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ANALYSIS OF THE IMPLEMENTATION OF DOD'S RESOURCES
MANAGEMENT PUBLIC AFFAIRS PLAN(U) GENERAL ACCOUNTING
OFFICE WASHINGTON DC NATIONAL SECURITY AND.. 15 FEB 85
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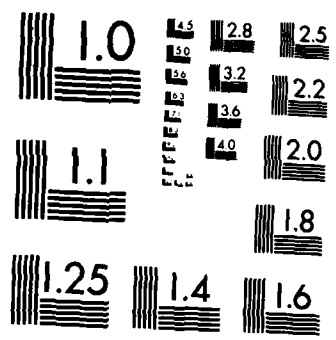
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BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Honorable Sam Nunn
Ranking Minority Member
Committee On Armed Services
United States Senate

**Analysis Of The Implementation Of DOD's
Resources Management Public Affairs Plan**

GAO analyzed activities conducted in support of DOD's Resources Management Public Affairs Plan to determine its extent, and whether DOD personnel violated any laws or regulations in implementing the plan.

No system was put in place by DOD to identify all of the activities undertaken as a result of the plan and GAO was therefore unable to determine the full extent of activities and their associated costs. GAO was able to identify certain activities associated with the plan. Based on an examination of available speeches and transcripts, GAO did not find any

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- activities warranting a referral to the Office of Special Counsel of the Merit Systems Protection Board as possible violations of the Hatch Act,
- evidence that DOD personnel violated applicable laws or regulations, and
- evidence that the participation of the Inspector General violated the Inspector General Act of 1978 as amended.



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GAO/NSIAD-85-53
FEBRUARY 15, 1985

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

NATIONAL SECURITY AND
INTERNATIONAL AFFAIRS DIVISION

B-217511

The Honorable Sam Nunn
Ranking Minority Member
Committee on Armed Services
United States Senate

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Dear Senator Nunn:

In your letter dated October 5, 1984, you asked us to examine the Public Affairs Plan being implemented by the Department of Defense (DOD) which appeared to you to have political overtones. This plan was designed to enhance media and public understanding and support for DOD's management improvement program.

You asked us to determine the extent, nature, and cost of the activities being conducted in support of this plan, and whether DOD personnel, and the Inspector General in particular, in carrying out the activities associated with the plan were violating any laws or regulations. The following paragraph summarizes the results of our review. Appendix I discusses the results in detail.

No system was put in place by DOD to identify all of the activities undertaken because of the plan, and we were therefore unable to determine the full extent of the activities and their associated costs. We were able, however, to identify certain activities--speeches and press briefings by top DOD officials--associated with the plan. Based on our examination of the available speeches and transcripts, we did not find any

- activities warranting a referral to the Office of Special Counsel of the Merit Systems Protection Board as possible violations of the Hatch Act;
- evidence that DOD personnel violated the Federal Elections Campaign Act, the laws pertaining to the expenditure of federal funds (31 U.S.C. 1301), or the antipublicity prohibitions of DOD's annual appropriations acts; and
- evidence that the participation of the Inspector General in the Public Affairs Program violated the Inspector General Act of 1978 as amended.

DISTRIBUTION STATEMENT A

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The Inspector General Act as amended created Inspectors General in major federal agencies as "independent and objective units." In the Act, the Congress tried to balance this independence with the needs of management. The Act contains several provisions which are designed to insure that this independence is maintained, while at the same time it is clear that an Inspector General was not intended to be completely independent of the agency head.

By participating in press conferences that were held within weeks of the national election, the Inspector General created the perception in the minds of some observers of being involved in partisan political activity and compromising his independence. The Inspector General told us that he freely participated in the program and his prepared remarks were not subject to review before the press briefing. Moreover, the press conferences were nonpartisan statements of facts that had previously been published in the newspapers or in the Inspector General's semiannual reports to the Congress. The Inspector General also stated that he is aware of the importance of his independence and would in no way consciously allow it to be compromised. The Inspector General regrets that the timing of his press conferences gave some the perception of political involvement on his part, and has provided assurances that he will be even more sensitive to the possibility of such a perception in the future.

We did not obtain official written agency comments on this report. We did, however, discuss its contents with agency officials before issuing this report and their comments were taken into account before finalizing this report. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of the report. At that time we will send copies to interested parties and make copies available to others upon request.

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Sincerely yours,

Bill W. Thurman

for

Frank C. Conahan
Director

RESULTS OF OUR EXAMINATION
IN RESPONSE TO SENATOR NUNN'S
REQUEST DATED OCTOBER 5, 1984

In a letter dated October 5, 1984, Senator Nunn asked us to examine the Public Affairs Program being conducted by DOD which appeared to him to have political overtones. He provided two memorandums to us. (See app. II.) One memorandum, dated July 24, 1984, was sent by the Assistant Secretary of Defense for Legislative Affairs to other DOD units. The second memorandum, dated August 31, 1984, was signed by the Principal Deputy Assistant Secretary of Defense for Public Affairs.

The July memorandum was written in response to a verbal request for information from three members of the Senate Armed Services Committee. According to the memorandum, these Senators were concerned over what they considered were unfair reports in the press concerning the disposal of spare parts and the prices paid for selected spare parts. They wanted to issue a statement that the items being reported by the press were anomalies which were uncovered by the sound management practices introduced during this administration. To prepare such a statement they needed information such as the number of fraud convictions, the decline in number of shipbuilding claims, the number of audits conducted, and the number of contracts awarded on a competitive basis. The July memorandum sought to obtain this information.

