

DEPARTMENT OF DEFENSE OFFICE OF THE INSPECTOR GENERAL

REPORT OF INVESTIGATION

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ALLEGED CONFLICT OF INTEREST:
ADMIRAL DENNIS C. BLAIR, U.S. NAVY (RETIRED)
PRESIDENT, INSTITUTE FOR DEFENSE ANALYSES

Prepared by Directorate for Investigations of Senior Officials
Office of the Deputy Inspector General for Investigations

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I. INTRODUCTION AND SUMMARY

We initiated this inquiry in response to a joint letter to the Secretary of Defense from Senator John Warner, Chairman, Senate Armed Services Committee (SASC); Senator Carl Levin, Ranking Minority Member, SASC; and Senator John McCain, Chairman, SASC Airland Subcommittee; in which they requested a "thorough and independent review" of an alleged conflict of interest on the part of Admiral Dennis C. Blair, U.S. Navy (Retired), President, Institute for Defense Analyses (IDA), who reportedly participated in IDA's Business Case Analysis (BCA) of the proposed U.S. Air Force F-22 aircraft multiyear procurement while also serving on the Board of Directors of EDO Corporation (EDO), a subcontractor on the F-22 program.

As part of the review of a possible conflict of interest, Chairman Warner and Senators Levin and McCain asked that we specifically address:

- "The nature and extent of Admiral Blair's interest in EDO;
- The nature and extent of EDO's interest in the F-22 multiyear contract;
- The nature and extent of Admiral Blair's role in the IDA study and related work; and
- The extent to which the Air Force relied upon the IDA study and related work in determining that the multiyear contract is in the Department's best interest."¹

We concluded that Admiral Blair violated IDA's conflict of interest standards because he failed to disqualify himself from all matters related to IDA's work concerning the F-22 program that could have affected the financial interests of two corporations -- EDO and Tyco International Limited (Tyco) -- where he served as a member of the Board of Directors. However, we concluded that his failure to disqualify himself had no impact on F-22 related work undertaken by IDA -- either the F-22 Independent Cost Estimate (ICE) issued in August 2005 or the BCA issued in May 2006. In sworn testimony Admiral Blair denied, and IDA participants confirmed, that Admiral Blair took no action to influence the outcome of either study. We found that Admiral Blair participated in a senior review group for the ICE, but determined that his participation was perfunctory and had no impact on the results of the study. He did not participate in the BCA, other than to sign the initial DoD task order for the study and review status reports.

Regarding the first of four issues identified in the joint SASC letter, we found that Admiral Blair served on EDO's Board of Directors from October 2002 through July 31, 2006,

¹ As part of our review we also examined related questions raised by Senate staff. Specific responses to those questions are provided in the appendix to this report.

for which he received approximately [REDACTED] along with [REDACTED] shares of EDO common stock and options to buy an additional [REDACTED] shares. In August 2006 he divested himself of all holdings in EDO, donating his shares of EDO common stock to the Yellow Ribbon Fund and irrevocably forfeiting the stock options. Evidence also established that while affiliated with IDA, Admiral Blair served on the Board of Directors of Tyco beginning in March 2003. As compensation he received approximately [REDACTED] (total for 3 years) along with [REDACTED] deferred stock units and options to buy an additional [REDACTED] shares.

With regard to EDO's involvement in the F-22 procurement, we concluded the company's participation was substantial in absolute revenue, but minor in relative terms of the overall F-22 procurement program and as a percentage of EDO annual sales. In Fiscal Year 2005, EDO's contract to produce missile launch systems for Lockheed-Martin Aeronautics Company (Lockheed-Martin), the F-22 prime contractor, was not to exceed [REDACTED] or approximately [REDACTED] of the F-22 procurement budget of [REDACTED]. That contract equated to less than 3 percent of EDO's total annual sales for 2005. In Fiscal Year 2006, EDO's contract with Lockheed-Martin was not to exceed [REDACTED] or approximately [REDACTED] of the F-22 procurement budget of [REDACTED]. EDO's involvement in the multiyear contract would not appear to represent an increase in its historic interest in the F-22 program, which would remain at less than [REDACTED] of the total procurement cost.²

On the matter of IDA studies related to the F-22, evidence established that Admiral Blair had no direct involvement in the BCA and had limited involvement in the ICE as a member of its senior review group. With regard to both studies, we determined that Admiral Blair provided no direction or guidance, and was not involved in conducting the analysis or drafting or finalizing the reports. As noted above, while Admiral Blair served on the ICE senior review group, we found he took no action to influence the outcome of the ICE, or to benefit himself, or others.

We also concluded the Air Force relied exclusively on the BCA to satisfy the "substantial savings" criteria, the first of six statutory requirements for entering into a multiyear contract. The statutorily required justification was submitted to the Congress on May 16, 2006, one day after the BCA was completed. However, we determined the decision to pursue a multiyear procurement of the F-22 was formalized on December 20, 2005, in Program Budget Decision 720, "Air Force Transformation Flight Plan," which was issued 5 months before completion of the BCA.

The report sets forth our findings and conclusions based on a preponderance of the evidence.

II. BACKGROUND

IDA is a nonprofit corporation that administers three Federally Funded Research and Development Centers (FFRDCs) to assist the executive branch of the U.S. Government in

² We found that Tyco's involvement was minimal -- Tyco built small electronic components that were sold to F-22 subcontractors, and a few to the prime contractor, with a value on the order of [REDACTED] per airplane. This constituted less than [REDACTED] of Tyco's annual revenue.

addressing national security issues which require scientific and technical expertise. The primary mission of one of the three centers, the IDA Studies and Analyses FFRDC, is to conduct research, studies, and analyses in support of the Office of the Secretary of Defense, Joint Staff, Combatant Commands, and Defense Agencies.

