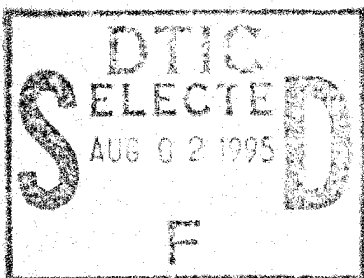


GAC

Special to the Priority Member  
Committee on Commerce, House of  
Representatives

July 1995

# DEFENSE CONTRACTING



## Contractor Claims for Legal Costs Associated With Stockholder Lawsuits

**DISTRIBUTION STATEMENT A**  
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**National Security and  
International Affairs Division**

B-258172

July 17, 1995

The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Commerce  
House of Representatives

*DEFENSE CONTRACTING:  
Contractor claims for  
Legal Costs  
Associated with  
Stockholder Lawsuits*

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Dear Mr. Dingell:

This report responds to your inquiry concerning the allowability of legal costs resulting from stockholder derivative lawsuits associated with defense contractor wrongdoing. As your letter indicates, the wrongdoing involves fraudulent activities engaged in by the defense contractor named in the stockholder lawsuit. Specifically, you requested current information on the (1) defense procurement fraud cases, as previously reported on by us;<sup>1</sup> (2) Defense Contract Audit Agency's (DCAA) policy on the allowability of legal fees associated with stockholder derivative lawsuits; and (3) number of stockholder lawsuits associated with defense contractor wrongdoing. You also asked whether reimbursement for these costs has been a common practice.

**Background**

The Major Fraud Act of 1988 (P.L. 100-700) and the Federal Acquisition Regulation (FAR) addresses the allowability of defense contractors' legal fees and other proceeding costs related to litigation with the federal government. However, neither the act nor the FAR expressly addresses the allowability of legal costs associated with stockholder derivative lawsuits based on prior corporate wrongdoing.

DCAA performs contract audit functions for the Department of Defense (DOD) and provides accounting and financial advisory services to DOD components responsible for procurement and contract administration. In addition, DCAA audits costs and makes recommendations regarding the allowability of costs claimed or proposed by contractors. We asked DCAA for its views on the legal costs you questioned.

**Results in Brief**

DCAA responded that, according to its research, the FAR contains no cost principle dealing specifically with the allowability of legal fees associated

<sup>1</sup>Defense Procurement Fraud: Information on Plea Agreements and Settlements (GAO/GGD-92-135FS, Sept. 17, 1992). This fact sheet contained information on cases the Department of Justice brought against the companies that received large DOD contracts in 1991 that resulted in criminal convictions or civil settlements or judgments.

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with defending against stockholder derivative lawsuits. However, its research concluded that such costs are unallowable under the FAR cost principle on reasonableness of costs (FAR 31.201-3) when the lawsuit is based on contractor wrongdoing. As a result, DCAA addressed this situation by issuing audit guidance, on April 13, 1995, that now specifically deals with these costs. The guidance requires auditors to question costs incurred to defend against stockholder lawsuits related to contractor wrongdoing. (See app. I.)

From October 1988 through December 1994, there were 72 cases involving procurement fraud—30 criminal and 42 civil—associated with firms on DOD's Top 100 Contractor list.<sup>2</sup> Criminal fines, awards, and restitution amounts approximated \$1.03 billion. (See app. II.)

It is not apparent that claiming reimbursement for stockholder derivative legal costs is a common practice. Of these 72 procurement fraud cases, only 13 associated with 8 companies involved stockholder lawsuits. The legal costs of the stockholder lawsuits for the eight companies totaled approximately \$15 million; \$6,232,150 was being claimed under defense contracts by four of these contractors. (See app. III.)

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## Agency Comments

DOD reviewed a draft of this report and concurred with its findings. (See app. IV.)

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## Scope and Methodology

We updated the list of defense procurement fraud cases through information provided by (1) the DOD Inspector General's Criminal Division, the Department of Justice, the Securities and Exchange Commission, and DCAA and (2) a literature search. This information covered cases from October 1988 through December 1994.