The August memorandum was more detailed. It stated that the Secretary of Defense had approved a Public Affairs Plan to "enhance media and public understanding of and support for the Department's management improvement program." Attached to the memorandum were listings of scheduled and unscheduled activities from the period September 5 through November 3, 1984. The first two scheduled activities involved planning meetings. The Secretary of Defense's speech on September 18 initiated the Public Affairs Plan implementation. The attachment stated that the Public Affairs Plan was designed to publicize the accomplishments of DOD in the area of procurement and resource management. The scheduled activities included, among other things, speeches by the Secretary of Defense and the Deputy Secretary of Defense, as well as a press briefing by the DOD Inspector General.

Senator Nunn asked us to determine whether the Public Affairs Plan violated any laws or regulations. Specifically, we were asked to address the following questions:

- What is the nature and extent of this program? How many personnel are involved and what is the cost? Is there more to it than is disclosed by the August 31 memorandum from the Principal Deputy Assistant Secretary of Defense for Public Affairs?

- Does the participation of the DOD Inspector General violate any applicable laws or regulations?
- Does the participation of the other DOD personnel, both military and civilian, violate any applicable laws or regulations?
- Are any public monies being spent in violation of applicable laws or regulations?

NATURE AND EXTENT OF ACTIVITIES
ASSOCIATED WITH MEMORANDUMS

Although a relationship between the July 24 and the August 31 memorandums might be drawn, we could find no evidence linking them. For this reason, we addressed them separately.

Memorandum requesting information for selected
members of the Senate Armed Services Committee

The Assistant Secretary of Defense for Legislative Affairs memorandum of July 24 was in response to a request from three members of the Senate Armed Services Committee. In discussing this particular memorandum with the Assistant Secretary and Principal Deputy, we were told that the Office of Legislative Affairs does not have any records identifying who specifically initiated the request, what information was provided, or to whom the information was provided. Through other sources, we identified the information collected in response to the request. This included information such as the level of audit activity, number of auditors assigned, and number of fixed-price contracts awarded.

Our review of the activities associated with this memorandum did not identify any link with the August 31 memorandum. Different units within the Office of the Secretary of Defense (OSD) wrote each memorandum, and the principals involved in developing the Public Affairs Plan told us they had no knowledge of the memorandum signed by the Assistant Secretary for Legislative Affairs. Providing information about DOD activities to congressional committee members is a legitimate government activity, and we did not find any evidence that the activities associated with this memorandum violated any laws or regulations.

Public Affairs Plan--memorandum
dated August 31, 1984

The August 31, 1984, memorandum stated that phase I of the 8-week plan, that is, the Public Affairs Plan, was to start on September 18 with a speech by the Secretary of Defense. The plan was intended to enhance media and public understanding of

and support for DOD's management improvement program. Also, according to the schedule that was attached to the memorandum, phase I was to conclude with a speech by the Secretary on November 3. We were told, however, that the November 3 date was incorrect. The sponsoring organization--the International Management and Development Institute--told us that the scheduled date had always been November 13. In any event, the Secretary delivered the speech on November 13 which was 8 weeks after the Secretary's speech on September 18 in which he initiated the implementation of the plan.

We were told that the Public Affairs Plan is a continuing effort and were provided a copy of an updated plan entitled Resource Management Public Affairs Plan Update, showing activities completed as well as activities planned through mid-December 1984. The updated plan dated October 1, 1984, indicated the plan would be continued after the first of the year.

In addition to scheduled activities, the Public Affairs Plan noted other situations where opportunities might exist for DOD to highlight its accomplishments or to report on the positive results of its initiatives. In addition to speeches and press releases, it was suggested that (1) local commanders be prepared to discuss ways in which resource management improvements have helped them, (2) opportunities might exist to recognize, through awards, contributions of installation personnel associated with resource management improvements, and (3) an active letter-to-the-editor program contesting attacks on DOD management procedures would be appropriate. In this regard, the Resource Management Public Affairs Plan is very similar to another Public Affairs Plan dealing with the defense property disposal issue. This plan, dated July 19, 1984, was designed to educate the press and public on DOD accomplishments in much the same manner as the Resource Management Plan.

We were told that the Public Affairs Plan was intended to provide guidance to others within OSD and the military services. The memorandum was distributed to inform others within DOD such as the Offices of the Inspector General and the Comptroller of what was planned and to enlist their support in meeting the plan's objectives. However, the Public Affairs Office did not establish a formal system for recording what had actually been done.

Since no system existed for recording what had been done under the plan, it is not possible to define the full extent of the Public Affairs Plan implementation. This, in turn, precludes us from developing meaningful estimates concerning the numbers of individuals actually involved and the costs associated with developing and implementing the plan.

We were, however, able to identify the activities of senior DOD officials and analyze the subject matter associated with these activities. During the period September 18 through November 3, 1984 (the period initially identified in the August 31 memorandum), senior DOD officials made speeches, addressed organizations, and held press briefings. The following table summarizes the level of activity.

<u>Offices</u>	<u>Number of</u>	
	<u>Speeches</u>	<u>Press briefings</u>
Secretary	13	-
Deputy Secretary	9	-
Assistant Secretary (MI&L) ^a	13	2
Under Secretary (R&E) ^b	6	-
Inspector General	-	2
	<u>41</u>	<u>4</u>

^aIncludes Assistant Secretary and Principal Deputy.

^bIncludes Under Secretary and Principal Deputy.

The speeches included addresses before such groups as the American Newspapers Publishers Association, the North Texas Chambers of Commerce, and the DOD Maintenance Depot Commanders Conference. Appendix III contains a listing of these events. Although all of these events were not specifically identified in the August 31 memorandum, based on our analyses of the documents associated with them, we believe the subject matter and theme of the speeches and briefings are consistent with the Public Affairs Plan. The results of our analyses of possible violations of laws and regulations follow.