Admiral Blair completed a 34 year naval career in May 2002, retiring from active duty as the Commander, U.S. Pacific Command. He then began an affiliation with IDA, where he held three separate positions. Admiral Blair served as a Senior Fellow from October 1, 2002, until November 3, 2003, when he was appointed President of IDA. As President, he was responsible for IDA's overall strategy and daily operations. In addition to his posts as Senior Fellow and then President, Admiral Blair concurrently served as a member of IDA's Board of Trustees beginning in February 2003. He resigned as both President and Trustee of IDA effective September 11, 2006. As discussed further in this report, while affiliated with IDA Admiral Blair also served as a member of the Board of Directors of two companies: EDO and Tyco.

A July 25, 2006, article in the *Washington Post*, titled, "Leader of Panel That Endorsed Jet Program Has Ties to Contractor," reported Admiral Blair had "extensive ties" to F-22 subcontractor EDO, to include "options to buy tens of thousands of shares of EDO stock." According to the article, "Blair said he was heavily involved in the preparation of the report endorsing the multiyear procurement [of the F-22] as the chairman of an internal review committee that approved its final form." The article also attributed statements to Admiral Blair that IDA had no policy on conflicts of interests by its officers; that he, as IDA President, made disqualification decisions himself; and that he chose not to disqualify himself from IDA studies related to the F-22 because his link to EDO was not of sufficient scale to require it.

III. SCOPE

We interviewed Admiral Blair and 10 other witnesses with knowledge of the matters at issue, to include six IDA research analysts who participated in the ICE and BCA. We reviewed relevant documents, to include the sponsoring agreement between the Office of the Secretary of Defense and the IDA to operate the IDA Studies and Analyses FFRDC. We note that this Agreement and the contract task orders for the F-22 studies (executed between IDA and the Office of the Assistant Secretary of Defense for Acquisition, Technology and Logistics (OUSD(AT&L))) provided the basis for this Office to conduct this inquiry.

We also reviewed the IDA Employee Handbook and its conflict of interest policies, Admiral Blair's annual IDA professional affiliation and financial interest disclosure forms, and U.S. Securities and Exchange Commission filings related to EDO, Tyco, and Lockheed-Martin. We found no evidence of any professional or financial relationship between Admiral Blair and Lockheed-Martin.

IV. FINDINGS AND ANALYSIS

In addressing the issue of whether Admiral Blair was engaged in a conflict of interest with respect to IDA studies on the F-22 program, we first address the relevant factors of a potential offense.

A. What was the nature and extent of Admiral Blair's interest in EDO?

Facts

Admiral Blair testified that he served on EDO's Board of Directors since October 2002 and resigned from that position effective July 31, 2006. He stated that during that time he was compensated for his services with an annual cash retainer, stock, and stock options. He provided us with a report of his personal investment portfolio as of August 10, 2006, which reflected he owned [REDACTED] shares of EDO stock and had options to buy an additional [REDACTED] EDO shares. Admiral Blair confirmed he obtained the shares in EDO and the stock options as compensation for his service on the EDO Board of Directors, and reported that the cash component of his compensation for that time period totaled approximately [REDACTED].

We confirmed that EDO's compensation to its Directors took the form of a cash retainer, stock, and stock options. According to EDO's Annual Proxy Statement for 2005, Directors received an annual retainer of [REDACTED] were required to take at least [REDACTED] percent of that retainer in EDO common stock, and were encouraged to take the entire retainer in EDO stock.

We also confirmed the extent of Admiral Blair's interest in EDO. Public financial disclosure reports filed with DoD by Admiral Blair in April 2001 and June 2002, which covered financial holdings for his final years on active duty as the Commander, U.S. Pacific Command, reported no interests in EDO. U.S. Securities and Exchange Commission filings disclosed that Admiral Blair received awards of EDO stock and stock options beginning in 2003. The most recent Securities and Exchange Commission filings by EDO with regard to Admiral Blair disclosed that on July 5, 2006, EDO awarded him [REDACTED] shares of EDO common stock, bringing his total holdings of EDO stock to [REDACTED] shares. With a per share cost of [REDACTED] on July 5, the value of his stock holdings totaled [REDACTED]. The filings also disclosed that on January 13, 2006, EDO awarded him options to buy [REDACTED] shares, bringing his total holdings of options to [REDACTED] shares. The exercise price of his options on those [REDACTED] shares ranged from [REDACTED] to [REDACTED] per share.

In August 2006 Admiral Blair divested himself of all holdings in EDO, donating [REDACTED] shares of EDO common stock to the Yellow Ribbon Fund and irrevocably forfeiting the option to purchase [REDACTED] shares of EDO stock granted him as an EDO Director.

Discussion

We determined that Admiral Blair served on EDO's Board of Directors from October 2002 through July 31, 2006. Evidence established that for his service Admiral Blair received approximately [REDACTED] and a total of [REDACTED] shares of EDO common stock and options to buy an additional [REDACTED] shares. With a per share cost of [REDACTED] on July 5, 2006, the value of his stock holdings totaled [REDACTED]. The exercise price of his options on [REDACTED] shares ranged from [REDACTED] to [REDACTED] per share. In August 2006 he divested himself of all holdings in EDO, donating his shares of EDO common stock to the Yellow Ribbon Fund and irrevocably forfeiting his stock options.³

B. What was the nature and extent of EDO's interest in the F-22 multiyear contract?

Facts

EDO produces a missile launcher for the F-22. The launcher -- known as the LAU-142/A AMRAAM [Advanced Medium Range Air-to-Air Missile] Vertical Ejection Launcher (AVEL) -- carries and fires missiles from the F-22's internal missile bays. Each F-22 is equipped with four to six AVEL systems depending on aircraft configuration. In Fiscal Year 2005 EDO was awarded a contract from Lockheed-Martin, not to exceed [REDACTED] to produce AVEL systems for 24 aircraft in Lot 5 of the F-22 program. The Air Force program budget for Lot 5 aircraft was [REDACTED]. As such, EDO's [REDACTED] subcontract equated to approximately [REDACTED] of the Lot 5 budget. In its Annual Report, EDO reported total sales of [REDACTED] in 2005. Based on that total, the contract to produce AVEL systems for Lot 5 F-22 aircraft equated to less than [REDACTED] of EDO's total sales for 2005.

