

~~FOR OFFICIAL USE ONLY~~

Audit



Report

OFFICE OF THE INSPECTOR GENERAL

**ALLEGATIONS OF IMPROPRIETIES INVOLVING DOD
ACQUISITION OF SERVICES THROUGH THE
DEPARTMENT OF ENERGY**

Report Number 93-042

January 21, 1993

Special Warning

~~This report contains contractor information that may be company confidential or proprietary. Title 18 U.S.C. Section 1905 and 41 U.S.C. 420 provide specific penalties for the unauthorized disclosure of company confidential or proprietary information. The document must be safeguarded in accordance with DoD Regulation 5400.7-R.~~

Department of Defense

~~FOR OFFICIAL USE ONLY~~

The following acronyms are used in this report.

ADP.....Automated Data Processing
AFESC.....Air Force Engineering and Services Center
COR.....Contracting Officer's Representative
DFARS..... Defense Federal Acquisition Regulation Supplement
DoE.....Department of Energy
DSRD.....Data Systems Research and Development Division
FAR.....Federal Acquisition Regulation
FIR.....Federal Information Resources
FIRMR.....Federal Information Resources Management Regulations
HAZWRAP.....Hazardous Waste Remedial Action Program Division
IAG.....Interagency Agreement
MAC.....Air Force Military Airlift Command
MICOM.....Army Missile Command
MIPR.....Military Interdepartmental Purchase Request
MTA.....Management Technology Associates, Incorporated
NAVFAC.....Naval Facilities Engineering Command
OIG.....Office of the Inspector General
●RAU.....Oak Ridge Associated Universities
TVA.....Tennessee Valley Authority

January 21, 1993

MEMORANDUM FOR DIRECTOR OF DEFENSE PROCUREMENT
ASSISTANT SECRETARY OF DEFENSE (PRODUCTION AND
LOGISTICS)
COMPTROLLER OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL
MANAGEMENT)
ASSISTANT SECRETARY OF THE AIR FORCE (FINANCIAL
MANAGEMENT AND COMPTROLLER)
INSPECTOR GENERAL, DEPARTMENT OF THE ARMY
DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: Audit Report on the Allegations of Improprieties
Involving DoD Acquisition of Services Through the
Department of Energy (Report No. 93-042)

We are providing this final report for your information and use. The audit was made in response to a DoD Hotline complaint. It addresses alleged improprieties in the acquisition of services by DoD activities through the Department of Energy Work-for-Others Program at the Oak Ridge Field Office, Oak Ridge, Tennessee. Management comments on a draft of this report were considered in preparing the final report. The complete text of the comments is in Part IV of this report. The Office of the Inspector General, Department of Energy, comments to a draft report were also considered in preparing the final report.

DoD Directive 7650.3 requires that audit recommendations be resolved promptly. Therefore, the Assistant Secretary of Defense (Production and Logistics); the Director of Defense Procurement; the Comptroller of the Department of Defense; the Director, Defense Logistics Agency; and the Army; Navy; and Air Force must provide final comments on the unresolved recommendations by March 22, 1993. See the "Response Requirements Per Recommendation" section at the end of each finding for the unresolved recommendations and the specific requirements for your comments.

As required by DoD Directive 7650.3, the comments must indicate concurrence or nonconcurrence in the finding and each recommendation addressed to you. If you concur, describe the corrective actions taken or planned, the completion dates for actions already taken, and the estimated dates for completion of planned actions. If you nonconcur, you must state your specific reasons for each nonconcurrence. If appropriate, you may propose

~~FOR OFFICIAL USE ONLY~~

~~FOR OFFICIAL USE ONLY~~

alternative methods for accomplishing desired improvements. Recommendations are subject to resolution in accordance with DoD Directive 7650.3 in the event of nonconcurrence or failure to comment. We also ask that your comments indicate concurrence or nonconcurrence with the internal control weaknesses highlighted in Part I.

The courtesies extended to the audit staff are appreciated. If you have any questions on this audit, please contact (b)(6), Program Director, at (703) 692-(b)(6) (DSN 222-(b)(6) or (b)(6), Project Manager, at (703) 692-(b)(6) (DSN 222-(b)(6). The planned distribution of this report is listed in Appendix K.

(b)(6)

Edward R. Jones
 Deputy Assistant Inspector
 General for Auditing

CC:

Secretary of the Army
 Secretary of the Navy
 Secretary of the Air Force
 Under Secretary of Defense for Acquisition
 Director, Defense Finance and Accounting Service
 Deputy Assistant Secretary of Defense
 (Information Systems)
 Director, Defense Acquisition Regulations Council
 Inspector General, Department of Energy

~~This report contains contractor information that may be company confidential or proprietary. Title 18 U.S.C. section 1865 and 18 U.S.C. 422 provide specific penalties for the unauthorized disclosure of company confidential or proprietary information. The document must be safeguarded in accordance with DoD Regulation 5400.7-R.~~

~~FOR OFFICIAL USE ONLY~~

Office of the Inspector General, DoD

Audit Report No. 93-042
(Project No. 1CH-0033)

January 21, 1993

ALLEGATIONS OF IMPROPRIETIES INVOLVING DOD ACQUISITION OF
SERVICES THROUGH THE DEPARTMENT OF ENERGY

EXECUTIVE SUMMARY

Introduction. The Department of Energy (DoE) performs work for DoD on a reimbursable basis through its Work-for-Others Program. From May 1990 through October 1991, DoD procured about \$323.9 million of services through the DoE Oak Ridge Field Office under the Work-for-Others Program. This audit evaluated work performed for DoD under the Work-for-Others Program by the Hazardous Waste Remedial Action Program Division and the Data Systems Research and Development Division, both managed and operated by Martin Marietta Energy Systems for the DoE Oak Ridge Field Office.

Objectives. The audit objectives were to examine DoD Hotline allegations of improprieties in DoD acquisitions through the Work-for-Others Program at Oak Ridge; to follow up on recommendations made in the OIG, DoD, Report No. 90-085, "DoD Hotline Allegation of Irregularities in DoD Contractual Arrangements With the Department of Energy," June 19, 1990; and to evaluate applicable internal controls.

Audit Results. We determined the Hotline allegations had merit and that the Military Departments did not adequately strengthen controls over the use of interagency agreements after we issued our June 1990 audit report on interagency acquisitions through the DoE.

- o For the sample of 196 Economy Act orders, DoD paid about \$11.6 million in additional costs by placing Economy Act orders through the DoE Oak Ridge Field Office. DoD activities did not follow normal procedures for Economy Act orders which includes obtaining prior approval from a DoD contracting official as required by the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement (Finding A).

- o Internal controls were not incorporated into interagency agreements and orders issued by DoD to the DoE Oak Ridge Field Office to ensure adequate contract administration and to ensure that deliverables met requirements, that costs were reasonable, that vouchers totaling \$78.4 million were accurate, or that the best interests of DoD were protected (Finding B).

- o DoD management information systems could not identify the number, value, issuing activity, or recipient of Economy Act

orders. As a result, DoD managers were unaware that during FYs 1990 and 1991 more than \$6.3 billion of DoD funds was sent to DoE and other Government agencies using Economy Act orders (Finding C).

o DoD activities inappropriately cited the Project Order Act as the legal authority for issuing Economy Act orders valued at \$17.9 million to the DOE Oak Ridge Field Office. These inappropriate cites resulted in the recording of improper obligations in DoD financial records (Finding D).

Internal controls. Internal controls either did not exist or were inadequate to preclude the unauthorized issuance of Economy Act orders and payments on Economy Act orders. We consider these weaknesses to be material. See Part I for the internal controls reviewed, and Findings A, B, and C in Part II for details on the weaknesses.

Potential Benefits of Audit. The DoD can realize monetary benefits by using DoD procurement offices instead of improperly authorized Economy Act orders, and by properly managing the orders that are issued. However, these potential benefits could not be quantified (Appendix I).

Summary of Recommendations. We recommended that DoD establish criteria and specify details to include in interagency agreements, establish internal controls to ensure adequate administration of DoD Economy Act orders, and establish a system for tracking DoD procurements that use Economy Act orders. We added a recommendation to the final report to establish a central point within DoD to oversee policy and administration of interagency acquisition.

Management Comments. The Director of Defense Procurement nonconcurred with the need for an information system to track interagency acquisitions under the Economy Act, but will address the need for a contracting officer's approval of interagency agreements and Economy Act orders through the Defense Acquisition Regulation Council. The Military Departments and Defense Logistics Agency generally agreed to initiate disciplinary actions where appropriate for improper use of Economy Act orders, and agreed that interagency agreements and related orders should be reviewed, then ratified or terminated, but disagreed as to whether the review was the responsibility of DoD contracting officers. The Military Departments also agreed to issue guidance on the use of project orders. The full discussion of the responsiveness of management comments is in Part II and the complete text of management comments is in Part IV of the report. Additional comments are requested by March 22, 1993.

TABLE OF CONTENTS

	<u>Page</u>
TRANSMITTAL MEMORANDUM	1
EXECUTIVE SUMMARY	i
PART I - INTRODUCTION	
Background	1
Objectives	2
Scope	3
Internal Controls	4
Prior Audit Coverage	5
Other Matters of Interest	5
PART II - FINDINGS AND RECOMMENDATIONS	
A. Use of Interagency Agreements and Orders	9
B. Administration of DoD Economy Act Orders	27
C. Tracking Interagency Acquisitions	35
D. Use of Project Orders	39
PART III - ADDITIONAL INFORMATION	
APPENDIX A - Process of Procuring Support Services Through the Department of Energy Oak Ridge Field Office	43
APPENDIX B - Memorandum From the Principal Deputy Assistant Secretary of Defense (Production and Logistics)	45
APPENDIX C - Summary of Prior Audit Coverage	47
APPENDIX D - Interagency Orders Issued to the Department of Energy Oak Ridge Field Office	51
APPENDIX E - Schedule of Incurred Additional Costs	63
APPENDIX F - Economy Act Orders Issued for Automated Data Processing Resources	67
APPENDIX G - Economy Act Orders Between DoD Activities and Other Federal Agencies	71

~~FOR-OFFICIAL-USE-ONLY~~

TABLE OF CONTENTS (cont'd)

	<u>Page</u>
APPENDIX H - Non-DoD Federally Funded Research and Development Centers Funding for FY 1993 (\$ Millions)	73
APPENDIX I - Summary of Potential Benefits Resulting From Audit	75
APPENDIX J - Activities Visited or Contacted	77
APPENDIX K - Report Distribution	79
PART IV - MANAGEMENT COMMENTS	
Director of Defense Procurement	83
Department of the Army	89
Department of the Navy	101
Department of the Air Force	105
Defense Logistics Agency	107

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

~~FOR-OFFICIAL-USE-ONLY~~

PART I - INTRODUCTION

Background

Work-for-Others Program. The Department of Energy (DoE) performs work for other Federal agencies on a reimbursable basis through its Work-for-Others Program in accordance with the Economy Act of 1932, United States Code, title 31, section 1535. The Economy Act authorizes an agency to place orders for goods and services with another Federal agency when the head of the ordering agency determines that it is in the best interest of the Government to do so, and that the support services cannot be provided as conveniently or cheaply by contracting with the private sector. DoD activities place orders with DoE by submitting DD Form 448, "Military Interdepartmental Purchase Requests," (MIPRs) or other ordering documents under established interagency agreements. A flowchart of the process for procuring support services through the DoE Oak Ridge Field Office is shown in Appendix A.

The Work-for-Others Program provides other Federal agencies access to the special research capabilities and resources of the 22 DoE national laboratories, which were identified by the Office of Federal Procurement Policy Letter 84-1, "Federally Funded Research and Development Centers." DoE benefits from the Work-for-Others Program through better and more continuous use of its facilities and personnel.

In FY 1990, the DoE identified the management of Work-for-Others Program as a material weakness and has been working to eliminate the weakness. DoE officials stated that DoE has made significant progress over the past several years to ensure the Work-for-Others Program is properly overseen and controlled through new policy requirements and initiatives. Policy improvements include establishing minimum information requirements for the review, acceptance, and monitoring of Work-for-Others; requiring sponsoring agencies to provide DoE a statement to demonstrate that DoE does not compete with the private sector; requiring a DoE contracting officer to certify that Work-for-Others determinations are performed prior to DoE accepting a project; and defining the roles and responsibilities of the Office of Intelligence, DoE in the Work-for-Others process for intelligence-related projects. Improvement initiatives include developing a Work-for-Others brochure, preparing an annual Work-for-Others Program summary report, and holding regular meetings between DoE and contractor personnel to discuss concerns.

DoE Oak Ridge Field Office responsibilities. DoE performs work under the Work-for-Others Program either directly or through management and operating contractors at its laboratories and facilities. The DoE Oak Ridge Field Office, Oak Ridge, Tennessee, oversees five contractor-operated laboratories

including the Oak Ridge National Laboratory and the Central Laboratory, both operated by Martin Marietta Energy Systems, and the Oak Ridge Associated Universities (ORAU). Martin Marietta, the management and operating contractor, works for DoD activities through its Hazardous Waste Remedial Action Program Division (HAZWRAP) and the Data Systems Research and Development Division (DSRD) under the Central Laboratory. HAZWRAP supports the implementation and improvement of hazardous waste management for DoE programs through technical support and technology development. DSRD designs, develops, and applies state-of-the-art information technologies to improve mission performance.

The Work-for-Others Program within DoE has grown from about \$725 million in FY 1980 to about \$2 billion in FY 1991. From May 1990 through October 1991, DoD activities procured work costing about \$323.9 million through the DoE Oak Ridge Field Office facilities. In recent years, the work undertaken by the DoE Oak Ridge Field Office for other Federal agencies has grown to approximately 20 percent of the total budget of the field office and accounts for an increasing proportion of the field office overall research and development efforts.

Objectives

The OIG, DoD, received Hotline allegations contending that DoD activities used the DoE Work-for-Others Program at the DoE Oak Ridge Field Office to circumvent the procurement process, personnel ceilings, and salary restrictions; paid excessive costs and received no tangible products for work subcontracted out by Martin Marietta; and obtained support services that did not require the unique capabilities of the DoE Oak Ridge Field Office.

The objectives of this audit were to:

- o examine the Hotline allegations that improprieties were involved in the acquisition of goods and services through the Work-for-others Program at the DoE Oak Ridge Field Office;

- o follow up on recommendations in OIG, DoD, Report No. 90-085, "DoD Hotline Allegation of Irregularities in DoD Contractual Arrangements with the Department of Energy," June 19, 1990 (see Prior Audit Coverage); and

- o evaluate the effectiveness of applicable internal controls.

Our audit was a cooperative effort with the OIG, DoE, and its Eastern Regional Audit Office at Oak Ridge, Tennessee. The OIG, DoE, limited its audit work to examining the administration

of contracts awarded through the Work-for-others Program to firms under the Small Business Administration 8(a) Program by the DoE Oak Ridge Field Office and Martin Marietta.

Scope

Selected sample and universe. We evaluated 9 interagency agreements and 196 related MIPRs, project orders, and other ordering documents (referred to as Economy Act orders) issued to the DoE Oak Ridge Field Office by the Military Departments and the Defense Logistics Agency, valued at \$97.1 million. The 9 interagency agreements were judgmentally selected from a universe of 41 that had minority contractors under the Small Business Administration 8(a) Program performing work as subcontractors to Martin Marietta. We established the universe and selected the sample in conjunction with the OIG, DoE. The 196 Economy Act orders in our sample were issued by 8 DoD activities for 33 separate projects. Except for the 3 projects specifically identified in the allegation letter, all the projects had Economy Act orders that were issued to the Oak Ridge Field Office after DoD-wide guidance was issued on May 10, 1990. On that date, the Principal Deputy Assistant Secretary of Defense (Production and Logistics) issued a memorandum directing the Military Departments and the Defense Logistics Agency to ensure that all future interagency acquisitions were properly authorized (Appendix B). The \$97.1 million for the 196 Economy Act orders accounted for approximately 36 percent of the total dollars (\$266.8 million) on orders that were issued under the 9 interagency agreements reviewed. See the following summary.

Summary of Interagency Agreements Reviewed

<u>DoD Activity</u>	<u>Number of Interagency Agreements</u>	<u>Number of Projects</u>	<u>Number of Orders</u>	<u>Dollar Value of Projects</u>
Army	5	11	45	\$21,348,451
Navy	1	7	60	40,990,822
Air Force	2	14	89	34,024,450
DLA	1	1	2	750,000
Total	<u>9</u>	<u>33</u>	<u>196</u>	<u>\$97,113,723</u>

For each ordering document, we examined justifications for the Economy Act orders, statements of work, progress reports, invoices, vouchers, and related correspondence for FYs 1990 and 1991. We interviewed officials at the Office of the Director of

Defense Procurement, and at the headquarters of each Military Department and the Army Materiel Command. We also interviewed DoD personnel from program, contracting, legal, and finance and accounting offices, as well as competition advocates and small business advocates at each audit site we visited. In addition, we performed work at the DoE Oak Ridge Field Office in cooperation with the OIG, DoE.

Availability of computerized data. No computerized data were available within DoD on interagency agreements and Economy Act orders with the DoE Oak Ridge Field Office. We obtained computerized data from DoE; however, the data did not adequately correspond to data obtained from the individual DoD activities where we performed work, and therefore was not used.

Audit period, standards, and locations. This economy and efficiency audit was performed from March 1991 through July 1992 in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD. The audit included such tests of internal controls as were considered necessary. The activities visited or contacted during the audit are listed in Appendix J.

Internal Controls

We reviewed the implementation of the Federal Managers' Financial Integrity Act as it related to our audit scope. Our internal control review determined whether the DoD activities complied with the Economy Act, the Federal Acquisition Regulation (FAR), and the Defense Federal Acquisition Regulation Supplement (DFARS). The audit identified material internal control weaknesses as defined by Public Law 97-255, Office of Management and Budget Circular No. A-123, and DoD Directive 5010.38. Internal accounting and administrative controls either did not exist or were inadequate to preclude unauthorized issuance and payments on Economy Act orders that were not approved by DoD contracting officers. The Federal Managers' Financial Integrity Act was not adequately implemented in relation to our audit scope, and we found that DoD program officials did not comply with established policy requiring DoD contracting officials to approve all Economy Act orders for services and items procured through the DoE Oak Ridge Field Office (Finding A).

With the exception of the Defense Logistics Agency, we also found that corrective actions were not implemented on deficiencies reported in the two prior OIG, DoD, audit reports: Report No. 90-085, "DoD Hotline Allegation of Irregularities in DoD Contractual Arrangements With the Department of Energy," June 19, 1990, and Report No. 90-034, "Contracting Through Interagency Agreements With the Library of Congress," February 9, 1990, (Appendix C). We attribute these conditions to a lack of management emphasis by the Military Departments on implementing

control procedures. Compliance with FAR and DFARS procedures for interagency acquisitions should have prevented the deficiencies discussed in this report.

In the DoD FY 1991 Annual Statement of Assurance, the Army and Navy identified inappropriate offloading of contract requirements as a material weakness. The Army and Navy target to correct this weakness was FY 1992. The Air Force identified inappropriate offloading of requirements as a material weakness and reported the weakness corrected in FY 1990 through changes to policy and regulations. We determined, however, that problems still exist within each of the Military Departments. Recommendations A.1.a., A.1.b., A.3.a.(2), A.4., B, and C, if implemented will correct these weaknesses. We believe DoD can realize monetary benefits by tightening controls over the issuance of interagency agreements and orders to the DoE Oak Ridge Field Office and other Federal agencies. However, these potential benefits could not be quantified because we could not accurately compare the cost of procuring through the DoE Oak Ridge Field Office with the cost of procuring through the private sector. A copy of this report will be provided to the senior official responsible for internal controls within the Military Departments and Defense Logistics Agency.

Prior Audit Coverage

The Offices of the Inspectors General, DoD and DoE, the General Accounting Office, and the Army Audit Agency have issued 11 audit reports since 1988 that address the need for improved controls over contract offloading to DoE and other Federal agencies. Appendix C presents a summary of each of the 11 reports. The reports identified findings similar to the findings we are currently reporting. However, the recommended corrective actions as they relate to DoD either were not adequately implemented, or were not sufficient to preclude the continuance of the weaknesses reported within DoD.

Other Matters of Interest

The October 1990 Hotline complaint to the OIG, DoD, cited a series of allegations regarding DoD-funded projects procured through the Work-for-Others Program at the DoE Oak Ridge Field Office. The following summarizes each of these allegations and indicates whether they were substantiated based on audit work we performed.

Allegation. DoE and Martin Marietta used minority firms under the Small Business Administration 8(a) Program to funnel work to subcontractors targeted by the DoD requesting activity.

Audit result. We identified one example of targeted subcontracting. The Maintenance Division at the Army Missile

Command (MICOM) desired to continue the services of Management Technology Associates, Incorporated (MTA), a contractor performing work under an expiring contract. MTA informed the Maintenance Division of the existing interagency agreement between MICOM and DoE, and the Maintenance Division issued Economy Act orders totaling \$741,148 to retain the services of MTA.

Allegation. DoD incurred excessive costs to obtain services through DoE and received no tangible products for costs incurred.

Audit result. While we did not perform sufficient work to determine that costs were excessive, we determined that DoD activities paid approximately \$11.6 million in additional costs to obtain services through the DoE Oak Ridge Field Office. We also determined that 26 of the 33 projects had multiple tiers of subcontractors, which in turn added 3 or 4 tiers of indirect costs for administering the projects. The additional indirect costs provided no tangible benefit for costs incurred (Finding A). The preferred method for obtaining the services is for the DoD activity to issue direct contracts to the subcontractors.

Allegation. DSRD used the Work-for-Others Program and Small Business Administration 8(a) firms to help DoD circumvent personnel and salary ceilings.

Audit result. We did not identify examples where Economy Act orders were used to circumvent personnel or salary ceilings. We did, however, identify two DoD activities that issued Economy Act orders to DoE because of a lack of in-house personnel to oversee and administer projects. For example, the Naval Facilities and Engineering Command (NAVFAC) issued nine Economy Act orders for \$7.3 million to HAZWRAP to identify and assess hazardous waste disposal and spill areas at the Naval Shipyard, Mare Island, California. NAVFAC used DoE because of a shortage of staff in the contracting office to oversee the project. HAZWRAP subcontracted more than 90 percent of the work and charged NAVFAC \$545,000 for project management.

Also, the Air Force Engineering and Services Center (AFESC) issued Economy Act orders totaling \$490,076 to obtain personnel for research positions from ORAU because program officials believed that the needed expertise was not available in-house, that local Air Force personnel offices were not equipped to hire technical personnel, and that the services could be obtained more expeditiously through DoE.

Allegation. DSRD has few, if any, special and unique capabilities.

Audit result. The OIG, DoE, stated that DSRD is an information technology research and development organization chartered to conduct one-of-a-kind information projects reflecting state-of-the-art computing methodologies and technologies in support of DoE and other Government agencies. The OIG, DoE, further stated that DSRD provides proven integrated experience in a range and depth of disciplines not found in the private sector such as operations research, development and applications of complex algorithms, computer-aided software engineering, and design and optimization of complex, large relational database management systems.

However, DoD activities issued Economy Act orders for 23 of the 33 projects reviewed, valued at \$79.8 million, to both DSRD and HAZWRAP for work that was not unique. Martin Marietta subcontracted more than 70 percent of the work to other firms for 12 of the 23 projects. According to DoD program officials, the activities were aware that the services were available in the private sector, but for ease of obtaining the services and for expediency, chose to use Economy Act orders to DoE. (Finding A). To put the allegation and audit results in perspective, the tiers of subcontractors did receive competitive awards from DSRD. We could not estimate if and how many subcontract tiers and related indirect costs would have existed if DoD activities had contracted directly for the services obtained through DoE.

