

Audit



Report

OFFICE OF THE INSPECTOR GENERAL

CONDITIONAL DONATION OF AN F-4D AIRCRAFT

Report No. 97-222

September 30, 1997

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Acronyms

AMARC
SPD
FAA

Aerospace Maintenance and Regeneration Center
System Program Director
Federal Aviation Administration



INSPECTOR GENERAL
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September 30, 1997

MEMORANDUM FOR DEPUTY UNDER SECRETARY OF DEFENSE
(LOGISTICS)
ASSISTANT SECRETARY OF THE AIR FORCE
(FINANCIAL MANAGEMENT AND COMPTROLLER)

SUBJECT: Audit Report on the Conditional Donation of an F-4D Aircraft
(Report No. 97-222)

We are providing this report for information and use. This report is the sixth in a series of reports dealing with controls over reutilization, transfer, donation, and sales of munitions list items. We considered management comments on a draft of this report in preparing the final report.

Comments on the draft of this report conformed to the requirements of DoD Directive 7650.3 and left no unresolved issues. Therefore, no additional comments are required.

We appreciate the courtesies extended to the audit staff. Questions on the audit should be directed to Mr. James Kornides, Audit Program Director, or Mr. Stuart Dunnett, Audit Project Manager, at (614) 751-1400. See Appendix C for the report distribution. The audit team members are listed inside the back cover.

for *F. Jay Lane*
Robert J. Lieberman
Assistant Inspector General
for Auditing

Office of the Inspector General, DoD

Report No. 97-222
(Project No. 5FJ-5024.05)

September 30, 1997

Conditional Donation of an F-4D Aircraft

Executive Summary

Introduction. This report is the sixth in a series resulting from our audit of Controls Over the Reutilization, Transfer, Donation, and Sales of Munitions List Items (Project No. 5FJ-5024). The former Director, Defense Logistics Agency, requested the audit. Other published reports in the series are summarized in Appendix B. Munitions list items are military items that require special handling at disposal to prevent their unauthorized use by domestic or foreign entities. The Air Force planned to request a waiver of DoD demilitarization requirements and donate a flyable F-4D aircraft to the Collings Foundation (a nonprofit, educational foundation). The F-4 "Phantom" aircraft is a high-performance, supersonic fighter bomber that was developed for the Air Force and is still in use in foreign countries worldwide. On April 7, 1997, we issued a memorandum requesting that the Deputy Under Secretary of Defense (Logistics) delay his decision on the Air Force waiver until we had an opportunity to complete the audit of the planned donation.

Audit Objective. The audit objective was to evaluate Air Force plans for donating an excess F-4D aircraft.

Audit Results. The Air Force was preparing a "Conditional Deed of Gift" to be used to donate a flyable F-4D aircraft to the Collings Foundation. The Air Force was also determining whether it could legally provide the support needed by the Collings Foundation to restore and maintain the aircraft for its use in air shows, exhibitions, reunions, and special events. The donation is contrary to DoD and Air Force control procedures. Approval of the conditional donation would set a precedent that could lead to further requests from private foundations and museums for operational combat materiel. In addition, the Air Force had not demonstrated that allowing a private foundation to maintain and fly the F-4D aircraft did not pose a risk to the public that the aircraft may not be safely maintained and operated.

Summary of Recommendations. We recommend that the Air Force Chief of Staff delay making a donation of a flyable F-4D aircraft to the Collings Foundation, and the Deputy Under Secretary of Defense (Logistics) defer approving a waiver to demilitarization requirements, until such time as the Air Force can implement a structured living history program with programmatic, vice case-specific, controls and safeguards that ensure both the Department of Defense and the public are well served and neither incur unacceptable cost and risk.

Management Comments. The Acting Deputy Under Secretary of Defense (Logistics) partially concurred with our recommendations and confirmed that the Air Force had not yet requested a waiver to the demilitarization requirements. However, he indicated that if a formal waiver is received, it will be judged based on the justification provided by the Air Force and information from the Defense Logistics Agency, as the DoD Program Office for demilitarization. In addition, such a response would be coordinated with the Inspector General, DoD, prior to finalization. The Air Force Director of Supply concurred with the intent of our recommendations. He indicated the actions taken by the Air Force to prepare to make the donation were appropriate and consistent with DoD policy and interests. However, he agreed that this precedent-setting donation

should not be finalized until safety and program management issues are resolved to the satisfaction of the Air Force and the DoD. He asked that we amend our recommendations so as not to defeat the concept of a living history program. He indicated that he plans to continue to work closely with the Office of the Deputy Under Secretary of Defense (Logistics) to develop a program that addresses concerns noted in the audit report and to construct a living history program that will benefit both the Department of Defense and the public. See Part I for a complete discussion of the management comments and Part III for the complete text of management comments.

Audit Response. Management comments are responsive and we revised the audit recommendations and the report where appropriate based on the comments. The strategy of the Deputy Under Secretary of Defense (Logistics) to review and coordinate future requests for Air Force waivers of demilitarization requirements on the F-4D, and the Air Force action to suspend the donation of an F-4D aircraft to the Collings Foundation until all safety and program management issues are resolved and a safe living history program is developed, should greatly reduce the risk of the release of the F-4D and other weapon systems without proper safeguards and adequate controls.

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Part I - Audit Results

Audit Background

This report is the sixth in a series resulting from our audit of Controls Over the Reutilization, Transfer, Donation, and Sales of Munitions List Items (Project No. 5FJ-5024). The former Director, Defense Logistics Agency, requested the audit. Other published reports in the series are summarized in Appendix B. Munitions list items are military items that require special handling at disposal to prevent their unauthorized use by domestic or foreign entities.

The Collings Foundation (the Foundation) is a nonprofit, educational institution founded in 1979. The purpose of the Foundation is to organize and support "living history" events that permit Americans to learn more about their heritage through direct participation.

The F-4 "Phantom" aircraft is a high-performance, supersonic fighter bomber that is still in use worldwide. In 1995, the Foundation asked the Air Force to determine whether an operational F-4 aircraft could be released to it for use. The Foundation wanted to use the F-4 aircraft at air shows as a part of the Foundation's living history program, believing that there would be public interest in seeing an operational aircraft from the Vietnam era. The Foundation has been flying vintage military aircraft at air shows since FY 1989.

The Air Force planned to request a waiver of DoD demilitarization requirements in order to make a conditional donation of a flyable F-4D to the Foundation. On April 7, 1997, we issued a memorandum requesting that the Deputy Under Secretary of Defense (Logistics) delay his decision on the Air Force waiver of demilitarization requirements until we had an opportunity to complete the audit of the planned donation. The Deputy Under Secretary complied with that request.

Audit Objective

The audit objective was to evaluate Air Force plans for donating an excess F-4D fighter aircraft. See Appendix A for details on the audit process.