In Fiscal Year 2006 EDO was awarded a not-to-exceed [REDACTED] contract from Lockheed-Martin for continued production of AVEL systems. This order covered production for up to 24 Lot 6 aircraft, each of which would be equipped with six AVEL launchers. The F-22 program budget for FY 2006 was [REDACTED]. As such, EDO's [REDACTED] contract equated to [REDACTED] of the FY 2006 F-22 program budget. EDO's total sales for 2006 were not available at the time of this report. Assuming EDO continued to produce AVEL systems for the F-22 aircraft procured in a multiyear contract in similar quantities, its interest under a multiyear contract would remain in the same range of less than [REDACTED] of the F-22 procurement cost.

Discussion

We concluded EDO's involvement in the F-22 procurement was substantial in absolute revenue, but minor in relative terms of the overall F-22 procurement program and as a percentage of EDO annual sales. In relative terms, EDO's involvement in the multiyear contract would not appear to represent an increase in its historic interest in the F-22 program, which would remain at less than one half of 1 percent of the total procurement cost.

³ Admiral Blair's compensation for service on the Tyco Board of Directors is addressed in the appendix to this report.

C. What was the nature and extent of Admiral Blair's role in the IDA study and related work?

Facts

We found that IDA completed two related studies on the F-22 germane to this investigation: the ICE and the BCA.⁴ As directed in the Conference Report on the DoD Appropriations Act for Fiscal Year 2005, OUSD(AT&L) staff tasked IDA in September 2004 to perform the ICE, an independent estimate of F-22 acquisition costs and the cost to complete development. The final ICE report was forwarded to the four congressional defense committees on August 18, 2005.

The BCA had its genesis in a DoD decision made for its Fiscal Year 2007 budget submission. DoD Program Budget Decision 720, "Air Force Transformation Flight Plan," dated December 20, 2005, provided for the 3-year multiyear procurement of 60 F-22 aircraft (Lots 7, 8, and 9 of 20 aircraft each), and directed the Air Force to "proceed with all efforts and required documentation necessary to support a multiyear procurement beginning in Fiscal Year 2008." According to OUSD(AT&L) staff, under normal circumstances, the Air Force would have performed the business case cost comparison of multiyear and successive annual procurements required by Title 10, United States Code, Section 2306b, "Multiyear contracts; acquisition of property." However, in this case there was limited time available to perform the analysis, and IDA had current knowledge of the F-22 program from recent work on the ICE. As a result, on January 26, 2006, OUSD(AT&L) tasked IDA to conduct the BCA. IDA delivered the completed BCA to the four congressional defense committees on May 15, 2006.

With respect to the BCA, by letter dated July 26, 2006, to Chairman Warner, Admiral Blair stated that while he received routine progress reports on the BCA, he had no direct involvement in the analysis and "did not play any active role in its conduct or review." In his sworn testimony to us, Admiral Blair confirmed his statements to Chairman Warner, asserting he had "no direct involvement" in the BCA. He described his participation as being limited to signing the initial project task order (as he said he did for all 300 studies at IDA per year), receiving status updates as part of biweekly progress reports of ongoing IDA projects, and reading a copy of the final study. Admiral Blair testified he did not give any guidance on the study, or direct or suggest any changes.

Witness testimony corroborated Admiral Blair's denial of direct involvement in the BCA. We interviewed six IDA research analysts who participated in both the BCA and ICE, to include the individual who led both projects. The analysts were unanimous in their testimony that Admiral Blair had no involvement in conducting the BCA analysis or preparing, reviewing, or finalizing the report. The analysts further testified that neither Admiral Blair nor anyone else influenced or changed the BCA report, and that the cost savings in the final report were, in fact, consistent with the numbers reflected in the analysts' work papers.

⁴ At the time of this report, IDA was conducting two additional studies on the F-22 program, an "Operations and Support Cost Estimate" and a "Modernization Cost Estimate." Testimony established Admiral Blair was not directly involved in either effort.

In his July 26 letter to Chairman Warner, Admiral Blair also detailed his involvement in the ICE. He explained that for the project, IDA employed both a quality review panel and a senior review group, of which he was a member. The senior review group and the quality review panel met together three times from October 2004 to May 2005. At the meetings, they discussed their views on study assumptions, analytic approaches, findings, and presentational issues. Admiral Blair stated he attended and participated in these project review meetings. He also stressed that he was not involved in the drafting or final quality review of the written report, but read the report after it was forwarded to the USD(AT&L). Admiral Blair emphasized that in his conversation with the *Washington Post* reporter cited in the July 25, 2006, article, he (Admiral Blair) failed to adequately differentiate between his role as IDA President and his roles in the BCA and ICE.

In testimony, Admiral Blair confirmed his written statements to Chairman Warner with regard to the ICE. Admiral Blair testified that as a member of the ICE senior review group he participated in three meetings of a few hours each. During those meetings, study team members briefed the status of their analyses, challenges they faced, and issues of concern. He described his participation as part of a "free-flowing discussion" in which members of the senior review group offered "opinions," "insight," and "advice," rather than giving definitive guidance to the study team. He stressed that the study team made the final decisions on issues. Admiral Blair also confirmed that he signed the task order for the study, but did not participate in the drafting or final review of the study, and read the study only after it was completed. Finally, with regard to the *Washington Post* article, Admiral Blair testified that in speaking to the reporter, he confused the ICE with the BCA and also had a "faulty memory" of his role in the ICE senior review group.