PART II - FINDINGS AND RECOMMENDATIONS

A. USE OF INTERAGENCY AGREEMENTS AND ORDERS

DoD program officials circumvented normal procurement channels and placed Economy Act orders with the DoE facilities at Oak Ridge without obtaining the assistance of a DoD contracting official, as required by FAR subpart 17.5, "Interagency Acquisitions Under the Economy Act." DoD program officials also used Economy Act orders to procure automated data processing (ADP) resources, thus circumventing the Brooks Act of 1965, 40 U.S.C. 759 (the Brooks Act), and personal services, thus circumventing Civil Service hiring practices. These conditions occurred because DoD program officials did not use the available expertise of DoD contracting officers. In addition, the Military Departments did not adequately strengthen controls over interagency agreements and orders after OIG, DoD, audit reports were issued on interagency acquisitions through the Library of Congress and DoE. Consequently, for the sample of 196 Economy Act orders, valued at \$97.1 million (Appendix D), we estimate that DoD program officials paid approximately \$11.6 million in additional costs by going through the DoE Oak Ridge Field Office to have the work performed. Appendix E provides a breakdown, by project, of estimated additional costs.

DISCUSSION OF DETAILS

Background

We selected 196 Economy Act orders valued at \$97.1 million that were issued by DoD activities under the 9 interagency agreements we selected for review. The 196 orders were for 33 projects to be performed by the DoE Oak Ridge Field Office. Except for the three projects specifically identified in the allegation letter, all the projects had Economy Act orders that were issued after May 10, 1990, when the Principal Deputy Assistant Secretary of Defense (Production and Logistics) requested the Military Departments and the Defense Logistics Agency to strengthen controls over interagency acquisitions.

Authorization of Interagency Agreements

DoD contracting officers did not participate in preparing, reviewing, or approving the 9 interagency agreements we examined (either before or after they were issued), or in preparing the written determinations required by the Economy Act and the FAR for 189 of the 196 Economy Act orders reviewed. The DoD activities that issued the unauthorized Economy Act orders to DoE are identified in Appendix D. We found that seven Economy Act orders issued by the Military Airlift Command (MAC) for the Air Services Industrial Fund Integrated Computer System project under interagency agreement (IAG) No. 1660-1660 were approved.

MAC prepared a written determination stating that procurement of the services through Economy Act orders to DoE was in the best interest of the Government and the orders were reviewed and approved by a DoD contracting officer prior to issuance.

The Economy Act, as implemented by FAR subpart 17.5 requires that the head of the requesting agency, or designee, make a determination that orders placed under the Economy Act with another agency are in the best interest of the Government, and that the contracting officer has the determination in hand prior to placing the orders. The DFARS subpart 217.5, "Interagency Acquisitions Under the Economy Act," states that a DoD contracting officer is designated to make the determination required by FAR subpart 17.5. The FAR and DFARS requirements ensure that the expert knowledge of DoD contracting officers is fully utilized in determining that it is in the best interest of DoD to obtain required supplies or services through an Economy Act order, rather than through a regular solicitation and contract with a private-sector firm.

Interagency agreements and Economy Act orders were improperly authorized and issued because the Military Departments did not promptly notify program officials that they were not authorized to enter into interagency agreements or to issue Economy Act orders after receiving the May 10, 1990, Principal Deputy Assistant Secretary of Defense (Production and Logistics) memorandum. Also, there was virtually no guidance on the use, format, and content of interagency agreements. Rationale cited to us by DoD officials for not obtaining a DoD contracting officer's approval on the Economy Act orders included:

- o the requiring activity did not have a contracting office;
- o the Economy Act orders were not "contractual actions"; therefore, review by a contracting officer was not required;
- o program officials were not aware that approval by a DoD contracting officer was required;
- o approval by a contracting officer would have delayed issuance of the Economy Act order, or the program office did not want to "overtax" contract personnel; and
- o DoE, not DoD, was responsible for determining compliance with the Economy Act, the Competition in Contracting Act of 1984 (10 U.S.C. 2304); Office of Federal Procurement Policy Letter 84-1, "Federally Funded Research and Development Centers;" the FAR; and other applicable laws.

Awareness of DoE Oak Ridge Field Office capabilities. We found that DoD program officials made assumptions about comments by senior command personnel about the use of the DoE Oak Ridge

Field Office. For example, in 1988, the Army Materiel Command conducted a presentation on the range of capabilities and the benefits of using Economy Act orders with the DoE Oak Ridge Field Office during a conference with officials from subordinate field activities including MICOM, the Aviation Systems Command, and the Systems Information Management Activity. We interviewed program personnel who attended the presentation who believed that since the Army Materiel Command officials had endorsed the use of interagency agreements with the DoE Oak Ridge Field Office, subsequent approvals by contracting officials and agency heads required by the FAR and the DFARS were unnecessary.

Program officials at DoD activities stated that they also learned of the DoE Oak Ridge Field Office's capabilities through marketing activities and presentations provided by Martin Marietta, or through interested contractors who recommended the DoE Oak Ridge Field Office as a means of obtaining their services quickly and noncompetitively. The program officials stated that Martin Marietta promoted the capabilities of the DoE Oak Ridge Field Office, and the simplicity of the interagency agreement as a procurement vehicle and its ability to accommodate short suspenses.

Acquisition of ADP support services. We determined that program offices acquired ADP support services, valued at \$46.8 million, that fall under the requirements of the Brooks Act and the Federal Information Resources Management Regulations (FIRMR) subpart 201-4.001, without obtaining a delegation of procurement authority from the General Services Administration. A list of the DoD activities involved is included in Appendix F. DoD program officials were apparently not aware of the Brooks Act and FIRMR requirements and did not seek the assistance of DoD contracting officials prior to issuing Economy Act orders. Examples of ADP support services procured by DoD activities through the DoE Oak Ridge Field Office included a program plan for an information analysis center, technical assistance in scheduling algorithms and relational database interface, and development of a framework for a comprehensive information management system. Because the DoD program officials did not seek the assistance of DoD contracting officials on the 15 ADP acquisitions, we estimate \$7.7 million of additional costs were incurred by going through the DoE Oak Ridge Field Office (Appendix F).

The Brooks Act and the FIRMR subpart 201-39.106 state the authority and responsibility to contract for ADP resources is vested in the Administrator, General Services Administration, who may grant a delegation of procurement authority to another Federal agency when that agency has sufficient experience, resources, and ability to fairly and effectively carry out procurements of ADP resources. FIRMR subpart 201-39 requires that agencies submit a procurement request to the General

Services Administration and receive a specific acquisition delegation of procurement authority when the acquisition is not covered by a regulatory or specific agency delegation authority. The General Services Administration has delegated blanket federal information resources (FIR) (also referred to as ADP) procurement authority to DoD activities for competitive contracts when the value of the contract does not exceed \$2.5 million, and \$250,000 when noncompetitive. In addition, the delegation authority is not required when FIR equipment or services are obtained from another Government agency. However, each of the FIR procurements through DoE were noncompetitively placed with DoE, exceeded the \$250,000 limitation, and were performed by Martin Marietta Energy Systems and subcontractors, not DoE.

Personnel practices. AFESC issued Economy Act orders under the interagency agreement with the DoE Oak Ridge Field Office to obtain personnel for research positions from ORAU. Program officials believed that the needed expertise was not available in-house, that local Air Force personnel offices were not equipped to hire technical personnel, and that the needed services would be obtained more expeditiously under the interagency agreement. We identified nine Economy Act orders totaling \$490,076 issued for this purpose. AFESC submitted a job description to DoE, and DoE contracted the work to ORAU. AFESC used ORAU as an employment agency to hire technical personnel. ORAU advertised for the job, screened resumes, conducted interviews, selected qualified candidates, hired the chosen candidate, and maintained all administrative records. AFESC improperly tasked ORAU to perform an inherently Governmental function and used Economy Act orders to obtain personal services contracts.

Also, NAVFAC program officials stated that they used HAZWRAP to manage their projects because NAVFAC did not have the in-house staff to adequately oversee NAVFAC projects. For example, NAVFAC issued nine Economy Act orders totaling \$7.3 million to the DoE Oak Ridge Field Office for HAZWRAP to initiate effective remedial measures under the Remedial Investigation and Feasibility Study at the Naval Shipyard, Mare Island. HAZWRAP subcontracted more than 90 percent of the work and charged NAVFAC \$544,951 for program management (Appendix E). We were unable to determine how many additional NAVFAC personnel would have been needed to manage the work and administer the contract. In responding to a draft of this report, the Navy stated that it did not believe that manpower ceilings were a significant constraint in the environmental area. Instead, the Navy considers the motivation to use DoE to have been the perceived ease of using interagency agreements, particularly in the absence of knowledge of required procedural and legal requirements.

Unique capabilities of the DoE Oak Ridge Field Office facilities. Agencies are to rely to the extent practicable on existing in-house and contractor sources for satisfying their research and development needs consistent with established procedures under the Economy Act or procurement regulations.

DoD activities issued Economy Act orders for 23 of the 33 projects, valued at approximately \$79.8 million, to Martin Marietta's DSRD and HAZWRAP for work that was not unique to those facilities (Appendix E, Footnote No. 4). In addition, Martin Marietta subcontracted more than 70 percent of the work to other firms for 12 of the 23 projects (Appendix E). We based our determination on the subcontractor percentage and DoD program officials stating they were aware that private sector firms could have done the work, but for ease of procurement expediency or to obtain a preferred subcontractor, they used Economy Act orders.

For example, the Maintenance Division at MICOM issued four Economy Act orders under IAG No. 1875-A053 to DSRD totaling \$741,148 for independent verification and validation of test program sets. We found that before 1988, MICOM procured the services from MTA, a Small Business Administration 8(a) minority business, under an omnibus contract with the MICOM Quality Assurance Directorate. In 1988, a new omnibus contract was established but the services of MTA were not renewed. MTA representatives informed MICOM officials of its association with the DoE Oak Ridge Field Office and the existence of an interagency agreement already in place with DoE. MICOM program officials decided to use the interagency agreement and specified MTA be the subcontractor. MTA received 84 percent of the funds on the Economy Act orders sent to the DoE Oak Ridge Field Office. MICOM also paid additional costs of \$92,533 for project management performed by DSRD (Appendix E).

In another instance, NAVFAC issued 10 Economy Act orders totaling \$18.9 million under IAG No. 1828-1791 to HAZWRAP for the Remedial Investigation Project at the Naval Air Station, Moffett Field, California. About 95 percent of the funds were paid to subcontractors, and NAVFAC paid unnecessary additional costs of \$690,937 for HAZWRAP project management (Appendix E).

Broad Use of Individual Interagency Agreements

The interagency agreements between DoD activities and DoE were brief documents that established a level-of-effort arrangement whereby DoE would provide a variety of work under the general categories identified in the interagency agreement. The nine interagency agreements were patterned after a two-page sample that DoE provided to the DoD requesting activities. The interagency agreements contained broad statements of work, allowing for Economy Act orders to request a variety of tasks.

Guidance on interagency agreements. The FAR and DFARS do not prescribe content or format details to be included in an interagency agreement. DoD Instruction 4000.19, "Interservice, Interdepartmental, and Interagency Support," April 15, 1992, provides general guidance on the completion of memorandums of agreement or understanding. The Instruction provides that memorandums of agreement or understanding should identify the parties to the agreement, term of the agreement, support to be provided, the basis for calculating reimbursements for each category of support, and an estimate of projected reimbursements. It also provides that the memorandums of agreement or understanding and the DD Form 1144, "Support Agreement," should document general provisions such as multiple parties to the agreement, billing instructions, and exceptions to provisions printed on the form, and specific provisions such as additional supplier and receiver responsibilities; a listing of occupied facilities; and a description of unique conditions, requirements, quality standards, and measurement criteria.

The Instruction identifies "purchasing and contracting services" as a category of support that may be included in interservice, interdepartmental, and interagency support agreements. However, DoD Instruction 4000.19 does not refer to the Economy Act, FAR subpart 17.5, or DFARS subpart 217.5, and it does not provide for the support agreement to be reviewed by a local contracting office if the purpose of the support to be obtained is to purchase or contract for services. The DD Form 1144 has signature blocks for the comptroller and an approving authority.

Impact of existing guidance. The lack of guidance and internal controls built into interagency agreements resulted in Economy Act orders being issued by DoD activities that were not a party to the original interagency agreement, without the knowledge of the originating DoD activity, and for a wide variety of work. For example, IAG No. 1489-1489, which was issued by AFESC, provided for a wide range of work that included:

... research and development; cost-benefit, environmental, and risk analyses; pathology, engineering design and cost studies; information systems integration; quality assurance; training in water and air quality; hazardous waste handling, mortuary services, food services; and work that may be extended to include other functional areas under the auspices of AFESC.

In March 1986, because of the decentralization of environmental project management, AFESC issued a memorandum giving other Air Force major commands direct access to the DoE Oak Ridge Field Office using the existing interagency agreement established between AFESC and DoE. Almost 800 separate Economy Act orders, valued at approximately \$151.1 million, were submitted to the DoE Oak Ridge Field Office under IAG No. 1489-1489 through FY 1991.

We also found that the Material Management Directorate at MICOM established IAG No. 1875-A053 in October 1987 to develop an Artificial Intelligence Expert System. Five other MICOM program offices issued Economy Act orders under the interagency agreement totaling approximately \$11.2 million. Neither the original interagency agreement nor any of the subsequent Economy Act orders were approved by the MICOM contracting office. The contracting office at MICOM became aware of the existence of the interagency agreement during our audit visit.

Adequacy of guidance. Additional guidance on the contents of the interagency agreement is needed, whether the interagency agreement is for a single order or a series of orders anticipated to occur over a period of time. We believe that the guidance should state that interagency agreements describe the categories of supplies or services that may be procured under the interagency agreement. This goes beyond the general description "purchasing and contracting services" in DoD Instruction 4000.19. The interagency agreement should identify services that are clearly within the purpose, mission, and general scope of effort established by the sponsoring agency. The description of services should be detailed enough for the contracting officer to make determinations that subsequent orders are appropriate and in the best interest of the Government to procure from the other agencies. The following provisions were not included, but should be required in each interagency agreement.

- o A statement of each agency's responsibilities for Government-furnished equipment, contract administration, documentation, rights to data and software, and contract audits.

- o Any limitations that must be complied with in the scope or amount of services or supplies that may be procured.

- o A statement as to the parties authorized to issue orders under the interagency agreement, including signature requirements.

- o A description of the type of funds that will be used to fund supplies or services ordered under the interagency agreement, and whether advance payments are authorized or the work will be performed on a reimbursable basis.

- o A statement as to what contract type(s) will be used to obtain the desired supplies and services. If the type of contract is unknown or cannot be determined, this may also be stated.

- o A provision that provides a method for resolving disputes between the two parties.

- o A description of the methods for pricing and issuing orders and the level of cost details to be provided by the servicing activity that performs the work. The amount of administrative charges to be assessed by the accepting department or agency should also be identified.

- o A specified expiration date and provisions for termination.

Clarity of guidance. The guidance on the intent of the Economy Act and use of interagency agreements and orders is not sufficient. The Economy Act requires the requesting agency to certify in writing that the support services could not be provided as "conveniently or cheaply" (underscoring added) by the private sector. We believe that the Economy Act was based on the premise that Federal agencies can achieve an economic savings if they combine their requirements and avoid the added costs that would be incurred if each agency procured its needs on separate contracts with the private sector or developed its own in-house capability. It was not intended to provide agencies a "convenient" means to circumvent normal procurement channels and avoid competition. Determinations prepared by contracting officers who approve Economy Act orders should document that a market survey of potential sources was performed, and that either costs to DoD are minimized or a unique service results from making an acquisition through another department or agency.

Neither the Economy Act, the FAR, nor the DFARS specifies requirements regarding determination of tangible and intangible benefits. DoD Directive 4000.19-R, "Defense Interservice Support Regulation," March 1984, issued in conjunction with DoD Directive 4000.19, "Interservice, Interdepartmental, and Interagency Support," October 14, 1980, provided guidelines for interagency acquisitions that required that savings and costs to the Government be identified. However, DoD Directives 4000.19 and 4000.19-R were cancelled and replaced in April 1992 by DoD Instruction 4000.19, which does not require any cost/benefits analyses.

We believe that additional guidance is also needed on the determinations required by FAR subpart 17.5 and DFARS subpart 217.5. Specifically, DFARS 217.5 may now be interpreted to mean that the determinations may be delegated to someone other than a contracting officer. For example, Headquarters, Defense Logistics Agency, directed that its interagency agreement and Economy Act orders be reviewed and approved by its Director for Contracted Advisory and Assistance Services rather than a contracting officer. The determinations should state whether benefits will be realized by obtaining the purchasing and contracting support from another agency, and should identify any other advantages to DoD.

The guidance should be disseminated to program managers who are likely to have requirements and should be incorporated in training courses for program managers and contracting personnel. Appropriate disciplinary actions should also be taken against DoD program officials who knowingly abused the use of interagency acquisitions under the Economy Act.

Additional costs attributable to interagency procurements.

Based on the limited detailed cost data we obtained from DoE and Martin Marietta, we estimated that DoD activities paid approximately \$11.6 million in additional costs to obtain services through the DoE Oak Ridge Field Office (Appendix E). We also determined that 26 of the 33 projects had multiple tiers of subcontractors.

We calculated additional costs by dividing the subcontractor cost by the total cost to derive the percent of work Martin Marietta offloaded to subcontractors. This percentage was then applied to costs incurred by Martin Marietta (excluding subcontractor costs) to estimate additional costs for obtaining project support through the DoE Oak Ridge Field Office. For example, for the AFESC Federal Fire-Fighter Certification System project, Martin Marietta billed \$727,848 and paid subcontractors \$680,637 (94 percent) to perform the work; the remaining \$47,211 was charged for Martin Marietta indirect costs, such as overhead, travel, and other indirect costs. The additional cost for this project was \$44,378, which is 94 percent of Martin Marietta's indirect costs. Using DoD procurement offices for contracting and using the Defense Contract Management Command for contract administration could have eliminated the majority of additional costs generated from use of Economy Act orders.

Conclusions

We determined the allegations in the DoD Hotline complaint had merit. Also, the issuance of the May 10, 1990, Principal Deputy Assistant Secretary of Defense (Productions and Logistics) memorandum was not sufficient to stop the inappropriate use of interagency acquisitions by DoD activities. Additional guidance is needed on the format and content of interagency agreements, on who should perform the determinations that the interagency acquisition is in the best interest of the Government required by DFARS subpart 217.5, and on what should be included in the determinations. Contracting officers must authorize the ordering of supplies and services through other Federal agencies. Where a major portion of the work has not already been performed on Economy Act orders that were not properly authorized, DoD contracting officers should perform and document determinations on whether performance should continue. Where appropriate, DoD contracting officers should ratify the Economy Act orders. Determinations on whether performance should continue or be

terminated should also be documented. More efforts need to be taken to ensure that DoD program managers are aware that DoE and other Federal agencies cannot be tasked to perform purchasing and contracting functions unless the interagency acquisition has been authorized by a warranted DoD contracting officer.

Recent Efforts Taken by OSD and DoD Activities

In October 1991, we began an audit concurrent with this audit to evaluate the use of interagency agreements and orders to obtain contracting support through the Tennessee Valley Authority (TVA). In April 1992, we issued Report No. 92-069, "Quick-Reaction Report on DoD Procurements Through the Tennessee Valley Authority." The report stated that DoD officials, who lacked authority under the FAR and DFARS to approve interagency acquisitions, improperly authorized 147 Economy Act orders to transfer \$84.8 million of expiring funds during August and September 1991 to TVA to achieve technical obligation of those funds.

As a result of the TVA audit, the Under Secretary of Defense for Acquisition and the Military Departments took steps to address the inappropriate use of interagency agreements. On October 25, 1991, the Under Secretary of Defense for Acquisition issued a memorandum to the Secretaries of the Military Departments and the Directors of the Defense agencies to reinforce DoD policies regarding contract offloading and to request aggressive actions to ensure compliance with established policies regarding the use of interagency agreements (Refer to management comments provided by the Director of Defense Procurement in Part IV). The memorandum solicited continued support from the Military Departments and the Defense Logistics Agency in minimizing the risk of orders for interagency acquisitions being placed by unauthorized DoD program officials.

On December 26, 1991, the Assistant Secretary of the Army (Research, Development, and Acquisition) issued a message to all Army legal offices, comptrollers, resource managers, and finance and accounting offices concerning Army activities' continuation of improper contract offloading practices and possible funding violations, and stated that these practices must cease immediately. The message requested that all activities that sent work or funds to TVA in FYs 1990 and 1991 submit a detailed report including justification for the need to procure through TVA. The message required contracting officers to make the required determination for all Economy Act orders and required legal counsel review of the orders.

RECOMMENDATIONS, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

1. We recommend that the Director of Defense Procurement revise guidance in the Defense Federal Acquisition Regulations Supplement 217.5, "Interagency Acquisitions Under the Economy Act," to:

a. Require that a DoD contracting officer review and approve all interagency agreements and subsequent Economy Act orders consistent with the Under Secretary of Defense for Acquisition's October 25, 1991, memorandum.

b. Require that DoD contracting officer determinations approving interagency acquisitions identify the unique services, benefits, or estimated savings to be realized by DoD.

Deleted recommendation. Based upon comments from the Director of Defense Procurement and the Army, we deleted Recommendation 1.c. which would have revised the DFARS to specify the applicability of the Economy Act to procurements made by one DoD Component at the request of another DoD Component.

Management comments. The Director of Defense Procurement partially concurred with Recommendation 1.a., stating that the Defense Acquisition Regulations Council will open a new case to consider this recommendation. The Director stated, however, that augmenting coverage in the Defense Federal Acquisition Regulation Supplement will still not reach requirements personnel who, as stated in the report, bypassed contracting officers. The Director also cited efforts already taken to address the problem including the October 25, 1991, memorandum issued by the Under Secretary of Defense for Acquisition, and planned changes such as a revision to DD Form 448, "Military Interdepartmental Purchase Request," that will include a signature block for the contracting officer when used to place Economy Act orders. The Army partially concurred with Recommendation 1.a. and stated the contracting officers should not approve the orders but should make a determination regarding the appropriateness of transferring the funds and requirements to another Federal agency.

The Director did not address Recommendation 1.b. The Army nonconcurred with Recommendation 1.b. and stated the proposed requirement to identify savings is impracticable in many situations.

Audit response. We consider the Director's comments to be responsive to Recommendation 1.a. We agree that the addition of a signature block on the DD Form 448 should create an internal control to ensure that a DoD contracting officer is involved in the interagency acquisition. The Army's comments on Recommendation 1.a. did not consider

guidance identified in the Under Secretary of Defense for Acquisition memorandum that stated, "contracting officers must approve the use of such interagency agreements." The intent of the recommendation is to place the guidance from the Under Secretary into the DFARS.

For Recommendation 1.b., our audit demonstrated that no cost analyses were performed and the use of Economy Act orders resulted in \$11.6 million in additional costs to the Government. We therefore request that the Director provide comments on Recommendation 1.b. when responding to the final report and specify dates for completion of corrective actions identified. We agree with the Army that there are situations where it is not possible to quantify the savings from the use of Economy Act orders. Therefore, we revised the recommendation to reflect that the determination identify the unique services, benefits, or savings from the use of Economy Act orders.

2. We recommend that the Assistant Secretary of Defense (Production and Logistics) revise DoD Instruction 4000.19, "Interservice, Interdepartmental, and Interagency Support," to include the following guidance on the information to include in the interagency agreements.

- o A statement of each agency's responsibilities for Government-furnished equipment, contract administration, documentation, rights to data and software, and contract audits.

- o Any limitations that must be complied with in the scope or amount of services or supplies that may be procured.

- o A statement as to the parties authorized to issue orders under the interagency agreement, including signature requirements.

- o A description of the type of funds that will be used to fund supplies or services ordered under the interagency agreement, and whether advance payments are authorized or whether the work will be performed on a reimbursable basis.

- o A statement as to what contract type(s) will be used to obtain the desired supplies and services. If the type of contract is unknown or cannot be determined, this may also be stated.

- o A provision that provides a method for resolving disputes between the two parties.

