acquire more than 2,450 aircraft, is the first DoD program that will use an accelerated method for exporting unclassified technical data and services to foreign companies. Contractors reported using that accelerated method for more than 400,000 exports between March 2003 and November 2004.

Results. The Joint Strike Fighter program office needed to improve its controls over the accelerated export of unclassified technology to foreign companies. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED] Therefore, foreign companies may have gained unauthorized access to Joint Strike Fighter technology. Unauthorized access could allow those companies to counter or reproduce technology, reduce the effectiveness of the program technology, significantly alter program direction, or degrade combat effectiveness. (See the Finding section of the report for the detailed recommendations.)

Management Comments and Audit Response. The Joint Strike Fighter Program Executive Officer did not concur or partially concurred with our recommendations. [REDACTED]

[REDACTED] The Program Executive Officer stated that controls for monitoring contractor exports reside with the Department of State. While we agree that statutory authority for controlling exports resides with the Department of State, DoD

acquisition guidance requires that program managers develop, implement, and monitor controls at contractor sites to ensure export-controlled technology is properly safeguarded. Because he administers the contract, the Program Executive Officer should enforce the contractual requirement that foreign disclosure of program information is in accordance with the established International Traffic in Arms Regulation and Joint Strike Fighter policy and procedures. Accordingly, we request that the Program Executive Officer reconsider his position and provide additional comments by February 13, 2006. See the Finding section of the report for a discussion of management comments and the Management Comments section of the report for the complete text of the comments.

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Background

Joint Strike Fighter. The F-35 Joint Strike Fighter (JSF) was designed to replace the existing multi-role fighter aircraft that the Air Force, Navy, Marine Corps, and U.S. allies use. The estimated cost to complete development and distribution of more than 2,450 JSF aircraft is \$256.6 billion.

International Participants. DoD is developing the JSF as a multi-national cooperative program. The U.S. and eight coalition partners—Australia, Canada, Denmark, Italy, the Netherlands, Norway, Turkey, and the United Kingdom—will each contribute between \$125 million and \$2 billion for system development and demonstration of the JSF. Israel and Singapore will also participate, but as customers in the foreign military sales program.

Contracts Awarded. In October 2001, DoD awarded Lockheed Martin Aeronautics Company (Lockheed Martin) in Fort Worth, Texas, the contract to develop and demonstrate the JSF airframe and to integrate all component systems. Lockheed Martin subcontracted work to British Aerospace Systems in Lancashire, England, and Northrop Grumman Corporation (Northrop Grumman), in El Segundo, California. DoD also awarded separate contracts to Pratt and Whitney and General Electric, in partnership with Rolls Royce, for development of two interchangeable aircraft engines. More than 1,200 foreign and domestic subcontractors will participate in developing the JSF.

Export Control Authority. The Arms Export Control Act, section 2778, title 22, United States Code (22 U.S.C. § 2778 et seq.) authorizes the President to issue regulations for import and export of selected defense articles¹ and defense services.² With respect to exports of defense articles and defense services, Executive Order 11958 delegates statutory authority to the Secretary of State for issuing regulations. The International Traffic in Arms Regulation provides specific regulatory guidance on how the Department of State (State Department) should manage exports of defense articles on the U.S. Munitions List. (The President selects the defense articles that make up the U.S. Munitions List.)

Export Process. The International Traffic in Arms Regulation requires that U.S. companies request an export license before classified and unclassified technical data³ on the U.S. Munitions List can be released to a foreign company or country. The license must identify the types of information intended for release and the specific foreign company or foreign government to which such information is released. The State Department must approve each request and normally solicits DoD for recommendations on technical questions before granting approval. State Department coordination and review processes may take more than 50 days to complete.

¹ Defense articles are models, mockups, or technical data shown on the U.S. Munitions List.

² Defense services include assistance provided (including training) to foreign persons in the design, development, and production of defense articles.

³ Technical data is either classified or unclassified information, other than software, required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles.

Defense Trade Initiatives. In May 2000, DoD and the State Department jointly participated in developing a series of trade initiatives that would streamline the process of reviewing and coordinating exports. From the DoD perspective, the trade initiatives would help reduce the time required for Government authorizations of international commitments and improve its ability to assemble and operate with coalition partners. The Deputy Under Secretary of Defense (Technology Security Policy and Counterproliferation) stated that DoD would identify 20 to 25 candidate U.S. weapons contracts and foreign weapons programs to use those trade initiatives.