Testimony from six IDA research analysts who participated in both the BCA and ICE generally corroborated Admiral Blair's recollections. The analysts recalled Admiral Blair participated in the ICE "kickoff" meeting and two reviews. According to the analysts, in his capacity as IDA President, Admiral Blair briefly addressed a ceremonial kickoff meeting offering what were characterized as "non-substantive" and "booster-ish" comments about the study. None of the analysts recalled any substantive involvement by Admiral Blair in the conduct of the ICE or the preparation of the ICE report. Testimony established that Admiral Blair's participation in review sessions left a minimal impression on the analysts, who noted that Admiral Blair gave neither guidance nor substantive analytical advice to the team during those sessions. Two other IDA employees, who were not members of the research team but who observed Admiral Blair's involvement in the ICE, described his role as participating in, but not running, two review sessions during the ICE study, and not having any particular "give and take" with any of the researchers.

Discussion

We concluded Admiral Blair had minimal involvement in the BCA and somewhat greater, though still limited, involvement in the ICE. Testimony established Admiral Blair's participation in the BCA consisted of signing the initial project task, receiving biweekly status updates, and reading a copy of the final study. Research analysts involved in the study unanimously confirmed Admiral Blair had no involvement in conducting the BCA analysis or

preparing or reviewing the report. Analysts also confirmed neither Admiral Blair nor anyone else influenced or changed the BCA report or its numbers.

The preponderance of the evidence established Admiral Blair played a limited role in the ICE. We found that in his role as President of IDA, Admiral Blair signed the ICE task order, briefly addressed the ICE kickoff meeting, and read a copy of the final report. Testimony further established that while he participated in two meetings as a member of the senior review group, he provided no guidance or substantive analytical advice to the study team and was not involved in drafting the report or completing its final review.

D. Did Admiral Blair violate the IDA conflict of interest policy in effect during the time IDA prepared studies on the F-22 program? Did IDA officials enforce that policy with respect to Admiral Blair?

Standards

Sponsoring Agreement between the Office of the Secretary of Defense and the Institute for Defense Analyses to operate the IDA Studies and Analyses Federally Funded Research and Development Center

The Agreement states the work performed by IDA is characterized by the need for unquestioned objectivity, free from actual or perceived conflicts of interest caused by Service, commercial, or other involvement. It required IDA to maintain a "written, rigorous, corporate-wide conflict of interest regimen," and to report any organizational conflicts of interest as soon as they are identified and their proposed disposition.

IDA Employee Handbook

Regarding conflicts of interest, the Handbook outlines IDA's general policy that all staff members "must be certain to avoid the appearance as well as the actuality of any sort of conflict of interest," and requires that IDA employees with business or financial interests that create conflicts or apparent conflicts of interests with their IDA assignments "must disqualify themselves from any IDA duties or activities that relate in any way to those interests or affiliations."

The Handbook goes on to set forth specific ethics rules in sections entitled "Practices." Of relevance to the matters at issue are Practices 2-14 and 2-16. Practice 2-14, "Professionally-Related Activities," directs that IDA employees "should approach affiliation with, or work for, any type of commercial enterprise with great caution to ensure that there is no conflict of interests or appearance of such conflict."

Practice 2-16, "Conflicts of Interest," provides examples of situations generally considered to be conflicts and gives direction on how to address them. Two examples listed include:

Having any significant financial interest in, or affiliation with, an entity whose business interest may be affected by the performance of your work at IDA or activities in which you have any substantial role or influence, [and]

[A]ccepting compensation . . . from a source that has a financial or business interest that may be affected by the performance of your work at IDA.

Practice 2-16 directs that an IDA employee with a business or financial interest that creates conflicts or apparent conflicts of interests with an IDA assignment “must disqualify yourself from any IDA duties or activities that relate in any way to those interests or affiliations.”

Practice 2-16 defines “significant affiliation” to include service as a “director [or] officer,” and states, “Regular IDA employees are generally not permitted to have such affiliations.” This Practice also directs employees to disclose investments in business entities that “may be affected by IDA work” in which the employee is involved, to his Director or to the Vice President for Finance and Administration.

Practice 2-16 also states that all IDA employees are expected to comply with the IDA policies regarding conflicts of interests, provide relevant information on outside activities or investments, and discuss any situation that may raise questions with their Director. Finally, the Practice notes that officers and other individuals who have no cognizant director should discuss such matters and make any required disclosures, directly to the Vice President for Finance and Administration.

IDA Conflicts Policy for Members of the Board of Trustees

IDA’s conflicts of interest policy for members of the Board of Trustees states:

An IDA Trustee must, on his or her own initiative, automatically disqualify himself or herself from voting on, or participating in discussion of, any IDA issue involving a for-profit organization in which the Trustee (a) serves as an officer or director/trustee; or (b) has a financial interest (e.g., stock, stock options). Each Trustee is urged to consult with the Chairman of the Board if he or she has questions about the appropriateness of participating in, or voting on, any given issue.

Further, Trustees are obligated to inform the Corporate Secretary of outside affiliations and financial interests that may be affected by IDA work.

Facts

IDA’s General Counsel and Vice President for Finance and Administration testified that IDA had DoD-approved conflict of interest policies -- which she characterized as “mandatory

self-disclosure" -- for employees and for members of its Board of Trustees. She confirmed that IDA Practices 2-14 and 2-16 governed employee conflicts of interest, and noted that each new employee was provided copies of these two Practices and was required to sign a one page acknowledgement that he had received, read, and would abide by them. The acknowledgements were then kept on file. She also described a separate procedure for members of the Board of Trustees, which required each member to annually file a disclosure form listing professional affiliations and financial interests that may be affected by work done at IDA. She testified she received the forms in January or February of every year and then prepared a summary listing which she provided to the IDA President and Chairman of the Board of Trustees.