- o A description of the methods for pricing and issuing orders and the level of cost details to be provided by the

servicing activity that performs the work. The amount of administrative charges to be assessed by the accepting department or agency should also be identified.

o A specified expiration date and provisions for termination.

Revised recommendation. We originally addressed Recommendation 2. to the Director of Defense Procurement and the Assistant Secretary of Defense (Production and Logistics) and requested they coordinate and issue guidance on the format and content requirements of interagency agreements. Based on comments from the Director and the Army, we revised and redirected the recommendation.

Management comments. The Director of Defense Procurement stated that augmenting coverage in the DFARS, under her purview, will not reach requirements personnel. The Army concurred and stated they were concerned with Economy Act orders to agencies who are not required to follow the FAR or have different standards of performance for the contracting function than required in DoD. Program officials often erroneously make the assumption they will get the same level of contracting service from another agency as they would in DoD.

Audit response. Additional guidance is needed to establish minimum criteria for format and content to be included in interagency agreements. DoD Instruction 4000.19 would reach requirements personnel. Neither DFARS 217.5 or DoD Instruction 4000.19 require details on interagency agreements. Our audit determined that adequate contract administration was not performed, largely because responsibilities were not defined in the interagency agreements or Economy Act orders, and because DoD program managers assumed that contract administration was being performed by the Department of Energy and Oak Ridge Field Office facilities. We request the Assistant Secretary of Defense (Production and Logistics), who is responsible for DoD Instruction 4000.19, to provide comments on the recommendation.

3. We recommend that the Service Acquisition Executives and the Director, Defense Logistics Agency:

a. Require the contracting office at subordinate activities to:

(1) Review active interagency agreements between the activities supported and other Federal agencies for compliance with the Economy Act and implementing regulations, and revise, terminate, or issue new interagency agreements where appropriate. If the non-DoD contracting agency is not capable of adequately

administering existing contracts, the contracting office should request that the contracts be transferred to the Department of Defense for administration.

(2) Ratify or terminate active Economy Act orders with the Department of Energy and other Federal agencies that were not properly authorized by DoD contracting officers.

(3) Approve Economy Act orders only if DoD realized a unique service, benefit or cost savings in offloading the contracting responsibility to another Federal agency.

Army comments. The Army disagreed with Recommendation 3.a.(1), stating that contracting officers are not the best officials to approve, disapprove, or prepare interagency agreements since interagency agreements are not, per se, Economy Act transfers. The Army concurred with Recommendation 3.a.(2). The Army nonconcurred with Recommendation 3.a.(3), stating that it would be a practical impossibility to calculate savings or excess costs.

Navy comments. The Navy generally concurred with Recommendation 3.a.(1) stating that the Navy will perform reviews of interagency agreements if the Director of Defense Procurement issues guidance on the format and content of interagency agreements. The Navy will also perform a review of Navy activities to ensure that guidance is adequate and is complied with. For Recommendation 3.a.(2), the Navy will require contracting officers to review Economy Act orders to determine whether work should be terminated or allowed to continue. The Navy concurred with the intent of Recommendation 3.a.(3) and stated that, while the Economy Act is vague regarding "convenience or economy," often the unique capabilities of a federally funded research and development center to accommodate the Navy needs may supersede the cost and result in a more costly acquisition. The Navy is required to buy nuclear reactor cores from the DOE laboratories.

Air Force comments. The Air Force concurred with the recommendations and stated it will revise, terminate, or issue new interagency agreements; ratify or terminate active Economy Act orders with the Department of Energy and other Federal agencies if not authorized by a contracting officer; and only approve orders if savings result from offloading work to another Federal agency.

Defense Logistics Agency (DLA) comments. DLA concurred with Recommendation 3.a.(1) and the need to review interagency agreements. However, DLA stated that such agreements fall under DoD Instruction 4000.19, and that requiring contracting officers to evaluate, revise, or terminate interagency agreements goes beyond their authority or expertise. The DLA stated that a

contracting officer should review the agreements for compliance with the FAR, but should not be required to address financing, program management, technical considerations, resource utilization, or mission effectiveness. DLA stated that their actions were complete on Recommendation 3.a.(1). DLA stated that Recommendation 3.a.(2) was not applicable to DLA because all Economy Act orders after 1990 were approved in accordance with procedures in the prior OIG, DoD, report of June 1992. Further, DLA policy letters in 1990 and 1992 limited approval of Economy Act orders to one person in DLA headquarters. DLA concurred with Recommendation 3.a.(3) and stated that DLA would defer revising its policy guidance pending the outcome of the Defense Acquisition Regulatory Council case 92-D008, "Orders Under the Economy Act."

Audit response. We consider the Army comments to Recommendation 3.a.(1) to be nonresponsive. There is currently no guidance on the role of a contracting officer in the development, review, and approval of an interagency agreement. Since FAR subpart 17.5 and DFARS subpart 217.5 specify that a contracting officer should review and approve orders placed under the Economy Act, we believe that logically a contracting officer should also be in the coordination loop to review and approve any interagency agreement that is developed either before or after Economy Act orders are issued. We agree with the Army that interagency agreements are not Economy Act transfers, per se. However, we believe that interagency agreements should be reviewed because they establish the parameters for issuing Economy Act orders under the agreements, and therefore may set the conditions wrongly for subsequent orders placed under the agreements. We also agree that a contracting officer may not have the expertise to review and validate all parts of interagency agreements, but they should have a major responsibility in the review. We request that the Army reconsider its position and specify who will review its interagency agreements and provide estimated milestones for completing the reviews in comments on the final report. We request that Navy and Air Force provide estimated dates for completion of the reviews for Recommendation 3.a.(1).

We also request the Army, Navy, and Air Force provide estimated completion dates for Recommendation 3.a.(2). Based on Management comments, we revised Recommendation 3.a.(3) to state that Economy Act orders only be approved if a unique benefit to DoD or a cost savings results. Accordingly, we request the Army to reconsider its position on Recommendation 3.a.(3). We believe that an agency should be able to demonstrate some cost savings or unique benefit or service associated with the issuance of an Economy Act order. We consider the DLA comments to Recommendation 3. to

be responsive because only two Economy Act orders issued under one interagency agreement totaling \$750,000 were included in this review.

b. Discipline program officials who knowingly exceeded their authority and violated the Economy Act, the Brooks Act of 1965, the Competition in Contracting Act, year-end spending restrictions, and other laws and regulations by placing unauthorized Economy Act orders with another Federal agency.

Management comments. The Army, Navy, Air Force, and the Defense Logistics Agency concurred with the intent of the recommendation. The Air Force stated that individual activity commanders will be responsible for initiating disciplinary actions. The Defense Logistics Agency stated that adequate controls were in place to prevent violations, but if violations occur they will initiate disciplinary action.

Audit response. In response to the final report, we request that the Army and the Navy specify what corrective actions will be taken and identify completion dates for implementation of the corrective actions.

4. We recommend that the Comptroller of the Department of Defense modify the DoD 7220.9-M, "Accounting Guidance Manual," to require an accounting officer to have documented approval of Economy Act orders by a DoD contracting officer prior to allocating and committing funds on the order.

Management comments. The Comptroller of the Department of Defense did not provide comments to the draft report. The Army agreed with the thrust of the recommendation and stated that a budget or resource officer may be delegated the function of certifying the availability of funds and that the obligation of funds does not occur until the receiving agency accepts the funds.

Audit response. We revised the recommendation to reflect the Army comments, and we request that the Comptroller of the Department of Defense provide comments to the final report. We request that the Comptroller, DoD, respond to the final report.

5. We recommend that the Assistant Secretary of Defense (Production and Logistics) establish a central point of contact within DoD to oversee policy and procedural administration of interagency procurements and to serve as a focal point for other Federal agencies.

We added Recommendation 5. based upon comments provided by the OIG, DoE, to the draft report. The OIG, DoE, stated that, in the past, it has been difficult to identify the appropriate DoD

organization or office responsible for implementing policy and procedural changes because unlike the DoE, DoD does not have a centralized organization responsible for work performed under interagency agreements. We request that the Assistant Secretary of Defense (Production and Logistics) provide comments on the added recommendation.

Army comments to the finding. The Army cited the following points in response to the draft report. First, the Army stated that if a DoD activity requests that DoE contract to meet a need with one of its federally funded research and development centers (FFRDC), then the DoD activity should provide certified documentation to support a non-competitive procurement justification by the DoE contracting officer. The Army also stated that restricting the responsibility for making Economy Act determinations to a contracting officer contradicts the FAR and inappropriately limits the right of an agency head to manage an organization.

The Army further stated that the receiving agency is responsible for accepting an order under the terms of the Economy Act and for determining how to meet the requirements of the order. Thus, it is both inappropriate for DoD activities to knowingly request work that the DoE FFRDC must contract out, and for DoE to accept work that blatantly conflicts with competition requirements.

Audit response. We agree with Army that DoD requesting activities should provide certified documentation to support sole-source procurements for Economy Act orders placed on contract through DoE, or any agency, to an FFRDC or other source. FAR subpart 17.504, "Ordering Procedures," states that the servicing agency is responsible for complying with all legal and regulatory requirements including competition requirements. The FAR further states that when an interagency acquisition requires the servicing agency to award a contract, the servicing agency, if required by law, shall prepare a justification and approval or a determination and finding, and that the requesting agency shall furnish the servicing agency any information needed to make the justification and approval and the determination and finding.

We also agree that the Economy Act determination need not be made by a contracting officer. However, a contracting officer must be involved in the interagency acquisition process to be consistent with the October 1991 memorandum from the Under Secretary of Defense for Acquisition that states that a contracting officer must approve the use of interagency agreements, and FAR subpart 17.504 that requires that the contracting officer have the determination in hand prior to placing an interagency order.

We further agree with Army that DoD activities should not be placing, and DoE should not be accepting, Economy Act orders that must be subcontracted out by the FFRDC. We have referred this matter to the OIG, DoE.

RESPONSE REQUIREMENTS PER RECOMMENDATION

<u>Number</u>	<u>Addressee</u>	<u>Response Should Cover</u>			<u>Related Issues</u>
		<u>Concur/ Nonconcur</u>	<u>Proposed Action</u>	<u>Completion Date</u>	
A.1.b.	DDP		X	X	
A.2.	ASD (P&L)	X	X	X	
A.3.a.(1)	Army	X	X	X	
	Navy			X	
	Air Force			X	
A.3.a.(2)	Army			X	
	Navy			X	
	Air Force			X	
A.3.a.(3)	Army	X	X	X	
A.3.b.	Army		X	X	
	Navy		X	X	
A.4.	Comptroller	X	X	X	IC*
A.5.	ASD(P&L)	X	X	X	

*IC = material internal control weakness

B. ADMINISTRATION OF DOD ECONOMY ACT ORDERS

DoD did not adequately define technical and administrative responsibilities of DoD and DoE in the interagency agreements and individual Economy Act orders issued by DoD program offices to the DoE Oak Ridge Field Office. This occurred because DoD program officials did not use the available expertise of DoD contracting officers; because guidance on interagency acquisitions under the Economy Act does not specify the format and content of interagency agreements; and because DoD program officials relied on DoE and Martin Marietta Energy Systems to monitor the performance and costs of work under Economy Act orders, and to administer the work in the best interest of DoD. As a result, DoD program activities could not ensure that detailed progress reports were received on a regular basis; that deliverables met requirements; that vouchers totaling \$78.4 million were accurate, reasonable and allowable; or that the best interests of DoD were protected.

DISCUSSION OF DETAILS

Background

The DoD activities and DoE developed interagency agreements to authorize DoE to perform or contract for work on behalf of DoD. Upon acceptance of subsequent Economy Act orders, DoE assigned work for the nine interagency agreements to Martin Marietta to perform or subcontract. DoE policy states that DoE Headquarters will provide the primary programmatic oversight of work performed by the contractors, while DoE operations offices administratively oversee the work performed. DoE policy further states that administrative oversight will be accomplished by reviewing and approving individual projects submitted by other Federal agencies to ensure that they comply with DoE acceptance criteria. DoE criteria require that the projects be consistent with the DoE mission, not adversely impact execution of DoE programs, and not place DoE in direct competition with the private sector. DoE policy requires that DoE monitor performance and submit monthly vouchers for reimbursement to DoD. The process for obtaining goods and services under interagency agreements with DoE is depicted in the flowchart shown in Appendix A.

DoD activities that procured support services through interagency agreements with DoE relied on DoE to perform technical and financial administration and oversight of the work. DoD program officials stated that a primary reason for using the interagency agreement procurement vehicle was because the DoD activity did not have the in-house capability to perform contract administration and assumed that DoE would provide it.

We found that all nine interagency agreements reviewed did not include:

- o a requirement that detailed progress reports and cost data be provided to DoD contracting or program officials on a regular basis, and that only on receipt of the progress reports would DoD funds be released; and

- o a provision that would allow DoD to review costs incurred on Economy Act orders or that a close-out audit could be performed on incurred costs.

DoE Administration of DoD Economy Act Orders

Department of Energy Acquisition Regulation subpart 942.002, "Contract Administration," requires that DoE monitor the performance of its contractors to ensure that contract terms are complied with, that products are received on time and at reasonable costs, and that technical requirements and specifications of the contract are met.

DoD program officials relied on DoE to fulfill administrative responsibilities by providing oversight of work performed and performing financial administration, which included evaluating costs for reasonableness and certifying vouchers for payment. DoE, as the contracting agency, had privity of contract with the contractors.

We found that the extent of administrative functions and oversight performed by DoE varied among DoD projects. DoE assigned a DoE contracting officer's representative (COR) to each of the 33 projects that we reviewed; however, the level of oversight of work performed and feedback provided to the DoD requesting activities varied among the CORs. DoD program officials interviewed stated that the DoE officials generally had little involvement in the projects and cited the following concerns regarding the administrative efforts of DoE and Martin Marietta.

- o Frequent rotations of assigned Martin Marietta management impacted project continuity.

- o Martin Marietta management and DoE officials did not respond to, or ignored, requests for information.

- o Milestones and meeting requirements were delayed without adequate justification.

- o Justifications from DoE and Martin Marietta for costs were inadequate.

For example, MICOM issued six Economy Act orders with total funding of \$710,781 under IAG No. 1875-A053 for the development of an Item Managers Assistant Expert System. The MICOM program official responsible for the project stated that Martin Marietta had assigned at least three program managers to the project since 1987, and the current program manager had made only one on-site visit during the last year. He also stated that, while not specifically required per the interagency agreement, DoE had not provided progress reports or cost data to MICOM since the inception of the project in 1987 despite numerous MICOM requests.

Other Reports That Address DoE Oversight

Since 1988, the General Accounting Office and the OIG, DoE, issued six audit reports addressing DoE management of interagency acquisitions at Oak Ridge and other DoE locations (Appendix C). The reports stated that DoE did not have adequate internal controls to ensure that interagency acquisitions were managed economically, efficiently, and effectively, or that decisions to accept work from DoD complied with applicable laws. The reports attribute the deficiencies to DoE officials who had abandoned their responsibilities to make independent judgments and to challenge or validate information submitted by requesting agencies. Also, DoE relied on Martin Marietta to perform duties that could be considered inherently Governmental functions. The reports also stated that DoE did not provide effective oversight of Martin Marietta subcontracting practices. Further, poor procurement practices on the part of DoE contractors did not ensure that subcontractor prices were fair and reasonable.

As part of this cooperative audit, the OIG, DoE, examined the administration of contracts awarded to companies under the Small Business Administration 8(a) Program issued under Economy Act orders from DoD. The OIG, DoE, examined the administration of 18 task orders with accumulated costs of \$8.4 million. The audit determined that DoE did not adequately administer work performed under its 8(a) contracts, and that CORs relied on Martin Marietta to perform duties related to defining work requirements and reviewing deliverables and billings.

Progress Reports and Cost Data Provided by DoE

To properly administer control of funds and to effectively manage its operations, DoD activities need detailed periodic progress reports and cost data to support billed costs and to ensure that the procurement and contract administration functions are being carried out by DoE in the best interests of DoD. The interagency agreements reviewed required that DoE provide monthly billings for reimbursement on the basis of actual costs incurred. However, DoD activities did not establish provisions in the

interagency agreements or individual orders for the submission of progress reports, the level of detail required in reports, or cost data to facilitate DoD oversight of work and costs incurred.

Our audit determined that DoD activities did not always receive, and did not request, progress reports from DoE on a regular basis. In our opinion, the reports that were received did not provide sufficient detail to adequately verify that deliverables complied with the statements of work, that work was in compliance with established milestones, or that costs incurred were appropriate. The documentation we reviewed provided by Martin Marietta to support costs incurred was inadequate and provided little traceability of how \$78.4 million of accumulated costs for the 33 DoD projects was spent (Appendix E). For 9 of the 33 projects reviewed, the DoD program offices did not receive any progress reports to identify cost data for \$9.5 million of accumulated costs billed.

For the remaining 24 projects, with accumulated costs of \$68.9 million, progress reports were provided but were not sufficiently detailed for the DoD program offices to verify that the work was being performed economically and effectively, and that the costs incurred were reasonable and allowable. For example, the October 1991 progress report presented below from HAZWRAP to NAVFAC for the Radon Assessment and Mitigation Program under IAG No. 1828-1791 identified only the general cost categories for the current month and total costs to date.

NAVFAC Radon Assessment and Mitigation Program
October 1991 Progress Report

	<u>Current Month</u>	<u>Total Cost</u>	<u>Percent of Total Cost</u>
Labor	\$ 6,978	\$ 945,259	21
Travel	668	70,925	2
Computer	0	19,309	1
Other Direct			
Costs	10,883	1,441,424	32
Subcontractor	14,539	1,116,616	25
Overhead	<u>15,185</u>	<u>843,451</u>	19
Total	<u>\$48,253</u>	<u>\$4,436,984</u>	

NAVFAC was not provided and did not request any supporting documentation to identify individual job categories, rates, or number of hours worked under "Labor"; the number of, or costs by, individual subcontractors; or what costs were included in "Other Direct Costs." Other DoD program offices received similar inadequate reports. We concluded that DoD activities that place Economy Act orders with the DoE Oak Ridge Field Office need to

establish a requirement in the interagency agreements that progress reports with sufficient detail will be provided on a regular basis.

Payment of DoE Billings

Before each Economy Act order is released, a DoD budget or finance and accounting official must certify the availability of funds for the interagency acquisition. The Economy Act requires that bills from receiving agencies will be paid when presented without question. The interagency agreements with DoE stated that vouchers will be submitted directly to DoD accounting offices for payment, without a requirement for a DoD program official to review supporting documentation or approve the validity of costs billed, even after the fact. This procedure on payments is in accordance with the Economy Act. This automatic payment procedure does not eliminate the requirement for the DoD program official to ensure that funds were properly expended to achieve program results. The DoD program official should request and review contractor progress reports, bills, and cost information for the work performed for the agency on the Economy Act orders. If the bills are not commensurate with the services received, the official should initiate collection action. If a large amount of the Economy Act order was placed on a cost type contract, the program official should ensure that arrangements were made for a closeout audit. DoD program officials should be made aware that audits of contractors to civilian agencies do not always routinely occur as they do in DoD.

Impact of Administration

The interagency agreements did not provide for adequate internal controls to clearly establish technical and financial administrative responsibilities among DoD, DoE, and Martin Marietta. DoD activities assumed that DoE performed sufficient oversight to protect its interests, but DoD activities did not establish requirements within the interagency agreements or individual Economy Act orders to ensure clearly defined responsibilities of each party. As a result, DoD activities were not assured that work performed complied with statements of work, that costs were reasonable, and that payments totaling \$78.4 million on the 33 projects were adequately supported or even earned. We believe it is important that DoD activities that enter into interagency agreements with DoE or any Federal agency, understand how its funds will be spent and have the opportunity to review details on the costs billed.

RECOMMENDATION, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

We recommend that the Assistant Secretary of Defense (Production and Logistics) revise guidance in DoD Instruction 4000.19, "Interservice, Interdepartmental, and Interagency Support," to require that orders issued pursuant to the Economy Act include provisions for the following.

a. Submission of detailed progress reports and cost data by the accepting Federal agency, and the performance of closeout audits, if needed. The cost data should identify costs incurred by the prime contractor during the period, including direct labor hours and rates, material costs, subcontractor costs, other direct costs, and profit.

b. Performance of reviews by DoD program officials to ensure that amounts billed by the other Federal agency are proper for payment and initiation of collection actions if the amounts billed are not commensurate with the services received.

Revised recommendation. Based upon comments from the Director of Defense Procurement, the Army, and the OIG, DoE, we redirected the recommendation to the Assistant Secretary of Defense (Production and Logistics). In responding to the draft report, the Director of Defense Procurement stated that contracting officers do not write purchase requests and should not be expected to specify the content and form of interagency agreements. Instead, requiring officials who are responsible for the programs and are held accountable for their successes should decide what information is needed for management and control purposes. The Army stated that, since Economy Act orders are not contracting actions executed by contracting officers, the DFARS is not the appropriate place to amend guidance. The OIG, DoE, stated that DoE requires the requesting agency to specify requirements for cost details in the proposal package submitted for acceptance by DoE under the Work-for-Others Program. We request that the Assistant Secretary of Defense (Production and Logistics) comment on the revised recommendation.

Deleted recommendation. Based on comments from the Director of Defense Procurement and the Army concerning certification of bills for Economy Act orders by a DoD official prior to payment, Recommendations 2.a. and 2.b. of the draft report were deleted from the final report.

RESPONSE REQUIREMENTS PER RECOMMENDATION

<u>Number</u>	<u>Addressee</u>	<u>Response Should Cover</u>			<u>Related Issues</u>
		<u>Concur/ Nonconcur</u>	<u>Proposed Action</u>	<u>Completion Date</u>	
B.1.a.	ASD(P&L)	X	X	X	IC*
B.1.b.	ASD(P&L)	X	X	X	IC*

* IC = material internal control weakness

C. TRACKING INTERAGENCY ACQUISITIONS

DoD management information systems could not identify the number, value, issuing activity, or recipient of Economy Act orders. Current resource and procurement data reporting systems were not designed to provide this information. As a result, DoD managers in the Office of the Secretary of Defense, the Military Departments, and the Defense agencies were unaware that during FYs 1990 and 1991 more than \$6.3 billion of DoD funds was sent to other Federal agencies (Appendix G). Also, DoD managers had no effective means to manage and oversee this process, including not having a basis for determining whether Economy Act orders were a significant contributor to inappropriate year-end spending.

DISCUSSION OF DETAILS

Background

DoD managers need management information systems to support their planning, controlling, and decisionmaking responsibilities. Managers at each level should know where and how budgeted funds are being spent. DoD has a financial accounting system and an Individual Contract Action Reporting System (DD 350 Reporting System) that collects data on contracts issued.

DoD 7220.9-M, part 1, chapter 11, "DoD Financial Management System Principles," states that financial management data shall be gathered and processed to meet specific internal management needs or external requirements. The financial management data shall be reasonably complete and accurate, shall be recorded as soon as practicable after the event occurs, and shall be made available to managers. The DFARS section 204.670, "Contract Reporting," discusses the purposes and information to be reported in the DD 350 Reporting System.

Tracking Interagency Agreements and Orders

There is currently no visibility through DoD management information systems on the extent of work being performed under Economy Act orders with DoE and other Federal agencies. For the nine interagency agreements we reviewed, officials at the DoD activities that originated the interagency agreements were not aware of the amount of funds transferred on Economy Act orders to DoE, and could not identify all of the DoD activities that issued Economy Act orders under their interagency agreements. For instance, AFESC authorized other Air Force major commands to use IAG No. 1489-1489. This authorization resulted in about 700 separate Economy Act orders totaling more than \$134.9 million being issued under the interagency agreement. NAVFAC Headquarters also allowed its field activities to issue orders under IAG No. 1828-1791. This action resulted in approximately 230 Economy Act orders totaling more than \$50.3 million being

issued by the various NAVFAC field activities. We identified the amount of funding and the number of Economy Act orders that DoD activities issued under interagency agreements by requesting the information from the Work-for-Others Program office at the DoE Oak Ridge Field Office.