To develop a list of stockholder derivative lawsuits, we reviewed those contractors on DOD's list of top 100 contractors that had criminal procurement fraud convictions or had agreed to settlements in civil actions for procurement fraud. We established which of the 100 contractors had stockholder lawsuits and reviewed the legal costs associated with these suits.

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<sup>2</sup>DOD maintains a list of the top 100 contractors with the largest defense contracts based on dollar amount of their contracts. DOD's Office of the Inspector General, Criminal Division, semiannually compiles a list of contractors, based on DOD's top 100 contractors list, that were convicted of procurement fraud.

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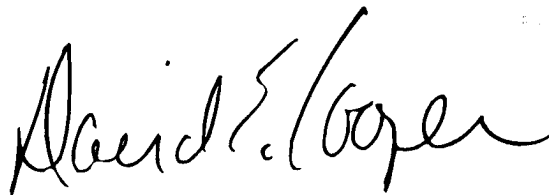
Securities and Exchange Commission officials provided us with quarterly and annual disclosure reports that corporations are required to file.<sup>3</sup> These reports contained information pertinent to stockholder litigation, if any, against the subject corporation. We also reviewed DCAA audit reports for the 10 contractors on our list with the highest penalties to determine if DCAA had questioned the allowability of costs associated with any related stockholder lawsuits.

Once our list was developed, we sent confirmation letters to 39 corporations in our universe to verify the stockholder lawsuits, legal costs incurred, and amounts claimed for reimbursement. We received 31 responses that confirmed the number of stockholder lawsuits already obtained from the other sources. We did not independently verify the information obtained from the contractors or other sources. We conducted our review from July 1994 through May 1995 in accordance with generally accepted government auditing standards.

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If you or your staff have any questions about this report, please contact me on (202) 512-4587. The major contributors were Charles Rey, Assistant Director; Don Watson, Evaluator-in-Charge; and Jimmy Palmer, Jr., Evaluator.

Sincerely yours,



David E. Cooper  
Director, Acquisition Policy, Technology,  
and Competitiveness Issues

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<sup>3</sup>These reports are known as 10Q Quarterly Report pursuant to Section 13 or 15(d) of the Securities and Exchange Act of 1934 and 10K Annual Report pursuant to Section 13 or 15(d) of the Securities and Exchange Act of 1934.

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**Abbreviations**

|      |                                |
|------|--------------------------------|
| DCAA | Defense Contract Audit Agency  |
| DOD  | Department of Defense          |
| FAR  | Federal Acquisition Regulation |

# Defense Contract Audit Agency's Policy on the Allowability of Contractor Claims for Legal Costs Associated With Stockholder Lawsuits

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On April 13, 1995, the Defense Contract Audit Agency (DCAA) responded to our request for information on its policy regarding the allowability of legal costs associated with stockholder derivative lawsuits based on prior litigation with the government. DCAA researched the allowability of these costs and determined that there was no Federal Acquisition Regulation (FAR) cost principle dealing specifically with them. However, because DCAA determined that they are unallowable under the FAR cost principle for determining reasonableness, DCAA issued the enclosed audit guidance memorandum.

Appendix I  
Defense Contract Audit Agency's Policy on  
the Allowability of Contractor Claims for  
Legal Costs Associated With Stockholder  
Lawsuits



IN REPLY REFER TO

DEFENSE CONTRACT AUDIT AGENCY  
CAMERON STATION  
ALEXANDRIA, VA 22304-6178

13 April 1995  
95-PAD-062(R)

PAD 730.31/95-14

MEMORANDUM FOR REGIONAL DIRECTORS, DCAA  
DIRECTOR, FIELD DETACHMENT, DCAA

SUBJECT: Audit Guidance on Allowability of Costs Incurred in  
Defense of Stockholder Suits

SUMMARY

Auditors should question costs incurred to defend against stockholder suits that are related to contractor wrongdoing. The costs should be questioned as directly related to an unreasonable action (the wrongdoing).

BACKGROUND

There are two types of stockholder suits, direct actions and derivative actions. A direct action is a suit brought by stockholders of a corporation against the corporation and/or its officers/directors to protect an interest specific to the stockholder. Examples of these types of actions are suits alleging wrongful denial of the stockholder's right to exercise a stock option or wrongful exclusion of the stockholder from voting his/her shares of stock.