The General Counsel and Vice President for Finance and Administration also confirmed that as a Senior Fellow and then President of IDA, Admiral Blair qualified as an employee who was subject to the conflict of interest requirements of Practices 2-14 and 2-16. She recalled that Admiral Blair executed the written acknowledgement of the Practices when he first joined IDA. Regarding employee reporting of potential conflicts of interest, she noted that Practice 2-16 required employees to refer potential conflicts of interest to their Directors and then to her. She also stated that it would be appropriate for Admiral Blair, as the President, to refer any potential conflicts to the Board of Trustees for decision. Finally, she testified that as a member of Board of Trustees, Admiral Blair was also subject to that conflict policy, and had, in fact, filed annual disclosure forms with her since February 2003.

Witness testimony confirmed the General Counsel and Vice President for Finance and Administration's description of employee orientation regarding IDA's conflict of interest policies. Employees testified they received a copy of the employee Handbook when hired, and that conflict of interest issues were addressed during their new employee orientation. Our interviews of the six research analysts who worked on both the ICE and BCA established that the policy was well known and understood. One employee summed up the general understanding expressed by the others stating, "You just don't have a financial interest in anything you do concerning your IDA work."

Admiral Blair testified that IDA's conflict of interest policy was generally designed to support the impartiality and objectivity of IDA studies. He described the policy as directing that an employee would not have a substantial role in a study that would impact a company in which that person had a financial interest or affiliation. Admiral Blair recalled being informed of IDA's conflict of interest policy when he joined the organization as a Senior Fellow and stated that employees were indoctrinated when they came on board. He also noted employees were refreshed on the policy when necessary in connection with individual studies, as were Trustees in making their annual disclosures.

With regard to his professional affiliations, Admiral Blair testified that when he joined IDA as a Senior Fellow he was a member of the Advisory Committee of Raytheon Corporation and on the Boards of Directors of EDO and Tyco. He said that at the time, he discussed those affiliations with General Larry Welch, U.S. Air Force (Retired), who was then the President of IDA. Admiral Blair stated that when he became President of IDA, he resigned from the Raytheon Company because there were too many areas of potential overlap with his work at IDA. He said he also reviewed his affiliations with EDO and Tyco and discussed those

affiliations with the IDA Board of Trustees Presidential Search Committee. According to Admiral Blair, Committee members expressed concerns about Tyco, not because of potential conflicts of interest, but because the company had been in the news for corporate malfeasance. He also related that because EDO was primarily a defense contractor, he and Committee members discussed potential conflicts of interest involving EDO. They agreed that he would disqualify himself from IDA studies that concerned an EDO matter.

We reviewed copies of Admiral Blair's IDA Board of Trustees annual disclosure forms for the years 2003 through 2006. Each form listed his membership on the Boards of Directors of EDO and Tyco. His initial form, dated February 11, 2003, also listed his affiliation with Raytheon Company.

Regarding his decision to involve himself in the ICE senior review group, Admiral Blair told us that he considered the possibility of a conflict of interest with the ICE and his relationship with EDO, a subcontractor on the F-22s. He said he reviewed the incoming task order on the ICE and determined the study was a rather mechanical process using a parametric cost estimating technique developed by IDA. He explained that he considered three primary factors in determining whether to disqualify himself: the impact of the study on EDO, the nature of EDO's involvement in the F-22, and his potential role in the study.

Admiral Blair said he reasoned that the ICE would not have a direct impact on EDO business because the study was only one part of a larger process that determined the total number of F-22s purchased. Second, as a subcontractor, EDO furnished a subsystem of the aircraft and the company would not be examined separately by the study group. And third, since the ICE was an important IDA study requested by Congress, he believed it was his responsibility as IDA President to ensure the quality of IDA's work product.

We asked Admiral Blair about the statement in the *Washington Post* article attributed to him that his link to EDO was not of sufficient scale to require his disqualification. Admiral Blair responded that in making his disqualification decision, he also considered the scale of EDO's stake in the F-22 and the relationship between that stake and EDO's annual revenues. He explained that EDO's AVEL systems represented less than [REDACTED] worth of content on a [REDACTED] airplane. He added that with a potential to supply AVEL systems for 20 F-22s per year, a contract to supply the systems would account for less than [REDACTED] of EDO's [REDACTED] annual revenues.

Admiral Blair testified that based on these considerations, he determined it was not necessary to disqualify himself from limited participation in the ICE. Further, he confirmed that he reached this decision without consulting anyone at IDA.⁵

⁵ We note that in December 2005 Admiral Blair disqualified himself from involvement in an IDA analysis of equipment used to jam improvised explosive devices since EDO and a Tyco subsidiary each produced such equipment.

Discussion

We concluded that Admiral Blair violated IDA's employee conflict of interest standards because he failed to disqualify himself from all matters related to IDA's work concerning the F-22 program that could have affected the financial interests of two corporations -- EDO and Tyco -- where he served as a member of the Board of Directors.

Applying IDA Practice 2-16, by virtue of his appointment as President of IDA, Admiral Blair was in a position to have substantial influence over any work performed by IDA. Further, as a compensated member of the Board of Directors and stockholder in EDO and Tyco, Admiral Blair had "significant affiliations" with those companies, which were both F-22 subcontractors. As a result of these factors, we concluded that IDA's employee conflict of interest standards required Admiral Blair to disqualify himself from all matters related to any IDA studies involving EDO or Tyco.

In addition to the conflict created by his position as President of IDA, we found that Admiral Blair's involvement in the ICE senior review group also presented an actual conflict of interest. At the initiation of the ICE, it would have been reasonable to conclude that EDO and Tyco's interests related to the F-22 may be affected by IDA's work on the ICE, and that a member of the senior review group could have a substantial role or influence on the project. As such, Admiral Blair should have disqualified himself from service on the senior review group. We note, however, that while Admiral Blair had a conflict of interest in this matter, he took no action to influence the outcome of the ICE, or to benefit himself, or others.