Global Project Authorization. Use of a Global Project Authorization (GPA) initiative helps accelerate exports of technical data and services to foreign companies and could potentially facilitate global approval of licenses for an entire project without a need for approving additional licenses for subsections of the project. U.S. companies may use GPA when exporting controlled-unclassified⁴ information to foreign companies if a memorandum of understanding and a GPA agreement exist.

Memorandum of Understanding. DoD and the defense agency in the foreign company's government must sign a formal memorandum of understanding before U.S. companies can make exports to foreign companies. The memorandum establishes roles for each country in supporting research, development, or production on a project such as the JSF.


Agreement. Any U.S. company wanting to use GPA for exporting to foreign companies (where a memorandum of understanding exists) must draft a GPA agreement. A GPA agreement identifies the unclassified technology the U.S. company expects to export and also identifies the foreign companies expected to receive those exports. After the State Department approves such an agreement, the U.S. company must develop a plan explaining the processes and procedures the company will use to comply with GPA. Once the State Department approves a company-developed compliance plan, the U.S. company may begin using GPA. The State Department can process and approve a request for a GPA license in as few as 5 days.

Processing of Export Licenses.



State Department Responsibilities. Executive Order 11958 delegates statutory responsibility for controlling exports of defense services and articles on the U.S. Munitions List to the State Department. The primary responsibilities of the State Department in the export process are to approve export licenses, monitor

⁴ Controlled-unclassified information is unclassified information to which access or distribution limitations were applied in accordance with applicable national laws or regulations.



contractor exports, and report to Congress on the number of export licenses issued to foreign companies. The State Department approves approximately 50,000 export licenses each year for DoD contractors.

DoD Responsibilities. The Deputy Under Secretary of Defense (Technology Security Policy and Counterproliferation) oversees DoD activities related to international transfers of technology. The Deputy Under Secretary is also Director of the Defense Technology Security Administration (DTSA).

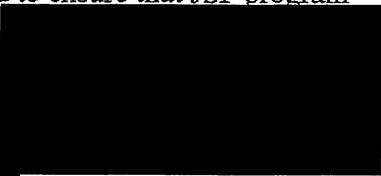
Defense Technology Security Administration. DTSA develops DoD policies on international transfers of Defense-related technologies. In addition, DTSA reviews and makes recommendations to the State Department on applications for export licenses involving DoD programs. The Director of DTSA and the JSF program office are responsible within DoD for controlling exports and for protecting critical JSF technology.

JSF Program Office. U.S military and civilian personnel from the Air Force, Navy, and Marine Corps staff the JSF program office. The JSF Program Executive Officer is responsible for developing and fielding the JSF aircraft as well as for implementing a program protection plan to safeguard JSF program critical technology.

Objectives

The overall audit objective was to evaluate technology transfer and export controls over the JSF program. Specifically, we evaluated the controls over JSF contractor use of GPA in facilitating transfer of controlled-unclassified technology from U.S. companies to foreign companies. Additionally, we reviewed the management control program for the JSF program office. See Appendix A for a discussion of the audit scope and methodology.

Controls Over Personnel

During the audit, we evaluated controls implemented to ensure that JSF program office personnel adequately protect JSF technology. 

Management Control Program Review

DoD Directive 5010.38, "Management Control (MC) Program," August 26, 1996, and DoD Instruction 5010.40, "Management Control (MC) Program Procedures," August 28, 1996, require that DoD organizations implement a comprehensive

system of management controls that provides reasonable assurance programs are operating as intended and to evaluate the adequacy of the controls.

Scope of the Review of the Management Control Program. We reviewed the JSF program office controls over export of JSF technical data. [REDACTED]

[REDACTED]

[REDACTED]

Adequacy of Management Controls. [REDACTED]

[REDACTED]

[REDACTED]

Adequacy of Management's Self-Evaluation. [REDACTED]

[REDACTED]

Controls Over Accelerated Exports

The JSF program office needed to improve its controls over accelerated export of unclassified technology to foreign companies. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

Criteria

Guidance for Acquiring Defense Systems. DoD guidance provides a broad range of controls for managing and monitoring the acquisition of major weapon system programs such as the JSF program. DoD Directive 5000.1, "The Defense Acquisition System," May 12, 2003, and related acquisition guidance provide policies and procedures for managing acquisition of DoD weapons systems. DoD Directive 5010.38 and DoD Instruction 5010.40 provide guidance on implementing controls that provide reasonable assurance of programs operating as intended.