A derivative action is suit brought by stockholders to enforce a right of the corporation. Example of derivative actions are suits to recover damages from officers/directors that were allegedly sustained as a result of actions taken by the officers/directors. Depending upon the nature of the suit, state law may obligate the corporation to defend the officers/directors.

The costs of a legal proceeding to defend against stockholder suits are not expressly unallowable under FAR 31.205-47, "Costs related to legal and other proceedings." This cost principle applies to proceedings brought by a Federal, state, local or foreign government. However, stockholder suits may follow after a contractor has lost or settled a legal proceeding which is covered by FAR 31.205-47(b) or (f) (4). In losing or settling such a proceeding, the contractor may become vulnerable to an allegation that it was guilty of wrongdoing and that the wrongdoing ultimately caused damages to the stockholders by the lowered value of the corporation's stock or dividends. Stockholders may sue the corporation and/or its officers/directors to recover those real or perceived reductions in value.

**Appendix I  
Defense Contract Audit Agency's Policy on  
the Allowability of Contractor Claims for  
Legal Costs Associated With Stockholder  
Lawsuits**

PAD 730.31/95-14

SUBJECT: Audit Guidance on Allowability of Costs Incurred in  
Defense of Stockholder Suits

Costs of defending against stockholder suits are normally composed of internal and external legal service costs. If the contractor and/or its officers/directors lose the suit, the contractor may be required to pay damages as well as the legal costs of the stockholders.

**GUIDANCE**

**Wrongdoing**

We believe that wrongdoing includes actions such as those described in FAR 31.205-47(b) & (f)(4), intentional harm to other persons, and instances where there has been a reckless disregard for the harmful consequences of an action. Wrongdoing is demonstrated when a court or a board has found that the contractor and/or its officers/directors have engaged in any of the aforementioned actions. In addition, we consider that wrongdoing also is demonstrated when there is a settlement without a finding of a court or board, if the facts underlying the settlement indicate that the contractor and/or its officers/directors have engaged in any of the aforementioned actions.

When a stockholder suit relates to the type of wrongdoing described in FAR 31.205-47(b) or (f)(4), the auditor will need to document that (i) contractor wrongdoing exists, and (ii) the stockholders' suit cites a legal proceeding of the type covered by FAR 31.205-47(b) or (f)(4) as the cause of the damages.

When a stockholder suit relates to wrongdoing against private persons (intentional harm to other persons or a reckless disregard for the consequences of the actions taken), the auditor must document that (i) wrongdoing exists, and (ii) the stockholder suit is related to the harm that the wrongdoing caused to the private party. An allegation of wrongdoing, in itself, is not sufficient evidence to establish unallowability of costs. Nor should an auditor presume that such an allegation establishes wrongdoing merely because the charges result in a settlement. The auditor must determine that an allegation, not resulting in a judgement, is supported by independent evidence which convinces an impartial fact finder that wrongdoing, within the meaning of this guidance paper, occurred. The basis for the auditor's determination must be explained in the workpapers with citations to the supporting documentation.

**Direct Actions**

When there is a direct action stockholder suit related to contractor wrongdoing, the costs should be questioned as

**Appendix I  
Defense Contract Audit Agency's Policy on  
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PAD 730.31/95-14

SUBJECT: Audit Guidance on Allowability of Costs Incurred in  
Defense of Stockholder Suits

unreasonable. The contractor would not have found itself in the position of being sued for damages to stockholders but for the wrongdoing. The costs incurred to defend against the wrongdoing are unallowable under FAR 31.201-3, Determining reasonableness, since the wrongdoing is not the type of action that would be undertaken by a reasonably prudent business person. Similarly, payment of damages or the stockholders' legal costs in pursuing these cases are also unallowable.

**Derivative Actions**

The guidance regarding direct actions also applies to derivative actions. In the case of derivative actions, the contractor may argue that state law obligates the contractor to defend the officer/director against the suit, because the officer/director was acting in his/her official capacity as a representative of the corporation. For example, under Delaware law, a corporation must defend the actions of its directors if they are challenged in court.