Although Admiral Blair did not serve on a review group for the BCA, he was nevertheless in a position, as President of IDA, to influence the results of the study. Because that study could be also be perceived as impacting the financial interests of EDO and Tyco, he should have disqualified himself from all matters related to that study. Although his activities with respect to the BCA ultimately were too limited to pose an actual conflict of interest, his "up front" disqualification would have been consistent with IDA guidelines.

In reaching these conclusions, we noted that, as required by the sponsoring agreement with the DoD, IDA had conflict of interest policies in effect when IDA prepared studies on the F-22 program. Separate policies existed for employees and members of the Board of Trustees, and testimony established that both policies applied to Admiral Blair.

Regarding IDA's Board of Trustees' policy, we determined that Admiral Blair complied with both components of that standard. Documents and testimony established that he consistently met his annual reporting requirements by disclosing his service on the Boards of Directors of EDO and Tyco. Further, no one alleged, and we were provided no information, that Admiral Blair participated in any Board of Trustees activities involving either EDO or Tyco.

Although IDA had a conflict of interest policy in place, its oversight of that program was insufficient to identify Admiral Blair's failure to disqualify himself from all matters related to

IDA's work concerning the F-22 program that could have affected EDO or Tyco, or to correct those failures at the time. We understand that IDA is taking steps to enhance the effectiveness of its ethics program.

E. To what extent did the Air Force rely upon the IDA study and related work in determining that the multiyear contract is in the Department's best interest?

Standards

Title 10, United States Code, Section 2306b, "Multiyear contracts; acquisition of property" (10 U.S.C. 2306b)

Section 2306b permits DoD components to enter into a multiyear contract for the purchase of property whenever the component head finds the use of such a contract will meet six criteria:

- Substantial savings. The use of such a contract will result in substantial savings over the total anticipated costs of carrying out the program through annual contracts;
- Stable requirement. The minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;
- Stable funding. There is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;
- Stable design. There is a stable design for the property to be acquired and the technical risks associated with such property are not excessive;
- Realistic contract cost and cost savings estimate. The estimates of the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic; and
- National security. The use of such a contract will promote the national security of the United States.

Facts

As background, OUSD(AT&L) staff noted that DoD and Congress were interested in the multiyear procurement of the F-22 long before the task order for the IDA BCA was awarded on January 26, 2006. The following events highlight that interest.

- The Conference Report on the DoD Appropriations Act for Fiscal Year 2005, published on July 20, 2004, contained a section on F-22 procurement that discussed

“significant decision points” regarding continued production of the F-22. One of those decision points was “whether and when to request multiyear procurement authority.”

- The Defense Acquisition Executive’s April 15, 2005, Acquisition Decision Memorandum asked the Air Force to present an assessment of the feasibility of awarding a multiyear procurement contract. The results were to be presented to the Defense Acquisition Board in September 2005. The Defense Acquisition Board was not held; however, OUSD(AT&L)’s F-22 Overarching Integrated Product Team met in March 2006 to review the Air Force’s F-22 multiyear procurement plans.
- On December 18, 2005, the Conference Report on the DoD Appropriations Act for Fiscal Year 2006 directed the Secretary of Defense to report to the congressional defense committees by March 30, 2006, on alternatives for the continued acquisition of the F/A-22. The report specifically directed the Secretary to address “the advantages of a multiyear procurement program.”
- DoD Program Budget Decision 720, “Air Force Transformation Flight Plan,” dated December 20, 2005, directed the 3-year multiyear procurement of F-22 aircraft with a split funding strategy. This decision was incorporated into the President’s Budget for Fiscal Year 2007, which went forward to the Congress.
- The Quadrennial Defense Review Report, dated February 6, 2006, directed an extension of F-22 procurement through 2010 with a multiyear procurement.
- By letter dated February 13, 2006, USD(AT&L) submitted to the Congress the report on alternatives for acquisition of the F-22, as directed. The letter described the F-22 multiyear procurement strategy contained in the President’s Budget for Fiscal Year 2007, and noted that the Department would make the business case cost comparison for the multiyear procurement available to the congressional defense committees by May 15, 2006.

By letter dated May 16, 2006, Mr. Michael W. Wynne, Secretary of the Air Force, transmitted to the four congressional defense committees the Air Force F-22 multiyear procurement justification package. According to its text, the letter delivered the Air Force’s completed multiyear procurement exhibits and documented that the requested multiyear procurement “meets all criteria required by 10 U.S.C. 2306b(a)(1).” With regard to the BCA, Secretary Wynne wrote,

The Air Force agrees with the scope and source of savings identified in the BCA, which forms the foundation of the Air Force MYP [multiyear procurement] justification package.

The multiyear procurement exhibits attached to Secretary Wynne’s letter detailed the Air Force analysis of the six statutory criteria. The analysis of “substantial savings” specifically

and repeatedly cited the BCA and "IDA's independent assessment," and relied exclusively on IDA's analysis to conclude that the multiyear procurement would yield significant cost savings over a series of successive single year procurements.

In both his written statement to, and testimony before, the SASC Airland Subcommittee on July 25, 2006, Secretary Wynne reiterated the Air Force's reliance on the results of the BCA to validate that the F-22 multiyear procurement complied with the six statutory criteria. Secretary Wynne's written statement referred to his May 16, 2006, transmittal letter and the analysis contained in the BCA, stating,

Based on independent analysis, the Air Force justification shows that the proposed F-22 MYP meets all requirements of subsections (a)(1) through (6) of section 2306b of Title 10, USC, including a substantial savings of approximately \$225 million.

In answer to a question from Senator McCain about the number of statutory criteria the Air Force had satisfied, Secretary Wynne testified that the requirement to obtain substantial savings had been met based "on the models that IDA has provided." However, Secretary Wynne later introduced some uncertainty about Air Force reliance on the BCA when he declared,

The Air Force did not rely on the IDA report to make a commitment to enter this multiyear. The Air Force does rely on the intelligence of the people within IDA to do it.