Compliance Plans. The GPA agreement requires that any U.S. company participating in the development and demonstration of JSF perform in accordance with their State Department-approved compliance plans. Those compliance plans establish the processes and procedures companies must use to export using GPA.

[REDACTED]

JSF Program Office Controls Over Technology

[REDACTED]

Personnel Assigned To Disclose Technology.

[REDACTED]

[REDACTED]

[REDACTED]

Training and Certification of Disclosure Personnel.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Audits on Export Procedures. GPA requires that JSF contractors develop and implement audits on their export procedures. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Implementation of Oversight Controls

[REDACTED]

Protecting Critical Technology. DoD Instruction 5000.2, "Operation of the Defense Acquisition System," May 12, 2003, and DoD Directive 5200.39, "Security, Intelligence, Counterintelligence Support to Acquisition Program Protection," September 10, 1997, require that program managers develop a plan for protecting critical program technology from inadvertent or unauthorized access. Further, the Defense Acquisition Guidebook, Version 1.0, October 17, 2004, states that a program manager should:

- revise the program protection plan when new risks are identified,
- implement processes in the program protection plan for continuously monitoring risks throughout the life of the program, and
- develop contractual requirements that ensure contractors apply appropriate countermeasures to protect technology.

Protection Planning. [REDACTED]

Monitoring Risks. [REDACTED]

[REDACTED] The Government Accountability Office (GAO) reported on the potential risks of exporting JSF technology and later representatives from the DoD Inspector General discussed those risks with the JSF program office.

Government Accountability Office. The GAO discusses potential risks for using GPA in Report No. GAO-03-775 "Joint Strike Fighter Acquisition Cooperative Program Needs Greater Oversight to Ensure Goals are Met," July 2003. The report states that a great number of exports would be required to share critical JSF information with foreign companies. The report cautions that increased pressure to approve exports supporting the JSF program goals and schedules could result in inadequate reviews of licenses or broad interpretations of disclosure authority.

DoD Inspector General. During a meeting with JSF program officials in February 2005, we discussed the risks involved with expediting exports of JSF technology and the weaknesses that existed in the controls over the JSF program. [REDACTED]

[REDACTED] DoD Directive 5200.39 states, however, that a program manager must identify any critical program information (including unclassified-controlled information) and adequately protect it.

Contract Requirements. On October 26, 2001, DoD and Lockheed Martin signed a contract for designing and demonstrating the JSF system. The contract included a requirement that "foreign disclosure of program information will be in accordance with the established International Traffic in Arms Regulation and JSF policy and procedures." [REDACTED]

Overseeing the Risks of Exporting Technology. [REDACTED]

[REDACTED] The program office could better minimize inadvertent or unauthorized access to controlled technologies by continuously:


- monitoring risks to the JSF program,
- revising the protection plan as new risks occur, and
- ensuring that contractors apply countermeasures that will protect technology.

Management Control Program. [REDACTED]

[REDACTED] DoD Directive 5010.38 tasks all DoD managers, including program managers, with developing control objectives that ensure "assets are safeguarded against waste, loss, unauthorized use, and misappropriation." The Directive also requires "timely correction of MC [Management Control] weaknesses." DoD Instruction 5010.40 states that weaknesses result from management controls "that are not in place, not used or not adequate." The significance of a weakness depends on whether the inadequate controls contribute to actual or potential loss of resources, violations of statutory or regulatory requirements, or current or probable media or congressional attention.

Potential Loss of Resources or Statutory Violations. The weaknesses identified with use of GPA represent a loss of control over critical technology and a potential violation of the International Traffic in Arms Regulation as well as noncompliance with DoD guidance. [REDACTED]

Congressional Testimony. In July 2003, the Director for International Cooperation in the Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) testified before the House of Representatives Committee on Government Reform. The Director commended the joint efforts of the State Department and DoD in streamlining the export licensing processes to include using GPA as a model for transferring unclassified technologies to foreign partners. The Director concluded his testimony by stating, “. . . none of our export control mechanisms have been compromised or short-circuited, but rather they have been streamlined and transformed into a more workable process. . . .”




Establishing Management Controls. DoD Instruction 5010.40 states that a management control program should be organized into assessable areas (or units) based on an organization's structure, its functions, or its programs. Those assessable units are responsible for conducting evaluations of management controls.