The finance and accounting offices at the DoD activities we visited did not track and could not identify total obligations or disbursements that involved other Federal agencies. DoD finance and accounting offices at the individual activity level produce the Data Element Management Service report that is consolidated at the Defense Finance and Accounting Service, Indianapolis Center. These reports capture data elements including the source of funds, type of funds, accounting station, disbursing activity, date of the disbursement, and dollar value. However, expenditures are not coded to identify funds disbursed to another Federal agency.

The DD 350 Reporting System does not identify interagency agreements and orders because they are not contracts. Procurement policy personnel in the Office of the Director of Defense Procurement stated that this system should not be modified to include the reporting of interagency agreements and orders because it could result in double counting. The DD 350 Reporting System is part of the Federal Procurement Data System, which reports all contracts awarded by the Federal Government. Federal agencies, such as DoE, that accept DoD Economy Act orders would report contracts that are subsequently awarded into the Federal Procurement Data System.

Until April 1992, DoD had a system for collecting and reporting information on interservice, interdepartmental, and interagency support agreements within DoD and with non-DoD agencies. The system was authorized by DoD Instruction 4000.19-R. Support agreements established by DoD activities were to be furnished to the Defense Logistics Services Center, Battle Creek, Michigan, which published and distributed information on the types of support services being supplied or received. This system was discontinued when DoD 4000.19-R was superseded because the Office of the Assistant Secretary of Defense (Production and Logistics) determined that the DoD Components were not accurately reporting all support agreements and that little use was made of the information once published and distributed by the Defense Logistics Services Center.

The FY 1992 Appropriations Bill required that DoD provide Congress with the FY 1993 budget request, documentation identifying, by Military Department, the total DoD funds provided to non-DoD sponsored federally funded research and development centers, which would include Oak Ridge National Laboratory. In July 1992, the Director of Defense Research and Engineering reported to Congress that planned FY 1993 DoD funding for non-DoD

federally funded research and development centers would be \$47.3 million, of which only \$300,000 was designated for DoE at Oak Ridge (Appendix H). This report excluded planned funding from the Military Departments and the Strategic Defense Initiative Organization. It also did not identify other funds transfers to Federal agencies under Economy Act orders.

Year-end Spending

The OIG, DoD, addressed the issue of year-end spending using Economy Act orders in Report No. 92-069. The report stated that DoD officials, who lacked authority under the FAR and DFARS to approve interagency acquisitions, improperly authorized Economy Act orders to transfer \$84.8 million of expiring funds during August and September 1991 to the Tennessee Valley Authority to achieve technical obligation of those funds (Appendix C).

Indications are that part of the Economy Act orders issued by DoD activities to the DoE Oak Ridge Field Office may have been year-end spending. DoD activities transferred a total of \$323.9 million to the DoE Oak Ridge Field Office between May 1990 and October 1991. Of the \$323.9 million, about \$21.0 million was funded in September 1990, and about \$54.4 million was funded in September 1991. The OIG, DoE, Report No. ER-B-91-07, "Martin Marietta Energy Systems, Inc., Subcontracting in the Work-for-Others Program for Data Systems Research and Development Projects," December 21, 1990, also reported that a disproportionate amount of DoD funds were obligated during the final months of previous fiscal years. DoE concluded that the timeliness and convenience in processing interagency acquisitions made the interagency acquisitions vulnerable to year-end spending abuses. However, the DoE report made no recommendations since DoD activities were the originators of the Economy Act orders.

Conclusions

DoD management information systems currently cannot identify the numbers of Economy Act orders and amounts of funds being transferred on the orders to other Federal agencies. As a result, DoD managers had no visibility of the activity in this area for policy-making and quality assessment purposes. Because the amounts of Economy Act orders and funds are significant, a system for reporting Economy Act orders is needed for management control. Information reported to Congress on DoD acquisitions through non-DoD federally funded research and development centers and other Federal agencies is incomplete and includes only part of the Economy Act orders issued by DoD activities. Alternatives include modifying existing financial management and contract reporting systems or establishing a separate reporting system.

RECOMMENDATION, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

We recommend that the Assistant Secretary of Defense (Production and Logistics) establish a procedure for identifying and tracking the amounts of Economy Act orders and related funding that DoD sends to the Department of Energy and other Federal agencies.

Revised recommendation. Based upon comments from the Director of Defense Procurement, we redirected the recommendation to the Assistant Secretary of Defense (Production and Logistics). The Director of Defense Procurement nonconcurred with the recommendation, stating that her office is not convinced that a DoD-wide procedure for identifying and tracking Economy Act orders and related funding is warranted.

Audit response. Billions of dollars are being sent by DoD components to other Federal agencies on Economy Act orders, and current reporting systems cannot provide information on who is using them, who is receiving them, what is being procured, how much money is involved, and why the orders are being used. For example, in an ongoing audit of Economy Act orders sent to the Jet Propulsion Laboratory operated by the National Aeronautics and Space Administration, the only way we determined that DoD paid \$475 million to the Laboratory was by asking the Laboratory. We also had to ask the Tennessee Valley Authority to determine that DoD sent TVA \$112 million of Economy Act orders (IG, DoD, Report No. 92-069). We believe financial information on Economy Act orders sent to other agencies is needed to plan resources to administer the budget, to formulate policies, to answer congressional inquiries, to manage interagency affairs, to manage workloads, and to provide quality assessments. Since the Assistant Secretary of Defense (Production and Logistics) is responsible for DoD Instruction 4000.19, we request that the Assistant Secretary of Defense (Production and Logistics) respond to the recommendation and provide comments to the final report.

RESPONSE REQUIREMENTS PER RECOMMENDATION

<u>Number</u>	<u>Addressee</u>	<u>Response Should Cover</u>		
		<u>Concur/ Nonconcur</u>	<u>Proposed Action</u>	<u>Completion Date</u>
C.1.	ASD(P&L)	X	X	X

D. USE OF PROJECT ORDERS

DoD activities inappropriately cited the Project Order Act as the legal authority for issuing Economy Act orders obligating \$17.9 million for support services that were not performed primarily by DoE personnel. We believe this occurred because the DoD program officials either were not aware of the differences between project orders and Economy Act orders, or believed that because they used project orders, they need not comply with the Economy Act and the Competition in Contracting Act. By using the incorrect legal authority, DoD activities established improper obligations, which were then recorded in DoD financial records.

DISCUSSION OF DETAILS

Background

The Project Order Act, 41 U.S.C. 23, defines a project order as an order for the manufacture of materials, supplies, and equipment, or for other work or services placed with a Government-owned, Government-operated establishment. Under a project order, work must be performed by the Government-owned, Government-operated establishment and cannot be contracted for by the recipient of the project order. All project orders issued by DoD activities must be clearly identified as such by inclusion of the statement, "This order is placed in accordance with the provisions of 41 U.S.C. 23, and DoD Instruction 7220.1." DoD Instruction 7220.1, "Regulations Governing the Use of Project Orders," prescribes procedures governing the use of project orders in DoD.

The Project Order Act also allows for appropriated funds obligated by project orders to remain available beyond the expiration date of the applicable appropriation. This differs from funds under the Economy Act that must be obligated by the receiving agency before the funds expire at the end of the appropriate fiscal year. Project orders, however, are not to be used for the purpose of continuing the availability of appropriations, or for the purpose of obtaining support services when the Government-owned, Government-operated establishment is not in a position to perform the work or services ordered.

Use of Project Orders

We reviewed 196 Economy Act orders issued by DoD activities under the 9 interagency agreements we selected for review. Of the 196 orders, 78 were issued using project orders under interagency agreements entered into pursuant to the authority contained in the Economy Act. Three DoD activities (NAVFAC, AFESC, and MAC) inappropriately used project orders rather than MIPRs or other ordering documents to fund interagency acquisitions totaling \$17.9 million. For example, NAVFAC issued seven Economy Act

orders as project orders to the DoE Oak Ridge Field Office, valued at \$6.7 million, under IAG No. 1828-1791 for the Navy Radon Assessment and Mitigation Program. This was an inappropriate use of project orders since DSRD and HAZWRAP that performed the work are operated by Martin Marietta. Martin Marietta is not Government-owned and Government-operated, but a contractor-operated facility that performs work for the Government.

We believe that the inappropriate use of project orders by the three DoD activities was generally not intentional. However, these activities should be made aware of the differences between project orders and Economy Act orders because the Project Order Act does not provide substantive authority for agencies to place interagency acquisitions. The use of project orders for interagency acquisitions resulted in the recording of invalid obligations in DoD financial records.

RECOMMENDATION, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

We recommend that the Service Acquisition Executives issue guidance to remind major commands and field activities that the Economy Act (31 U.S.C. 1535) is the correct legal authority for placing interagency acquisitions and the Project Order Act (41 U.S.C. 23) is not a proper legal authority.

Management comments. The Army concurred with the recommendation. The Navy also concurred, and planned to issue guidance correcting the problem by December 31, 1992. The Air Force concurred stating that policy will be issued to correct the finding.

Audit response. We request the Army to specify what actions will be taken to implement the recommendation. We also request both the Army and Air Force specify estimated dates for completion of the corrective actions.

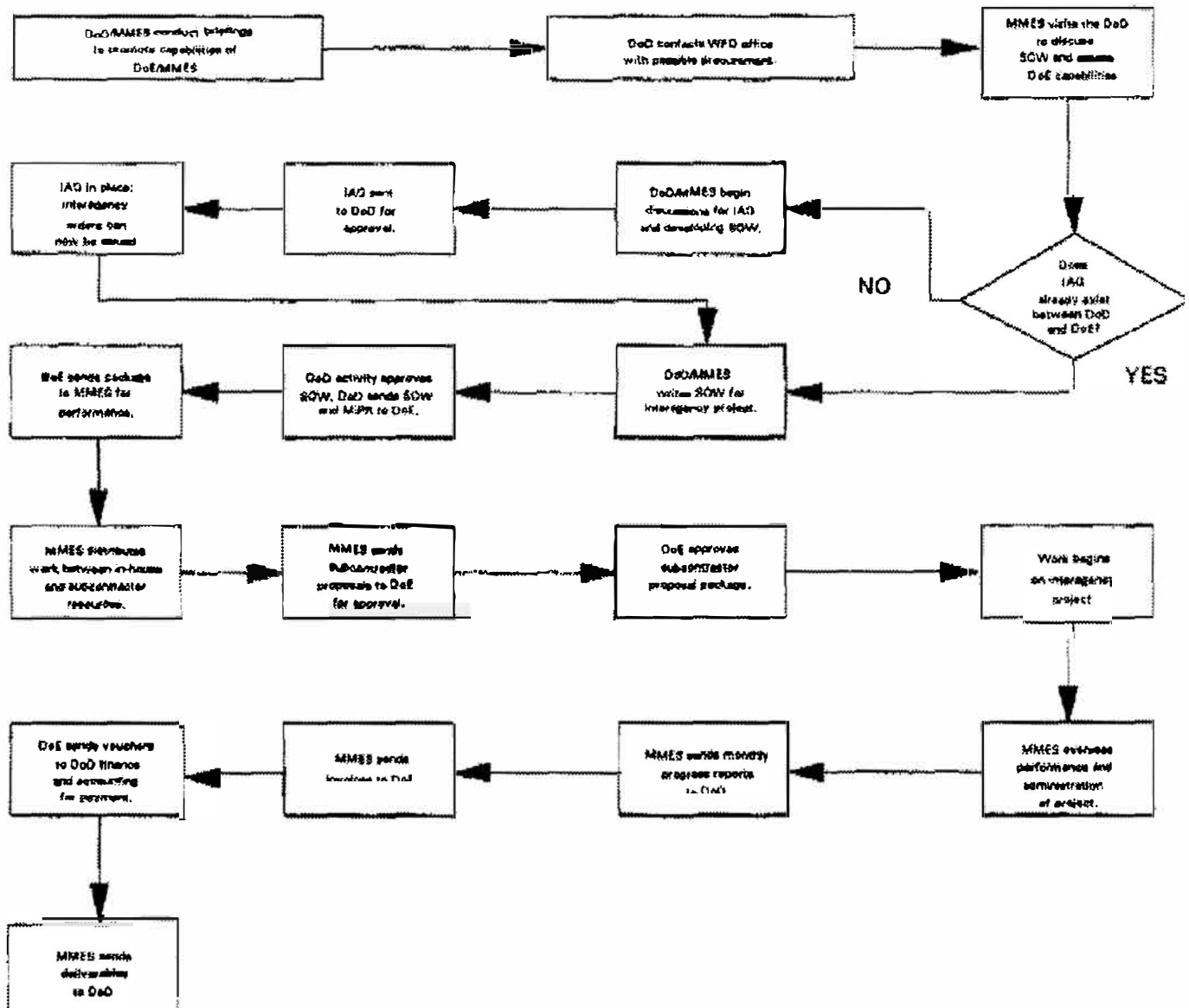
RESPONSE REQUIREMENTS PER RECOMMENDATION

<u>Number</u>	<u>Addressee</u>	<u>Response Should Cover</u>	
		<u>Proposed Action</u>	<u>Completion Date</u>
D.1.	Army	X	X
	Air Force		X

PART III - ADDITIONAL INFORMATION

- APPENDIX A - Process of Procuring Support Services
Through the Department of Energy Oak Ridge
Field Office
- APPENDIX B - Memorandum from the Principal Deputy
Assistant Secretary of Defense
(Production and Logistics)
- APPENDIX C - Summary of Prior Audit Coverage
- APPENDIX D - Interagency Orders Issued to the Department
of Energy Oak Ridge Field Office
- APPENDIX E - Schedule of Incurred Additional Costs
- APPENDIX F - Economy Act Orders Issued for
Automated Data Processing Resources
- APPENDIX G - Economy Act Orders Between DoD
Activities and Other Federal Agencies
- APPENDIX H - Non-DoD Federally Funded Research and
Development Centers Funding for FY 1993
- APPENDIX I - Summary of Potential Benefits Resulting
from Audit
- APPENDIX J - Activities Visited or Contacted
- APPENDIX K - Report Distribution

**APPENDIX A - PROCESS OF PROCURING SUPPORT SERVICES THROUGH THE
DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE**



Acronyms

MMES.....Martin Marietta Energy Systems
 ORNL.....Oak Ridge National Laboratory
 SOW.....Statement of Work
 WFO.....Work-for-Others Program

APPENDIX B - MEMORANDUM FROM THE PRINCIPAL DEPUTY ASSISTANT
SECRETARY OF DEFENSE (PRODUCTION AND LOGISTICS)



ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-6005

PRODUCTION AND
LOGISTICS

May 10, 1990

P/CPA

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (RESEARCH,
DEVELOPMENT, AND ACQUISITION)
ASSISTANT SECRETARY OF THE NAVY (RESEARCH, DEVELOPMENT
AND ACQUISITION)
ASSISTANT SECRETARY OF THE AIR FORCE (ACQUISITION)
DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: Contracting Through Interagency Agreements

The Department of Defense Inspector General (DoDIG) recently concluded its audits of contracting through interagency agreements with the Library of Congress and the Department of Energy. In both instances, the DoDIG found that Department of Defense (DoD) program officials circumvented contracting procedures by not obtaining approvals from DoD contracting officers as required by the Federal Acquisition Regulation/Defense Federal Acquisition Regulation Supplement subpart 17.5. The DoDIG's reports also focused on the need for assuring that effective contract administration is accomplished for interagency acquisitions.

We recognize that certain corrective actions have been initiated by the Military Services and the Defense Logistics Agency. Nonetheless, we solicit your continuing support in providing appropriate training for program officials and establishing internal control procedures and practices to minimize the risk of orders for interagency acquisitions being placed by unauthorized DoD program officials.

(b) (6)

David W. Berteau
Principal Deputy

APPENDIX C - SUMMARY OF PRIOR AUDIT COVERAGE

Office of the Inspector General, Department of Defense

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

Report No. 90-085, "DoD Hotline Allegation of Irregularities in DoD Contractual Arrangements with the Department of Energy," June 19, 1990. This audit determined that program officials circumvented established policy and exceeded their authority by not obtaining required approvals from DoD procurement officials or designated senior DoD officials when placing orders for interagency acquisitions. Also, DoD internal controls were not adequate to ensure compliance with the FAR and DFARS when program officials placed orders with DoE. The report recommended that the Under Secretary of Defense for Acquisition improve DoD internal control procedures to minimize the risk of placing orders for interagency acquisitions; that appropriate training be provided to DoD program officials; and that disciplinary actions be considered against those DoD program officials who exceeded their authority. Management concurred with the findings and recommendations. The Principal Deputy Assistant Secretary of Defense (Production and Logistics) issued a memorandum to the Military Departments and Defense Logistics Agency on May 10, 1990. This memo solicited support in training program officials and in establishing internal control procedures to prevent placement of interagency orders by unauthorized DoD program officials.

Report No. 90-034, "Contracting through Interagency Agreements with the Library of Congress," February 9, 1990. This audit also determined that DoD program officials circumvented established policy and exceeded their authority by not obtaining required approvals from DoD procurement officials or designated senior DoD officials when placing orders for interagency acquisitions. Also, DoD internal controls were not adequate to ensure

APPENDIX C - SUMMARY OF PRIOR AUDIT COVERAGE (cont'd)

compliance with the FAR and DFARS when program officials placed orders with the Library of Congress. The report concluded that these weaknesses increased the risks of overpricing and susceptibility of interagency procurements to mismanagement, abuse, and fraud. The report recommended that the Under Secretary of Defense for Acquisition improve DoD internal control procedures to minimize the risk of placing orders for interagency acquisitions by unauthorized DoD program officials, that appropriate training be provided to DoD program officials, and that disciplinary actions be considered against those DoD program officials who exceeded their authority. Management generally concurred with the findings and recommendations after revisions were made to the draft report.

Office of the Inspector General, Department of Energy

Report No. DoE/IG-0307, "Audit of Procurement of Services From 8(a) Contractors for the Work-for-Others Program," April 10, 1992. The audit determined whether DoE adequately administered its 8(a) contracts in accordance with DoE regulations and procedures and the terms of the 8(a) contracts. The report stated that the DoE Oak Ridge Field Office did not administer its 8(a) contracts in accordance with requirements. Consequently, the Oak Ridge Field Office had no assurance that those contractors properly spent \$8.4 million, and one contractor was reimbursed \$151,743 of expressly unallowable costs when no work was performed. Management agreed that a problem existed and agreed to implement all recommendations except suspending the issuance of new task orders.

Report No. ER-B-91-07, "Martin Marietta Energy Systems, Inc., Subcontracting in the Work-for-Others Program for Data Systems Research and Development Projects," December 21, 1990. This report stated that there were indications of "dumping" year-end funds into the Data Systems Research and Development program by DoD agencies. The report did not make recommendations to DoD because the Office of the Inspector General, DoE, does not have cognizance over DoD agencies. The report also stated that although Data Systems Research and Development was generally complying with requirements, it could improve practices when subcontracting in the Program by strengthening the requirements. The report recommended strengthening procurement procedures and practices. Management concurred with the recommendations.

Report No. ER-OC-88-14, "Review of Martin Marietta Energy Systems, Inc., Work-for-Others Program," September 16, 1988. This audit concluded that DoE controls for accepting Work-for-Others projects needed improvements to better determine that each project met the unique capabilities of the DoE laboratory and to better determine the extent to which the requesting agency had determined that the work could not be performed by the private sector. The report stated that DoE oversight of subcontracting

APPENDIX C - SUMMARY OF PRIOR AUDIT COVERAGE (cont'd)

activities by Martin Marietta were ineffective. The report recommended that DoE obtain information from the requesting agencies, describing efforts and their results; obtain the work from the private sector; and obtain descriptions of how the unique capabilities of DoE will be used. The report also recommended that DoE establish criteria describing when subcontracting plans are required, the basis for subcontracting, and for performing periodic reviews of subcontracting activities. DoE management concurred with the findings and recommendations, but stated that the level of documentation already required from requesting agencies is sufficient.

U.S. General Accounting Office

Report No. RCED-92-41, "Energy Management: Contract Audit Problems Create the Potential for Fraud, Waste, and Abuse," October 1991 (OSD Case No. 8875). This audit focused on DoE's contracting practices. The report stated that DoE has not provided the cyclical audit coverage necessary to determine if the costs incurred by the management and operating contractors are accurate, allowable, and reasonable. GAO recommended that DoE be provided with sufficient audit resources to review DoE's management and operating contractors to ensure that they are operating economically, efficiently, and in the Federal Government's best interest. DoE management generally agreed with the facts presented.

Report No. RCED-92-28, "Energy Management: DoE Actions to Improve Oversight of Contractors' Subcontracting Practices," October 1991. This report stated that DoE's management and operating subcontracts, which totaled more than \$5 billion in 1990, are vulnerable to fraud, waste, and abuse. Poor procurement practices of the management and operating contractors, coupled with inadequate oversight by DoE, have led to excessive subcontract costs that are borne by the Government. In addition, DoE has not taken appropriate corrective action when reviews have identified serious deficiencies in the contractors' procurement systems. The report concluded that improvements in DoE oversight are needed to address management and operating subcontracting weaknesses. DoE concurred with the recommendations and has established plans to restructure the Contractor Purchasing System Review Program to correct the weaknesses identified.

Report No. RCED-89-21, "Energy Management: DoE Should Improve Its Controls Over Work-for-Other Federal Agencies," February 1989 (OSD Case No. 7938). This audit found that there are inconsistencies in implementing DoE policies concerning Work-for-Others at the operations office level; that while DoE's own work load has remained relatively constant over the last 5 years, the Work-for-Others program work load has almost doubled, with an increase of almost \$1 billion. Also, Martin Marietta performs a

APPENDIX C - SUMMARY OF PRIOR AUDIT COVERAGE (cont'd)

special class of Work-for-Others through a group that is organizationally excluded from DoE programmatic oversight. This group, known as DSRD, received about \$160 million in Work-for-Others funds in FY 1987, primarily from DoD, while its work for DoE amounted to only about \$166,000. The report recommended that the Secretary of Energy strengthen controls to establish minimum standards, monitor contractor performance, revise DoE policy to require other Federal agencies to reimburse DoE for its costs in overseeing non-DoE work, and formally determine whether the work performed by DSRD can be done as conveniently or cheaply in the private sector. DoE should either terminate the DSRD work or immediately assign the work to a DoE headquarters group for oversight. Management generally concurred with the findings and recommendations.

U.S. Army Audit Agency

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

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

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT NO</u>	<u>PROJECT NAME</u>	<u>INTERAGENCY ORDER NO.</u>	<u>DATE</u>	<u>DOLLAR VALUE</u>	<u>TOTAL DOLLAR VALUE</u>
ARMY:						
AVSCOM	1874-A052	CCSS 1/	A5873F-9-Z356AE A-2	09/20/89	\$2,975,000	\$ 2,975,000
MICOM	1875-A053	BRADLEY	7296F0977272	07/31/88	454,589	
MICOM	1875-A053	BRADLEY	BFVS-91-073	01/30/91	250,000	
MICOM	1875-A053	BRADLEY	BFVS-91-073 A-1 2/	03/23/91	312,500	1,017,089
MICOM	1875-A053	GROUND	TOM-89-07	06/20/89	700,000	
MICOM	1875-A053	GROUND	TOM-90-01	08/08/90	613,841	
MICOM	1875-A053	GROUND	TOM-90-01 A-2	09/13/90	136,974	1,450,815
MICOM	1875-A053	IMA	9-8010-025	08/10/89	60,000	
MICOM	1875-A053	IMA	0-8010-022	03/09/90	58,000	
MICOM	1875-A053	IMA	0-8010-022 A-1	05/17/90	600,000	
MICOM	1875-A053	IMA	0-8010-022 A-2	05/23/90	45,682	
MICOM	1875-A053	IMA	0-8010-022 A-3	07/23/90	(50,000)	
MICOM	1875-A053	IMA	0-8010-022 A-4	08/22/90	(2,901)	710,781
MICOM	1875-A053	ISD 1/	AC-30-88	07/14/88	450,000	
MICOM	1875-A053	ISD 1/	AC-30-88 A-2	09/08/88	2,000,000	
MICOM	1875-A053	ISD 1/	AC-30-88 A-3	09/27/88	3,000,000	
MICOM	1875-A053	ISD 1/	AC-30-88	09/27/88	(504,000)	
MICOM	1875-A053	ISD 1/	AC-36-89	05/16/89	100,000	
MICOM	1875-A053	ISD 1/	AC-36-89 A-2	06/22/89	200,000	
MICOM	1875-A053	ISD 1/	AC-36-89 A-3	07/18/89	25,000	
MICOM	1875-A053	ISD 1/	AC-36-89 A-5	08/22/89	20,000	
MICOM	1975-C070	ISD 1/	AC-48-89	09/19/89	100,000	
MICOM	1975-C070	ISD 1/	AC-48-89 A-2	09/22/89	200,000	5,591,000
MICOM	1875-A053	IV&V TPS	W31P4Q82528216	09/08/88	200,000	
MICOM	1875-A053	IV&V TPS	W31P4Q82528216 A-2	04/23/90	(8,819)	
MICOM	1875-A053	IV&V TPS	W31P4Q92219289	08/09/89	250,000	
MICOM	1875-A053	IV&V TPS	W31P4Q02190187	07/01/90	299,967	741,148

See footnotes and acronyms at end of appendix.