Shortly after the hearing the Honorable Kenneth Krieg, USD(AT&L), clarified the Air Force's reliance on the BCA in satisfying the statutory criteria of substantial savings. In an August 15, 2006, letter to the SASC leadership, Under Secretary Krieg wrote that Secretary Wynne "advised that he relied on the IDA analysis in evaluation of the six criteria specified in 10 U.S.C. 2306b(a) for MYP approval."

Discussion

We concluded the Air Force relied on the BCA to satisfy the "substantial savings" criteria, the first of the six statutory requirements for entering into a multiyear contract. Evidence established that in his May 16, 2006, submission of the multiyear procurement justification package to Congress pursuant to 10 U.S.C. 2306b(a), Secretary Wynne identified the BCA as the "foundation" of the justification package. Further, the attached Air Force exhibit on substantial savings relied exclusively on the IDA analysis to support the conclusion that the multiyear procurement would yield significant cost savings. Secretary Wynne reiterated the Air Force's reliance on the BCA in both his written statement to, and testimony before, the SASC Airland Subcommittee on July 25, 2006. Additionally, in his August 15, 2006, letter to the SASC Airland Subcommittee, Under Secretary Krieg confirmed that the Air Force used the BCA in evaluating the six statutory criteria.

We also determined that while the Air Force relied on the BCA to satisfy one requirement for a multiyear contract, the decision to pursue the F-22 multiyear procurement was

made before the BCA was commissioned or delivered. The DoD and Air Force decision to pursue a multiyear procurement was formalized on December 20, 2005, in Program Budget Decision 720. That formal decision occurred over 1 month before OUSD(AT&L) tasked IDA to conduct the BCA, and almost 5 months before completion of the BCA and incorporation of its results into the Air Force multiyear procurement justification package submitted to Congress.

V. CONCLUSIONS

A. Admiral Blair's interest in EDO consisted of his service on their Board of Directors for which he received [REDACTED] and a total of [REDACTED] shares of EDO common stock and options on an additional [REDACTED] shares.

B. EDO's involvement in the F-22 procurement was substantial in absolute revenue, but minor in relative terms of the overall F-22 procurement, amounting to less than one half of 1 percent of the F-22 program.

C. Admiral Blair had no direct involvement in the BCA and limited involvement in the ICE as a member of the senior review group.

D. Admiral Blair violated IDA's conflict of interest standards because he failed to disqualify himself from all matters related to IDA's work concerning the F-22 program that could have affected two corporations in which he held financial interests.

E. The Air Force relied exclusively on the BCA to satisfy the "substantial savings" criteria, the first of six statutory requirements for entering into a multiyear contract.

VI. RECOMMENDATIONS

We have no recommendations in this matter.

APPENDIX

ALLEGED CONFLICT OF INTEREST:
ADMIRAL DENNIS C. BLAIR, U.S. NAVY (RETIRED)
PRESIDENT, INSTITUTE FOR DEFENSE ANALYSES

We address below specific questions presented by Senate staff with regard to Admiral Blair's alleged conflict of interest.

1. "During the relevant period, did Admiral Blair or any member of his family have a financial interest in EDO Corporation, or any other subcontractor on the F-22 program?"

As discussed in the Report of Investigation, we determined that Admiral Blair served on EDO's Board of Directors from October 2002 through July 31, 2006, for which he received approximately [REDACTED] along with [REDACTED] shares of EDO common stock and options to buy an additional [REDACTED] shares. Evidence also established that while affiliated with IDA, Admiral Blair served on the Board of Directors of Tyco beginning in March 2003. As compensation he received approximately [REDACTED] (total for 3 years), along with [REDACTED] deferred stock units and options to buy an additional [REDACTED] shares.⁶ Our review of Admiral Blair's final public financial disclosure reports filed with DoD in 2001 and 2002, and U.S. Securities and Exchange Commission filings disclosed no financial interests or affiliations by Admiral Blair in other contractors or subcontractors involved in the F-22 program.

We did not pursue the professional affiliations or financial interests of Admiral Blair's wife or children for a number of reasons. Admiral Blair testified under oath that the above information was the extent of his and his wife's affiliations with or holdings in EDO and Tyco. He also testified under oath that he was unaware of his adult children's financial holdings as he did not discuss such matters with them. We were provided no information to impeach that testimony. Additionally, while Admiral Blair had a conflict between his relationships with EDO and Tyco and his role in the ICE senior review group, the evidence established he took no action to influence the outcome of the ICE or to benefit himself or others. He also had no direct involvement in the BCA. Further, we received no information to indicate any involvement by Admiral Blair's children with F-22 contractors or subcontractors. Without any evidence that Admiral Blair abused his position for his own benefit or to benefit another, and without any evidence that the Blair adult children were affiliated with F-22 contractors or subcontractors, we had no basis on which to query the approximately 1,000 F-22 contractors or subcontractors about the financial interests and affiliations of the Blair children. Similarly we had no legitimate basis on which to issue subpoenas for that information.

⁶ According to Tyco's 2006 Annual Report, deferred stock units are distributed as shares of common stock upon the termination of the individual from the Board of Directors or a change in control of the company. The annual retainer for Board Members that year was [REDACTED]

2. "During the relevant period, did Admiral Blair or any member of his family have any other relationship with EDO Corporation or any other subcontractor on the F-22 program, as a director, consultant, or any other relationship that should have been, but was not, disclosed?"

In addition to the above information in answer to Question 1, we note that evidence established Admiral Blair routinely reported his affiliations with both EDO and Tyco in his annual Board of Trustees disclosure statements. He also discussed his affiliations with EDO and Tyco with the IDA Board of Trustees Presidential Search Committee.