WE DID NOT FIND ANY EVIDENCE
THAT DOD PERSONNEL VIOLATED
LAWS OR REGULATIONS

We examined the activities related to the above mentioned speeches and briefings in light of existing laws and regulations that generally deal with these types of activities. This primarily consists of the requirements of five laws and their implementing regulations. These are the Hatch Act, the Federal Elections Campaign Act, the laws pertaining to the expenditures of funds (31 U.S.C. 1301), the antipublicity prohibitions of DOD's annual appropriations acts, and the Inspector General Act. We discuss the activities of the Inspector General in greater detail beginning on page 10.

No evidence of Hatch Act violations

Before addressing the specific question of whether the DOD officials involved violated the Hatch Act because of their participation in the subject program, it is important to point out that the statutory responsibility and authority for investigating and prosecuting apparent violations rests with the Office of Special Counsel of the Merit Systems Protection Board. The Board itself determines whether the Act is violated. Nevertheless, to be responsive to the Senator's request, we reviewed the subject speeches and press briefings for which the documentation was available for the limited purpose of detecting possible violations of the Hatch Act, which should be referred to the Office of Special Counsel.

We reviewed copies of the various speeches and press briefings that were given during the time frame of the Public Affairs Plan. Although the speeches and briefings dealt mostly with DOD's accomplishments and other continuing efforts in the subject area, in certain instances there were passing references to the accomplishments of the current administration. For example, in a speech on October 23, 1984, the Deputy Secretary of Defense stated that:

"1980 saw a clear mandate for this administration to arrest the trends of the 70's, to reverse the decade's neglect of our military, and restore America's position of leadership in the world.

.

"In the past few months, a great deal of rhetoric has been expended on the question of how well we are fulfilling our mandate. On occasion we have even been told we are less well prepared to respond to our defense requirement. What are the facts? The plain truth is that American defense capabilities have improved significantly over the past four years. We have once again made it necessary for any potential aggressor to weigh very carefully the consequences of any actions that would endanger the peace. As President Reagan said in his State Of The Union Address this past January, 'America Is Safer, More Secure Today.' For that, everyone in this room can share credit."

The Hatch Act prohibits a federal employee from (1) using official authority or influence to interfere with or affect the result of an election or (2) taking an active part in political management or in political campaigns.

With respect to the first prohibition, our discussions with the Office of Special Counsel of the Merit Systems Protection Board confirmed that the prohibition has long been interpreted as applying to the use by an employee of an official position to directly influence or coerce subordinates to assist in or otherwise advance the election of a particular candidate (e.g., pressuring employees to make contributions or to solicit contributions from others). Based on our analyses of the available documentation, we do not believe that any statements made by DOD officials in these speeches and addresses were intended to influence or coerce individuals in such a manner.

Turning to the second prohibition, certain government officials are specifically exempted from this prohibition, including

"(2) the head or the assistant head of an executive department or military department;

"(3) an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;"

Thus, it appears that several of the principal DOD officials who participated in the subject program, such as the Secretary of Defense, the Deputy Secretary of Defense, and the Assistant Secretaries of Defense for Public Affairs and Legislative Affairs, are exempted from the second prohibition.¹ Other individuals, such as the Inspector General and the Principal Deputy Assistant Secretary of Defense for Public Affairs, are not so exempted.

Regulations implementing the second prohibition identify specific types of activities that a nonexempt federal employee is prohibited from participating in, several of which might apply in this situation.²

"(5) Taking an active part in managing the political campaign of a candidate for public office in a partisan election or a candidate for political party office;

¹We note that by law DOD's Inspector General is not exempted from this prohibition even though appointed by the President. See section 3(c) of the Inspector General Act of 1978, as amended, 5 U.S.C. appendix 3.

²See 5 C.F.R. section 733.122

.
"(7) Soliciting votes in support of or in opposition to a candidate for public office in a partisan election or a candidate for political party office;

.
"(10) Endorsing or opposing a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, a broadcast, campaign, literature, or similar material;

.
"(12) Addressing a convention, caucus rally, or similar gathering of a political party in support of or in opposition to a partisan candidate for public office or political party office;"

These prohibitions could apply to material contained in a speech or an address. However, we found no reported cases of the Merit Systems Protection Board dealing with an alleged violation of the Hatch Act based on a speech or other presentation given by a government official. Most of the Board's cases have dealt with an employee being a candidate in a partisan election or holding a formal position in a political party. However, based on older decisions rendered by the former Civil Service Commission, together with informal discussions with the Office of Special Counsel, it appears that a government official's speech could violate the Hatch Act if the official explicitly identified a political candidate in a highly positive or highly negative manner, particularly if the official urges the individuals present to vote for or against that candidate.

Although the DOD Resource Management Public Affairs Plan was carried out shortly before the election, its stated purpose was to inform the press and the American public and DOD employees (see app. III) on the acquisition process and the steps DOD has taken to reduce and eliminate waste, fraud, and abuse within DOD. Consistent with the program's stated purpose, the speeches and briefings dealt mostly with DOD's accomplishments and other continuing efforts in such areas as major acquisitions, spare parts procurement, inventory management, and quality production. Nowhere in these speeches and briefings are there any statements urging individuals to reelect the President; nor are there any derogatory statements concerning Democratic candidates. We recognize that in certain instances passing references to the accomplishments of the current administration existed, but in our judgment, these statements cannot reasonably be characterized as being so political in

nature as to warrant a referral to the Office of Special Counsel as possible violations of the Hatch Act.

Federal Elections Campaign
Act does not apply

The Federal Elections Campaign Act, as amended, deals with a wide range of activities that occur during a federal election campaign that may directly or indirectly benefit a particular candidate.³ This legislation, among other things, establishes public reporting requirements, expenditure limitations, and contribution limitations.⁴

As previously stated, the speeches and briefings dealt primarily with DOD's accomplishments and continuing efforts in the procurement and property management areas. At times, references were made to the accomplishments of the current administration.