To help control processes considered essential for accomplishing the JSF program mission, the JSF program office used 16 integrated product teams.⁷ The JSF Program Executive Officer could identify the areas covered by those product teams as assessable units and delegate the responsibility for evaluating management controls to the product teams. For example, one of the JSF product teams is the security product team. The team implements and maintains the security program for the JSF program. The product team also controls foreign disclosure, which includes exports of critical aspects of JSF systems and technology. The JSF program office could use each of the integrated product teams to develop and implement a management control program, which would include sampling of company exports to confirm adherence to GPA.

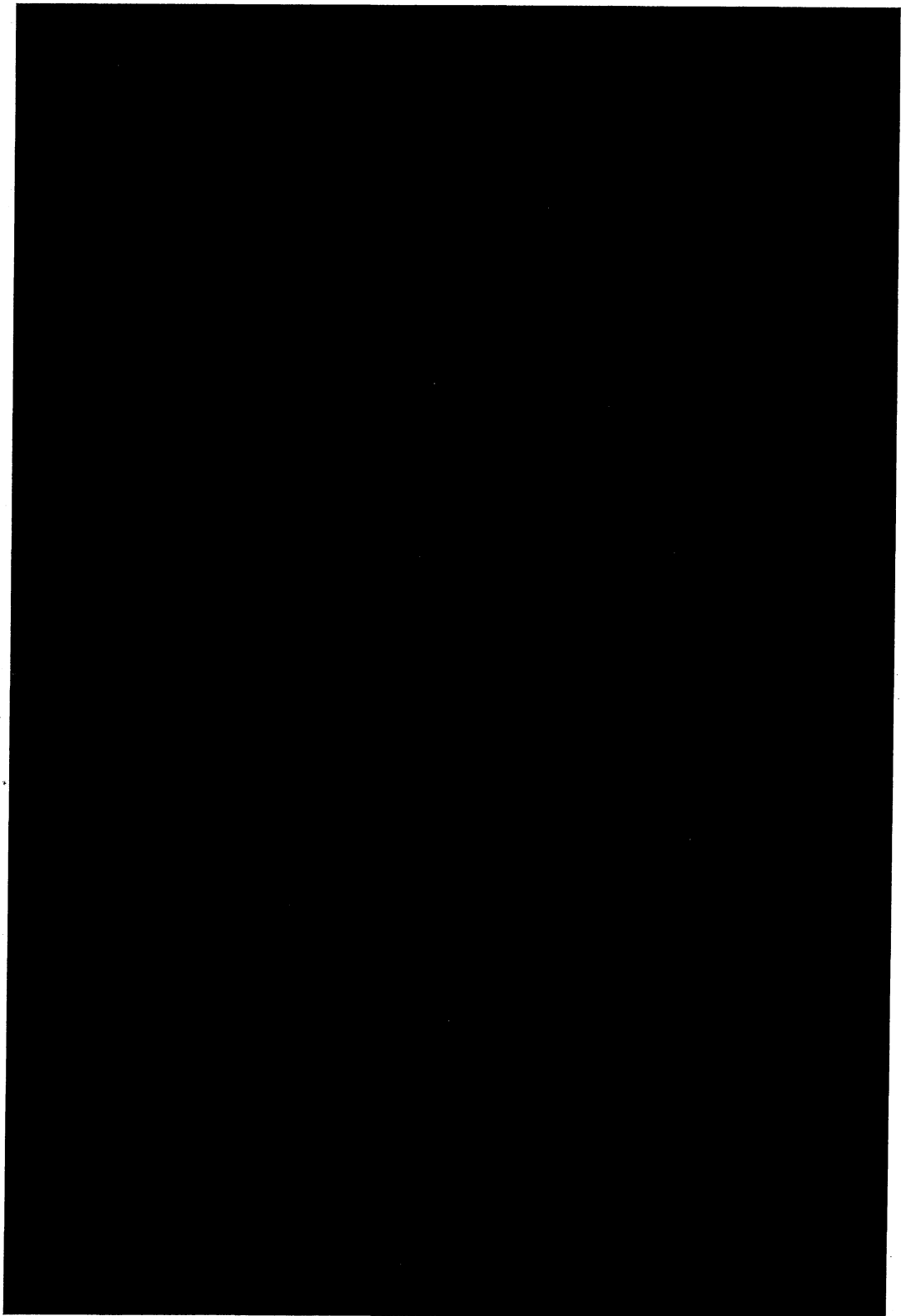
Actions Taken to Establish Management Controls.