However, if the auditor is able to demonstrate that wrongdoing exists and that the wrongdoing relates to the stockholder suit, the fact that state law requires the contractor to defend against the suit is not determinative. The actions of the officer/director were not the type of action that would be undertaken by a reasonably prudent business person. Since the imprudent actions were taken by an officer/director who was acting in their official capacity as a representative of the corporation, the costs to defend against the suit are unreasonable, even though state law obligates the contractor to defend against the suit.

**CONCLUDING REMARKS**

Field office personnel should direct any questions regarding this memorandum to appropriate regional personnel. Regional personnel should direct questions to Mr. H. Clyde Wray, Program Manager, Accounting Policy Division, at (703) 274-6343.

*Robert Di Mucci*

For Lawrence P. Uhlfelder  
Assistant Director  
Policy and Plans

DISTRIBUTION: C

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# Criminal and Civil Procurement Fraud Cases Involving Top 100 DOD Contractors, October 1988 Through December 1994

**Table II.1: Criminal Procurement Fraud Dispositions**

| Case number | Contractor                                                         | Case type                  | Case disposition | Date of conviction | Criminal fine | Restitution  |
|-------------|--------------------------------------------------------------------|----------------------------|------------------|--------------------|---------------|--------------|
| 1           | Bicoastal Corporation                                              | Procurement and mail fraud | Pled guilty      | 11/04/93           | \$1,000,000   | \$55,600,000 |
| 2           | Boeing Company                                                     | Procurement fraud          | Pled guilty      | 11/13/89           | 20,000        | 4,000,000    |
| 3           | E Systems                                                          | Procurement fraud          | Pled guilty      | 10/02/90           | 2,000,000     | 1,800,000    |
| 4           | Emerson Electric Company                                           | Procurement fraud          | Pled guilty      | 5/11/90            | 40,000        | 9,000,000    |
| 5           | Exxon Chemical Company                                             | Procurement fraud          | Pled guilty      | 11/10/93           | 3,801,875     | None         |
| 6           | Fairchild Industries Incorporated                                  | Procurement fraud          | Pled guilty      | 5/11/90            | 2,950,000     | None         |
| 7           | General Electric Company                                           | Procurement fraud          | Pled guilty      | 7/22/92            | 69,000,000    | None         |
| 8           | General Electric Company                                           | Procurement and mail fraud | Found guilty     | 2/02/90            | 10,000,000    | 2,200,000    |
| 9           | General Electric Aircraft Engines                                  | Procurement and mail fraud | Found guilty     | 3/07/94            | 9,500,000     | 69,500,000   |
| 10          | Grumman Corporation                                                | Procurement fraud          | Pled guilty      | 3/16/90            | 20,000        | None         |
| 11          | GTE Government Systems Corporation                                 | Procurement fraud          | Pled guilty      | 2/03/89            | 20,000        | None         |
| 12          | Harris Corporation                                                 | Kickback                   | Pled no contest  | 7/02/89            | 200,000       | None         |
| 13          | Hazeltine Corporation (subsidiary of Emerson Electric Company)     | Procurement fraud          | Pled guilty      | 1/06/89            | 1,000,000     | None         |
| 14          | Hughes Aircraft Company (subsidiary of General Motors Corporation) | Procurement fraud          | Found guilty     | 6/15/92            | 3,500,000     | None         |
| 15          | Hughes Aircraft Company (subsidiary of General Motors Corporation) | Procurement fraud          | Pled guilty      | 3/09/90            | 20,000        | None         |
| 16          | Ladish Company                                                     | Procurement fraud          | Pled guilty      | 11/09/92           | 751,600       | None         |
| 17          | Liton Systems, Incorporated                                        | Procurement fraud          | Pled guilty      | 1/14/94            | 3,900,000     | None         |
| 18          | Loral Corporation                                                  | Procurement fraud          | Pled guilty      | 12/08/89           | 1,500,000     | None         |

(continued)