Under the Federal Elections Campaign Act, the activities of federal officials during an election campaign that may incidentally benefit the incumbent administration, are not treated as either campaign contributions or expenditures. In the 1979 amendments to that Act, the Congress, in effect excluded such activities by changing the definitions of "person," "expenditure," and "contribution" to specifically exclude the federal government and expenditures of federal funds.⁵ Thus, that Act does not apply to the DOD officials' activities in question.

No authoritative criteria for judging
use of appropriated funds

Agencies may use appropriated funds only for the purpose for which they were appropriated⁶ and such funds were not available to DOD for political or partisan purposes. The question raised by the request was whether travel, speechmaking, and public appearances by senior level officials, and other personnel actions that may take place during a presidential campaign and may directly or indirectly benefit a particular candidate constitute an improper use of appropriated funds.

³See 2 U.S.C. 431-455 and 26 U.S.C. 9001-9012, 9031-9042.

⁴See 2 U.S.C. 434 and 411a, respectively.

⁵See 2 U.S.C. 431, as amended.

⁶See 31 U.S.C. 1301.

This question has been raised by members of both major political parties on various occasions incident to a presidential campaign. The question poses the very difficult problem of distinguishing between permissible official activities for which appropriated funds are available and other activities that are similar in nature but are for purely political or partisan purposes.⁷ The problem becomes particularly troublesome when these activities tend to increase during the late stages of a campaign. As to official activities, we have long held that the President, cabinet members, and other subordinates have a duty to inform the public about government policies, and policy-making officials traditionally have used government resources to disseminate information in explanation and defense of those policies.

As we have stated in the past, there should be a point beyond which it could be concluded that the bounds of propriety have been overstepped. But for us to be able to determine that point, and in any given situation to distinguish authoritatively between prohibited and allowable activities, we would need some guidelines by which to judge the activities in question. No guidelines of a legally binding nature have been established by legislation, judicial decision, or otherwise. Therefore, we have no basis to conclude as a matter of law that appropriated funds were improperly used by DOD in carrying out its Public Affairs Plan.

for publicity/propaganda
prohibition not violated

We examined whether the speeches and other activities discussed in this report violated the provision traditionally included in DOD's annual appropriations acts prohibiting the use of funds "for publicity or propaganda not authorized by the Congress."⁸ This prohibition is directed to those activities whose obvious purpose is self-aggrandizement. We have consistently interpreted similar prohibitions in other agencies' appropriations acts as not applying to the dissemination of information to the general public concerning the agency's

See our report entitled Review of White House and Executive Agency Expenditures for Selected Travel, Entertainment, and Personnel Costs (AFMD-84-35, Mar. 6, 1981).

See section 702 of Public Law 98-212, December 8, 1983, 97 Stat. 1437; section 8002 of Public Law 98-473, October 12, 1984.

PENDIX II

APPENDIX II

1 OCT

Press briefing on Competition Advocate program,
including savings achieved and increase in
competitively awarded contracts. Issue fact
sheet on accomplishments.

TAB L
PUBLIC AFFAIRS PLAN
SCHEDULE OF WEEKLY BRIEFINGS
OR RELEASES

Scheduled Activities:

<u>Date</u>	<u>Event</u>
19 SEP	Release "Bluecopper" on National Quality Month (October), stressing DoD efforts to maintain quality in procurement process, Warranty program and prosecutions/debarments for substandard performance.
24 SEP	Re-release of Management Improvements booklet (produced by Comptroller), with fact sheet updating actions since publication this May.
26 SEP	Press briefing by DoD IG on inspections, audits, work with DoD/Justice Task Force, etc. Release fact sheet summarizing accomplishments.
28 SEP	Last weekday of Fiscal Year. Be prepared to account for contract award announcements in terms of whether funds are expiring or not and why large numbers of awards have been made (if this is the case).
3 OCT	Press briefing on changes in contracting procedures. To include increased emphasis on fixed-fee contracts, breakout program, incentives, etc. Release fact sheet summarizing accomplishments.
10 OCT	Press briefing on Defense Contract Audit Agency activities. Release fact sheet summarizing accomplishments and 4th Quarter Audit results, if available.
17 OCT	Press briefing on Joint Interservice Resource Study Group and Defense Retail Interservice Support programs. Release fact sheet summarizing accomplishments.
24 OCT	Press briefing on Warranty program, including DoD's rationale for modifications in legislation which would allow greater flexibility in the program. Issue fact sheet summarizing activities and accomplishments of warranty program.

exist, an effort should be made to familiarize speakers with this plan and incorporate these themes in their addresses. Local commanders should also be informed that speakers will be visiting their area and be prepared to discuss ways in which resource management improvements have affected them. This is particularly important, since local press are often far more receptive to messages of this type than national media, and local commanders often have earned considerable respect for their opinions from both media and local community opinion leaders.

C. Awards. When Defense officials are visiting installations out of the Washington, DC, area, it may be appropriate to have them recognize the efforts of installation personnel in the areas of resource management improvement and elimination of fraud, waste and abuse. If these opportunities exist, appropriate awards or commendations should be made, and publicized.

D. Letters to Editors. It can be expected that attacks on DoD management procedures will continue through this period. These attacks should be vigorously contested in the press by an active letter-to-the-editor program. In addition, any special accomplishments which may occur during this period of time should be highlighted in letters, as well as in press releases.

E. Internal Information. Service internal or command information managers must be kept abreast of developments in this plan, and should include materials supporting the plan in all their products during this period. AFIS should support this effort by providing similar materials for redistribution through service channels.