Conditional Donation of an F-4D Aircraft

The Air Force was preparing a "Conditional Deed of Gift" to be used to donate a flyable F-4D aircraft to the Collings Foundation. The Air Force was also determining whether it could legally provide the support needed by the Foundation to restore and maintain the aircraft for use in air shows, exhibitions, reunions, and special events. The donation is contrary to DoD and Air Force control procedures. Approval of the conditional donation would set a precedent that could lead to further requests from private foundations and museums for operational combat materiel. In addition, allowing the Foundation to maintain and fly the F-4D aircraft poses a risk to the public that the aircraft may not be safely maintained and operated.

Donation Policies and Procedures

DoD Policies and Procedures. On November 22, 1996, the Assistant Deputy Under Secretary of Defense (Materiel and Distribution Management) issued a policy memorandum to modify DoD guidance on the loan, gift, and exchange of documents, historical artifacts, and condemned or obsolete combat materiel covered under title 10, United States Code, section 2572. The memorandum instructed each Military Department making loans and gifts to comply with DoD Manual 4160.21-M, "Defense Reutilization and Marketing Manual," March 1990, and DoD Manual 4160.21-M-1, "Defense Demilitarization Manual," October 1991. The memorandum also requires that donations be completed at no cost to the Government and prohibits the release of Government records except for relevant records for aircraft and associated engines and equipment.

DoD Manual 4160.21-M requires that donated property be provided to qualified recipients on an "as is/where is" basis. Qualified recipients are limited to veterans' organizations, soldiers' monument associations, museums, and incorporated municipalities. The qualified recipients must pay all costs incidental to preparation, handling, and movement of the donated property. DoD Manual 4160.21-M-1 also requires that the use of donated aircraft be limited to display purposes and prescribes specific demilitarization procedures.

The November 22, 1996, policy memorandum allows the Military Departments to waive demilitarization requirements on vintage items being placed in use by qualified recipients, if inherently lethal components, such as guns and bombs, are neutralized. The Military Departments are required to consult with the Defense Logistics Agency's demilitarization policy office before a waiver is

Conditional Donation of an F-4D Aircraft

approved. Vintage items are those decommissioned or retired items considered by the DoD to have no commercial value and to have been out of inventory long enough that they are of interest primarily to collectors.

Air Force Policy. Air Force Manual 23-110, (November 14, 1994), volume 6, "Excess and Surplus Personal Property," provides guidance for Air Force organizations worldwide on processing excess property through donations and loans to foundations and other qualified recipients. The manual requires Air Force organizations to complete demilitarization on aircraft prior to donation. The manual allows the restoration of donated aircraft to qualified recipients for display purposes only.

Planning of Donation

In November 1995, the Chief of Staff of the Air Force received a request from the Foundation for assistance in obtaining an F-4E aircraft. The Foundation proposed using the aircraft during air shows commemorating the 50th anniversary of the Air Force. In November 1995, the Air Force started evaluating the possibility of legally donating a "flyable" F-4 Fighter aircraft to the Foundation.

The Air Force initially considered donating an F-4E model of the aircraft to the Foundation, because the Air Force was still flying F-4Es at Holloman Air Force Base to train German Air Force pilots. However, the Deputy Chief of Staff, Installations and Logistics, was informed that the F-4Es were scheduled by the Air Force QF-4 system program director to become drones or drone support aircraft. All F-4E, F-4G, and RF-4C aircraft were designated in FY 1991 to support the QF-4 program. As a result, the Deputy Chief of Staff, Installation and Logistics offered to donate a retired F-4D aircraft, selected by the Foundation, from surplus aircraft that were available at the Aerospace Maintenance and Regeneration Center (AMARC) at Davis Monthan Air Force Base. The Foundation selected an aircraft at Davis Monthan and made its request to the Air Force on March 3, 1997.

Other Considerations. The Air Force considered leasing, selling, and donating an F-4 aircraft to the Foundation. However, leasing the aircraft from the Air Force would result in considerable costs charged to the Foundation. Additionally, leasing would involve increased Government liability, oversight of the program, and a number of other small considerations which made the leasing option unacceptable.

The Air Force also decided it could not sell an F-4D aircraft to the Foundation, because DoD procedures prohibit the sale of combat and combat-configured weapons systems to private individuals or organizations.

Ultimately, the Air Force decided to conditionally donate the F-4D. A similar donation had been made by the Air Force in October 1974, when it modified an

existing donation of a B-29 Bomber aircraft to allow a museum to fly the bomber at air shows.

The planned donation required a waiver to existing DoD demilitarization policy. In addition, the Air Force needed to provide technical, maintenance, and logistics support to the Foundation to restore the F-4D aircraft to flyable condition.

From June 1996 through April 1997, the Air Force worked with the Foundation to establish the appropriate legal authority to donate a flyable F-4D aircraft and to finalize liability and safety issues regarding the donation.

Donation Not Needed for 50th Anniversary Events. The Air Force determined that it could not complete the conditional donation of the F-4D in time for it to be flown during various events commemorating the Air Force's 50th anniversary. As a result, the Air Force used an F-4E training aircraft that was flown by an active duty pilot at the initial 50th anniversary event in April 1997.

Conditional Deed of Gift

On April 22, 1997, the Air Force prepared a "Conditional Deed of Gift" for donating the F-4D selected by the Foundation from AMARC. The document was modified several times since February 1997, and at the time of audit, was in draft form. Our review of the Conditional Deed of Gift identified several areas of concern, including the waiver to and modification of certain DoD and Air Force control procedures. According to the terms of the Conditional Deed of Gift:

- o the Foundation sought to fly the F-4D at events other than air shows;
- o the Air Force planned to give the aircraft to the Foundation even though the Foundation was not on the United States Air Force Museum's list of qualified museums;
- o the Air Force planned to seek a waiver to DoD demilitarization procedures to complete the donation and needed to waive its own demilitarization procedures;
- o the Air Force planned to assist the Foundation in restoring and maintaining the donated F-4D aircraft, thereby contravening DoD and Air Force procedures; and
- o the Air Force planned to allow the Foundation to arrange the transfer of the F-4D in order to recover restoration costs.

Approved Flights of the Donated Aircraft. The "Conditional Deed of Gift" specifies that the Foundation will be allowed to fly the F-4D at air shows,

Conditional Donation of an F-4D Aircraft

exhibitions, reunions, and special events across the United States. However, the proposed deed of gift does not give the Air Force approval over the events and was modified at the Foundation's request to include "exhibitions and reunions."

Waiver of Museum Requirement. The "Conditional Deed of Gift" specifies that the Foundation is an accredited museum pursuant to 10 U.S.C. 2572 (a)(4). However, the Foundation had not been approved as a museum as required by DoD Manual 4160.21-M and Air Force Manual 23-110, volume 6, "Excess and Surplus Property," November 14, 1994.