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT NO</u>	<u>PROJECT NAME</u>	<u>INTERAGENCY ORDER NO.</u>	<u>DATE</u>	<u>DOLLAR VALUE</u>	<u>TOTAL DOLLAR VALUE</u>
ARMY: (cont'd)						
MICOM	1875-A053	PERM	AC-30-88 A-3	09/27/88	\$ 504,000	
MICOM	1975-C070	PERM	ISC-M-308-90	09/24/90	1,160,118	\$ 1,664,118
MICOM	1875-A053	TSIP	97G00-016	08/22/89	455,000	
MICOM	1875-A053	TSIP	A10E2R8451D1	06/11/90	281,000	
MICOM	1875-A053	TSIP	A10E2R8451D1 A-1	06/11/90	220,000	
MICOM	1875-A053	TSIP	5G1R1AE151D1	01/07/91	260,000	1,216,000
SDC	1896-D056	KWAJALEIN	W31RPD0V0K7008	06/06/90	1,500,000	
SDC	1896-D056	KWAJALEIN	W31RPD0V1K7008	03/21/91	1,425,000	
SDC	1896-D056	KWAJALEIN	W31RPD0V2K7008	10/15/91	226,000	
SDC	1896-D056	KWAJALEIN	W31RPD0V2K7008 A-1	11/08/91	252,000	
SDC	1896-D056	KWAJALEIN	W31RPD0V2K7008 A-2	12/04/91	222,000	
SDC	1896-D056	KWAJALEIN	W31RPD0V2K7008 A-3	12/30/91	168,000	
SDC	1896-D056	KWAJALEIN	W31RPD0V2K7008 A-4	01/06/92	632,000	4,425,000
SIMA	1997-C116	CAESAR	0163-0801	08/15/90	578,000	578,000
SIMA	1997-C116	DBMES	0075-0801	03/16/90	840,000	
SIMA	1997-C116	DBMES	A1-0-05252-91-A1	03/21/90	30,000	
SIMA	1997-C116	DBMES	1G0P0002C9AD	08/13/90	74,500	
SIMA	1997-C116	DBMES	EA-1070-1	03/12/91	35,000	<u>979,500</u>
TOTAL ARMY						\$ 21,348,451

See footnotes and acronyms at end of appendix.

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT NO</u>	<u>PROJECT NAME</u>	<u>INTERAGENCY ORDER NO.</u>	<u>DATE</u>	<u>DOLLAR VALUE</u>	<u>TOTAL DOLLAR VALUE</u>
NAVY:						
NAVFAC	1828-1791	FALLON	N6247488WR00N77	08/01/88	\$ 100,000	
NAVFAC	1828-1791	FALLON	N6247489WR00619	12/29/88	25,000	
NAVFAC	1828-1791	FALLON	N6247489WR00619 A-1	02/24/89	75,000	
NAVFAC	1828-1791	FALLON	N6247489WR00619 A-2	05/03/89	250,000	
NAVFAC	1828-1791	FALLON	N6247490WR00A32	01/25/90	1,040,000	
NAVFAC	1828-1791	FALLON	N6247490WR00A32 A-1	02/16/90	460,000	
NAVFAC	1828-1791	FALLON	N6247491WR00644	03/08/91	1,500,000	\$ 3,450,000
NAVFAC	1828-1791	HAWAII	N0002588P03002P	12/02/87	200,000	
NAVFAC	1828-1791	HAWAII	N0002588P03002P A-1	09/08/88	600,000	
NAVFAC	1828-1791	HAWAII	N0002588P03002P A-2	03/03/90	2,230	
NAVFAC	1828-1791	HAWAII	N0002589P03006P	06/06/89	200,000	
NAVFAC	1828-1791	HAWAII	N0002589P03006P A-1	06/29/89	308,000	
NAVFAC	1828-1791	HAWAII	N0002589P03006P A-2	09/08/89	92,000	
NAVFAC	1828-1791	HAWAII	N0002590P03004P	12/07/89	355,000	
NAVFAC	1828-1791	HAWAII	N0002590P03012P A-1	08/04/90	255,000	2,012,230
NAVFAC	1828-1791	HMC&M	N0002586P03033P	09/30/86	350,000	
NAVFAC	1828-1791	HMC&M	N0002587P03026P	09/18/87	33,000	
NAVFAC	1828-1791	HMC&M	N0002588P03007P	05/04/88	100,000	
NAVFAC	1828-1791	HMC&M	N0002588P03007P A-1	07/20/88	600,000	
NAVFAC	1828-1791	HMC&M	N00173 88 WR 80375	08/08/88	200,000	
NAVFAC	1828-1791	HMC&M	N0002589P03008P	08/11/89	100,000	
NAVFAC	1828-1791	HMC&M	N0002590P03012P	3/	205,000	
NAVFAC	1828-1791	HMC&M	N0002590P03013P	04/12/90	100,000	
NAVFAC	1828-1791	HMC&M	N0002390P06T012	3/	100,000	
NAVFAC	1828-1791	HMC&M	N0002591P03008P	01/23/91	190,000	1,978,000
NAVFAC	1828-1791	MARE ISLAND	N6247488WR00N40	01/21/88	200,000	
NAVFAC	1828-1791	MARE ISLAND	N6247488WR00N40 A-1	03/29/88	1,000,000	

See footnotes and acronyms at end of appendix.

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT NO</u>	<u>PROJECT NAME</u>	<u>INTERAGENCY ORDER NO.</u>	<u>DATE</u>	<u>DOLLAR VALUE</u>	<u>TOTAL DOLLAR VALUE</u>
NAVY: (cont'd)						
NAVFAC	1828-1791	MARE ISLAND	N6247489WR00648	03/08/89	\$2,700,000	
NAVFAC	1828-1791	MARE ISLAND	N6247488WR00N40 A-2	09/20/88	136,000	
NAVFAC	1828-1791	MARE ISLAND	N6247488P03015P	3/	402,000	
NAVFAC	1828-1791	MARE ISLAND	N6247490WR00A40	02/09/90	700,000	
NAVFAC	1828-1791	MARE ISLAND	N6247490WR00A40 A-1	07/30/90	515,000	
NAVFAC	1828-1791	MARE ISLAND	N6247491WR00643	03/08/91	1,400,000	
NAVFAC	1828-1791	MARE ISLAND	N6247491WR00643 A-1	09/24/91	200,000	\$ 7,253,000
NAVFAC	1828-1791	MOFFETT FIELD	N6247487WR00C46	3/	2,000,000	
NAVFAC	1828-1791	MOFFETT FIELD	N6247487WR00C46 A-1	3/	973,000	
NAVFAC	1828-1791	MOFFETT FIELD	N6247488WR00N51	03/29/88	1,000,000	
NAVFAC	1828-1791	MOFFETT FIELD	N6247488WR00N51 A-1	06/29/88	2,900,000	
NAVFAC	1828-1791	MOFFETT FIELD	N6247489WR00638	02/09/89	3,000,000	
NAVFAC	1828-1791	MOFFETT FIELD	N6247489WR00638 A-1	06/14/89	350,000	
NAVFAC	1828-1791	MOFFETT FIELD	N6247489WR00638 A-2	08/22/89	50,000	
NAVFAC	1828-1791	MOFFETT FIELD	N6247490WR00A38	01/31/90	2,000,000	
NAVFAC	1828-1791	MOFFETT FIELD	N6247490WR00A38 A-1	02/08/90	5,088,800	
NAVFAC	1828-1791	MOFFETT FIELD	N6247491WR00642	03/08/91	1,500,000	18,861,800
NAVFAC	1828-1791	NAVOSH	N0002588P03010P	07/20/88	10,000	
NAVFAC	1828-1791	NAVOSH	N0002589P03003P	02/01/89	140,000	
NAVFAC	1828-1791	NAVOSH	N0002589P03003P A-1	09/08/89	87,900	
NAVFAC	1828-1791	NAVOSH	N0002590P03000P	10/24/89	200,000	
NAVFAC	1828-1791	NAVOSH	N0002591P03004P	12/19/90	250,000	687,900
NAVFAC	1828-1791	NAVY RADON	N0002588P03010P	07/20/88	250,000	
NAVFAC	1828-1791	NAVY RADON	N0002588P03010P A-1	09/22/88	168,892	
NAVFAC	1828-1791	NAVY RADON	N0002588WR00702	08/29/88	250,000	
NAVFAC	1828-1791	NAVY RADON	N0002589P03002P	01/30/89	209,000	
NAVFAC	1828-1791	NAVY RADON	N0002589P03002P A-1	04/03/89	200,000	
NAVFAC	1828-1791	NAVY RADON	N0002589P03002P A-2	06/06/89	300,000	

See footnotes and acronyms at end of appendix.

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT NO</u>	<u>PROJECT NAME</u>	<u>INTERAGENCY ORDER NO.</u>	<u>DATE</u>	<u>DOLLAR VALUE</u>	<u>TOTAL DOLLAR VALUE</u>
<u>NAVY: (cont'd)</u>						
NAVFAC	1828-1791	NAVY RADON	N0002590P03001P A-2	09/13/90	\$ 460,000	
NAVFAC	1828-1791	NAVY RADON	N0002589WR00801	12/22/88	100,000	
NAVFAC	1828-1791	NAVY RADON	N0002590P03001P	10/24/89	1,500,000	
NAVFAC	1828-1791	NAVY RADON	N0002590WR00903	01/25/90	2,270,000	
NAVFAC	1828-1791	NAVY RADON	N0002591P03003P	12/19/90	1,040,000	\$ <u>6,747,892</u>
TOTAL NAVY						\$ <u>40,990,822</u>

55

See footnotes and acronyms at end of appendix.

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT NO</u>	<u>PROJECT NAME</u>	<u>INTERAGENCY ORDER NO.</u>	<u>DATE</u>	<u>DOLLAR VALUE</u>	<u>TOTAL DOLLAR VALUE</u>
<u>AIR FORCE:</u>						
AFESC	1489-1489	AIR STRIPPING	F87-32	02/24/87	\$ 400,000	
AFESC	1489-1489	AIR STRIPPING	F87-58	09/08/87	105,800	
AFESC	1489-1489	AIR STRIPPING	F88-13	01/17/88	200,000	
AFESC	1489-1489	AIR STRIPPING	F88-13 A-1	05/25/88	290,000	
AFESC	1489-1489	AIR STRIPPING	F88-48	07/18/88	266,000	
AFESC	1489-1489	AIR STRIPPING	F89-29	11/30/88	200,000	
AFESC	1489-1489	AIR STRIPPING	F89-46	03/22/89	182,000	
AFESC	1489-1489	AIR STRIPPING	F89-55	04/21/89	176,000	
AFESC	1489-1489	AIR STRIPPING	F89-66	09/13/89	22,587	
AFESC	1489-1489	AIR STRIPPING	F89-67	09/13/89	46,564	
AFESC	1489-1489	AIR STRIPPING	F90-21	02/09/90	79,000	
AFESC	1489-1489	AIR STRIPPING	F90-35	03/14/90	45,000	
AFESC	1489-1489	AIR STRIPPING	F91-10	10/09/90	65,000	
AFESC	1489-1489	AIR STRIPPING	F91-10 A-1	05/15/91	35,000	\$ 2,112,951
AFESC	1489-1489	AIRBORNE GAS	N90-66	05/18/90	5,000	5,000
AFESC	1489-1489	BIOREACTOR	N91-84	05/29/91	150,000	150,000
AFESC	1489-1489	CRISIS	F89-63	08/23/89	200,000	
AFESC	1489-1489	CRISIS	F89-63 A-2	10/25/90	25,000	
AFESC	1489-1489	CRISIS	F89-63 A-3	11/14/90	20,000	
AFESC	1762-1762	CRISIS	DEQ90-2	3/	300,000	545,000
AFESC	1489-1489	EQUIAC	F91-16	01/17/91	50,000	50,000

See footnotes and acronyms at end of appendix.

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT NO</u>	<u>PROJECT NAME</u>	<u>INTERAGENCY ORDER NO.</u>	<u>DATE</u>	<u>DOLLAR VALUE</u>	<u>TOTAL DOLLAR VALUE</u>
<u>AIR FORCE:</u> (cont'd)						
AFESC	1489-1489	FIREFIGHTER	F90-51	3/	\$ 50,000	
AFESC	1489-1489	FIREFIGHTER	F88-66	09/01/88	443,000	
AFESC	1489-1489	FIREFIGHTER	F88-66 A-1	12/19/88	20,000	
AFESC	1489-1489	FIREFIGHTER	F89-68	09/14/89	155,000	
AFESC	1489-1489	FIREFIGHTER	F90-36	3/	50,000	
AFESC	1489-1489	FIREFIGHTER	F91-17	01/14/91	50,000	
AFESC	1489-1489	FIREFIGHTER	F91-19	03/12/91	50,000	
AFESC	1489-1489	FIREFIGHTER	F91-29	3/	30,000	
AFESC	1489-1489	FIREFIGHTER	F92-5	3/	132,000	\$ 980,000
AFESC	1489-1489	OPTICAL	N86-126	08/11/86	30,000	
AFESC	1489-1489	OPTICAL	N87-96	07/07/87	50,000	
AFESC	1489-1489	OPTICAL	N88-25	01/06/88	100,000	
AFESC	1489-1489	OPTICAL	N89-55	03/29/89	15,600	
AFESC	1489-1489	OPTICAL	N90-104	09/14/90	23,500	
AFESC	1489-1489	OPTICAL	N91-021	11/30/90	9,600	228,700
AFESC	1489-1489	PLASTIC BLAST	F89-60	06/14/89	200,000	
AFESC	1489-1489	PLASTIC BLAST	F90-49	03/12/90	100,000	
AFESC	1489-1489	PLASTIC BLAST	F90-49 A-1	08/16/90	150,000	
AFESC	1489-1489	PLASTIC BLAST	F91-13	11/16/90	200,000	650,000
AFESC	1489-1489	POSTGRADUATES	N86-119	08/15/86	20,000	
AFESC	1489-1489	POSTGRADUATES	N87-25	10/29/86	25,500	
AFESC	1489-1489	POSTGRADUATES	N87-25 A-1	04/02/87	20,000	
AFESC	1489-1489	POSTGRADUATES	N88-12	3/	67,000	

See footnotes and acronyms at end of appendix.

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT NO</u>	<u>PROJECT NAME</u>	<u>INTERAGENCY ORDER NO.</u>	<u>DATE</u>	<u>DOLLAR VALUE</u>	<u>TOTAL DOLLAR VALUE</u>
<u>AIR FORCE:</u> (cont'd)						
AFESC	1489-1489	POSTGRADUATES	N89-22	12/08/88	\$ 33,000	
AFESC	1489-1489	POSTGRADUATES	N90-14	10/23/89	100,000	
AFESC	1489-1489	POSTGRADUATES	N91-20	10/30/90	108,960	
AFESC	1489-1489	POSTGRADUATES	N91-37	01/23/91	50,000	
AFESC	1489-1489	POSTGRADUATES	N91-45	03/11/91	65,616	\$ 490,076
AFESC	1489-1489	SOLID WASTE	N91-107	08/15/91	50,000	50,000
AFESC	1489-1489	RADON	F90-57	09/14/90	50,000	
AFESC	1489-1489	RADON	F88-25	02/07/91	75,000	
AFESC	1489-1489	RADON	N91-116	08/07/91	100,000	225,000
MAC	1660-1660	ADANS	SCBB 86-002	08/28/86	1,434,000	
MAC	1660-1660	ADANS	SCBF 87-002	03/24/87	290,000	
MAC	1660-1660	ADANS	87-029	07/29/87	95,000	
MAC	1660-1660	ADANS	87-047	09/24/87	4,500,000	
MAC	1660-1660	ADANS	88-010	12/23/87	800,000	
MAC	1660-1660	ADANS	88-047	09/20/88	3,000,000	
MAC	1660-1660	ADANS	89-053	09/20/89	1,000,000	
MAC	1660-1660	ADANS	90-001	10/23/89	4,000,000	
MAC	1660-1660	ADANS	90-025	04/17/90	550,000	
MAC	1660-1660	ADANS	90-036	07/12/90	50,000	
MAC	1660-1660	ADANS	90-038	08/31/90	14,800	
MAC	1660-1660	ADANS	90-040	09/07/90	75,000	
MAC	1660-1660	ADANS	91-001	10/01/90	2,000,000	
MAC	1660-1660	ADANS	91-005	12/10/90	750,000	
MAC	1660-1660	ADANS	91-006	12/10/90	1,800,000	
MAC	1660-1660	ADANS	91-015	02/25/91	800,000	
MAC	1660-1660	ADANS	91-034	07/01/91	3,200,000	
MAC	1660-1660	ADANS	JCS FUNDS	03/01/90	171,873	24,780,673

See footnotes and acronyms at end of appendix.

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

ACTIVITY	INTERAGENCY AGREEMENT NO	PROJECT NAME	INTERAGENCY ORDER NO.	DATE	DOLLAR VALUE	TOTAL DOLLAR VALUE
AIR FORCE: (cont'd)						
MAC	1660-1660	ASIFICS 4/	FMI92-01	10/21/91	\$ 687,900	\$ 2,219,950
MAC	1660-1660	ASIFICS 4/	ACI90-03	12/22/89	182,050	
MAC	1660-1660	ASIFICS 4/	ACI90-04	06/01/90	200,000	
MAC	1660-1660	ASIFICS 4/	ACI90-01	09/17/90	200,000	
MAC	1660-1660	ASIFICS 4/	ACI91-006	01/30/91	400,000	
MAC	1660-1660	ASIFICS 4/	ACI91-014	02/11/91	100,000	
MAC	1660-1660	ASIFICS 4/	ACI91-007	06/25/91	450,000	
MAC	1660-1660	DATA ADMIN	XRSB90-03	06/05/90	58,346	
MAC	1660-1660	DATA ADMIN	90-029	06/04/90	190,754	
MAC	1660-1660	DATA ADMIN	91-002	10/10/90	220,000	
MAC	1660-1660	DATA ADMIN	91-016	03/06/91	50,000	
MAC	1660-1660	DATA ADMIN	91-016 A-3	04/02/91	75,000	
MAC	1660-1660	DATA ADMIN	91-026	04/22/91	115,000	
MAC	1660-1660	DATA ADMIN	91-029	06/12/91	106,000	
MAC	1660-1660	DATA ADMIN	E8791L307	07/12/91	151,000	
MAC	1660-1660	DATA ADMIN	91-037	08/13/91	500,000	
MAC	1660-1660	DATA ADMIN	91-037 A-1	08/30/91	71,000	<u>1,537,100</u>
						<u>\$ 34,024,450</u>
: _____						
DLA	1872-A119	SAMMS I ³ 1/	DLAH-9-ZRM-6	07/10/89	250,000	
DLA	1872-A119	SAMMS I ³ 1/	DLAH-9-ZRM-6 A-1	09/15/89	500,000	\$ <u>750,000</u>
TOTAL DEFENSE AGENCIES						<u>\$ 750,000</u>
TOTAL DOD			196 INTERAGENCY ORDERS		<u>\$ 97,113,723</u>	

See footnotes and acronyms at end of appendix.

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

- 1/ Project was identified in the allegation letter.
- 2/ Interagency order BFVS-91-073 has been amended once (A-1).
- 3/ Date of the interagency order could not be identified.
- 4/ ASIFICS was the only project properly authorized by a contracting official.