<u>Date</u>	<u>Event</u>
29 SEP	DEPSECDEF speech at VALLEY FORCE (CG 50) commissioning.
3 OCT	Weekly press briefing on changes in contracting procedures. To include increased emphasis on fixed-fee contracts, breakout program, incentives, etc. Release fact sheet summarizing accomplishments.
10 OCT	Weekly press briefing on Defense Contract Audit Agency activities. Release fact sheet summarizing accomplishments and 4th Quarter Audit results, if available.
16 OCT	DEPSECDEF speech to University Club, Chicago, IL.
17 OCT	Weekly press briefing on Joint Interservice Resource Study Group and Defense Retail Interservice Support programs. Release fact sheet summarizing accomplishments.
20 OCT	DEPSECDEF speech on "Status of Warranty Law Repeal" to Kelly Management Association, San Antonio, TX.
23 OCT	SECDEF speech to National Security Industrial Association, Washington, DC.
23 OCT	DEPSECDEF speech to DoD Depot Maintenance Seminar, Corpus Christi, TX.
24 OCT	Weekly press briefing on Warranty program, including DoD's rationale for modifications in legislation which would allow greater flexibility in the program. Issue fact sheet summarizing activities and accomplishments of warranty program.
31 OCT	Weekly press briefing on Competition Advocate program including savings achieved and increase in competitively awarded contracts. Issue fact sheet on accomplishments.
3 NOV	SECDEF speech to International Management and Development Institute, Washington, DC

III. Non-scheduled activities:

A. Press Releases. Throughout this period, opportunities may arise for press releases on positive results of resource management initiatives. Offices should seek out stories of this kind and pass the information to ASD(PA) for publication in an appropriate form. The point of contact for this activity is LT Tom Yeager, X71254.

B. Speeches by Defense Officials. OASD(PA) Speakers' Bureau should review all speaking engagements throughout this period of time for their appropriateness as a forum for positive discussions of our initiatives in resource management. Where these opportunities

TAB A
PUBLIC AFFAIRS PLAN
DEFENSE RESOURCES MANAGEMENT

I. Summary: This Tab presents a detailed public affairs plan for publicizing the accomplishments of DoD in the area of procurement and resource management. The campaign will begin with a major address by the Secretary of Defense to the American Publishers Association, followed by letters to editors of influential publications, continuing speeches by the Secretary of Defense, Deputy Secretary of Defense and other defense officials, press releases on management issues, and a series of on-the-record briefings on aspects of the Acquisition Improvement Program. Messages reflecting the subject areas of the weekly briefings will be sent to commanders and troops in the field through service internal information channels and the Armed Forces Information Service. Local commanders will be encouraged to recognize the efforts of personnel who have made contributions to improving resource management practices and to publicize those accomplishments.

II. Proposed Scheduled Activities:

<u>Date</u>	<u>Event</u>
5 SEP--1030	Meeting with appropriate DoD Offices on PA Plan.
12 SEP--1400	Meeting with AFIS and service internal information personnel.
18 SEP	SECDEF speech to American Newspaper Publishers' dinner in Washington, DC. Initiates planned events.
19 SEP	Release "Bluetopper" on National Quality Month (October), stressing DoD efforts to maintain quality in procurement process, Warranty program and prosecutions/debarments for substandard performance.
21 SEP	SECDEF speech to Radio-TV News Directors Association, Washington, DC.
24 SEP	Re-release of Management Improvements booklet (produced by Comptroller), with fact sheet updating actions since publication this May.
26 SEP	First weekly press briefing by DoD IG on inspections, audits, work with DoD/Justice Task Force, etc. Release fact sheet summarizing accomplishments.
28 SEP	Last weekday of Fiscal Year. Be prepared to account for contract award announcements in terms of whether funds are expiring or not and why large numbers of awards have been made (if this is the case).



THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, DC 20301

AUG 31 1984

PUBLIC
AFFAIRS

MEMORANDUM FOR UNDERSECRETARY OF DEFENSE (RESEARCH & ENGINEERING)
ASSISTANT SECRETARY OF DEFENSE (MANPOWER,
INSTALLATIONS & LOGISTICS)
ASSISTANT SECRETARY OF DEFENSE (COMPTROLLER)
INSPECTOR GENERAL

SUBJECT: Defense Resources Management Public Affairs Plan

The Secretary of Defense has approved the attached public affairs plan to enhance media and public understanding of and support for the Department's management improvement program (TAB A). Phase I of the eight-week plan commences on 18 September, with a speech by Secretary Weinberger to the American Newspaper Publishers' Association (ANPA) in Washington, DC.

Following this speech, the plan envisions weekly on-the-record briefings through the end of October, as indicated on the proposed schedule at TAB B. These briefings will be designed to inform the press and the American public on the acquisition process, and the steps DoD has taken to reduce and eliminate waste, fraud and abuse within the Department. This will include a review of the acquisition process, the initiatives we have taken as a result of audits and inspections, and show how these measures have been integrated under the Acquisition Improvement Program.

In addition to speeches by the Secretary and Deputy Secretary, fact sheets which offer guidance and information will be provided to selected DoD speakers use in speeches and interviews.

A meeting will be held at 10:30 a.m., September 5th, in the OASD(PA)-Radio Studio, to discuss the content of these briefings and to develop a detailed schedule of briefings. Request you provide the name and telephone number of your action officer to LT Tom Yeager, X71254, room 2D774.

A handwritten signature in cursive script, reading "Kathleen Troia", is positioned above the typed name.

Kathleen Troia
Principal Deputy Assistant Secretary

- Changes in accounting procedures that resulted in identifying errors in spare parts prices.
- List and explain the number of overpriced spares the Department actually procured.
- Increases of incentive awards.

Dr. Korb and General Babers (DLA) are testifying before the HASC Investigations Subcommittee on 25 July concerning the disposal issue. A copy of their statements will be provided to the SASC for their use in formulating their press release.