Air Force Manual 23-110 allows donations of aircraft to nonprofit educational museums and other qualified recipients. However, the manual specifies that qualified recipients must be approved by the Air Force Museum, Wright-Patterson Air Force Base. The Foundation is not on the list of qualified recipients maintained by the Air Force Museum.

Waiver of Air Force Demilitarization Procedures. The "Conditional Deed of Gift" specifies that a waiver to DoD requirements for demilitarization is needed. Because the F-4D aircraft is not a vintage aircraft, as defined by DoD policy, the Air Force cannot complete the donation without the approval of the Deputy Under Secretary of Defense (Logistics). As of April 1997, the Air Force was attempting to obtain a waiver to DoD demilitarization policies.

The Air Force F-4 System Program Director (SPD) was assigned the responsibility for developing "flyable" demilitarization procedures for the donation of the aircraft to the Foundation. On February 20, 1997, after several months of review, the SPD developed a schedule of items that should be removed from the aircraft and render the aircraft incapable of carrying and delivering ordnance, while at the same time leaving the aircraft flyable for air shows.

However, the "flying demil" scheduled only the removal of the enemy identification system (Identification Friend or Foe), the radar warning and homing receiver, and the master arm control switch. The wing pylons, bomb racks, and missile launchers would remain on the aircraft.

Restoration of F-4D Through Donation of Serviceable Parts. The "Conditional Deed of Gift" specifies that the Foundation may utilize any F-4 parts from aircraft in the disposal account for the purpose of achieving a complete aircraft without cost other than cost of labor. Any restoration, overhaul, or repair necessary to achieve a complete aircraft will be at the expense of the Foundation.

DoD Manual 4160.21-M requires that donations of property to recipients are to be completed on an "as is/where is" basis. However, the Air Force did not have a serviceable F-4D and planned to restore a flyable F-4D by taking serviceable parts from at least four other aircraft. In addition, the Air Force decided to waive procedures from Air Force Manual 23-110, volume 6, and provide technical, maintenance, and logistics support to the Foundation provided it reimbursed the Air Force for the cost of the Air Force labor.

Conditional Donation of an F-4D Aircraft

During a visit to AMARC in February 1997, the Air Force invited the Foundation to select an F-4D aircraft 65-0749 for donation. The Air Force Director of Supply made a policy ruling to allow AMARC to exchange unserviceable parts from the donated F-4D aircraft 65-0749 with serviceable parts from other F-4D aircraft. The Air Force designated four other F-4D aircraft as candidates for providing engines for the selected F-4D.

The policy ruling violated then DBOF pricing policy contained in DoD Comptroller (now Under Secretary of Defense [Comptroller]) memorandum, "Defense Business Operations Fund Pricing Policy," January 4, 1993, and in the Financial Management Regulation, DoD 7000.14-R, volume 11B, chapter 50, December 1994, that required AMARC to charge fees in accordance with industrial-fund pricing guidance on parts reclaimed from excess aircraft. Also, the Air Force did not have a methodology to determine the incurred administrative and overhead costs related to the planned donation. Further, the "Conditional Deed of Gift" was unclear as to the meaning of "labor costs."

Maintenance of a Flyable F-4 Aircraft. The "Conditional Deed of Gift" specifies that the Air Force is not required to give the Foundation any type of support, including, but not limited to, spare parts, manpower, or technical data. However, the Air Force may provide support on a reimbursable basis, if such support is reasonably available. Specifically, the Foundation would be authorized to obtain all noncritical technical manuals, pilot manuals, parts manuals, technical order information, and other Air Force information necessary and available to operate and maintain the F-4D aircraft.

The Foundation is not authorized access to classified data. AMARC will remove all classified systems prior to donation. However, the deed of gift indicated that by endorsing the Foundation request for certification to the United States/Canada Joint Certification Office, Defense Logistics Services Center, the Air Force could assist the Foundation in obtaining military-critical technical data that are necessary for the Foundation to safely operate the F-4D.

The planned Air Force support is unprecedented, and the Air Force has no methodology for determining the actual costs of the support or whether excess capacity exists on current F-4E maintenance contracts. Air Force personnel estimated that it would cost up to \$1.2 million to restore the F-4D to flyable condition. The estimate includes any work the AMARC performs for the Foundation. In addition, the Air Force would need to arrange for the Foundation to be charged for using existing F-4E maintenance contracts, because the Foundation does not have the equipment or expertise to complete depot overhaul requirements.

Recovery of Restoration Costs. The "Conditional Deed of Gift" specifies that the Air Force will give special consideration to the preservation and public display of a flyable F-4D and to the Foundation's interest in recovering its substantial costs of restoring the F-4D aircraft. The "Conditional Deed of Gift" states that nothing shall be construed as precluding the Foundation from seeking to recover such costs by agreement with a subsequent transferee, and every reasonable opportunity to do so will be afforded the Foundation.

Conditional Donation of an F-4D Aircraft

The terms allowing the Foundation to recover costs by transferring its rights to the flyable F-4D to another qualified recipient is in direct violation of procedures in DoD Manual 4160.21-M and Air Force Manual 23-110, volume 6. Paragraph 4, attachment 30, to chapter 13 of DoD Manual 4160.21-M indicates that if at any time the donated property is no longer used for display or educational purposes, or if the donee no longer wishes to keep the donated property, written notice shall be given to the donor and title to the donated property shall, at the option of the donor revert to and vest in the donor who shall be entitled to immediate repossession of the donated property. The Air Force Manual restates the policy.

It is our opinion that the terms call into question the Foundation's long-term ability to properly fund the maintenance of a flyable F-4D aircraft, since provisions are already being made to allow transfer of the aircraft to another potential recipient.

Public Safety

The "Conditional Deed of Gift" does not adequately address the maintenance and insurance of the F-4D aircraft. The deed of gift does not specify an adequate maintenance program, provides for only \$2 million in insurance, and transfers safety responsibilities to the Federal Aviation Administration (FAA).

Maintenance Program. The Foundation does not have the capability of maintaining the F-4D aircraft without the help of the Government and its unique support equipment. As a result, the Air Force would need to modify existing Government maintenance contracts to allow the Foundation to use the contractors for maintenance of the F-4D. However, the "Conditional Deed of Gift" does not provide the Foundation the needed access to the Government contracts.

Any maintenance plan developed by the Foundation would need to include demilitarization controls over F-4D parts. Tracking the disposition of parts and verifying demilitarization of condemned parts would create a significant work load for the Air Force. Further, the Air Force would need to implement additional demilitarization controls, because F-4 parts and components are in demand by hostile countries. However, the "Conditional Deed of Gift" does not adequately address mandatory demilitarization controls of those parts.