Department of the Army

AVSCOM..... Aviation Systems Command
BRADLEY TOW Bradley Program (MICOM)
CAESAR..... Competition In Contracting Act Acquisition Expert System (SIMA)
CCSS Commodity Command Standard System (AVSCOM)
DBMES..... Data Base Manager Expert System (SIMA)
GROUND Ground TOW Program (MICOM)
IMA..... Item Managers Assistant Expert System (MICOM)
ISD Information Systems Design (MICOM)
IV&V TPS Independent Verification and Validation of Test Program Sets (MICOM)
KWAJALEIN Environmental Restoration at U.S. Army Kwajalein Atoll, Republic of the Marshall Islands (SDC)
MICOM..... Missile Command
PERM Prototype Electronic Signature and Records Management (MICOM)
SDC Strategic Defense Command
SIMA..... Systems Integration and Management Activity
TSIP..... TOW Sight Improvement Program (MICOM)

Department of the Navy

FALLON..... Remedial Investigation and Feasibility Study at Naval Air Station, Fallon, Nevada (NAVFAC)
HAWAII..... Hawaii Waste Minimization Program (NAVFAC)
HMC&M HAZMAT Control and Management (NAVFAC)
MARE ISLAND Remedial Investigation and Feasibility Study at Naval Shipyard, Mare Island, California (NAVFAC)
MOFFETT FIELD Remedial Investigation and Feasibility Study at Naval Air Station, Moffett Field, California (NAVFAC)
NAVFAC Naval Facilities and Engineering Command
NAVOSH Navy Occupational Health and Safety Productivity Measurement (NAVFAC)
NAVY RADON Navy Radon Assessment and Mitigation Program (NAVFAC)

APPENDIX D - INTERAGENCY ORDERS ISSUED TO THE DEPARTMENT OF ENERGY OAK RIDGE FIELD OFFICE
(cont'd)

Department of the Air Force

ADANS Automated Deployment Analysis System (MAC)
 AFESC..... Air Force Engineering and Services Center
 AIR STRIPPING Air Stripping with Emissions Control (AFESC)
 AIRBORNE GAS National Plan for Atmospheric Research on Airborne Hazardous Gases (AFESC)
 ASIFICS..... Air Service Industrial Fund Integrated Computer System (MAC)
 BIOREACTOR..... Treatment of Chlorinated Organic Compounds with Aboveground Bioreactors (AFESC)
 CRISIS..... Combat Readiness and Infrastructure Support Icon Software Activities (AFESC)
 DATA ADMIN Data Administration Program (MAC)
 EQIAC..... Environmental Quality Information Analysis Center (AFESC)
 FIREFIGHTER Fire Fighter Certification Program (AFESC)
 MAC Military Airlift Command
 OPTICAL Optical Fiber Pressure Sensor Program (AFESC)
 PLASTIC BLAST..... Plastic Media Blasting - Phase II (AFESC)
 POSTGRADUATE Postgraduate Research Program (AFESC)
 RADON Air Force Radon Program (AFESC)
 SOLID WASTE Solid Waste Management Program (AFESC)

Other Activities

DLA Defense Logistics Agency
 SAMMS ¹³..... Standard Automated Materiel Management System Immediate Improvement Initiative (DLA)

APPENDIX E - SCHEDULE OF INCURRED ADDITIONAL COSTS

Project Name	Funding Amount	(NMES Labor	+ NMES Travel	+ NMES OOC 1/	+ NMES Overhead	= NMES + Subcontractor Cost Cost	= Total) Cost	PERCENT NMES Offloaded 2	Additional Cost 3/	
CCSS 4/6/	\$2,975,000	\$154,278	\$28,929	\$129,969	\$104,268	\$417,444	\$2,551,489	\$2,968,933	86	\$359,002
BRADLEY 4/	1,017,089	78,152	6,522	20,132	45,442	150,268	824,937	975,185	85	127,711
GROUND 4/	1,450,815	230,470	17,764	66,446	110,263	424,943	991,797	1,416,740	70	297,460
IWA 4/6/	710,781	69,365	15,826	230,616	81,242	397,049	261,361	658,410	40	158,820
ISO 4/	5,591,000	423,606	74,794	21,935	180,379	700,714	4,727,796	5,428,510	87	609,621
IN&V TPS 4/6/	741,148	72,488	1,364	4,167	32,139	110,158	600,410	710,568	64	92,533
PERM 4/	1,664,118	117,895	555	126,441	83,285	328,176	607,802	935,978	65	213,314
TSIP 4/	1,216,000	200,074	14,584	12,883	85,375	312,916	837,507	1,150,423	73	228,429
KWAJALEIN 6/	4,425,000	1,010,498	111,647	290,063	666,325	2,078,533	655,341	2,733,874	24	498,848
CAESAR 4/6/	578,000	73,185	7,242	32,932	44,777	158,116	156,904	315,020	50	79,058
OBMES 4/	979,500	53,610	12,140	175,947	37,609	279,306	566,751	846,057	67	187,135
FALLOM 4/	3,450,000	654,017	95,353	164,148	199,383	1,112,901	1,318,226	2,431,127	54	600,967
KAWAII 4/	2,012,230	232,638	17,026	36,142	81,326	367,132	1,608,150	1,975,282	81	297,377
HWC&N 4/	1,978,000	155,613	13,549	20,958	102,855	292,975	1,498,597	1,791,572	84	246,099
MARE ISLAND 4/	7,253,000	247,913	36,272	93,618	167,148	544,951	5,865,371	6,410,322	91	495,905
MOFFETT FIELD 4/	18,861,800	344,141	20,134	92,839	270,188	727,302	14,385,709	15,113,011	95	690,937
KAYOSH 4/	687,900	28,199	1,780	16,934	17,484	64,399	439,180	503,579	87	56,027
NAVY RADON 4/	6,747,892	945,259	70,925	1,460,733	843,451	3,320,368	1,116,616	4,436,984	25	830,092
AIR STRIPPING 4/	2,112,951	925,961	91,238	395,644	457,463	1,870,306	212,119	2,082,425	10	187,031
AIRBORNE GAS	5,000	0	0	0	0	0	0	0	0	0
BIOREACTOR	150,000	3,492	0	1	1,809	5,302	0	5,302	0	0
CRISIS	545,000	73	8,855	346,016	85,723	440,667	0	440,667	0	0
EQIAC 4/	50,000	22,259	7,357	1,861	16,483	47,960	5,156	53,116	10	4,796
FIREFIGHTER 4/	980,000	27,293	1,623	1,826	16,469	47,211	680,637	727,848	94	44,378
OPTICAL 4/	228,700	85,351	2,586	83,911	56,603	228,451	0	228,451	0	0
PLASTIC BLAST	650,000	182,031	7,782	26,983	94,082	310,428	0	310,428	0	0
POSTGRADUATE 4/6/	490,076	246,120	16,821	18,528	33,854	315,323	0	315,323	0	0
RADON 4/	225,000	13,403	0	2,601	6,571	22,575	31,055	53,630	58	13,094
SOLID WASTE 4/	50,000	0	0	0	0	0	0	0	0	0
ADAMS 4/	24,780,673	2,969,390	201,360	1,446,203	4,421,186	9,039,139	11,055,884	20,094,023	95	4,970,976
ASIFICS 4/	2,219,950					1,256,684	416,072	1,672,756	25	0
DATA ADMIN 6/	1,537,100	526,924	53,980	23,301	31,158	635,363	271,248	906,611	30	190,609
SAMMS I 3 4/	750,000	125,333	35,043	(2,128)	56,268	214,516	527,189	741,705	71	152,306
Totals	\$97,113,723	\$10,219,011	\$973,051	\$5,341,202	\$8,430,608	\$26,220,556	\$52,213,304	\$78,433,860		\$11,632,525

See footnotes and acronyms at end of appendix.

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

APPENDIX E - SCHEDULE OF INCURRED ADDITIONAL COSTS (cont'd)

- 1/ Other direct cost (ODC) includes materials, computer, and purchasing costs.
- 2/ Subcontractor cost divided by total cost equals percent MMES offloaded.
- 3/ Percent MMES offloaded multiplied by MMES cost equals additional cost of the project.
- 4/ Project issued to Oak Ridge National Laboratory for work that was not unique to them.
- 5/ The ASIFICS project did not have any additional costs because the project was approved by a DoD contracting official as a justified sole-source procurement to Oak Ridge National Laboratory.
- 6/ DoD program offices did not receive adequate detailed data to identify costs billed.

ADANS	Automated Deployment Analysis System
AIR STRIPPING	Air Stripping with Emissions Control
AIRBORNE GAS	National Plan for Atmospheric Research on Airborne Hazardous Gases
ASIFICS	Air Service Industrial Fund Integrated Computer System for AMC Requirements
BIOREACTOR	Treatment of Chlorinated Organic Compounds with Aboveground Bioreactors
BRADLEY	Bradley TOW Project
CAESAR	Competition In Contracting Act Acquisition Expert System for AMC Requirements
CCSS	Commodity Command Standard System
CRIS	Combat Readiness and Infrastructure Support Icon Software Activities
DATA ADMIN	Data Administration Program
DBMES	Data Base Manager Expert System
EQIAC	Environmental Quality Information Analysis Center
FALLON	Remedial Investigation and Feasibility Study at Naval Air Station, Fallon, Nevada
FIREFIGHTER	Fire Fighter Certification Program
GROUND	Ground TOW Project
HAWAII	Hawaii Waste Minimization Project
HMC&M	HAZMAT Control and Management Project
IMA	Item Managers Assistant Expert System
ISD	Information Systems Design
IV&V TPS	Independent Verification and Validation of Test Program Sets

APPENDIX E - SCHEDULE OF INCURRED ADDITIONAL COSTS (cont'd)

KWAJALEIN	Environmental Restoration at U.S. Army Kwajalein Atoll, Republic of the Marshall Islands
MMES	Martin Marietta Energy Systems
MARE ISLAND	Remedial Investigation and Feasibility Study at Naval Shipyard, Mare Island, California
MOFFETT FIELD	Remedial Investigation and Feasibility Study at Naval Air Station, Moffett Field, California
NAVOSH	Navy Occupational Health and Safety Productivity Measurement Study
NAVY RADON	Navy Radon Assessment and Mitigation Program
ODC	Other Direct Cost
OPTICAL	Optical Fiber Pressure Sensor Project
PERM	Prototype Electronic Signature and Records Management
PLASTIC BLAST	Plastic Media Blasting - Phase II
POSTGRADUATE	Postgraduate Research Program
RADON	Air Force Radon Program
SAMMS ³	Standard Automated Materiel Management System Immediate Improvement Initiative
SOLID WASTE	Solid Waste Management Program
TSIP	TOW Sight Improvement Project

APPENDIX F - ECONOMY ACT ORDERS ISSUED FOR AUTOMATED DATA PROCESSING RESOURCES 1/

<u>DoD Activity</u>	<u>Project Name</u>	<u>Description of ADP Project</u>	<u>Dollar Value</u>	<u>Additional Cost</u> ^{2/}
AVSCOM	CCSS	Independent review of regulatory guidance and the Commodity Command Standard System requirements.	\$2,975,000	\$359,002
MICOM	BRADLEY	Provide program planning analysis and risk assessment management support.	1,017,089	127,711
MICOM	GROUND	Provide engineering, research, analysis, technical evaluation, weapon system integration management, technical assistance, financial management, and program management support.	1,450,815	297,460
67 MICOM	IMA	Develop prototype, test, and implement an item management expert system.	710,781	158,820
MICOM	ISD	Provide support and modernization efforts to the computer systems environment.	5,591,000	609,621
MICOM	IV&V TPS	Provide research, analysis, and evaluation to software performance.	741,148	92,533
MICOM	PERM	Develop and implement a prototype electronic signature records management system.	1,664,118	213,314
MICOM	TSIP	Prepare status and informative briefings. Provide a technical assessment and evaluation of sensor capabilities for missile/launch automated interface.	1,216,000	228,429
SIMA	CAESAR	Develop a prototype of an expert system intended to automate specific procurement processes.	578,000	79,058

See footnotes and acronyms at end of appendix.

APPENDIX F - ECONOMY ACT ORDERS ISSUED FOR AUTOMATED DATA PROCESSING RESOURCES 1/ (cont'd)

<u>DoD Activity</u>	<u>Project Name</u>	<u>Description of ADP Project</u>	<u>Dollar Value</u>	<u>Additional Cost</u> 2/
SIMA	DBMES	Develop an artificial intelligence center, database manager expert system prototype, and train people on the expert system. Also, develop a standardization system that would link five major subordinate commands together, and install the network and software.	979,500	\$187,135
AFESC	CRISIS	Convert satellite obtained intelligence data to automatic imagery systems to be used for targeting purposes.	545,000	0
AFESC	EQIAC	Establish an environmental quality information analysis center.	50,000	4,796
MAC	ADANS	Develop scheduling algorithms and the relational database interface to support them.	24,780,673	4,970,976
MAC	ASIFICS 3/	Develop an information management system to support accounting, budgeting, and analysis functions for the Financial Management Office.	2,219,950	0
MAC	DATA ADMIN	Clean-up the man-machine interface and develop user manuals on the database standardization program.	1,537,100	190,609
DLA	SAMMS 1 ³	Provide programmatic and operational test and evaluation support for the Standard Automated Management System leading to certification of the system for agency-wide deployment.	750,000	152,306
TOTAL			<u>\$46,806,174</u>	<u>\$7,671,770</u>

See footnotes and acronyms at end of appendix.

APPENDIX F - ECONOMY ACT ORDERS ISSUED FOR AUTOMATED DATA PROCESSING RESOURCES 1/ (cont'd)

- 1/ These Economy Act orders were issued without authorization.
2/ Additional cost was computed in Appendix E, "Schedule of Incurred Additional Costs."
3/ ASIFICS was authorized by a contracting officer and therefore additional costs were zero.

ADANS Automated Deployment Analysis System
ADP Automated Data Processing
AFESC Air Force Engineering and Services Center
ASIFICS Air Service Industrial Fund Integrated Computer System
AVSCOM Aviation Systems Command
BRADLEY Bradley TOW Project
CAESAR Competition In Contracting Act Acquisition Expert System for AMC Requirements
CCSS Commodity Command Standard System
CRISIS Combat Readiness and Infrastructure Support Icon Software Activities
DATA ADMIN Data Administration Program
DBMES Data Base Manager Expert System
DLA Defense Logistics Agency
EQIAC Environmental Quality Information Analysis Center
GROUND Ground TOW Project
IMA Item Managers Assistant Expert System
ISD Information Systems Design
IV&V TPS Independent Verification and Validation of Test Program Sets
MAC Military Airlift Command
MICOM Missile Command
PERM Prototype Electronic Signature and Records Management Project
SAMMS I³ Standard Automated Materiel Management System Immediate Improvement Initiative
SIMA Systems Integration Management Activity
TSIP TOW Sight Improvement Project

APPENDIX G - ECONOMY ACT ORDERS BETWEEN DoD ACTIVITIES AND OTHER FEDERAL AGENCIES

<u>Department or Agency</u>	<u>Fiscal Years</u>		
	<u>1989</u>	<u>1990</u>	<u>1991</u>
		(in millions)	
Department of Energy	\$1,780.0	\$2,115.0	\$2,450.0 <u>1/</u>
Department of Health and Human Services	14.7	12.1	18.5
Department of Housing and Urban Development	.2	.3	.2 <u>2/</u>
Department of Interior	63.6	62.8	66.5 <u>3/</u>
Department of the Treasury	.8	8.5	16.2
Department of Transportation	69.1		<u>4/</u>
Department of Veterans Affairs			10.1 <u>5/</u>
Environmental Protection Agency	1.9	1.8	3.5
Federal Emergency Management Agency	44.3	8.5	1.4 <u>6/</u>
General Services Administration	236.3	210.9	193.0
Government Printing Office	281.1	233.7	257.3
National Aeronautics and Space Administration		292.7	186.0 <u>7/</u>
National Science Foundation	29.9	26.9	29.3
Office of Personnel Management	2.1	7.6	14.8
Tennessee Valley Authority			146.5 <u>5/</u>
Totals	<u>\$2,504.0</u>	<u>\$2,980.8</u>	<u>\$3,285.3</u>

Responses to a questionnaire to DoD activities during the audit, "DoD Procurements Through the Tennessee Valley Authority," showed that in 1991, DoD activities sent interagency orders to the Departments of Agriculture, Commerce, Justice, Labor, and State; the Central Intelligence Agency; and the Federal Reserve Bank. However, dollar amounts were not identified in the responses. As a result, the schedule is incomplete.

Also not shown are the Department of Education, the Nuclear Regulatory Commission, and the Smithsonian Institute, which did not receive any interagency orders from DoD activities during FYs 1989, 1990, and 1991; and the Library of Congress, which established controls to preclude the acceptance of unauthorized interagency orders from DoD activities as a result of the review completed in 1990.

1/ Amounts for FYs 1989, 1990, and 1991 are estimates since complete data were not available.

2/ The amount during FYs 1989, 1990, and 1991 were between \$200,000 and \$300,000; however, for FY 1992 the amount of DoD interagency orders increased to \$1,200,900.

3/ Amounts for FYs 1989 and 1990 are estimates since complete data were not available.

4/ Data were provided for FYs 1987, 1988, and 1989.

5/ Data for FYs 1989 and 1990 were not available.

6/ An interagency order for FY 1989 was modified 17 times and accounts for \$42.8 million of the \$44.3 million identified for FY 1989.

7/ Data for FY 1989 were not available.

**APPENDIX K - NON-DOD FEDERALLY FUNDED RESEARCH AND DEVELOPMENT
CENTERS FUNDING FOR FY 1993 (\$ MILLIONS)**

	ARMY (3)	NAVY (3)	USAF (3)	SDIO (3)	DARPA	DIA	NSA (2)	DNA	OSD	JCS	DLA	TOTAL
Ames National Laboratory					0.03							0.03
Argonne National Laboratory					0.90					2.80		3.70
Jet Propulsion Laboratory					1.30							1.30
Jet Propulsion Laboratory					0.30							0.30
Los Alamos National Laboratory					2.70	1.60		12.50		2.60		19.40
Lawrence Berkeley Laboratory					0.70							0.70
Lawrence Livermore National Laboratory					1.80			0.60	0.30	0.30	7.50	10.40
Sandia National Laboratory					5.20	3.00		3.10				11.30
Oak Ridge											0.30	0.30
Total					12.90	4.70		16.10	0.30	5.60	7.80	47.30

Source: Director of Defense Research and Engineering Response to House Appropriations Committee Report 102-95, Page 170, Item 1

- * All data are estimated FY 1993 obligations based on current planning and are subject to change
 (1) May be limited by the available funding ceiling given in the FFRDC Management Plan (not shown).
 (2) Data available but is classified (Confidential).
 (3) No response provided.

DARPA Defense Advanced Research Projects Agency
 DIA Defense Intelligence Agency
 DLA Defense Logistics Agency
 DNA Defense Nuclear Agency
 JCS Joint Chiefs of Staff
 NSA National Security Agency
 OSD Office of the Secretary of Defense
 SDIO Strategic Defense Initiative Organization
 USAF United States Air Force

**APPENDIX I - SUMMARY OF POTENTIAL BENEFITS RESULTING FROM
AUDIT**

<u>Recommendation Reference</u>	<u>Description of Benefit</u>	<u>Type of Benefit</u>
A.1.a.	Internal control. Issue guidance that requires a contracting officer to review and approve interagency agreements and orders.	Nonmonetary
A.1.b.	Internal control. Require that contracting officers' determinations approving interagency acquisitions identify the unique services, benefits, or cost savings to be realized by DoD.	Nonmonetary
A.2.	Compliance. Revise DoD Instruction 4000.19 to include guidance that specifies format and content requirements of interagency agreements.	Nonmonetary
A.3.a.(1)	Compliance. Contracting officers should review active interagency agreements with non-DoD activities and determine if the contracts need to be transferred to DoD for contract administration.	Nonmonetary
A.3.a.(2)	Internal control. Ratify or terminate active Economy Act orders that were not properly authorized by a DoD contracting officer.	Nonmonetary
A.3.a.(3)	Compliance. Approve Economy Act orders only if DoD realized a unique service, benefit, or cost savings.	Nonmonetary

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

<u>Recommendation Reference</u>	<u>Description of Benefit</u>	<u>Type of Benefit</u>
A.3.b.	Compliance. Require disciplinary actions be taken against DoD program officials who knowingly exceeded their authority and violated public law.	Nonmonetary
A.4.	Internal control. Require that a DoD accounting officer have documented approval prior to allocating and committing funds on Economy Act orders.	Nonmonetary
A.5.	Program results. Establish a central point of contact within DoD to oversee use of interagency agreements.	Nonmonetary
B.	Internal control. Require that future interagency agreements include a requirement for submission of progress reports and detailed cost data and the performance of reviews by DoD program officials to ensure billed amounts are accurate.	Nonmonetary
C.	Program results and internal control. Establish a system to track dollars expended under interagency acquisitions.	Nonmonetary
D.	Compliance. Issue guidance to clarify the applicability of the Economy Act and Project Order Act to interagency acquisitions.	Nonmonetary

APPENDIX J - ACTIVITIES VISITED OR CONTACTED

Office of the Secretary of Defense

Office of the Director of Defense Procurement,
Washington, DC
Office of the Assistant Secretary of Defense (Production and
Logistics), Washington, DC
Comptroller of the Department of Defense, Washington, DC

Department of the Army

Inspector General, Department of the Army, Washington, DC
Headquarters, Army Materiel Command, Alexandria, VA
Army Missile Command, Huntsville, AL
Army Strategic Defense Command, Huntsville, AL
Army Aviation Systems Command, St. Louis, MO
Army Systems Integration and Management Activity,
St. Louis, MO

Department of the Navy

Office of the Assistant Secretary of the Navy (Research,
Development, and Acquisition), Washington, DC
Headquarters, Naval Facilities Engineering Command,
Alexandria, VA
Comptroller of the Navy, Washington, DC

Department of the Air Force

Office of the Assistant Secretary of the Air Force
(Acquisition), Washington, DC
Air Force Military Airlift Command, Scott AFB, Belleville,
IL
Air Force Engineering and Services Center, Tyndall AFB,
Panama City, FL

Defense Activities

Headquarters, Defense Logistics Agency, Alexandria, VA
Headquarters, Defense Nuclear Agency, Alexandria, VA
Defense Criminal Investigative Service, Washington Field
Office, Arlington, VA
Director, Defense Advanced Research Projects Agency,
Washington, DC

APPENDIX J - ACTIVITIES VISITED OR CONTACTED (cont'd)

Non-Defense Federal Activities

General Accounting Office, Washington, DC
Headquarters, Department of Energy, Office of the Inspector
General, Washington, DC
Department of Energy, Office of the Inspector General,
Eastern Regional Audit Office, Oak Ridge, TN
Department of Energy, Office of Organization, Resources, and
Facilities Management, Washington, DC

Non-Government Activities

Martin Marietta Energy Systems, Data Systems Research and
Development Division, Oak Ridge, TN
Martin Marietta Energy Systems, Hazardous Waste Remedial
Action Program, Oak Ridge, TN

APPENDIX K - REPORT DISTRIBUTION

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition
Director of Defense Procurement
Assistant Secretary of Defense (Production and Logistics)
Comptroller of the Department of Defense

Department of the Army

Secretary of the Army
Assistant Secretary of the Army (Financial Management)
Inspector General, Department of the Army
Auditor General, Army Audit Agency

Department of the Navy

Secretary of the Navy
Assistant Secretary of the Navy (Financial Management)
Comptroller of the Navy
Auditor General, Naval Audit Service

Department of the Air Force

Secretary of the Air Force
Assistant Secretary of the Air Force (Financial Management
and Comptroller)
Auditor General, Air Force Audit Agency

Defense Activities

Director, Defense Contract Audit Agency
Director, Defense Logistics Agency

Non-Defense Activities and Individuals

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

The Chairperson and Ranking Minority Member of the following
Congressional Committees:

Senate Subcommittee on Defense, Committee on
Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
House Committee on Appropriations

APPENDIX K - REPORT DISTRIBUTION (cont'd)

Congressional Committees (cont'd):

House Committee on Armed Services
House Committee on Government Operations
House Subcommittee on Legislation and National Security,
Committee on Government Operations

Inspector General, Department of Energy
Inspector General, General Services Administration

PART IV MANAGEMENT COMMENTS

Director of Defense Procurement

Department of the Army

Department of the Navy

Department of the Air Force

Defense Logistics Agency

DIRECTOR OF DEFENSE PROCUREMENT COMMENTS



ACQUISITION

OFFICE OF THE UNDER SECRETARY OF DEFENSE

WASHINGTON, DC 20301-3000

OCT 08 1992

DP/CPA

MEMORANDUM FOR DIRECTOR, CONTRACT MANAGEMENT DIRECTORATE, INSPECTOR
GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Draft Audit Report on the Allegation of Improprieties
Involving DoD Acquisition of Services Through the
Department of Energy (Project No. 1CH-0033)

This is in response to your request for our comments on the subject draft report. We agree with the general thrust of the audit report that Department of Defense (DoD) program officials have circumvented DoD contracting officers in placing orders under the Economy Act via interagency agreements. We do not agree with your recommended corrective actions wherein the contracting officer's role in this matter needs to be redefined and strengthened. Those efforts cannot, in themselves, correct a failure by program officials to make use of the contracting officer. This is an example where making changes to the Defense Federal Acquisition Regulation Supplement (DFARS) have minimal effect because the individuals involved are not DFARS users.

The report fails to give adequate recognition to efforts to address the problem. For example, the Under Secretary of Defense for Acquisition (USD(A)) memorandum of October 25, 1991 (attached), addressed the subject of contract offloading. In his memorandum, the USD(A) requested the Service Acquisition Executives and the Directors of the Defense Agencies take aggressive action to ensure that program officials are trained in the appropriate use of interagency contracting agreements; to remind program officials that the contracting officer must approve the use of interagency agreements; and to establish internal controls to assure compliance with existing policies and procedures.

We have also initiated changes to regulation that will provide the necessary internal controls to assure that procedures are being followed in placing Economy Act orders. For example, we intend to require the Department to use a revised OD Form 448 that will have a signature block for the contracting officer to place Economy Act

DIRECTOR OF DEFENSE PROCUREMENT COMMENTS (cont'd)

orders. We believe that this effort will, when combined with the level of interest clearly expressed by the USD(A), introduce more discipline into the acquisition process and will improve the process of placing orders using interagency agreements.

We are attaching for your consideration our response to specific recommendations that are directed to the Director of Defense Procurement. Thank you for the opportunity to comment on the draft report.

(b) (6)

A large black rectangular redaction box covers the signature and name of Eleanor R. Spector.

Eleanor R. Spector
Director, Defense Procurement

Attachments

DIRECTOR OF DEFENSE PROCUREMENT COMMENTS (cont'd)

Final Report

SPECIFIC COMMENTS

A. Use of Interagency Agreements and Orders

DoDIG Recommendation for Corrective Action:

1. We recommend that the Director of Defense Procurement revise guidance in the Defense Federal Acquisition Regulation Supplement 217.5 to:

a. Require that a DoD contracting officer review and approve all interagency agreements and subsequent interagency orders.

b. Require that DoD contracting officer determinations approving interagency acquisitions identify the estimated savings to be realized by DoD.

c. Specify the applicability of the Economy Act to procurements made by one DoD Component at the request of another DoD Component.