**Appendix II  
Criminal and Civil Procurement Fraud Cases  
Involving Top 100 DOD Contractors,  
October 1988 Through December 1994**

| <b>Case number</b> | <b>Contractor</b>                                      | <b>Case type</b>  | <b>Case disposition</b> | <b>Date of conviction</b> | <b>Criminal fine</b> | <b>Restitution</b>   |
|--------------------|--------------------------------------------------------|-------------------|-------------------------|---------------------------|----------------------|----------------------|
| 19                 | LTV Aerospace and Defense Company                      | Procurement fraud | Pled guilty             | 8/14/90                   | 10,000               | None                 |
| 20                 | Magnavox Government and Industrial Electronics Company | Procurement fraud | Pled guilty             | 9/17/90                   | 150,000              | None                 |
| 21                 | Northrop Corporation                                   | Procurement fraud | Pled guilty             | 2/27/90                   | 17,000,000           | None                 |
| 22                 | Raytheon Corporation                                   | Procurement fraud | Pled guilty             | 3/20/90                   | 10,000               | None                 |
| 23                 | RCA Corporation (subsidiary of General Electric)       | Procurement fraud | Pled guilty             | 2/05/90                   | 20,000               | None                 |
| 24                 | Rockwell International Corporation                     | Procurement fraud | Pled guilty             | 1/19/89                   | 5,500,000            | 446,000              |
| 25                 | Science Applications International                     | Procurement fraud | Pled guilty             | 8/26/91                   | 550,000              | None                 |
| 26                 | Sundstrand Corporation                                 | Procurement fraud | Pled guilty             | 10/19/88                  | 500,000              | None                 |
| 27                 | Sundstrand Corporation                                 | Procurement fraud | Pled guilty             | 10/21/88                  | 115,000,000          | None                 |
| 28                 | Teledyne Incorporated                                  | Procurement fraud | Pled guilty             | 10/02/92                  | 17,500,000           | None                 |
| 29                 | Teledyne Incorporated                                  | Procurement fraud | Pled guilty             | 3/23/89                   | 1,500,000            | None                 |
| 30                 | Unisys Corporation                                     | Procurement fraud | Pled guilty             | 9/06/91                   | 4,000,000            | None                 |
| <b>Total</b>       |                                                        |                   |                         |                           | <b>\$270,963,475</b> | <b>\$142,546,000</b> |

Sources: This listing is derived from data provided by the DOD Inspector General and the Department of Justice. Additionally, information addressing this subject was contained in our September 1992 report..

**Appendix II  
Criminal and Civil Procurement Fraud Cases  
Involving Top 100 DOD Contractors,  
October 1988 Through December 1994**

**Table II.2: Civil Procurement Fraud Settlements**

| Case number | Contractor                                             | Type case                  | Case disposition           | Date of disposition | Award to the government |
|-------------|--------------------------------------------------------|----------------------------|----------------------------|---------------------|-------------------------|
| 1           | Argosystem Incorporated (subsidiary of Boeing Company) | Voluntary disclosure fraud | <sup>a</sup>               | <sup>a</sup>        | \$3,000,000             |
| 2           | Argosystem Incorporated (subsidiary of Boeing Company) | False Claims Act           | Settled without litigation | 12/23/92            | 868,000                 |
| 3           | AT&T Company                                           | Procurement fraud          | Settled without litigation | 9/12/90             | 625,000                 |
| 4           | Avondale Industries, Incorporated                      | Procurement fraud          | Settled without litigation | 10/10/89            | 2,500,000               |
| 5           | Boeing Company                                         | False Claims Act           | Settled without litigation | 4/29/94             | 75,000,000              |
| 6           | Boeing Company                                         | False Claims Act           | Settled without litigation | 4/15/94             | 250,000                 |
| 7           | CAE Link & Singer Company                              | False Claims Act           | Settled without litigation | 9/92                | 55,500,000              |
| 8           | Computer Sciences Corporation                          | Procurement fraud          | Settled without litigation | 10/09/90            | 1,750,000               |
| 9           | Ex Cell O Corporation (subsidiary of Textron)          | Procurement fraud          | Settled without litigation | 8/20/90             | 91,000                  |
| 10          | Ex Cell O Corporation (subsidiary of Textron)          | Procurement fraud          | Settled without litigation | 9/20/90             | 3,650,000               |
| 11          | Federal Express                                        | False Claims Act           | Settled without litigation | 8/21/92             | 950,000                 |
| 12          | Ford Aerospace & Communications Corporation            | Procurement fraud          | Settled without litigation | 10/06/89            | 200,000                 |
| 13          | Ford Aerospace & Communications Corporation            | Procurement fraud          | Settled without litigation | 8/10/90             | 119,250                 |
| 14          | Ford Aerospace & Communications Corporation            | Voluntary disclosure fraud | Settled without litigation | 8/10/90             | 111,300                 |
| 15          | Ford Motor Company                                     | Procurement fraud          | Multiple disposition       | 8/10/90             | 2,606,063               |
| 16          | General Dynamics Corporation                           | Procurement fraud          | Settled without litigation | 11/21/88            | 2,600,000               |
| 17          | General Dynamics Corporation                           | Procurement fraud          | Postfiling settlement      | 12/20/91            | 8,000,000               |
| 18          | Honeywell, Incorporated                                | Voluntary disclosure fraud | Settled without litigation | 1/03/91             | 700,000                 |
| 19          | Litton Systems, Incorporated                           | False Claims Act           | Settled without litigation | 7/14/94             | 82,000,000              |
| 20          | Litton Systems, Incorporated                           | Procurement fraud          | Settled without litigation | 5/06/91             | 2,400,000               |