Certification of GPA Exports



⁷ An integrated product team is a group of skilled professionals whose combined talents in a variety of functional areas can help resolve problems and meet cost and performance objectives.



[REDACTED]

Additional Licenses.

[REDACTED]

[REDACTED]

Exporting Computer Software.

[REDACTED]

With regard to software documentation, the GPA agreement states:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Protecting Critical Information. DoD Directive 5200.39 states that a program manager should identify critical program information, including unclassified-controlled information, and adequately protect it. The Directive describes the potential risks of inadequately controlling unclassified information. According to the Directive, unauthorized access to unclassified, export-controlled technology could allow foreign companies to counter or reproduce the technology. The result of such unauthorized access could reduce effectiveness of the program technology, significantly alter program direction, or degrade combat effectiveness.

[REDACTED]

Conclusion

The Deputy Under Secretary of Defense (Technology Security Policy and Counterproliferation) actively sponsored GPA for the JSF program to make the export control process more supportive of DoD programs being developed jointly

[REDACTED]

with our foreign allies. The State Department approved the JSF program for first use of GPA with an expectation that participating contractors would perform within program requirements.

[REDACTED]

[REDACTED]

Recommendations, Management Comments, and Audit Response

Revised Recommendations. As a result of management comments, we revised draft Recommendation 2. and draft Recommendation 5.

We recommend that the Joint Strike Fighter Program Executive Officer:

1. **Develop controls that ensure any contractor participating in a Global Project Authorization adhere to requirements of the compliance plans.**

[REDACTED]

[REDACTED]

[REDACTED]

Management Comments.

[REDACTED]

Although not required to comment, the Director for International Cooperation of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Acting Director, DTSA stated that Executive Order 11958 delegates export compliance responsibilities to the State Department. Therefore, the Directors stated that reassigning those responsibilities to the JSF Program Executive Officer is not valid.

Audit Response. The comments were not responsive. We agree that Executive Order 11958 delegates export compliance responsibilities to the State Department.

However, DoD acquisition guidance requires that DoD program managers develop, implement, and monitor controls at contractor sites to ensure that export-controlled technology is properly safeguarded. In addition, DoD management control guidance requires that DoD managers develop controls to safeguard DoD assets against loss or unauthorized use. [REDACTED]

Accordingly, we request that the JSF Program Executive Officer reconsider the recommendation and provide additional comments on this final report.

2. [REDACTED]

[REDACTED] Report noncompliance of the Global Project Authorization to the State Department for determining appropriate compliance actions.

Management Comments. The JSF Program Executive Officer did not concur with the recommendation, stating that GPA requires contractors to perform quarterly audits.

Although not required to comment, the Acting Director, DTSA concurred with the draft recommendation.

Audit Response. The JSF Program Executive Officer comments were not responsive. We agree that GPA requires contractors to perform quarterly audits of GPA exports. [REDACTED]

Therefore, we request that the JSF Program Executive Officer reconsider the recommendation and provide additional comments to this final report.

3. [REDACTED]

Management Comments. [REDACTED]

Audit Response. The comments were partially responsive. [REDACTED]

[REDACTED] We request that the JSF Program Executive Officer reconsider the recommendation for updating the program protection plan and provide additional comments to this final report.

4. Develop and implement for the Joint Strike Fighter program a management control program that includes controls over exports of the program's technology.

Management Comments. The JSF Program Executive Officer partially concurred, stating that the program office drafted a management control program, but the plan did not include controls over exports because those controls are addressed by the State Department and the International Traffic in Arms Regulation.

Audit Response. The comments are partially responsive. We agree that the State Department and International Traffic in Arms Regulation provide controls over exports. However, DoD policy prescribes that each DoD Component develop and implement management controls that provide reasonable assurance that programs are carried out in accordance with applicable laws, such as the International Traffic in Arms Regulation. We request that the JSF Program Executive Officer reconsider the recommendation and provide additional comments on this final report.

5. Refer any potential unauthorized export identified in this report or in any future review to the State Department for review and determination of appropriate compliance actions.

Management Comments. The JSF Program Executive Officer partially concurred with the recommendation, stating that the program office would refer any potential unauthorized exports the program office identifies to the U.S. contractor for International Traffic in Arms Regulation compliance actions.

Although not required to comment, the Acting Director, DTSA concurred with the recommendation.

Audit Response. The comments are partially responsive. The JSF Program Executive Officer comments did not state whether the potentially unauthorized exports this report identifies were referred to the State Department. We request that the JSF Program Executive Officer provide additional comments on this final report.