Russell A. Rourke

Copy to:
Dr. Korb

LEGISLATIVE
AFFAIRSTHE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, DC 20301

24 July 1984

MEMORANDUM FOR THE UNDER SECRETARY OF DEFENSE (R&E)

SUBJECT: SASC Request for Information

The Senate Armed Services Committee is concerned over the press this weekend concerning the Department's program for disposal of spare parts. This, coupled with the press we received on prices paid for selected spare parts, i.e., claw hammer, stool cap, allen wrench, if gone unchecked, will definitely be a key campaign issue. The opposition will cite these examples and portray the Department as having serious management problems.

Senators Tower, Warner and Wilson want to make a press statement citing examples of how these issues are an anomaly and have in fact been uncovered by the sound management practices introduced during this Administration. Additionally they want to provide their colleagues with data they can take to their districts to discuss the issues with the local press.

The Committee would like charts, depicting the changes in each of the following issues over the past eight years. They want each chart to be accompanied by a brief paragraph explaining the issue. This list is not all inclusive. If there are examples the Department feels would be useful to their case, they should be included. The Committee requests this information by Thursday, 2 August:

- The number of fraud convictions.
- The number of firm fixed price contracts (dollar value more useful than numbers).
- Decline in the number of shipbuilding claims.
- Decrease in the rate of SAR growth.
- The number of audits conducted.
- The number of auditors assigned.
- The number of contracts awarded on the competitive basis (number and dollar value).

The Honorable Charles A. Bowsher
October 5, 1984
Page Two

- Does the participation of other Department of Defense personnel, both military and civilian, violate any applicable law or regulation?
- Are any public moneys being spent in violation of applicable laws or regulations?

I look forward to your report at the earliest possible time.

Sincerely,



Sam Nunn
Ranking Minority Member

Enclosure

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United States Senate

COMMITTEE ON ARMED SERVICES

WASHINGTON, D.C. 20510

October 5, 1984

The Honorable Charles A. Bowsher
 Comptroller General of the United States
 General Accounting Office
 441 G Street, N.W.
 Washington, D.C. 20548

Dear Mr. Bowsher:

Mr. Fred Wertheimer of Common Cause has recently provided the Committee on Armed Services with two Department of Defense memoranda which establish that the Department of Defense, including the Department's Inspector General, has launched a "plan to enhance media and public understanding and support for the Department's management improvement program." Those two memoranda are attached.

The program, which is well underway, involves a number of speeches, press conferences, and other public events, which conclude on November 3, three days before the general election. It appears to have clear political overtones. There have been suggestions that the participation of the Department's Inspector General and other government employees in this program may raise questions of legality and propriety.

Enclosed is a copy of my remarks on the floor of the Senate in which I stated that I believe Congress should carefully monitor these activities.

I request that the General Accounting Office examine this program to determine if there are any violations of law or regulations. I believe that your inquiry should address the following questions:

- What is the nature and extent of this program? How many personnel are involved and what is the cost? Is there more to it than is disclosed by the August 31 memorandum from Deputy Assistant Secretary Kathleen Troia?
- Does the participation of the Inspector General of the Department of Defense in such a program violate any applicable law or regulation?

After the first press conference on September 26, 1984, two United States Senators and a Representative, in addition to Senator Nunn, questioned the Inspector General's participation on the basis that it had political overtones.

We discussed the issues surrounding the press conferences with the Inspector General. The Inspector General is aware of the importance of independence and stated that he would in no way consciously allow it to be compromised. He believes that his actions over the last 2 years as Inspector General demonstrate a commitment towards carrying out his responsibilities. In addition, from the Inspector General's perspective, both of the press conferences were balanced, factual accounts of the work.

The Inspector General made similar statements in letters to some of the Members of Congress who had questioned the September 26 press conference. In these letters the Inspector General also stated,

"I regret that the timing of the conference, during a politically sensitive period, gave some the perception of political involvement by the Inspector General. Let me assure you that in the future I will be even more sensitive to the possibility of such a perception."

The Inspector General said this statement was equally applicable to the October 5, 1984, press conference.

OBJECTIVES, SCOPE, AND METHODOLOGY

To respond to the questions raised, we collected information from and interviewed officials within OSD. We also interviewed a former OSD official who was involved in developing the Public Affairs Plan. We then determined whether the activities related to the speeches and briefings of OSD officials appeared to violate any laws or regulations. The specific laws examined included the Hatch Act which governs the participation of federal employees in partisan elections, the Federal Elections Campaign Act, the Inspector General Act of 1978, as amended, and the laws pertaining to use of public monies and the antipublicity prohibitions contained in the annual appropriations acts. Regulations implementing such laws were also reviewed. In addition, we also evaluated the Inspector General's actions in light of the accepted Standards for Audit of Government Organizations, Programs, Activities, and Functions.

Our review was performed in accordance with generally accepted government auditing standards.

The legislation establishing the DOD Inspector General in 1982, as an amendment to the 1978 Act, contains additional provisions that may affect the DOD Inspector General's independence in certain situations. First, the Inspector General is under the "authority, direction, and control" of the Secretary of Defense in matters requiring access to information consisting of (1) sensitive operational plans, (2) intelligence matters, (3) counterintelligence matters, (4) ongoing criminal investigations by other administrative units of DOD related to national security, or (5) other matters the disclosure of which would constitute a serious threat to national security.

The Secretary of Defense may prohibit the Inspector General's work in specified areas to preserve the national security interests of the United States. If the Secretary does prohibit the Inspector General's work, both the Secretary and the Inspector General are required to send statements to designated congressional committees.

Under the 1978 Act, all Inspectors General are required to adhere to generally accepted government audit standards, including a standard concerning independence. This standard places on auditors and audit organizations the responsibility for maintaining independence so that opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. This standard must be read in conjunction with the Inspector General legislation. Because of this standard, auditors should consider how others will view their independence in any situation.