(continued)

**Appendix II  
Criminal and Civil Procurement Fraud Cases  
Involving Top 100 DOD Contractors,  
October 1988 Through December 1994**

| <b>Case number</b> | <b>Contractor</b>                 | <b>Type case</b>                           | <b>Case disposition</b>    | <b>Date of disposition</b> | <b>Award to the government</b> |
|--------------------|-----------------------------------|--------------------------------------------|----------------------------|----------------------------|--------------------------------|
| 21                 | Litton Systems, Incorporated      | False Claims Act                           | Settled without litigation | 1/14/94                    | 2,400,000                      |
| 22                 | Lockheed Corporation              | False Claims Act                           | Settled without litigation | 8/04/92                    | 1,042,144                      |
| 23                 | Lockheed Corporation              | False Claims Act                           | Settled without litigation | 4/30/93                    | 639,641                        |
| 24                 | Martin Marietta Corporation       | Procurement fraud                          | Settled without litigation | 4/22/92                    | 752,000                        |
| 25                 | McDonnell Douglas Corporation     | Qui tam <sup>b</sup>                       | Postfiling settlement      | 8/29/89                    | 28,000                         |
| 26                 | McDonnell Aircraft Company        | Procurement fraud                          | Settled without litigation | 3/13/91                    | 1,100,000                      |
| 27                 | Olin Corporation                  | Voluntary disclosure fraud                 | Settled without litigation | 5/17/91                    | 694,586                        |
| 28                 | Olin Corporation                  | False Claims Act                           | Settled without litigation | 9/13/93                    | 325,000                        |
| 29                 | Texas Instruments, Incorporated   | Voluntary disclosure fraud                 | <sup>a</sup>               | <sup>a</sup>               | 230,750                        |
| 30                 | Texas Instruments, Incorporated   | False Claims Act                           | Settled without litigation | 8/05/94                    | 5,000,000                      |
| 31                 | Texas Instruments, Incorporated   | False Claims Act                           | Settled without litigation | 8/26/92                    | 36,526                         |
| 32                 | Texas Instruments, Incorporated   | False Claims Act                           | Settled without litigation | 8/25/92                    | 550,000                        |
| 33                 | Tracor Corporation                | Defective pricing                          | Settled without litigation | 8/15/91                    | 450,000                        |
| 34                 | TRW, Incorporated                 | False Claims Act                           | Settled without litigation | 6/28/93                    | 2,500,000                      |
| 35                 | TRW, Incorporated                 | False Claims Act                           | Settled without litigation | 4/15/94                    | 29,000,000                     |
| 36                 | Unisys Corporation                | Qui tam <sup>b</sup>                       | Postfiling settlement      | 9/06/91                    | 8,200,000                      |
| 37                 | Unisys Corporation                | Qui tam <sup>b</sup>                       | Postfiling settlement      | 9/06/91                    | 3,200,000                      |
| 38                 | Unisys Corporation                | Bribery, conflict of interest and kickback | Settled without litigation | 9/06/91                    | 159,000,000                    |
| 39                 | United Technologies               | False Claims Act                           | Settled without litigation | 3/30/94                    | 150,502,931                    |
| 40                 | United Technologies               | False Claims Act                           | Settled without litigation | 8/28/92                    | 4,000,000                      |
| 41                 | Varian Associates, Incorporated   | Procurement fraud                          | Settled without litigation | 12/13/88                   | 2,430,000                      |
| 42                 | Westinghouse Electric Corporation | Procurement fraud                          | Settled without litigation | 7/07/91                    | 665,000                        |
| <b>Total</b>       |                                   |                                            |                            |                            | <b>\$615,667,191</b>           |