Appendix A. Scope and Methodology

The F-35 JSF was designed to replace existing multi-role fighter aircraft that the Air Force, Navy, Marine Corps, and U.S. allies use. The estimated cost for completing development and distribution of more than 2,450 JSF aircraft is \$256.6 billion. We evaluated U.S. contractor use of GPA to accelerate export of controlled-unclassified JSF technology to foreign companies. The Director of DTSA and the JSF program office control exports and protect critical JSF technology for DoD.

We reviewed Federal legislation and DoD guidance related to exports of controlled technologies and acquisition of major weapons systems. We relied on guidance in the Arms Export Control Act and the International Traffic in Arms Regulation. Also, we relied on DoD acquisition guidance in DoD Directive 5000.1, Directive 5200.39, Instruction 5000.2, and the Defense Acquisition Guidebook.

We initially limited our audit work to the JSF program office located in Arlington, Virginia, and the Lockheed Martin contractor facility in Fort Worth, Texas. We limited our work to those two sites because of higher priority audits and budget constraints. At both sites, we reviewed the adequacy of controls that minimize the potential for preventing unauthorized access to facilities and critical information.

[REDACTED]

[REDACTED]

[REDACTED]

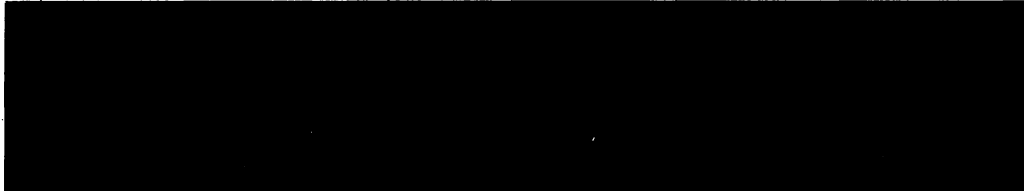
[REDACTED]

The JSF Program Executive Officer corrected the weaknesses identified during the audit. The results of our work are discussed in DoD IG Report No. D-2005-107, dated September 30, 2005.

In October 2004, we began evaluating JSF contractor use of GPA and transfer of controlled-unclassified technology from U.S. companies to foreign companies. We discussed roles, responsibilities, policies, and procedures with representatives from the following offices associated with the JSF program: the Office of the

Under Secretary of Defense for Acquisition, Technology, and Logistics; Deputy Under Secretary of Defense for Technology Security Policy and Counterproliferation; Secretary of the Air Force's International Affairs, Defense Security Service office; and the JSF program office.

We also discussed GPA and interdepartmental working relationships with representatives of the State Department's Directorate of Defense Trade Controls.



At both contractor facilities—Lockheed Martin in Fort Worth and Northrop Grumman in El Segundo—we evaluated controls over GPA exports.



We performed the audit between May 2004 and July 2005 in accordance with generally accepted government auditing standards. The audit was suspended between July 2004 and September 2004 because the staff was reassigned to higher priority audits. We reviewed documents dated from December 1980 through August 2004.

Use of Computer-Processed Data.



Although we did not perform a formal reliability assessment of the computer-processed data, we determined that training records, export licenses, and export reports generally agreed with information in the computer-processed data. We did not find errors that would preclude use of computer-processed data in meeting the audit objectives or supporting the conclusions of this report.

Use of Technical Assistance. We received technical assistance from aeronautical and computer engineers assigned to the Defense Contract Management Agency. Those engineers assisted us with reviewing the sample of exports and determining if GPA authorized those exports.

Appendix B. Prior Coverage

During the last 5 years, GAO and the DoD IG conducted multiple reviews discussing the JSF program and controls over the transfer of technology. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted IG DoD reports can be accessed at <http://www.dodig.osd.mil/audit/reports>.