Insurance for the F-4D. The "Conditional Deed of Gift" does not provide adequate insurance for the F-4D. The deed of gift requires less insurance for the F-4D than the insurance required in the similar conditional donation of a vintage B-29 bomber. The Foundation's planned insurance coverage was \$2 million single liability for the F-4D. In 1974, the B-29 was insured for \$7.5 million single liability, \$5 million for personal injury liability, and \$2.5 million for property damage liability.

The operation of a high-performance, combat aircraft at air shows, exhibitions, reunions, and special events is clearly more dangerous. For example, in 1972, 22 people were killed and 28 others were injured when an obsolete F-86 jet aircraft crashed. The aircraft had been retired from the Royal Canadian Air Force and restored to use. Six other F-86 jet aircraft that have been restored to private use have crashed since 1968. The F-86 is not a supersonic jet and flies at less than 740 miles per hour. The F-4 is capable of flying at speeds in excess of 1,400 miles per hour.

Allowing private individuals or foundations to maintain and fly high-performance combat aircraft poses a more significant risk to public safety. There have been crashes of other obsolete combat aircraft, including Russian-made MIGs, Super Sabres, and Starfighters brought into the United States by private entities. Those crashes reflect the difficulty and risk in safely operating combat aircraft. Accordingly, the DoD needs to prohibit the waiver of DoD demilitarization requirements on the donation of high-performance combat aircraft.

Transfer of Safety Responsibilities to FAA. The "Conditional Deed of Gift" indicates that the FAA will qualify the aircraft and pilot for flight. However, the Air Force has not worked with the FAA to determine whether the F-4D could be safely operated by civilians.

Military jets flown in air shows have crashed. For example, in May 1993, an F-86 aircraft crashed at an air show due to pilot error. The F-86 pilot elected to conduct a solo acrobatic routine that had not been practiced for the show. Also, in May 1993, a contractor crashed an F-4G aircraft that was provided by the Air Force as Government-furnished equipment on an Air Force contract. The crash occurred because of poor oversight by the Government flight representative and because the contractor did not comply with terms of the contract related to flight operations. The two pilots were killed while performing a flyover of a golf tournament. In both crashes, the aircraft were not operated according to approved procedures.

In addition, the Foundation crashed a World War II vintage Douglas A-26 Invader aircraft on June 22, 1993, in Kankakee, Illinois. The crash was attributed to mechanical problems with an engine.

Precedent for Further Requests

The DoD has never allowed a museum or other qualified recipient to fly a donated or loaned, high-performance combat aircraft. In addition, the DoD has never provided technical, maintenance, and logistics support to restore a donated combat aircraft to flyable condition. We believe the approval of the donation of a flyable F-4D aircraft would set a precedent that could lead to significant parts-control problems and additional workload for the Military Departments.

Conditional Donation of an F-4D Aircraft

The Air Force has loaned 182 and donated 28 F-4 aircraft to qualified recipients for display purposes only. If the subject donation is approved, the DoD would not have a reasonable basis for denying demilitarization waivers to the other qualified recipients. The Air Force also would not have a reasonable basis for denying technical, maintenance, and logistics support requested by qualified recipients from AMARC. The Air Force museum at Wright-Patterson Air Force Base receives numerous waiver requests from qualified recipients to fly donated or loaned aircraft. The donees of other combat equipment could request similar waivers in the future, for attack helicopters, tanks, and armored personnel carriers.

In February 1977, the then Deputy Assistant Secretary of Defense (Supply, Maintenance and Services) denied a similar waiver request from the Air Force on the donation of a vintage B-29 bomber. The denial occurred after congressional concerns related to DoD controls over munitions list items. We see no reason for DoD to alter its policy on limiting the use of donated aircraft to display purposes at this time, principally because of safety concerns.

Summary

On November 22, 1996, the Assistant Deputy Under Secretary of Defense (Materiel and Distribution Management), issued policy in coordination with the Military Departments to limit the use of donated aircraft. The Air Force was preparing a "Conditional Deed of Gift" that waives major provisions of the new policy so that a flyable F-4D could be donated to the Foundation for use in air shows. The donation is not necessary to ensure the existence of a flyable F-4 aircraft, and the Air Force should consider other alternatives to the planned donation. The Air Force use of the F-4E training aircraft at the commemorative air show at Nellis Air Force Base in April 1997 demonstrates that the donation of an F-4D is not necessary and that the Air Force could provide a flyable F-4 at events that publicize the Air Force if the Air Force believes the publicity is necessary.

Recommendations, Management Comments, and Audit Response

Revised Recommendations. As a result of management comments, we revised draft Recommendations 1. and 2. to clarify the nature of actions needed to improve controls and safeguards over donation of F-4D and other Air Force aircraft.

1. We recommend that the Deputy Under Secretary of Defense (Logistics) defer approving a waiver of demilitarization requirements on the donation of a flyable F-4D aircraft to the Collings Foundation until the Air Force can implement a structured living history program with programmatic, vice

case-specific, controls and safeguards to ensure both the Department of Defense and the public are well served and neither incur unacceptable cost and risk.

Management Comments. The Acting Deputy Under Secretary of Defense (Logistics) partially concurred with the recommendations and indicated that, to date, the Air Force has not submitted a request to waive demilitarization requirements on the donation of a flyable F-4D aircraft to the Collings Foundation. The Acting Under Secretary of Defense also stated that discussions with Air Force personnel indicated that it is their intent to address the concerns raised in the audit report and ensure that DoD Inspector General and legal considerations are met in a manner that would support granting a waiver. He further stated that if a formal waiver is received, it will be judged based on the justification provided by the Air Force and on information provided by the Defense Logistics Agency, as the DoD program office for demilitarization. The response will be coordinated with the Inspector General, DoD, before finalization.

Audit Response. Management comments are responsive. The strategy of the Deputy Under Secretary of Defense (Logistics) to review and coordinate future requests for Air Force waivers of demilitarization requirements on the F-4D will ensure the aircraft is properly demilitarized before it is released to the public.

2. We recommend that the Air Force Chief of Staff delay the in-process donation of a flyable F-4D aircraft to the Collings Foundation until the Air Force can implement a structured living history program with programmatic, vice case-specific, controls and safeguards that ensure both the Department of Defense and the public are well served and neither incur unacceptable cost and risk.

Management Comments. The Air Force concurred with the intent of our recommendations, stating that actions taken by the Air Force to make the donation were appropriate and consistent with Department of Defense policy and interest. However, the Air Force agreed that this precedent-setting donation should not be finalized until safety and program management issues are resolved to the satisfaction of the Air Force and DoD. The Air Force further requested that the final report recommendations be amended so as not to defeat the concept of a living history program. The Air Force plans to continue to work closely with the Office of the Deputy Under Secretary of Defense (Logistics) to develop a program that addresses the concerns noted in the audit report.