DOD Inspector General did not
foresee how others would view
his independence

The DOD Inspector General told us he did not consider the press conferences to be political, and did not foresee the implications that the September 26 and October 5, 1984, press conferences would have on how some people view independence. The Inspector General said that he thought that the press conferences would be opportunities to inform reporters about the audit and investigative work in the 2 years since this office was established.

Publicizing the results of audits and investigations through reports, press conferences, and other communication media is one way to deter fraud. Such publicity increases the public's awareness of efforts to prevent fraud, waste, and abuse in government operations and encourages the public to report information concerning the misuse of government funds.

aware of the importance of his independence and would in no way consciously allow it to be compromised. The Inspector General regrets that the timing of his press conferences gave some the perception of political involvement on his part, and has provided assurances that he will be even more sensitive to the possibility of such a perception in the future. (See app. IV.)

Requirements for Inspector
General independence

The Inspector General Act of 1978, as amended, created Inspector General offices in major federal agencies as "independent and objective units" to audit and investigate agency operations. In the Act, the Congress tried to balance Inspector General independence and the needs of management. According to the legislative history, the Congress wanted Inspectors General to have "an unusual degree of independence," with no vested interest in the programs and policies being evaluated.

The Act contains several provisions that are designed to insure that an Inspector General's independence is maintained. An Inspector General (1) is appointed by the President, by and with the advice of the Senate, without regard to political affiliation, (2) can be removed only by the President, and the President must communicate the reasons for such removal to both Houses of Congress, (3) is placed under the general supervision of the agency head or the official next in rank, not other subordinate agency officials, (4) cannot be assigned any program operating responsibilities, (5) is authorized to select, appoint, and employ such persons as necessary to carry out his responsibilities, and (6) cannot be prevented or prohibited from initiating, carrying out, or completing any audit or investigation by an agency official. (Restrictions on Inspectors General and the DOD Inspector General in particular are discussed in the following paragraphs.)

On the other hand, from several other provisions in the Act it is clear that an Inspector General was not intended to be completely independent of the agency head. An Inspector General is (1) required to report to and be under the general supervision of the agency head, (2) required to keep the agency head fully and currently informed in matters dealing with fraud and other serious problems, abuses, and deficiencies relating to the administration of agency programs and operations, and (3) to provide leadership and coordination and recommend policies for activities designed to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect fraud and abuse in such programs and operations. The Act's legislative history recognizes that an Inspector General's efforts would be significantly impaired without a smooth working relationship with the agency head.

programs and activities.⁹ Given the absence of any statutory guidelines for distinguishing between legitimate informational activities and unauthorized publicity or propaganda activities, we have not determined that a violation occurred where the agency concerned can provide a reasonable justification for its questioned activities.

The stated purpose of DOD's Resources Management Plan was to inform the press and the American public on the acquisition process, and the steps DOD has taken to reduce and eliminate waste, fraud, and abuse within DOD. The various speeches and press briefings that we examined, which were given incident to this plan, identified DOD's accomplishments and other continuing efforts in such areas as major acquisition, spare parts management, and inventory management. In light of this otherwise legitimate dissemination of information to the public of DOD's efforts and accomplishments in the identified areas, and in the absence of any evidence of self-aggrandizement on the part of the senior level DOD officials, we cannot say that the so-called antipublicity or propaganda prohibition was violated by these activities.

WE DID NOT FIND EVIDENCE THAT
INSPECTOR GENERAL PARTICIPATION
VIOLATED THE INSPECTOR GENERAL ACT

We did not find evidence that participation of the Inspector General in the Public Affairs Program violated the provisions in the Inspector General Act of 1978 as amended. Nothing in this Act prohibits the Inspector General from publicizing audit results through reports, press conferences, or other means. However, by participating in press conferences that were held within weeks of the national election, the Inspector General created the perception in the minds of some observers of being involved in partisan political activity and compromising his independence. There is considerable evidence, in the form of reports and testimony that were critical of DOD programs and operations, that the Inspector General has carried out his work in an independent manner in the past. Moreover, the press conferences were nonpartisan statements of facts that had previously been published in the newspapers or in the Inspector General's semiannual reports to the Congress.

The Inspector General told us that he freely participated in the program and his prepared remarks were not subject to review before the press briefing. He also added that he is

⁹See 31 Comp. Gen. 311, 313 (1952): B-178528, July 27, 1973; B-184648, December 3, 1975.

SPEAKING SCHEDULES OF SELECTED DOD OFFICIALSSEPTEMBER 18 THRU NOVEMBER 3, 1984

<u>Date</u>	<u>Event</u>	<u>Location</u>
<u>Secretary of Defense</u>		
9-18-84	American Newspaper Publishers Assn.	Washington, D.C.
9-20-84	Hispanic Chamber of Commerce	San Antonio, TX
9-20-84	North Texas Chambers of Commerce	Fort Worth, TX
9-20-84	Dallas Assembly	Dallas, TX
9-21-84	Radio/Television News Directors Assn.	Washington, D.C.
9-26-84	USO Woman of the Year	Washington, D.C.
10-23-84	National Security Industrial Assn.	Washington, D.C.
10-24-84	Zablocki Memorial Lecture	Milwaukee, WI
10-24-84	Town Hall of California	Los Angeles, CA
10-25-84	Commonwealth Club of California	San Francisco, CA
10-27-84	Kansas State University	Manhattan, KS
10-27-84	Commissioning of USS T Roosevelt	Newport News, VA
10-30-84	Pittsburgh World Affairs Council	Pittsburgh, PA
<u>Deputy Secretary</u>		
9-29-84	USS Valley Forge Commissioning	Pascagoula, MS
10-16-84	University Club of Chicago	Chicago, IL
10-17-84	Assn. of US Army	Washington, D.C.
10-22-84	Kelly Air Force Base Management Assn.	San Antonio, TX
10-22-84	San Antonio Air Force Community Council	San Antonio, TX
10-23-84	DOD Maintenance Depot Commanders Conf.	Corpus Christi, TX
10-23-84	Model Installations Commanders Conf.	Fort Sill, OK
11-01-84	Yale Club	Cincinnati, OH
11-01-84	University of Cincinnati Club-Law School	Cincinnati, OH
<u>Inspector General</u>		
9-26-84	Press Briefing	Pentagon
10-05-84	Press Briefing	White House
<u>Under Secretary of Defense Research and Engineering</u>		
9-19-84	American Defense Preparedness Assn.	Washington, D.C.