GAO

GAO Report No. GAO-04-554, "Joint Strike Fighter Acquisition, Observations on the Supplier Base," May 2004

GAO Report No. GAO-03-775, "Joint Strike Fighter Acquisition, Cooperative Program Needs Greater Oversight to Ensure Goals Are Met," July 2003

GAO Report No. GAO-02-972, "Export Controls - Department of Commerce Controls Over Transfers of Technology to Foreign Nationals Need Improvement," September 2002

GAO Report No. GAO-00-74, "Joint Strike Fighter Acquisition, Development Schedule Should be Changed to Reduce Risks," May 2000

DoD IG

DoD IG Report No. D-2004-061, "Export-Controlled Technology at Contractor, University, and Federally Funded Research and Development Center Facilities," March 25, 2004

DoD IG Report No. D-2002-039, "Automation of the DoD Export License Application Review Process," January 15, 2002

DoD IG Report No. D-2001-007, "Foreign National Security Controls at DoD Research Laboratories," October 27, 2000

DoD IG Report No. D-2000-110, "Export Licensing at DoD Research Facilities," March 24, 2000

Interagency Reviews

Inspectors General of the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Homeland Security, State, and the Central Intelligence Agency. Report No. D-2005-043, "Interagency Review of the Export Licensing Process for Chemical and Biological Commodities," June 10, 2005

Inspectors General of the Departments of Commerce, Defense, Energy, Homeland Security, State, and the Central Intelligence Agency. Report No. D-2004-062, "Interagency Review of Foreign National Access to Export-Controlled Technology in the United States," April 16, 2004

Inspectors General of the Departments of Commerce, Defense, State, Treasury, Central Intelligence Agency, and the United States Postal Service. Report No. D-2003-069, "Interagency Review of Federal Export Enforcement Efforts," April 18, 2003

Inspectors General of the Departments of Commerce, Defense, Energy, State, and the Treasury. Report No. D-2002-0074, "Interagency Review of Federal Automated Export Licensing Systems," March 29, 2002

Inspectors General of the Departments of Commerce, Defense, Energy, and State. Report No. D-2001-092, "Interagency Review of the Commerce Control List and the U.S. Munitions List," March 23, 2001

Inspectors General of the Departments of Commerce, Defense, Energy, and State. Report No. D-2000-109, "Interagency Review of the Export Licensing Process for Foreign National Visitors," March 24, 2000

Appendix C. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition, Technology, and Logistics
Deputy Under Secretary of Defense (International Technology Security)
Director, Defense Procurement and Acquisition Policy
Under Secretary of Defense (Comptroller)/Chief Financial Officer
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Department of the Air Force

Auditor General, Department of the Air Force

Other Defense Organizations

Director, Defense Security Services
Director, Defense Contract Management Agency
Director, Defense Technology Security Administration
Program Executive Officer, Joint Strike Fighter Program Office

Non-Defense Federal Organizations

Office of Management and Budget
Director, National Security Agency
Inspector General, Department of State

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Foreign Relations
Senate Committee on Homeland Security and Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Committee on International Relations
House Committee on Government Reform
House Subcommittee on Government Efficiency and Financial Management, Committee on Government Reform
House Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform
House Subcommittee on Technology, Information Policy, Intergovernmental Relations, and the Census, Committee on Government Reform

Joint Strike Fighter Program Comments



JOINT STRIKE FIGHTER PROGRAM

200 12th Street South, Suite 600
Arlington, Virginia 22202-5402



Mr. Dennis Conway
Program Director, Readiness and Logistics Support
Inspector General, Department of Defense
400 Army Navy Drive
Arlington, Virginia 22202-4704

NOV 16 2005

Dear Mr. Conway:

This is the Joint Strike Fighter (JSF) Program response to the DoD-IG draft report on Controls over the Export of Joint Strike Fighter Technology dated, October 18, 2005 (Project No. D2004-D000LG-0155.000).

[REDACTED]

The draft report recommendations center around export license compliance measures, and are redundant to existing law and related compliance requirements.

The JSF Program GPA is an umbrella authorization in the International Traffic in Arms Regulation (ITAR) [ITAR 126.14(3)(1)] that is intended to support government to government cooperative projects where there is a pre-existing Memorandum of Understanding (MOU) between the US Government and the foreign government. The GPA allows for the export of pre-approved (by the Department of Defense (DoD) and the Department of State) technical data to pre-approved partner industries by pre-approved US industries. The GPA permits pre-approved US exporters to prepare Implementing Agreements (IA) with pre-identified foreign partner industries within a defined scope. That scope is all unclassified in the case of JSF. The IA, like a Technical Assistance Agreement (TAA), must comply with Department of State export control requirements in accordance with the ITAR.

[REDACTED]

JSF Program comments on draft report recommendations follow.

[REDACTED]

JSF Program comment: Non-concur. Compliance controls and related monitoring requirements are in-place. Any IA approved under the JSF GPA must comply with Department of State export control requirements in accordance with the ITAR.

[REDACTED]
JSF Program report noncompliance of the GPA to the State Department for determining administrative penalties.