Audit Response. Management comments are responsive. The Air Force action to suspend the donation of an F-4D aircraft to the Collings Foundation until all safety and program management issues are resolved and a living history program is developed should greatly reduce the risk of releasing F-4D and other Air Force weapon systems without proper safeguards and adequate controls.

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Part II - Additional Information

Appendix A. Audit Process

Scope and Methodology

Scope. We reviewed correspondence from November 1995 through April 1997 related to the planned donation and determined whether Air Force management's actions complied with existing DoD and Air Force procedures. We also reviewed historical data from June 1968 through April 1997 related to high-performance, combat aircraft to determine the extent of crashes. We visited the Collings Foundation to obtain data on the planned restoration and operation of an F-4D aircraft.

Methodology. We analyzed the adequacy of provisions in the Air Force's planned "Conditional Deed of Gift," as of April 22, 1997. We did not use computer-processed data during this audit.

Contacts During the Audit. We visited or contacted individuals and organizations within the DoD. We also contacted the National Transportation Safety Board and visited the Collings Foundation. Further details of organizations visited are available on request.

Audit Period, Standard, and Locations. We performed this economy and efficiency audit from March through April 1997 in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD.

Management Control Program

DoD Directive 5010.38, "Management Control (MC) Program," August 26, 1996, requires DoD organizations to establish a comprehensive system of management controls that provides reasonable assurance that programs are operating as intended and to evaluate the adequacy of the controls.

Scope of Review of the Management Control Program. We reviewed DoD and Air Force management controls. The planned donation of the F-4D aircraft was being executed as a waiver to those controls.

Adequacy of Management Controls. We did not identify material control weaknesses as defined by DoD Directive 5010.38. Management controls for donating aircraft are in place. However, the Air Force was attempting to obtain a waiver of the controls. Recommendations 1. and 2., if implemented, will eliminate the need to obtain the waiver.

Appendix B. Prior Audits and Other Reviews

This report is the sixth in a series. Summaries of the five reports that have been published are provided below. The final report, which summarizes the results of those audits is still being drafted.

Inspector General, DoD, Report No. 96-143, "Transfer and Exchange of a Navy P-3A Aircraft," June 5, 1996. The Navy planned to transfer a P-3A aircraft, with usable parts valued at \$1.7 million to \$4.1 million, to the Smithsonian's National Air and Space Museum. The museum, in turn, planned to exchange the P-3A for an historically significant business aircraft valued at \$245,000. As a result of our review, the Navy conducted further research and canceled the transfer. The Navy confirmed that it had current requirements for parts on the P-3A. In addition, the planned exchange was not in the best interest of the Government. Management actions resulted in monetary benefits of \$1.7 million to \$4.1 million. The report contained no recommendations because the Navy took corrective action.

Inspector General, DoD, Report No. 96-229, "Disposition of Excess Army Helicopters and Flight-Safety-Critical Helicopter Parts," September 24, 1996. The Aviation and Troop Command did not give correct instructions for disposing of flight-safety-critical helicopter parts. As a result, \$37.5 million of flight-safety-critical parts were released to the public without safety inspections, and \$153.1 million of salable parts were incorrectly coded for demilitarization.

The Aviation and Troop Command transferred 170 helicopters to the U.S. Army Center for Military History for exchange purposes, although the helicopters were not historic property. The Center for Military History incorrectly exchanged 86 of the helicopters for other historic property or contractor services. The helicopters that were exchanged were not properly valued, and the exchanges were not reported to the Internal Revenue Service as required. The Center for Military History's actions did not comply with DoD policies on exchanges and the valuation requirements of title 10 United States Code, section 2572. The exchanges increased the risk that flight-safety-critical helicopter parts on the helicopters were released outside DoD without the necessary safety inspections.

The Defense Reutilization and Marketing Service did not reimburse the Aviation and Troop Command for the sale of excess helicopters and related parts. As a result, the Army's Defense Business Operations Fund will not receive approximately \$60 million from the sale of helicopters and \$10 million from the sale of helicopter engines. Redirecting these funds will give the Army the incentive to maximize proceeds on the sale of excess helicopters and related parts.

The Army agreed to publish policy requiring the inspection of helicopters prior to exchange; destroy flight-safety-critical parts that are undocumented, crash damaged, or similarly compromised; inform recipients of helicopters and parts of availability of historical data on flight-safety-critical parts; notify the end users of the 86 helicopters of the flight-safety-bulletins; revise Army

Appendix B. Prior Audits and Other Reviews

Regulation 870-20, "Museums and Historical Artifacts," to include valuation procedures; abide by DoD policy on the reporting of exchanges to the Internal Revenue Service; and comply with the tenets of a legal opinion on the reimbursement for the sale of helicopters and related parts.

Inspector General, DoD, Report No. 97-130, "Coding of Munitions List Items," April 16, 1997. The policies governing the coding of munitions list items were adequate. However, DoD organizations did not follow those policies and assigned inaccurate codes to more than half of the items we reviewed. Our random statistical sample indicated that from October 1994 to May 1995, DoD Components assigned inaccurate demilitarization codes to 1,380 (52 percent) of the 2,658 randomly sampled items that required strict controls for disposal. Decentralization of the demilitarization coding process made it difficult to adequately train personnel and ensure the consistent application of demilitarization policies. Because inaccurate codes were assigned, DoD may have incurred unnecessary costs, and sensitive military hardware may have been sold or advertised for sale without demilitarization controls. Improvements in the assignment of demilitarization codes are essential overall and as anti-terrorism, security, and property management measures. The Deputy Under Secretary of Defense (Logistics) concurred with the recommendations and began actions to centralize management of the coding process. He also requested further study of the issue by the Defense Science Board.

Inspector General, DoD, Report No. 97-134, "Disposal of Munitions List Items in Possession of Defense Contractors," April 22, 1997. Improvements were needed in the identification and disposal of munitions list items in the possession of contractors. At the 15 contractor locations we visited, DoD and Defense contractor personnel generally did not identify whether items used by contractors to develop and field weapon systems were munitions list items. Of the 1,820 items we judgmentally sampled, 1,400 were not reviewed or categorized. As a result, when the property was no longer needed, the Defense Contract Management Command directed Defense contractors to sell it, without knowing whether any of the property required strict controls to keep it from unauthorized recipients. Also, the Defense Contract Management Command did not adequately monitor the disposal of 155 items that DoD personnel identified as munitions list items. As a result, the items were sold without application of the required trade security and demilitarization procedures. The Defense Logistics Agency and the Defense Contract Management Command initiated corrective actions to change the procedures used to identify items in the possession of contractors. The Director, Defense Procurement, agreed to consider our report recommendations as comments on proposed changes to the Defense Federal Acquisition Regulation Supplement on demilitarization.