With regard to Tyco, Admiral Blair testified that at the time of the ICE and BCA he was not aware of any involvement in the F-22 program by Tyco. However after the July 25, 2006, newspaper article and the SASC hearing, he said he contacted the Tyco Corporate Secretary to request information on all of Tyco's business arrangements with DoD. He explained that as a result, he learned Tyco built small electronic components that were sold to F-22 subcontractors, and a few to the prime contractor, with a value on the order of [REDACTED] per airplane. According to Admiral Blair, Tyco's role as a supplier to the F-22 was never a subject of discussion at Tyco meetings.⁷ He then examined current IDA studies and determined two -- a Joint Strike Fighter Study and an Air-to-Air Weapons Dominance Study -- could impact Tyco. He said that he disqualified himself from those studies, and denied any involvement with any other subcontractor on the F-22.

3. "How did Admiral Blair come to acquire stock and stock options in EDO Corporation (e.g., were the securities remuneration for his position on the board of directors, pursuant to a consulting agreement, etc.)?"

Admiral Blair received his stock and stock options in EDO for his service on their Board of Directors from October 2003 through July 2006.

4. "Has Admiral Blair received payment or any other thing of value from EDO Corporation or any other subcontractor on the F-22 program since becoming president of IDA?"

Admiral Blair became President of IDA on November 3, 2003. He served on EDO's Board of Directors from October 2002 through July 31, 2006, for which he received approximately [REDACTED] along with [REDACTED] shares of EDO common stock and options to buy an additional [REDACTED] shares. For his service on the Tyco Board of Directors beginning in March 2003 he received approximately [REDACTED] (total for 3 years) and [REDACTED] deferred stock units and options to buy an additional [REDACTED] shares.

⁷ In its annual report, Tyco reported \$39.7 billion in revenue for 2005. Subcontracts on the order of [REDACTED] per F-22 would equate to less than [REDACTED] of Tyco's revenue for that year.

5. "What was Admiral Blair's role in conducting, directing, preparing, reviewing, and approving all studies that IDA prepared at the request of the DoD or the AF regarding the F-22 program?"

We concluded Admiral Blair had no direct involvement in the BCA and had limited involvement in the ICE. Testimony established Admiral Blair's participation in the BCA consisted of signing the initial project task order, receiving biweekly status updates, and reading a copy of the final study. Research analysts involved in the study unanimously confirmed Admiral Blair had no involvement in conducting the BCA analysis or preparing or reviewing the report. Analysts also confirmed neither Admiral Blair nor anyone else influenced or changed the BCA report or its numbers.

The preponderance of the evidence established Admiral Blair played a limited role in the ICE. We found that in his role as President of IDA, Admiral Blair signed the ICE task order, briefly addressed the ICE kickoff meeting, and read a copy of the final report. Testimony further established that while he participated in two meetings as a member of the senior review group, he provided no guidance or substantive analytical advice to the study team and was not involved in drafting the report or completing its final review.

At the time of this report, IDA was conducting two additional studies on the F-22 program, an "Operations and Support Cost Estimate" and a "Modernization Cost Estimate." Testimony established Admiral Blair was not directly involved in either effort.

6. "To what extent did IDA use its work on the Independent Cost Estimate ('ICE') it prepared on the F-22 program to conduct its Business Case Analysis ('BCA') on the F-22A MYP proposal?"

IDA research analysts who worked on both the ICE and BCA testified that they used the database and analytical cost models developed during the ICE as a "point of departure" to conduct the BCA. According to the project leader and analysts, when they began the BCA they updated the ICE database with a substantial amount of new F-22 cost data that became available in the 9 months since they ceased data collection for the ICE. They updated the cost models with that data and calculated estimated dollar savings for the lots to be procured under the proposed multiyear contract. Analysts also collected cost information on other aircraft multiyear procurement programs that they did not have for the ICE. One analyst highlighted that the working relationships established between IDA researchers and F-22 contractors during the ICE facilitated the gathering of additional data required for the BCA. Additionally, given the abbreviated amount of time to complete the BCA -- approximately 4 months -- analysts testified they would not have been able to complete the BCA if they had not had the ICE data and models from which to work.

7. "What impact would the proposed MYP have on the value of EDO Corporation securities or the securities of any other subcontractor on the F-22 program, the ownership of which by Admiral Blair or any member of his family should have been, but was not, disclosed?"

Our review of Admiral Blair's financial holdings disclosed no holdings of any contractor or subcontractor on the F-22 program besides his holdings in EDO and Tyco. As discussed above, revenue from the F-22 program represented a small percentage of EDO and Tyco's total annual revenues: less than 3 percent in the case of EDO and less than two hundredths of 1 percent in the case of Tyco. Accordingly, we believe that the multiyear proposal's impact on securities held by Admiral Blair or any member of his family would have been minimal.

We also reviewed EDO closing stock prices for the period July 1, 2005, to September 26, 2006, with particular attention paid to February 7, 2006, when EDO was awarded a contract for AVEL systems for Lot 6 of the F-22 procurement, and May 15, 2006, when IDA released its BCA. We noted that from February 7 to February 22, the closing prices for EDO stock were less than the closing price of \$27.75 per share for EDO stock on February 6. Further, we noted that the closing prices for EDO stock after May 15 remained relatively stable until June 9, and since that date has declined from approximately \$26.00 per share to below \$22.00 per share through early November 2006. We similarly reviewed the closing stock prices for Tyco and note that between May 15, 2006, and September 28, 2006, there were only 2 days on which the closing price for Tyco stock was greater than the closing price on May 15.

8. "Was the final cost savings reflected in IDA's report increased at the direct or indirect request or suggestion of Admiral Blair?"

No. Research analysts completing the BCA confirmed Admiral Blair's testimony that he did not give any guidance on the BCA. Further, the analysts confirmed that he did not directly or indirectly influence, or attempt to influence, the cost savings reflected in the BCA, or the BCA report itself.