Deleted

2. We recommend that the Director of Defense Procurement, in coordination with the Assistant Secretary of Defense (Production and Logistics), issue guidance that specifies format and content requirements of interagency agreements, including the applicability of the general guidance in DoD Instruction 4000.12, "Interservice, Interdepartmental, and Interagency Support."

Revised

DDP Response: Partially concur. The Director of the Defense Acquisition Regulations Council will open a new case to consider these recommendations. However, the DFARS is not used by requirements personnel who, in the cases discussed in this report, bypassed contracting officers. Augmenting coverage in the DFARS will still not reach these technical personnel. It appears that contracting officers consistently followed direction aimed at them.

B. Administration of DoD Interagency Orders

DoDIG Recommendation for Corrective Action:

1. We recommend that the Director of Defense Procurement revise guidance in the Defense Federal Acquisition Regulation Supplement 217.5 to require that interagency agreements include provisions for the submission of detailed progress reports and cost data. The cost data should identify costs incurred by the prime contractor during

Revised

DIRECTOR OF DEFENSE PROCUREMENT COMMENTS (cont'd)

Final Report

the period, including direct labor hours and rates, material costs, subcontractor costs, other direct costs, and profit.

DDP Response: Nonconcur. The same rationale applied to recommendation A2 applies. Simply stated, contracting officers do not write purchase requests and should not be expected to specify the content and form of interagency agreements. Requiring officials, who are responsible for their programs and are held accountable for their successes, should decide what information is needed for management and control purposes.

Deleted

2. We recommend that the Director, Defense Finance and Accounting Service, modify the procedures manuals for finance and accounting offices to require that:

b. A DoD program official or contracting officer certifies that the amounts billed by the other Federal agency are proper for payment.

DDP Response: The recommendation is directed to the Director, DFAS, but we do not agree that a DoD contracting officer is in a position to certify that the amounts billed by the other Federal agency are proper for payment.

C. Tracking of Interagency Acquisitions

Revised

DoDIG Recommendation for Corrective Action: We recommend that the Under Secretary of Defense for Acquisition establish a procedure for identifying and tracking the amounts of interagency orders and related funding with the Department of Energy and other Federal agencies.

DDP Response: Nonconcur. We are not convinced that DoD-wide procedure for identifying and tracking the amounts of interagency orders and related funding is warranted.

DIRECTOR OF DEFENSE PROCUREMENT COMMENTS (cont'd)



ACQUISITION

THE UNDER SECRETARY OF DEFENSE
WASHINGTON, DC 20301

25 OCT 1991

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
ATTENTION: SERVICE ACQUISITION EXECUTIVES
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Contracting Through Interagency Agreements

The Department of Defense Inspector General (DoDIG) recently initiated another audit of contracting through interagency agreements. In this instance, the Department's use of such agreements to obtain contracting support from the Tennessee Valley Authority (TVA), under their Technology Brokering Program, is being scrutinized. The audit is to determine whether DoD's use of TVA's program is appropriate, justified, and approved (as prescribed by the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement). The audit will also determine whether or not the procedures used were adequate to protect the DoD's interests; whether internal controls over these procurements were adequate; and whether the Department's year-end spending policies were violated.

Regardless of the outcome of this audit, I think it necessary to reinforce our policies regarding "contract offloading." In a May 10, 1990, memorandum, the Principal Deputy Assistant Secretary of Defense (Production and Logistics), cited two similar DoDIG audits which found problems in the use of the offloading technique. In your responses to the DoDIG on those audits (involving the Library of Congress and the Department of Energy), you agreed to pursue corrective actions to minimize the risk of orders for interagency acquisitions being placed by unauthorized DoD program officials. Please ensure that you have completed those corrective actions and verify that you have established effective procedures to control the inappropriate use of interagency contracting support.

Early input from the DoDIG indicates that we may still have a problem. I want to ensure that we are not in violation of the regulations governing the use of interagency agreements; that we are not paying other agencies to execute contracting functions that we should be performing ourselves; and that we are not using TVA, or any other agency, to circumvent our own year-end spending policies.

The attached listing of "funding agencies" was provided by the TVA Inspector General's office. We are providing it for your use in

DIRECTOR OF DEFENSE PROCUREMENT COMMENTS (cont'd)

reviewing your participation in the transfer of DoD funds and contracting responsibilities to the IVA.

I trust you will take aggressive action to: (1) ensure that program officials are trained in the appropriate use of interagency contracting agreements; (2) remind program officials that the contracting officer must approve the use of such interagency agreements; and (3) establish internal controls to assure compliance with established policies and procedures.

(b) (6)



Don Jockey

Attachment

cc:
Director, Defense Research and Engineering
Comptroller
Inspector General
Director, Administration and Management

DEPARTMENT OF THE ARMY COMMENTS



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, DC 20310-0103



SARD-PP

05 OCT 1992

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR
AUDITING, DEPARTMENT OF DEFENSE,
400 ARMY NAVY DRIVE, ARLINGTON, VA
22202-2804

SUBJECT: Draft Audit Report on the Allegations of
Improprieties Involving DoD Acquisition of
Services Through the Department of Energy
(Project No. 1CH-0033)

The Army concurs with the Inspector General's findings that inadequate or inappropriate procedures were followed by some Army activities in placing Economy Act orders with the Department of Energy (DOE) between July 14, 1988 and January 6, 1992. The problems identified are very similar to those described in Report No. 92-069, "Quick-Reaction Report on DoD Procurements Through the Tennessee Valley Authority." As we informed you in our June 15, 1992, response to that report, the Army has already implemented a number of corrective actions to reduce unauthorized Economy Act transfers and contract offloading. These initiatives include:

a. the ASA(RDA) message dated December 26, 1991, that alerted all Army activities to the abuses of Economy Act authority and reinforced the requirement in the Defense Federal Acquisition Regulation Supplement (DFARS) for a contracting officer to sign Economy Act determinations. The message also directed that the budget or resource management official who certifies to the funds cited on a Military Interdepartmental Purchase Request (MIPR) to a non-DoD agency under authority of the Economy Act must ensure that an Army contracting officer has made the required determination and that it has been reviewed by counsel.

b. Change 2 to Army Regulation 37-1, Army Accounting and Fund Control, dated February 18, 1992, which implemented the direction in the ASA(RDA) message concerning the responsibilities of funds certifying officials.

c. a revision to AR 70-1 to reiterate the same policy to the Army's acquisition managers. AR 70-1 is the Army's implementation of DoD Directive 5000.1, DoD Instruction 5000.2, and DoD Manual 5000.2-M.

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

-2-

d. implementing procedures issued by nearly every Army contracting activity.

A major difference between the two audits should be noted, however. The Department of Energy, unlike the TVA, is clearly subject to the Federal Acquisition Regulation (FAR) and the laws implementing the Competition in Contracting Act (CICA). In addition the subject report deals with work being directed to a DOE-sponsored Federally Funded Research and Development Center (FFRDC), a non-profit, national technical resource. Procedures for the use of FFRDCs are addressed in Office of Procurement Policy Letter 84-1 as implemented in FAR Part 35.

There is some confusion over the term "interagency agreement" which is not defined in the report. Although this term is often used generically to describe both long-term non-binding arrangements, as well as individual Economy Act orders, between agencies, we can find no objective definition, guidance or procedures related to the establishment of such "agreements" outside the DOE procedures cited in Appendix A. One thing should be made clear about these arrangements; they are not binding in themselves but only as cited in individual orders (MIPRs) processed under the authority of the Economy Act.

Enclosed is a response to each of the proposed recommendations for corrective action (Encl 1). Although many of the recommendations are not addressed to the Army their implementation would affect the Army. Also enclosed are some additional comments on the draft report for your consideration (Encl 2).

(b) (6)

Joseph R. Varady, Jr.
Director for Procurement Policy

Enclosures

CF:
SAIG-PA

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

Final Report

Response to IG DoD Recommendations for Corrective Action
Project No. ICH-0033

A. USE OF INTERAGENCY AGREEMENTS AND ORDERS

1. We recommend that the Director of Defense Procurement revise guidance in Defense Federal Acquisition Regulation Supplement Subpart 217.3 to:

a. Require that a DoD contracting officer review and approve all interagency agreements and subsequent interagency orders."

Army position: Partially concur. Until such time as there is a proper definition and description of "interagency agreements", this term should not be "blessed" by including it in the DFARS, except, perhaps to state that an interagency agreement does not comprise an interagency order under the Economy Act unless it obligates appropriated funds. Agency Acquisition Executives/ Senior Procurement Executives must be allowed to designate higher level officials to review Economy Act transactions. Lastly we would note that neither the law nor the existing regulations require "approval" of orders by a contracting officer, merely the making of a determination as to the appropriateness of transferring the funds and requirements to another Federal agency pursuant to the Economy Act. Suggest that Recommendation 1.a. be Revised to read as follows:

"a. Require that a DoD contracting officer or higher level official review all proposed Economy Act orders and prepare the determination required by FAR 17.503 and DFARS 217.503."

"b. Require that DoD contracting officer determinations approving interagency acquisitions identify the estimated savings to be realized by DoD."

Army position. Nonconcur. This proposed requirement is not only not required by the Economy Act itself, but is impracticable and inappropriate in many situations. The determinations need only address why the transfer is appropriate (e.g., it is inappropriate to buy tank designs from the Library of Congress) and in the best interest of the Government after considering convenience and "cheapness".

"c. Specify the applicability of the Economy Act to procurements made by one DoD component at the request of another DoD component."

Deleted

Encl 1

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

Final Report

-2-

Army position. Concur in part. The Economy Act is not an Interservice Support Agreement. An Economy Act action should not request the servicing agency to provide contract services. An Economy Act action should simply request that a service or supply be furnished to the requesting agency and promise to pay all legitimate costs up to the amount obligated and appropriated.

As a separate issue, the legal applicability of the Economy Act to intra-DoD transactions probably does need to be resolved or clarified. It is suggested that, if it is found legally necessary to specifically cite and comply with the Economy Act for every intra-DoD funds transfer (as opposed to some other statutory authority to transfer requirements and funds within DoD), the SECDEF or DEPSECDEF should make a blanket Economy Act determination to be cited in DoD Instruction 4000.19. It is not appropriate, for example, for a contracting officer determination to be required for every coordinated acquisition action. Recommend that DFARS 208.70 be used as a model. We note that DFARS 208.7002(a)(4) cites 10 U.S.C. 2308 and not the Economy Act, however this coverage only addresses commodity acquisitions and not services, or developmental materiel.

Revised

"2. We recommend that the Director of Defense Procurement, in coordination with the Assistant Secretary of Defense (Production and Logistics), issue guidance that specifies format and content requirements of interagency agreements, including the applicability of general guidance in DoD Instruction 4000.19, "Interservice, Interdepartmental, and Interagency Support".

Army position. Concur, although it is not clear that the Instruction currently pertains to transactions outside DoD. The Army is especially concerned about Economy Act transactions with agencies whose standards of performance for the contracting function are different than standards within the Department of Defense. Program officials often erroneously assume that the servicing agency will follow the FAR in the same way as DoD agencies.

"3. We recommend that the Service Acquisition Executives and the Director, Defense Logistics Agency:

a. Require the contracting office at subordinate activities to:

(1) Review active interagency agreements between the activities that it supports and other Federal agencies for compliance with the Economy Act and implementing regulations,

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

-3-

and revise, terminate, or issue new interagency agreements when appropriate. If the non-DoD contracting agency is not capable of adequately administering existing contracts, the contracting office should request the contracts be transferred to the Department of Defense for administration."

Army response. Nonconcur. As stated previously, interagency agreements are not, per se, Economy Act transfers. Contracting officers are likely not the best agency officials to approve, disapprove or prepare interagency agreements. If these agreements become vehicles for improperly circumventing the Economy Act and other laws and regulations, then they should be terminated. If "agreements" are required by a servicing agency in order to attempt to shift responsibility inappropriately to a requesting agency, then such agreements should be repudiated after review by counsel. As to the issue of contract administration, that must be considered upfront when making the decision to transfer the requirement to another agency. If it is known that the receiving agency will contract (e.g., with an FFRDC that it sponsors) then the agency's ability to monitor other agencies' tasks must be taken into account. If all contract administration is to be done by the requesting agency then the requirement should probably not have been transferred in the first place. The Recommendation is somewhat disingenuous in that most FFRDC sponsoring agencies do not allow direct contracts between its FFRDC and other agencies; and many FFRDCs operate under one omnibus cost-type contract under which taskings are made by modification or other ordering technique. Thus, transfer of the "contract" to DoD is infeasible.

"(2) Ratify or terminate active interagency orders with the Department of Energy and other Federal agencies that were not properly authorized by DoD contracting officers."

Army response. Concur.

"(3) Approve interagency orders only if DoD realized a savings in offloading the contracting responsibility to another Federal agency."

Army response. Nonconcur. This recommendation should be withdrawn. Firstly, it would be a practical impossibility to calculate hypothetical "savings" or excess costs unless there is a known and agreed baseline (to include actual procurement costs by the requesting agency and all administrative costs associated with executing and administering and technically managing a particular procurement requirement). Secondly, Economy Act transfers do not, per se, equate to "offloading

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

Final Report

-4-

...contracting responsibility". They represent an acquisition function but not a contracting/procurement function. Lastly, the major check and balance in the process is a(ny) review by a contracting officer. The report does not support a conclusion that contracting officer determinations were ineffective because they failed to adequately address economies. The report reveals, on the contrary, that contracting officers or higher levels officials were not consulted at all in the decision to shift work to Department of Energy and its FFRDCs.

"(b) Discipline program officials who knowingly exceeded their authority and violated the Economy Act, the Brooks Act of 1965, the Competition in Contracting Act, year-end spending restrictions, and other laws and regulations by placing unauthorized interagency orders with another Federal agency."

Army response. Concur.

"4. We recommend that the Comptroller of the Department of Defense modify the DoD 7220.9-M "Accounting Guidance Manual" to direct finance and accounting offices to require documented approval by a DoD contracting officer prior to obligating funds on interagency orders."

Army position. Partially concur. Finance and accounting offices and officials are generally not the offices or officials responsible for certifying to the availability and propriety of funds provided on Economy Act interagency orders. Normally this is a delegated "resource management", budget, or program analyst function. Furthermore, these officials do not "obligate" funds on the MIPRs, they allocate and commit the funds. Acceptance of the funded reimbursable MIPR by the receiving agency creates the obligation. The Army has already achieved what we believe the IG intends to accomplish with this recommendation. The Army has long argued that the only effective controls for this problem lie within finance/comptroller channels, not with the bypassed contracting community.

E. ADMINISTRATION OF DOD INTERAGENCY ORDERS

Revised

"1. We recommend that the Director of Defense Procurement revise guidance in Defense Federal Acquisition Regulation Supplement 217.5 to require that interagency agreements include provisions for the submission of detailed progress

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

-5-

reports and cost data. The cost data should identify costs incurred by the prime contractor during the period, including direct labor hours and rates, material costs, subcontractor costs, other direct costs, and profit."

Final Report

Army position. Nonconcur. The draft report does not distinguish between direct organic support by agencies under the Economy Act and efforts where some or all of the support is provided by contract, as was the case with DOE's Oak Ridge National Laboratory. The Economy Act would appear to conflict with this unilateral DoD mandate.

In any event, the DFARS is not the appropriate place for such guidance under current procedures, since interagency agreements and Economy Act orders are not contracting actions executed by contracting officers. The current role of DoD contracting officers is to review proposed Economy Act orders for compliance with the law and implementing regulations, and to make the appropriate determination. Guidance issued on cost/performance reporting by Economy Act servicing agencies should refer to any interagency orders placed, since "interagency agreements" are not used or required in many cases and have no generally accepted definition.

"2. We recommend that the Director, Defense Finance and Accounting Service, modify the procedures manuals for finance and accounting offices to require that:

Deleted

a. Standard Form 1040 vouchers from another Federal agency not be paid unless accompanied by supporting documentation on costs incurred. The supporting documentation should include details of costs incurred by the prime contractor during the period including direct labor hours and rates, material costs, subcontractor costs, other direct costs, and profit; elements of general and administrative costs; and administrative costs charged by the contracting agency."

Army position. Nonconcur. This appears to be in direct conflict with the language of the Economy Act (31 U.S.C 1535(b)). If the intent of the IG under this recommendation is to increase visibility of DoD program officials over cost and performance under DOE contracts, then reporting should be a requirement of every order. If the intent is to challenge billings submitted by DOE, then it conflicts with the law and is otherwise inappropriate.

What is required is accountable, comprehensive contract administration by the agency that accepted the requirement under the terms of the Economy Act knowing that the requirement would be fulfilled through contracting. If the

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

Final Report

-6-

prospective servicing agency cannot independently write, negotiate, execute and administer contracts in fulfillment of Economy Act requests for support, then they should not accept these requirements and DoD activities should not offer them. Again, the report improperly infers that DoD is asking DOE to provide contracting services. That is not the purpose of the Economy Act and should not be the case here.

"b. A DoD program official or contracting officer certifies that the amounts billed by the other Federal agency are proper for payment."

Army position. Nonconcur. As stated above, this is not only contrary to the provisions of the Economy Act, it is inappropriate for DoD officials, especially DoD contracting officials, to be inserted into the role of policing another agency's internal functions. If we cannot trust the servicing agency, or if they do not agree to act as responsible stewards of the appropriated funds that we transfer to their accountability and control under the provisions of the Economy Act, then DoD should not transfer requirements to that agency or should insist on a certain standard of performance when there is no choice. Recommend that this recommendation be withdrawn or redirected.

C. TRACKING OF INTERAGENCY ACQUISITIONS

"We recommend that the Under Secretary of Defense for Acquisition establish a procedure for identifying and tracking the amounts of interagency orders and related funding with the Department of Energy and other Federal agencies."

Army position. Concur.

D. USE OF PROJECT ORDERS

"We recommend that the Service Acquisition Executives issue guidance to remind major commands and field activities that the Economy Act (31 U.S.C. 1535ff.) is the correct legal authority for placing interagency acquisitions and the Project Order Act (41 U.S.C. 23) is not a proper legal authority."

Army position. Concur.

Revised

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

Additional Comments on Draft Report

1. p.15, "The Economy Act, as implemented by FAR Subpart 17.5, 'Interagency Acquisitions Under the Economy Act,' requires...that the contracting officer have the determination in hand prior to placing the orders." (emphasis added)

Army comment. The inference in this passage is that DoD contracting officers themselves place/transmit/process interagency orders under the Economy Act. At least in Army/DoD, that is clearly not the case. They are placed by program/project officials and/or budget officers.

2. p.16, "DOE, not DoD, was the party responsible for determining compliance with the Economy Act, the Competition in Contracting Act of 1984 (10 U.S.C. 2304); Office of Federal Procurement Policy Letter 84-1, "Federally Funded Research and Development Centers; the FAR; and other applicable laws."

Army comment. A good part of this bullet is accurate. DOE is responsible for compliance with CICA (as implemented in the FAR) for all of its contracting actions with its FFRDCs and other contractors. It also must comply with OFPP Policy Letter 84-1, as the sponsoring agency for more FFRDCs than sponsored by the rest of the Federal Government combined. Specifically, it is required to screen "work for others" to ensure that the proposed efforts fit under the "unique" charter/sponsoring agreement for each FFRDC Laboratory. (See FAR 15.017-3(b).) DOE must also comply fully with the FAR (which now contains implementation of the OFPP Policy Letter at 15.017). One could argue that DOE also has numerous other fiduciary responsibilities under the Economy Act, though certainly not the responsibility to make the determination whether another agency should transfer work to DOE under that law.

3. p.19, "The General Services Administration has delegated blanket ADP procurement authority to DoD activities for competitive contracts when the value of the contract does not exceed \$2.5 million, and \$250,000 when non-competitive."

Army comment. This is not only erroneous and misleading, it uses terminology no longer used in the FIRM ("ADP procurement") and dramatically oversimplifies a very complex and dynamic subject to make what is probably a valid point - that required acquisition approvals were often not obtained, whatever their source (GSA or in-house).

4. pp. 20/21, "DoD activities issued interagency orders for 23 of the 33 projects, valued as approximately \$79.8 million, to the Laboratory for work that was not unique to the

Final Report

P. 10

P. 10

P. 12

Revised

P. 13

Revised

Encl 2

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

-2-

Final Report

Laboratory (Appendix E, Footnote No. 4)." (emphasis added)

Army comment. There is no requirement in OFPP Policy Letter 84-1, nor in the FAR implementation (see especially FAR 35.017-3(a)), for work to be "unique to the FFRDC". In any event, FAR 35.017-3(b) clearly states that the sponsoring agency has the responsibility for screening requirements to enforce the scope of the sponsoring agreement and FAR 35.017-3(a). The nonsponsor agency must provide the Economy Act determination and all other documentation as cited in FAR 17.504, unless the nonsponsor agency is permitted to contract directly with the FFRDC, which is rare.

P. 16

5. pp.23-25. IAGs should be modeled after DFARS 208.70. IAGs are merely agreements to agree, and they should clearly state this. The individual order transferring funds is the real Economy Act action.

Pp. 14-16,
25

6. p.25 - (as a point of clarification) No one should be going to DOE for "purchasing and contracting services" as discussed in DoDI 4000.19. That is clearly an intra- or inter-Service support function. In addition, if the DoDI countenances arrangements with other agencies (outside of DoD), which is unclear, then the Instruction should clearly cite the Economy Act and the requirements for its use (FAR/DFARS 17.5). We agree that "interagency agreements" should be more detailed if they are to be entered into at all and used as the administrative foundation of future orders. We would prefer that each interagency order be a full-up procurement package with all acquisition approvals documented and a full statement of requirements, including such issues as contract administration, payment, data rights, etc., if we know in advance that DOE is going to contract to meet our needs. In addition, if a DoD activity requests DOE to contract with one of its FFRDCs that activity should provide certified documentation to support a CICA justification by the DOE contracting officer. Maybe if DOE was fulfilling its own requirements under CICA and the FAR better, there would be fewer of these arrangements in existence.

P. 16

Revised

7. p.27 - "Determinations prepared by contracting officers, who approve interagency orders, should document that a market survey of potential sources was performed, and that costs to DoD are minimized by asking an acquisition through another department or agency."

Army comment. An Economy Act transfer is not a procurement transaction. It is often accomplished in lieu of one. There is no requirement in the law for a "market survey" or an elaborate hypothetical cost-benefit analysis.

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

-3-

Final Report

8. p.28 - "Specifically, DFARS 217.5 may now be interpreted to mean that the determinations may be delegated to someone other than a contracting officer."

Pp. 16, 25

Army comment. Since the law and the FAR refer to a determination made by a head of agency, it certainly seems reasonable that that agency head could designate someone other than a contracting officer as the determining official. The DFARS and DAR before it always allowed agencies to designate someone other than a contracting officer to make the Economy Act determinations. Any other direction would be an inappropriate limitation on the right of an agency head to manage his/her organization.

9. p.28 - "The determinations should also state whether savings will be realized by obtaining the purchasing and contracting support from another agency..."(emphasis added)

Pp. 16, 25

Army comment. The purpose of the Economy Act is not to "obtain purchasing and contracting support" from another agency, but to have another agency fulfill a valid funded and appropriated requirement of the requesting agency. The decision of how to fulfill that requirement is wholly the responsibility of the receiving agency, as is the decision to accept the requirement or not under the terms of the Economy Act. Most certainly it is inappropriate to go to DOE with a requirement that we know is going to be subcontracted out by DOE's FFRDC, especially if we request that of DOE. They in turn should not accept such requests which are a blatant conflict of CICA requirements. Unlike the TVA, DOE is clearly subject to the FAR and CICA and OFPP policies as implemented in the FAR on the use of FFRDCs.