Inspector General, DoD, Report No. 97-211, "Management of the U.S. Army Center for Military History Exchange-For-Services Agreement," August 28, 1997. The U.S. Army Center for Military History did not properly manage its "Exchange for Services - 10 U.S.C. 2572" agreement. The Center did not make use of an outdoor storage area; underutilized 3 warehouses; allowed the Southeastern Equipment Company, Incorporated, to store contractor-owned property in 2 of the warehouses; exchanged 16 helicopters for

less than fair market value; and subsidized the operations of the Southeastern Equipment Company, Incorporated, by paying transportation costs on exchanges. As a result, we estimated that the Center overstated its liability to the Southeastern Equipment Company, Incorporated, by at least \$1.1 million and undervalued the helicopters it exchanged with the company by \$1 million. The report recommended that the Commander, Army Materiel Command: assess the need for an exchange agreement with the Southeastern Equipment Company, Incorporated, recompute the Government's liability to the Southeastern Equipment Company, Incorporated, under the "Exchange for Services - 10 U.S.C. 2572" agreement, and direct the U.S. Army Center for Military History to establish a management control program as required by DoD Directive 5010.38. The Chief of Military History disagreed with the recommendations but acknowledged shortcomings in the Center's administration of its exchange agreement with Southeastern Equipment Company, Incorporated. He stated that the Army intends to improve the Center's business practices and implement new controls based on the results of an on-going internal review of the U.S. Army Center for Military History by the Army Audit Agency.

Appendix C. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition and Technology
Deputy Under Secretary of Defense (Logistics)
Director, Defense Logistics Studies Information Exchange
Under Secretary of Defense (Comptroller)
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)
Assistant Secretary of Defense (Public Affairs)

Department of the Army

Auditor General, Department of the Army

Department of the Navy

Assistant Secretary of the Navy (Financial Management and Comptroller)
Auditor General, Department of the Navy

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Chief of Staff, Department of the Air Force
Auditor General, Department of the Air Force

Other Defense Organizations

Director, Defense Contract Audit Agency
Director, Defense Logistics Agency
Commander, Defense Reutilization and Marketing Service
Director, National Security Agency
Inspector General, National Security Agency
Inspector General, Defense Intelligence Agency

Non-Defense Federal Organizations

Office of Management and Budget

General Accounting Office

National Security and International Affairs Division, Technical Information Center

National Security and International Affairs Division, Defense and National

Aeronautics and Space Administration Management Issues

National Security and International Affairs Division, Military Operations and
Capabilities Issues

Chairman and Ranking Minority Member of each of the following Congressional
Committees and Subcommittees:

Senate Committee on Appropriations

Senate Subcommittee on Defense, Committee on Appropriations

Senate Committee on Armed Services

Senate Committee on Governmental Affairs

House Committee on Appropriations

House Subcommittee on National Security, Committee on Appropriations

House Committee on Government Reform and Oversight

House Subcommittee on Government Management, Information, and Technology,

Committee on Government Reform and Oversight

House Subcommittee on National Security, International Affairs, and Criminal

Justice, Committee on Government Reform and Oversight

House Committee on National Security

Part III - Management Comments

Under Secretary of Defense for Acquisition and Technology Comments

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ACQUISITION AND
TECHNOLOGY

(L/MDM)

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

131 JUL 1997

MEMORANDUM FOR ACTING DIRECTOR, FINANCE AND ACCOUNTING
DIRECTORATE, OFFICE OF THE INSPECTOR GENERAL

SUBJECT: DoDIG Draft Audit Report: "Conditional Donation of
an F-4D Aircraft"; Project Number 5FJ-5024.05; dated
May 16, 1997

Recommendation Number 1 in the subject draft audit report contends that a waiver to the demilitarization requirements should be denied by this office. While we support the commitment by the Air Force in establishing a living history program, the information provided in the draft report suggests that granting a waiver at this time would be inappropriate. To date, the Air Force has not forwarded documentation requesting a waiver.

In discussions with Air Force personnel, they indicated their intent is to address the concerns raised in the subject report and ensure that DoDIG and legal considerations be met in a manner that would support granting a waiver. After obtaining such concurrence, a formal waiver request would be forwarded to this office. If a formal waiver request is received, it will be judged based on the justification provided by the Air Force and information from the Defense Logistics Agency, as the DoD program office for demilitarization. In addition, such a response will be coordinated with your office prior to finalization.

Roy R. Willis

Roy R. Willis
Acting Deputy Under Secretary
of Defense (Logistics)

cc: AF/LGSP
DLA-MMLC



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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON, DC

29 JUL 1997

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

FROM: HQ USAF/LS
1030 Air Force Pentagon
Washington DC 20330-1030

SUBJECT: DoD(IG) Draft Report on the Conditional Donation of an F-4D Aircraft (Project No. 5FJ-5024.05)
(Your Memo, 16 May 97)

This is in reply to your memorandum requesting that the Assistant Secretary of the Air Force (Financial Management and Comptroller) provide Air Force comments on the subject report.

After evaluating the draft audit report, we concur with the intent of your recommendations; specifically, that a waiver of demilitarization requirements not be approved and donation of a flyable combat aircraft not be finalized until all safety and maintenance concerns are adequately addressed.

As previously discussed, Air Force leadership is committed to acknowledging the significant role military aircraft play in our aviation heritage and the importance of preserving their legacy. We see a living history program that encourages both demonstration and display of military aircraft as an appropriate means to provide the public a rare view into our aviation past. The proposed F-4D donation to the Collings Foundation presents a unique opportunity to preserve a significant piece of Air Force history. We believe actions taken by the Air Force to prepare to make the donation were appropriate and consistent with Department of Defense policy and interests. However, we agree that this precedent-setting donation should not be finalized until safety and program management issues are resolved to the satisfaction of the Air Force and DoD.

In view of our strong commitment to living history, request your final report recommendations be amended so as not to defeat our concept of a living history program. Instead, we request you recommend the Air Force delay making a donation and the Deputy Under Secretary of Defense (Logistics) defer approving a waiver to demilitarization requirements until such time as the Air Force can implement a structured living history program with programmatic, vice case-specific, controls and safeguards to ensure both the Department of Defense and the public are well served and neither incur unacceptable risks. As noted in the attached comments we plan to continue to work closely with the Office of the Deputy Under Secretary of Defense (Logistics) to develop a program which addresses concerns noted in your report. Hopefully, by working together, we can construct a living history program which will benefit both the Department of Defense and the public.


LEON A. WILSON, JR., Brig Gen, USAF
Director of Supply
DCS/Installations & Logistics

Attachment:
Management Comments

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cc:
SAF/FM
SAF/GC
AF/HO
AF/PE
SAF/PA
SAF/LLR
AF/XOS
AFMC/FMB

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AIR FORCE COMMENTS ON DRAFT DOD(IG) REPORT
ON
THE CONDITIONAL DONATION OF AN F-4D AIRCRAFT
(PROJECT NO. 5FJ-5024.05)

EXECUTIVE SUMMARY

AUDIT OBJECTIVE:

The DoD(IG) report, Executive Summary, states: "The audit objective was to evaluate Air Force plans for donating an excess F-4D fighter bomber aircraft."