<sup>a</sup>The Department of Justice has won one or more awards and is pursuing further relief in the case.

<sup>b</sup>A qui tam action is one in which a private party brings suit in the name of the United States and is entitled to a portion of the proceeds if the prosecution is successful.

Sources: Data obtained from the DOD Inspector General and the Department of Justice. Other information addressing this subject was contained in our September 1992 report.

# Contractors With Stockholder Derivative Lawsuits and Associated Costs

Data in this appendix were obtained from contractor confirmation letters, DCAA responses to our requests for information, and Securities and Exchange Commission reports. To protect the potentially proprietary nature of the data, we have replaced the names of affected companies with alphabetic labels (A-H).

| Contractor   | Number of suits | Total legal costs incurred | Amount claimed <sup>a</sup>       |
|--------------|-----------------|----------------------------|-----------------------------------|
| A            | 1 <sup>b</sup>  | Not given <sup>b</sup>     | None will be claimed <sup>b</sup> |
| B            | 1 <sup>b</sup>  | \$500,000 <sup>b</sup>     | \$18,000 <sup>b</sup>             |
| C            | 4 <sup>d</sup>  | 1,400,000 <sup>c</sup>     | 1,400,000 <sup>c</sup>            |
| D            | 1 <sup>b</sup>  | Not given <sup>b</sup>     | None will be claimed <sup>b</sup> |
| E            | 1 <sup>b</sup>  | 180,493 <sup>b</sup>       | 54,150 <sup>b</sup>               |
| F            | 2 <sup>d</sup>  | 5,020,000 <sup>c</sup>     | None claimed <sup>c</sup>         |
| G            | 1 <sup>b</sup>  | 3,020,000 <sup>c</sup>     | None claimed <sup>b</sup>         |
| H            | 2 <sup>d</sup>  | 4,760,000 <sup>c</sup>     | 4,760,000 <sup>c</sup>            |
| <b>Total</b> | <b>13</b>       | <b>\$14,880,493</b>        | <b>\$6,232,150</b>                |

<sup>a</sup>According to DCAA, the amount claimed by the contractor in its submission and the amount reimbursed by the government may vary.

<sup>b</sup>Replies from contractor confirmation letters.

<sup>c</sup>Response from DCAA to our request for information and reports.

<sup>d</sup>Response from Securities and Exchange Commission to our request for information.

# Comments From the Department of Defense



ACQUISITION AND  
TECHNOLOGY

DP/CPF

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON DC 20301-3000



JUN 19 1995

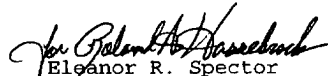
Mr. Henry L. Hinton, Jr.  
Assistant Comptroller General  
National Security and International  
Affairs Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Hinton:

This is the Department of Defense (DoD) response to the General Accounting Office (GAO) draft report, "DEFENSE CONTRACTING: Contractor Claims for Legal Costs Associated With Shareholder Lawsuits," dated June 8, 1995 (GAO Code 705068/OSD Case 9959).

The DoD has reviewed the draft report and concurs without further comment. Suggested technical changes have been provided separately. The Department appreciates the opportunity to review the report in draft form.

Sincerely,

  
Eleanor R. Spector  
Director, Defense Procurement