<u>Date</u>	<u>Event</u>	<u>Location</u>
<u>Under Secretary of Defense Research and Engineering</u>		
9-25-84	Nat'l Security Industrial Assn. on Productivity	Cambridge, MA
10-30-84	A.G. Hill Building Dedication	Cambridge, MA
11-01-84	Nat'l Contract Management Assn.	Washington, D.C.
<u>Principal Deputy for Under Secretary</u>		
10-31-84	Commission on Government Procurement Alumni	Washington, D.C.
10-31-84	Combined Meeting of American Defense Preparedness Assn., Aerospace Industry Assn. Electronics Industry Assn., and Nat'l Security Industrial Assn.	Pentagon
<u>Assistant Secretary of Defense (Manpower, Installations & Logistics)</u>		
9-18-84	Federal Women's Program Catalyst Conf.	Arlington, VA
9-20-84	Air War College	Maxwell Air Force Base, AL.
9-22-84	Veterans United for a Strong America	Lexington, KY
9-24-84	Nat'l Defense Transportation Assn.	San Francisco, CA
10-01-84	Washington Center Interns	Washington, D.C.
10-03-84	Duke University	Durham, NC
10-06-84	Alaska Fuel Industries	Anchorage, AK
10-09-84	Naval War College	Newport, RI
10-10-84	Press Briefing	Pentagon
10-12-84	Nat'l Guard Assn. of the U.S.	New York, NY
10-15-84	World Affairs Council of Boston	Washington, D.C.
10-29-84	American Logistics Assn.	Arlington, VA
10-30-84	World Affairs Council	Washington, D.C.
10-31-84	Jewish Institute for National Security Affairs	Washington, D. C.
10-31-84	Press Briefing	Pentagon
<u>Principal Deputy Assistant Secretary (Manpower, Installations & Logistics)</u>		
10-27-84	Airlift Assn. National Convention	Sacramento, CA



DEPARTMENT OF DEFENSE
INSPECTOR GENERAL
WASHINGTON, D.C. 20301

11 OCT 1984

Honorable Sam Nunn
United States Senate
Washington, DC 20510

Dear Senator:

During floor discussion of the Conference Report on the Department of Defense Authorization Bill for 1985, on September 27, 1984, both you and Senator Bingaman expressed concern that the Office of the Inspector General, Department of Defense, was being used for political purposes. These comments stem from my press conference on September 26, 1984, where I outlined progress made by my organization in our efforts to eliminate waste, fraud and abuse. I appreciate the concerns that you and Senator Bingaman raised on the floor and in your letter of October 4, 1984 and would like to give you my perspective.

The Department asked me to hold a press conference to outline the Inspector General efforts to eliminate waste, fraud and abuse. I understood that my presentation was to be one in a series by senior Defense officials to inform the press and the taxpayers of the problems we faced and the progress we were making in our war against fraud, waste and mismanagement.

I jumped at the opportunity to give the press conference. There were two things foremost in my mind. First, the timing was coincident with the second anniversary of establishment of a statutory Inspector General for Defense and, therefore, an opportune time to report to the press on the progress made over the last two years. Secondly, I believe that the lifeblood of an effective Inspector General effort is public awareness--that the Inspector General exists and that he has a real need and desire that people come forward with their concerns about suspected fraud, waste and mismanagement in the Department of Defense. It also serves as a deterrent to those that would cheat us or mismanage our resources to know we are on the job and out to stop them.

I fully recognize that my good news is usually the Department's bad news, and when I have a press conference the resultant stories are more likely to be detrimental to the Department's image than favorable. Thus I believed that whether part of a series or not, my press conference would stand independently and reflect the problems rather than management's solutions. I believe that if you read the press clippings, you will find that the results indeed turned out to be a mixed bag.

Enclosed is the transcript of the press conference. You will find two main themes. One related to the size and accomplishments of the Department's auditors, investigators and inspectors in the area of waste, fraud and abuse. The other theme emphasized examples of the horror stories that we found. The need for continuing corrective action comes across strongly as indicated by some of my comments, as follows:

- "I keep turning over rocks and every rock I turn over I keep finding things."

- "About 57 percent of the items that we were buying in spare parts were possibly overpriced."

- "If you ask me of the money that's potential for waste in the DoD, how much of it is criminal and how much is mismanagement, I'd say 98 cents is mismanagement and the other two cents is criminal."

I want to assure you that I am keenly aware of the importance of my independence and would in no way consciously allow it to be compromised. I would hope that my actions over the last two years as Inspector General, and prior to that as Assistant to the Secretary of Defense for Review and Oversight, have demonstrated the commitment I have made to carrying out my responsibilities. From my perspective, the press conference was a balanced, factual account of our operations over the past two to three years. I regret that the timing of the conference, during this politically sensitive period, gave some the perception of political involvement by the Inspector General. Let me assure you that in the future I will be even more sensitive to the possibility of such a perception.

I would be more than pleased to discuss this matter further if you so desire. I appreciate your interest in the activities of the Defense Inspector General. I need your support and understanding if I am to carry out my mission.

Sincerely,


Joseph H. Sherick
Inspector General

Enclosure

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