MANAGEMENT COMMENTS: Recommend the phrase "under the authority of 10 U.S.C. 2572" be added to the end of this statement and the word "excess" be removed to more accurately represent Air Force plans. "Excess property" is a defined term in the Federal Property and Administrative Services Act, 40 U.S.C. 471,¹ and implementing Federal Property Management Regulations, 41 CFR 101-45, which establishes the general legal framework for disposition of federal property. Although the F-4D is excess to Air Force needs, the Air Force was not planning to dispose of the F-4D under property disposition authority which controls the disposition of "excess" and "surplus" federal property. Rather, the Air Force planned to use the specific authority given to the Secretary of a military department in 10 U.S.C. 2572 to loan or give what is called "condemned or obsolete combat materiel" to a qualified museum.

AUDIT OBJECTIVE:

The DoD(IG) report on page 3 states: "The Air Force was also determining whether it could legally provide the support needed by the Foundation to restore and maintain the aircraft for use in air shows, exhibitions, reunions, and special events."

"The donation is contrary to DoD and Air Force control procedures."

MANAGEMENT COMMENTS: Regarding support, the Air Force made a determination only as to providing restoration support--at the Foundation's expense--to make the donated F-4D a complete aircraft, not for continuing maintenance support. Most aircraft in the Aerospace Maintenance and Regeneration Center (AMARC) disposal

¹ The term "excess property" means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof. 40 U.S.C. 472(e). The term "surplus property" means any excess property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator. 40 U.S.C. 472 (g).

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account are incomplete because parts were removed prior to or after induction of the aircraft into storage. Since all of the aircraft and parts in the disposal account are destined to be sent to disposal if they are not donated, the Air Force believed the provision of a complete aircraft using the disposal account property was within the scope of the "as is, where is" donation regulation in the Defense Reutilization and Marketing Manual, DoD Manual 4160.21-M. Section F4a.(5) of the Manual provides:

"Property to be loaned or donated shall be on an "as is, where is" basis. Property may not be repaired, modified, or changed at Government expense to enhance or improve it for display based on the desires of the recipient. . . ."

The key qualifying phrase in the DoD regulation is that the property to be donated may not be repaired or enhanced at Government expense. The Air Force planned to charge the Foundation for all costs associated with exchanging parts to provide a complete aircraft, including AMARC's administrative and overhead costs. There would have been no increased Government expense. The parts which were to be exchanged would be sold for scrap and the Foundation would pay all labor and administrative costs. Furthermore, the Air Force would not be enhancing or improving the property for display. Rather, this was a most unique situation in that the aircraft was to be flown. Arguably, exchanges of parts would assist in improving the ultimate safety of the aircraft which is of paramount interest to the Air Force and the public. This relates to the final qualifying phrase. Such changes or modifications to property which will be donated cannot be done merely "based on the desires of the recipient." This language gives the Air Force, as a responsible steward of federal property, the discretion to make modifications, assuming no increased Government expense, to accomplish its own desire to transfer a flyable aircraft safely in support of a living history program.

Additionally, the Air Force did not plan to provide continuing maintenance support to the Foundation. The Air Force had advised the Foundation of the need to develop its own sources for maintenance after donation. For the Foundation to be able to fly the aircraft pursuant to an FAA permit, relevant FAA maintenance standards would need to be satisfied. If the Foundation, after the donation, had requested donation of additional parts from AMARC's disposal account, AMARC would have attempted to provide those parts on a one-for-one exchange basis at the expense of the Foundation. This type of parts support is not unprecedented. In the past, AMARC has exchanged parts for donated static display aircraft in order to ensure the displays are maintained in a manner consistent with program standards and reflect favorably on the Air Force.

The Air Force was unable to respond to the broad statement that the donation is contrary to DoD and Air Force control procedures without the specific control procedures being identified.

DONATION POLICIES AND PROCEDURES

AIR FORCE POLICY:

The DoD(IG) report, page 4, states: "Air Force Manual 23-110, November 14, 1994, volume 6, "Excess and Surplus Personal Property" provides guidance for Air Force organizations worldwide on processing excess property through donations and loans to foundations and qualified recipients. The manual requires Air Force organizations to complete demilitarization on aircraft prior to donation. The manual allows the restoration of donated aircraft to qualified recipients for display purposes only."

MANAGEMENT COMMENTS: As noted above in our response to the statement of Air Force plans in the Audit Objective, this proposal was planned as a museum donation through the authority of 10 U.S.C. 2572. Air Force policy, contained in AFPD 23-5, Reusing and Disposing of Materiel, involves the processing of excess and surplus personal property through 40 U.S.C. 471. In addition to the basic implementing guidance for donations in AFMAN 23-110, Volume 6, guidance is found in AFI 84-103, Museum System, which is the basic Air Force regulation governing the United States Air Force Museum System (USAFMS) and its activities.

Section 6.3.1 of AFI 84-103 (attachment 2 to Air Force response) provides that the USAFM Director controls, allocates, and distributes all historical property. The Director may loan or donate historical property to Air Force, DoD, other federal agencies, foreign government and military museums and private civilian museums for static display purposes. Domestic non-federal nonprofit educational museums, such as the Foundation, that meet the qualifications of 10 U.S.C. 2572 and DoD 4160.21-M may receive historical property for static display. Requirements for the loan of aircraft to private museums for static display are set out in the Director's Policy Letter of 1994 (attachment 3 to Air Force response). Although the Air Force may loan or give obsolete combat materiel to qualified museums, under current USAFM policy all such historical materiel is on loan. This proposed donation of the F-4D represents the first gift of an aircraft in over 24 years.

The Air Force does not dispute the assertion that demilitarization is required by virtue of the DoD Defense Demilitarization Manual, 4160.21-M-1, Chapter 4, which covers loans and donations of "obsolete combat materiel" requiring special processing before transfer for static display. Unlike other situations which may require complete demilitarization such that an aircraft would be chopped up for scrap, Chapter 4 provides for "minimum demilitarization" prior to donation to museums to render the items unserviceable, but to preserve the intrinsic historical display value of the property.

The Air Force always acknowledged that the demilitarization requirements, even those of a more limited nature directed to static display, would prevent subsequent flights of the F-4D. The Air Force fully intended to obtain appropriate DoD waivers to demilitarization requirements and other related requirements in the DoD Manual which are directed

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toward the static display museum program and are therefore inapplicable if a demilitarization waiver is given to accomplish transfer of a flyable aircraft for living history purposes.