JSF Program comment: Non-concur. GPA ITAR compliance requires the contractor to perform quarterly audits.

[REDACTED]
JSF Program comment: Partially concur. [REDACTED]

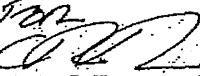
4. Recommendation that the JSF PM develop and implement for the JSF Program a management control program that includes controls over exports of the program's technology.

JSF Program comment: Partially concur. JSF Program now has a draft Management Control Plan, a copy of which was provided to the DoD-IG. However, controls over exports of technology are already addressed elsewhere, i.e., any IA approved under the JSF GPA must comply with Department of State export control requirements in accordance with the ITAR.

5. Recommendation that the JSF PM refer any potential unauthorized export identified in this report or in any future review to the State Department for review and determination of administrative penalties.

JSF Program comment: Partially concur. Any potential unauthorized exports identified by the JSF Program Office will be referred to the US contractor for compliance actions required by the Department of State under the ITAR.

Thank you for the opportunity to comment on this draft report.


Steven L. Enewold, RADM, USN
Program Executive Officer
*ALICE GARD CLERK
DEPUTY PROJ MGR*

Under Secretary of Defense for Acquisition Technology and Logistics Comments



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
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NOV 15 2005

MEMORANDUM FOR PROGRAM DIRECTOR, READINESS AND LOGISTICS
SUPPORT, DODIG

THROUGH: DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS *WAB 11/16/05*

SUBJECT: OUSD(AT&L) Comments to Draft DoDIG Report on Controls Over
the Export of Joint Strike Fighter Technology (Project No. D2004-
D000LG-0155.000)

OUSD(AT&L)/IC appreciates the opportunity to comment on the subject draft report. While not specifically tasked to respond to the draft report, this office supports the comments from the JSF Program Executive Officer and Director, Defense Technology Security Administration.

USD(AT&L) and the U.S. Department of State (DoS) fully support the JSF Program's use of the International Traffic in Arms Regulations (ITAR) provisions associated with the Global Project Authorization (GPA) to facilitate transfer of controlled unclassified technology. The respective responsibilities of the DoS and DoD with regard to the President's implementation of the Arms Export Control Act (AECA) and ITAR are found in Executive Order 11958. DoS has sole responsibility for establishing and implementing AECA and ITAR compliance measures under DoS-issued export licenses (including the JSF GPA). DoD's responsibilities in the area of export licenses focus on export control planning within the DoD and with DoD contractors, providing DoS with DoD's technology transfer and export control recommendations prior to the issuance of licenses (a DTSA responsibility), and reporting any suspected compliance violations to DoS. Many of the subject audit recommendations address JSF-related export license compliance measures. Accordingly, DoDIG's recommendations regarding enhanced JSF Program export license compliance should be addressed by DoS rather than the JSF Program Office or DTSA.

If you have any questions regarding this memorandum, please contact my point of contact [redacted] at 703-697-[redacted] or at [redacted]@osd.mil.

A. Volkman
A. Volkman
Director, International Cooperation



Defense Technology Security Administration Comments

Final Report
Reference



DEFENSE TECHNOLOGY SECURITY ADMINISTRATION

2800 DEFENSE PENTAGON
WASHINGTON, DC 20301-2900

NOV 18 2005

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR READINESS AND LOGISTICS SUPPORT

SUBJECT: Response to Draft DoD/IG Report on "Controls Over the Export of Joint
Strike Fighter Technology," Project No. D2004-D000LG-0155.000

In response to your draft report dated October 18, 2005, we are submitting the
following comments.

We defer Recommendations 1, 3, and 4 to the Joint Strike Fighter (JSF) Program
Office.

We concur with Recommendations 2 and 5, but we recommend changing the
language of the last sentence of each from "...determining administrative penalties" and
"...determination of administrative penalties," respectively, to "determination of
appropriate compliance action" in order to more accurately reflect the State Department's
role.

We note that export control compliance responsibilities reside by law with the
State Department's Directorate of Defense Trade Controls and any of the report's
recommendations to reassign this responsibility to the JSF Program Office, whether
express or implied, would be invalid.

If you have questions regarding these comments, please call my point of contact,
[REDACTED] at 703-325-[REDACTED]

Beth M. McCormick

Beth M. McCormick
Director (Acting),
Defense Technology
Security Administration

DTSA 
Exporting the Edge

Revised
pages 13, 15,
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Team Members

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