10. p.30 - "Where appropriate, DoD contracting officers should ratify the interagency orders in accordance with FAR Subpart 1.602-3"

P. 17

Revised

Army comment. It would never be appropriate for a contracting officer to ratify an interagency Economy Act transfer under FAR 1.602-3 since such transactions are not contract actions. In addition, contracting officers were tasked to prepare Economy Act determinations only as a matter of administrative efficiency, not because their warrants were required. Economy Act determinations may be made after the fact ("ratified") by the agency head or anyone designated by him or her.

11. pp.31-32 - The Dec 26, 1991 ASA(RDA) message went far beyond the TVA issues and required the official who certifies funds on any MIPR intended to transfer funds (pursuant to the Economy Act) to an agency outside of DOD to ensure that a contracting officer had made the required Economy Act

DEPARTMENT OF THE ARMY COMMENTS (cont'd)

-4-

Final Report

determination and that the action had been reviewed by Counsel. This direction has been implemented by Defense Finance and Accounting Service (DFAS) through a change to AR37-1 in Feb 1992.

P. 28

12. p.37 - "We found that all nine IAGs reviewed did not include: a requirement that...only on receipt of the progress reports would DoD funds be released; and a provision that would allow DoD to review costs incurred on interagency orders."

Revised

Army comment. The Economy Act specifically states that bills from receiving agencies are to be paid without question. The report infers that the relationship between DoD and DOE is the same as for contracts with SBA under the 8(a) program. That is clearly not the case with Economy Act transfers.

P. 31

13. p.43 - "The interagency agreements with DOE did not require that vouchers be submitted through the DoD program office or the contracting office for review and approval prior to payment...DoD finance and accounting officials paid the vouchers without requiring supporting documentation or approval by a DoD program official or contracting official."

Revised

Army comment. DOE has the responsibility to properly execute and administer all contracts they award, including those funded and generated under the Economy Act. DOE contractor vouchers should be reviewed by DOE program and contract officials and auditors before any bill is sent from DOE to DoD. In no event should DoD "contracting officials" be involved in this process since they are in no way party to the contract arrangement(s) between DOE and its contractors, and, as the IG has pointed out, are likely unaware of the matter at all. DoD contracting officials should have no role in Economy Act transactions after making the determination required by DFARS 17.502.

It is not clear what voucher approval by DoD program or contracting officials would add to the process, since they are not charged with administering the contract and have little actual knowledge of what the contractor is supposed to be doing from day to day. This would create a rubber stamp process where DOE could inappropriately shift blame for any deficiencies to their customers.

DEPARTMENT OF THE NAVY COMMENTS



THE ASSISTANT SECRETARY OF THE NAVY
(Research, Development and Acquisition)
WASHINGTON, D C 20350-1000

OCT 2 1992

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

Subj: DRAFT REPORT ON IMPROPRIETIES INVOLVING DOD ACQUISITION OF
SERVICES THROUGH DEPARTMENT OF ENERGY (PROJ. NO. 1CH-0033)

Ref: (a) DoDIG memo of 30 June 1992, subject as above

Encl: (1) DoN response to subject draft report

I am responding to the request forwarded by reference (a)
for comments on the subject draft report.

The Navy's response is provided at enclosure (1). We concur
with the recommendations, with the exception that we cannot limit
interagency acquisition under the Economy Act to those instances
where cost savings can be demonstrated. For example, the Navy
utilizes Economy Act procedures to buy reactor components and
services from Department of Energy laboratories. Our response
suggests other means by which improved control can be achieved.

(b) (6)

Gerald A. Cann

Copy to:
NAVINSGEN
NAVCOMPT (NCB-5)

DEPARTMENT OF THE NAVY COMMENTS (cont'd)

Final Report

P. 12

Department of the Navy Response
to
DODIG Draft Report of June 30, 1992
on

DOD Acquisition of Services through the Department of Energy
Project No. ICH-0011

The Navy concurs with all the report's findings except the comment on page 20 that NAVFAC program officials used interagency orders to circumvent manpower ceilings. We do not believe manpower ceilings were a significant constraint in the environmental area. We consider the motivation to have been the perceived ease of using interagency agreements, particularly in the absence of knowledge of required procedural and legal requirements.

Part II(A) Recommendations for Corrective Action

3. We recommend the Service Acquisition Executives and the Director, Defense Logistics Agency:

a. Require the contracting office at the subordinate activities to:

Recommendation (1):

Review active interagency agreements between the activities that it supports and other Federal agencies for compliance with the Economy Act and implementing regulations, and revise, terminate, or issue new interagency agreements where appropriate.

If the non-DoD contracting agency is not capable of adequately administering existing contracts, the contracting office should request that the contracts be transferred to the Department of Defense for administration.

DON Position:

Concur. Assuming that the Director of Defense Procurement concurs with the recommendation to "issue guidance that specifies format and content requirements of interagency agreements", the Navy will direct such a review as part of our implementation of the DDP guidance. This review will be limited to interagency agreements related to FAR 17.5, and will not include the numerous agreements which do not raise Economy Act issues.

Concur with the intent. The Navy concurs that a determination of the adequacy of non-DoD agency contract administration should be made. However, it may not be efficient for the contracting officer to perform this function. It would appear preferable for DCMC, as the CAS coordinator, to make an agency-by-agency determination of the adequacy of capability to

1

ENCLOSURE(Q)

DEPARTMENT OF THE NAVY COMMENTS (cont'd)

administer contracts for each agency and publish this information in the DFARS.

Recommendation (2):

Ratify or terminate active interagency orders with the Department of Energy and other Federal agencies that were not properly authorized by DoD contracting officers.

DON Position:

Concur. We will initiate a Navy-wide review of interagency acquisition, to ensure that Navy activities have appropriate procedures in place and are complying with law and regulation governing interagency acquisition. Where proper authorization has not been obtained, orders shall be reviewed by the cognizant contracting officer to determine if termination is appropriate, or if work on the order should continue.

Recommendation (3):

Approve interagency orders only if DoD realized a savings in off-loading the contracting responsibility to another Federal agency.

DON Position:

Concur with the intent. We concur that the current authorization to use interagency acquisition whenever it is more economical or "convenient" is undesirably vague. However, cost savings of the kind which would be shown by a cost comparison are not always, or even usually, the reason for interagency acquisition.

Federally Funded Research and Development Centers (FFRDCs), for example, are created to fill needs which the private sector is not meeting. They have unique capabilities, and are not allowed to compete with private industry. Therefore, a cost comparison would be extremely difficult to obtain, and largely pointless, for most orders which are consistent with the FFRDC's mission. The Navy must buy reactor cores, components and services from Department of Energy laboratories, but FAR and DFARS do not establish DOE as a required source for this purpose, and so Economy Act procedures are utilized.

An FFRDC is sometimes used because it has objectivity that the Government or private firms might lack. For these uses, the fact that the FFRDC might cost more would not be the most important consideration.

In addition, it might be more cost-effective for the Government as a whole to use interagency acquisition, even if a

ENCLOSURE(1)

DEPARTMENT OF THE NAVY COMMENTS (cont'd)

particular order was more expensive. This might occur when the servicing agency had facilities or personnel that were not fully utilized. These resources could be incurring costs whether or not an interagency order was placed.

Most of the abuses of interagency acquisition occur when the servicing agency contracts for the work, rather than performing it with in-house resources. It is possible that a requirement to show cost savings which was limited to such contracting would be beneficial. Another way to approach this problem would be to place limitations on circumstances in which an interagency order could be determined to be "convenient".

Recommendation b:

Discipline program officials who knowingly exceeded their authority and violated the Economy Act, the Brook's Act of 1955, the Competition in Contracting Act, year-end spending restrictions, and other laws and regulations by placing unauthorized interagency orders with another Federal Agency.

DON Position:

Concur.

Part II(D) Recommendations for Corrective Action:

We recommend that the Service Acquisition Executives issue guidance to remind major commands and field activities that the Economy Act (31 U.S.C. 1515) is the correct legal authority for placing interagency acquisitions and the Project Order Act (41 U.S.C. 23) is not the proper legal authority.

DON Position:

Concur. Anticipate guidance to the field by 31 December 1992.

DEPARTMENT OF THE AIR FORCE COMMENTS



OFFICE OF THE ASSISTANT SECRETARY

DEPARTMENT OF THE AIR FORCE
WASHINGTON DC 20330-1000

OCT 6 1992

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

SUBJECT: DODIG Draft Audit Report on the Allegations of
Improprieties Involving DOD Acquisition of Services
Through the Department of Energy, June 30, 1992 (Project
No. 1CH-9933) - INFORMATION MEMORANDUM

You requested Air Force Acquisition Executive (AFAX) comments on the findings and recommendations within the responsibility of the Air Force made in the subject report.

We concur with the findings and with recommendation 3a. We plan to work with AFESC and AMC to revise, terminate, or issue new interagency agreements where appropriate and to ratify or terminate active orders with DOE and other federal agencies not properly authorized by DOD contracting officers. We will only approve interagency orders if there is a savings in offloading the contracting responsibility to another federal agency.

We concur with the intent of recommendation 3b. We will rely on individual activity commanders to initiate disciplinary action on those who knowingly exceeded their authority and violated the Economy Act, the Brooks Act of 1965, the Competition in Contracting Act, year-end spending restrictions, and other laws and regulations by placing unauthorized interagency procurement of goods and services with another Federal agency.

Section D of the report recommends we issue guidance to remind commands and field activities the Economy Act is the correct legal authority for placing interagency procurements. We concur with this recommendation and will issue policy to correct this finding.

(b) (6)

DANIEL S. RAK
Deputy Assistant Secretary
(Acquisition)

DEFENSE LOGISTICS AGENCY COMMENTS



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
CAMERON STATION
ALEXANDRIA, VIRGINIA 22304-6100



REPORT
NUMBER 10 DLA-CI

16 SEP 1992

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDITING,
DEPARTMENT OF DEFENSE

SUBJECT: Draft Audit Report on the Allegations of Improprieties
Involving DoD Acquisition of Services Through the
Department of Energy (Project No. ICH-0033)

This is the response to your 30 Jun 92 request. Major General
Charles R. Henry, Deputy Director (Acquisition Management), Defense
Logistics Agency, approved these positions.

(b) (6)

5 Encl

(Chief) Internal Review Division
Office of Comptroller

CC:
DLA-L
DLA-P

DEFENSE LOGISTICS AGENCY COMMENTS (cont'd)

TYPE OF REPORT: AUDIT

DATE OF POSITION: 14 SEP 1992

PURPOSE OF INPUT: INITIAL POSITION

AUDIT TITLE AND NO: Draft Audit Report on the Allegations of Improprieties Involving DoD Acquisition of Services Through the Department of Energy (Project No. ICH-0033)

FINDING A: Use of Interagency Agreements and Orders. DoD program officials placed interagency orders with the Laboratory at Oak Ridge without obtaining prior approval from a DoD contracting official, as required by the FAR and DFARS. DoD program officials also used interagency orders to procure automated data processing (ADP) resources thus circumventing the Brooks Act of 1965, United States Code, title 40, section 759 (the Brooks Act), and personal services thus circumventing Civil Service hiring practices. These conditions occurred because DoD program officials did not use the available expertise of DoD contracting officers. In addition, the Military Departments did not adequately strengthen controls over interagency agreements and orders after the issuance of our prior audit reports on interagency acquisitions through the Library of Congress and DoE. Consequently, for the sample of 196 interagency orders valued at \$97.1 million, we estimate that DoD program officials paid approximately \$11.6 million in additional costs by going through the Laboratory to have the work performed. Appendix B provides a breakdown, by project, of estimated additional costs.

DIA COMMENTS: Concur. Greater oversight is needed to ensure all provisions of regulatory guidance are fulfilled, properly justified and approved before the Department of Defense secures support from a civil Department to accomplish its mission.

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

- () Nonconcur. (Rationale must be documented and maintained with your copy of the response.)
- (x) Concur; however, weakness is not considered material. (Rationale must be documented and maintained with your copy of the response.)
- () Concur; weakness is material and will be reported in the DIA Annual Statement of Assurance.

ACTION OFFICER
RSE REVIEW/APP

COORDINATION:

DIA APPROVAL:

(b) (6)
CHARLES R. HENRY
Major General, USA
Deputy Director
(Acquisition Management)

Encl 1

DEFENSE LOGISTICS AGENCY COMMENTS (cont'd)

TYPE OF REPORT: AUDIT

DATE OF POSITION: 16 SEP 1992

PURPOSE OF INPUT: INITIAL POSITION

AUDIT TITLE AND NO: Draft Audit Report on the Allegations of Improprieties Involving DoD Acquisition of Services Through the Department of Energy (Project No. 1CH-0033)

RECOMMENDATION A.3.a.(1): We recommend that the Service Acquisition Executives and the Director, Defense Logistics Agency, require the contracting office at subordinate activities to review active interagency agreements between the activities that it supports and other Federal Agencies for compliance with the Economy Act and implementing regulations, and revise, terminate, or issue new interagency agreements where appropriate. If the non-DoD contracting agency is not capable of adequately administering existing contracts, the contracting office should request that the contracts be transferred to the Department of Defense for administration.

DLA COMMENTS: Partially concur. We agree with the intent of the recommendation. We disagree with the assignment of responsibility to the contracting office. Placing contracting offices in the singular or primary role of evaluating Interagency Agreements (IAs) and revising or terminating them is a new responsibility for which they lack authority and expertise. Contracting offices do sometimes (and should continue to) review IAs for the purpose of assessing their contractual aspects (compliance with the FAR, etc.); but are, rightfully, not called upon to address such issues as financing, program management, technical considerations, resource utilization and mission effectiveness. The basic document is an Interagency Agreement for support whether support in services is performed by government or contractor personnel. This document is not prepared by a contracting office. Interagency Agreements are covered under DoDI 4000.19 Defense Regional Interservice Support (DRIS) and the DLA Directorate responsible for its implementation is Plans and Policy (DLA-L). Unfortunately DoDI 4000.19 is deficient and does not cover policy for dealing with civil agencies. With respect to evaluating Contract Administration Services (CAS) capabilities and determining whether civilian agency or DoD should perform these duties, DLA believes this is a policy and planning decision to be made in conjunction with establishing an Interagency Agreement.

DISPOSITION:

- ☐ Action is ongoing. Estimated Completion Date:
- ☒ Action is considered complete.

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

- ☐ Nonconcur. (Rationale must be documented and maintained with your copy of the response.)
- ☒ Concur; however, weakness is not considered material. (Rationale must be documented and maintained with your copy of the response.)
- ☐ Concur; weakness is material and will be reported in the DLA Annual Statement of Assurance.

MONETARY BENEFITS: None

DLA COMMENTS: N/A

Encl 2

DEFENSE LOGISTICS AGENCY COMMENTS (cont'd)

ESTIMATED REALIZATION DATE: N/A
AMOUNT REALIZED: N/A
DATE BENEFITS REALIZED: N/A

ACTION OFFICER:
PSE REVIEW/APPR

COORDINATION:

DIA APPROVAL:

(b) (6)
(b) (6)
(b) (6)
CHARLES R. HENRY
Major General, USA
Deputy Director
(Acquisition Management)

DEFENSE LOGISTICS AGENCY COMMENTS (cont'd)

TYPE OF REPORT: AUDIT

DATE OF POSITION: 26 SEP 1992

PURPOSE OF INPUT: INITIAL POSITION

AUDIT TITLE AND NO: Draft Audit Report on the Allegations of Improprieties Involving DoD Acquisition of Services Through the Department of Energy (Project No. 1CH-0033)

RECOMMENDATION A.3.a.(2): We recommend that the Service Acquisition Executives and the Director, Defense Logistics Agency, require the contracting offices at subordinate activities to ratify or terminate active interagency orders with the Department of Energy and other Federal Agencies that were not properly authorized by DoD contracting officers.

DLA COMMENTS: Not applicable to DLA. Interagency orders placed after 1990 have been properly approved in accordance with the DoD IG's previous audit report of June 1990. Subordinate activities have no authority to enter into any interagency agreements with civil agencies for the type of contractor support under audit. DLA policy letters 26 September 1990 and 7 February 1992 authorized approval only by the Assistant Director, Office of Policy and Plans, in DLA Headquarters. No active interagency orders are unauthorized.

DISPOSITION:

- () Action is ongoing. Estimated Completion Date:
- (x) Action is considered complete.

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

- () Nonconcur. (Rationale must be documented and maintained with your copy of the response.)
- () Concur; however, weakness is not considered material. (Rationale must be documented and maintained with your copy of the response.)
- () Concur; weakness is material and will be reported in the DLA Annual Statement of Assurance.

MONETARY BENEFITS: None

DLA COMMENTS: N/A

ESTIMATED REALIZATION DATE: N/A

AMOUNT REALIZED: N/A

DATE BENEFITS REALIZED: N/A

ACTION OFFICE
PSE REVIEW/APP

COORDINATION:

DLA APPROVAL

CHARLES R. HENRY
Major General, USA
Deputy Director
(Acquisition Management)

Encl 3

DEFENSE LOGISTICS AGENCY COMMENTS (cont'd)

TYPE OF REPORT: AUDIT

DATE OF POSITION: 16 SEP 1992

PURPOSE OF INPUT: INITIAL POSITION

AUDIT TITLE AND NO: Draft Audit Report on the Allegations of Improprieties Involving DoD Acquisition of Services Through the Department of Energy (Project No. ICH-0013)

RECOMMENDATION A.3.a.(3): We recommend that the Service Acquisition Executives and the Director, Defense Logistics Agency, require the contracting office at subordinate activities to approve interagency orders only if DoD realized a savings in offloading the contracting responsibility to another Federal Agency.

DLA COMMENTS: Concur. However, in order to establish uniform procedures and controls, we believe DLA implementation should be deferred until the Department (via the Defense Acquisition Regulatory (DAR) council) processes DAR case 92-0008, Orders Under the Economy Act, which would (1) require DoD components to use only the DD form 448, Military Interdepartmental Purchase Request (MIPR) to place orders under the Economy Act; (2) modify the DD Form 448 to add a signature block for the cognizant contracting officer; and (3) amend the Defense Federal Acquisition Regulatory Supplement (DFARS) at Subparagraph 217.50 to indicate that the contracting officer is to sign an overlay statement on the DD form 448, i.e., "This interagency order is issued under the authority of the Economy Act of 1932, 31 U.S.C. 1535 and adheres to Federal Acquisition Regulations. It is in the Government's best interest to place the order for the above-described supplies/services." DLA is prepared to implement the revised DFARS/MIPR coverage within 30 calendar days from the effective date of its issuance. In the interim, DLA will continue to require its subordinate activities to adhere to DLA-L Policy Letter 92-1, Use of Interagency Agreements with Federal Agencies, 7 Feb 92, that requires all orders placed under interagency agreements to which DLA is a party, to be reviewed by the Office of Policy and Plans for Economy Act compliance (attached). We realize the policy letter has expired; we will notify subordinate activities to continue to adhere to this policy until guidance on DD Form 448 is out.

DISPOSITION:

- (x) Action is ongoing. Estimated Completion Date: 30 days from issuance of DoD regulatory coverage.
- () Action is considered complete.

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

- () Nonconcur. (Rationale must be documented and maintained with your copy of the response.)
- (x) Concur; however, weakness is not considered material. (Rationale must be documented and maintained with your copy of the response.)
- () Concur; weakness is material and will be reported in the DLA Annual Statement of Assurance.

MONETARY BENEFITS: None

DLA COMMENTS: N/A

ESTIMATED REALIZATION DATE: N/A

AMOUNT REALIZED: N/A

Encl 4

DEFENSE LOGISTICS AGENCY COMMENTS (cont'd)

DATE BENEFITS REALIZED: N/A

ACTION OFFICER: (b) (6)
PSE REVIEW/APPR

COORDINATION:

DLA APPR (b) (6)

CHARLES R. HENRY
Major General (USA)
Deputy Director
(Acquisition Management)

DEFENSE LOGISTICS AGENCY COMMENTS (cont'd)



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
CAMERON STATION
ALEXANDRIA, VIRGINIA 22304-6100



10-01-01
10-01-01

DLA-L

(b)(6)

7 FEB 1991

SUBJECT: DLA-L Policy Letter 92-1, Use of Interagency Agreements
with Federal Agencies

TO: Commanders of DLA Primary Level Field Activities
Heads of 80 DLA Principal Staff Elements

1. This letter is directive in nature and expires with incorporation of the policies and guidelines in a DLA regulation or 1 June 1992 whichever is earlier.

2. The Director's policy letter of 26 September 1990 (enclosure 1) established guidelines for dealing with civil agencies for the purpose of having work done by a private concern under contract to that agency. The DoD Inspector General (DoD IG) is auditing DoD interagency agreements with the Tennessee Valley Authority for compliance with Federal and DoD regulations. They have already found a considerable number of orders by other DoD components for work placed with TVA contractors which were neither properly authorized nor met the requirements of the Economy Act or the Federal Acquisition Regulation. This is a reminder that all agreements with non-DoD agencies for support furnished by a private concern under contract with that agency must be certified that use of the agreement, and any orders placed under that agreement, is in the best interest of Government and must be approved by the Assistant Director, Policy and Plans. For clarification, each action placed under any agreement, or through another DoD component's agreement, constitutes a "contractual arrangement", in the eyes of the DoD IG for the supply of goods and/or services and must be procured in accordance with the FAR, DoD regulations, and the Economy Act. A copy of the Under Secretary of Defense for Acquisition's memorandum on this subject is provided as background (enclosure 2). The availability of funds does not, in and of itself, constitute authorization to transfer or convey those funds to a non-DoD agency for above said purposes.

(b)(6)

2 Encs

FORN C. BOY
Asst. Dir. Policy
10-01-01

ATT.

DEFENSE LOGISTICS AGENCY COMMENTS (cont'd)

PURPOSE OF INPUT: INITIAL POSITION

DATE OF POSITION: 16 SEP 1992

AUDIT TITLE AND NO: Draft Audit Report on the Allegations of Improprieties Involving DoD Acquisition of Services Through the Department of Energy (Project No. ICH-0033)

RECOMMENDATION A.3.b: We recommend that the Service Acquisition Executives and the Director, Defense Logistics Agency, discipline program officials who knowingly exceeded their authority and violated the Economy Act, the Brooks Act of 1965, the Competition in Contracting Act, year-end spending restrictions, and other laws and regulations by placing unauthorized interagency orders with another Federal Agency.

DLA COMMENTS: Concur with the intent of the recommendation. Oversight controls are in place now to prevent any occurrence of a program official making any agreement with a civil agency for contractor support without the proper justification and approval. Although our Policy Letter 92-1 is expired, we will notify subordinate activities to continue to adhere to the policy until guidance on DD Form 448 is out. Program officials in the past were complying with the requirements of the servicing agency. Should OSD concur with the DoD IG's recommendations and should the DD Form 448 be the transfer document for funds with provision for an approval block, we foresee no reason for violations to occur in the future. If they do, we will take corrective actions to include disciplinary actions as appropriate.

DISPOSITION:

- (x) Action is ongoing. Estimated Completion Date: 31 Oct 92
- () Action is considered complete.

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

- () Nonconcur. (Rationale must be documented and maintained with your copy of the response.)
- (x) Concur; however, weakness is not considered material. (Rationale must be documented and maintained with your copy of the response.)
- () Concur; weakness is material and will be reported in the DLA Annual Statement of Assurance.

MONEY BENEFITS: None

DLA COMMENTS: N/A

ESTIMATED REALIZATION DATE: N/A

AMOUNT REALIZED: N/A

DATE BENEFITS REALIZED: N/A

ACTION OFFICER (b)(6)

PSE REVIEW/APP: [REDACTED]

COORDINATION: [REDACTED]

DLA APPROVAL: (b)(6)

CHARLES R. HENRY
Major General, USA
Deputy Director
(Acquisition Management)

END 5

LIST OF AUDIT TEAM MEMBERS

(b) (5)



~~FOR OFFICIAL USE ONLY~~

~~FOR OFFICIAL USE ONLY~~