PLANNING OF DONATION:

The DoD(IG) report on page 4 states: "As a result, the Air Force Logistics Office offered to donate a retired F-4D aircraft, selected by the Foundation, from surplus aircraft that were available at the Aerospace Maintenance and Regeneration Center (AMARC) at Davis Monthan Air Force Base."

MANAGEMENT COMMENTS: The correct designation for the AF Logistics Office is "the Deputy Chief of Staff, Installations and Logistics".

OTHER CONSIDERATIONS:

The DoD(IG) report, pages 4 and 5, states: "The Air Force considered leasing, selling and donating an F-4 aircraft to the Foundation. However, leasing the aircraft from the Air Force would result in considerable costs charged to the Foundation. Additionally, leasing would involve increased Government liability, oversight of the program, and a number of other small considerations which made the leasing option unacceptable."

MANAGEMENT COMMENTS: Leasing the aircraft to the Foundation would not necessarily result in "considerable costs" charged to the Foundation since a lease or loan could be executed under the authority of 10 U.S.C. 2572 at no cost to the recipient, aside from the initial costs of preparation. Leasing could potentially involve increased Government liability and oversight because the aircraft would be flown. Other significant factors weighing against leasing were the Foundation's rejection of the leasing alternative due to its substantial investment required to make the aircraft flyable in conjunction with the problem of inability to receive funds at public air shows from the flight of a Government aircraft.

"The Air Force also decided it could not sell an F-4D aircraft to the Foundation, because DoD procedures prohibit the sale of combat and combat-configured weapons systems to private individuals or organizations."

MANAGEMENT COMMENTS: Irrespective of combat-configuration status, the Air Force has no authority of its own to sell the F-4D to the Foundation. The Defense Logistics Agency (DLA) sells excess DoD personal property. This is a further reason sale of the F-4 was eliminated as an alternative to donation.

APPROVED FLIGHTS OF THE DONATED AIRCRAFT:

The DoD(IG) report on page 6 states: "The "Conditional Deed of Gift" specifies that the Foundation will be allowed to fly the F-4D at air shows, exhibitions, reunions, and

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special events across the United States. However, the proposed deed of gift does not give the Air Force approval over the events and was modified at the Foundation's request to include "exhibitions and reunions."

MANAGEMENT COMMENTS: The proposed conditional deed of gift did not provide for Air Force approval of the events the Foundation would schedule for the F-4D because this level of oversight is not warranted. The general terms of the conditional deed of gift restricted use of the F-4D for display, educational purposes, and flying at air shows and other public interest events to comport with the language and intent of the museum donation statute, 10 U.S.C. 2572. The Air Force believes exhibitions and reunions fall within the intent of educational purposes as defined in 10 U.S.C. 2572. Further, the deed incorporated conditions that limited flight use to routine flying for maintenance, airworthiness checks, and pilot proficiency and ferry flights to and from, practice for, and participation in, air shows, exhibitions, reunions, and special events. Before being allowed to fly the F-4D, the Foundation would have needed to apply for and obtain FAA certifications in the Exhibition Class. The proposed deed conditions parallel restrictions on flight that would be imposed by the FAA in order to obtain such certification. The Foundation is familiar with Exhibition Class certification as it has obtained such certification for other aircraft it owns and flies at air shows. In general, each year the owner must file with the FAA a list of scheduled shows or events at which it plans to fly the aircraft. The aircraft can be flown to or from the scheduled shows and also, for training purposes, only within 600 miles of its home airport base.

WAIVER OF MUSEUM REQUIREMENT.

The DoD(IG) report on page 6 states: "The "Conditional Deed of Gift" specifies that the Foundation is an accredited museum pursuant to 10 U.S.C. 2572 (a)(4). However, the Foundation had not been approved as a museum as required by DoD Manual 4160.21-M and Air Force Manual 23-110, volume 6, "Excess and Surplus Property," November 14, 1994."

"Air Force Manual 23-110 allow donations of aircraft to nonprofit educational museums and other qualified recipients. However, the manual specifies that qualified recipients must be approved by the Air Force Museum, Wright-Patterson Air Force Base. The Foundation is not on the list of qualified recipients maintained by the Air Force Museum."

MANAGEMENT COMMENTS: As discussed above in the Air Force response to the Air Force Policy Section, additional guidance for the museum donation program is contained in AFI 84-103, Museum System. We concur that the Foundation is not currently on the Air Force Museum's list of qualified museum recipients for the static display program because we are in the process of developing new criteria to qualify a museum for non-static, living history flight demonstrations of historic aircraft. We have drafted a museum qualifications statement which contains basic administrative requirements needed to qualify under the statute for a donation and additional unique standards related to safety,

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operation, and maintenance of flying aircraft. The draft standards are such that museums having static display aircraft might not qualify because to qualify a museum will have to demonstrate it has the capability and resources to support a flying history program. Once the new Air Force museum qualification standards are formalized, potential qualified flight demonstration museums can present their qualifications when requesting donation of a flyable aircraft. In the interim, the Air Force will work with DoD in developing criteria for a living history program for flyable combat aircraft.

WAIVER OF AIR FORCE DEMILITARIZATION PROCEDURES.

The DoD(IG) report on page 6 states: "The "Conditional Deed of Gift" specifies that a waiver to DoD requirements for demilitarization is needed. Because the F-4D aircraft is not a vintage aircraft, as defined by DoD policy, the Air Force cannot complete the donation without the approval of the Deputy Under Secretary of Defense (Logistics). As of April 1997, the Air Force was attempting to obtain a waiver to DoD demilitarization policies."

"The Air Force F-4 System Program Director (SPD) was assigned the responsibility for developing "flyable" demilitarization procedures for the donation of the aircraft to the Foundation. On February 20, 1997, after several months of review, the SPD developed a schedule of items that should be removed from the aircraft and render the aircraft incapable of carrying and delivering ordnance, while at the same time leaving the aircraft flyable for air shows."

"However, the "flying demil" scheduled only the removal of the enemy identification system (Identification Friend or Foe), the radar warning and homing receiver, and the master arm control switch. The wing pylons, bomb racks, and missile launchers would remain on the aircraft."

MANAGEMENT COMMENTS: The Air Force concurs that a waiver from DUSD(L) of certain demilitarization requirements would need to be obtained before making the donation. As of this date, no waiver request has been made, however, and the Air Force would ensure that appropriate demilitarization is undertaken. As previously discussed with the DoD(IG), the Air Force has not yet finalized "flyable" demilitarization procedures for the F-4D. Those general procedures listed in the February 20, 1997 F-4 SPD message are only partial instructions based on the premise that some of the F-4D demil-required systems had already been removed from the selected aircraft (serial number 65-0749) and that some removals would not be made to permit use of external fuel tanks and other systems needed for safe flight into military air fields. It has always been the intention of the Air Force to remove all demil-required systems which can be removed while permitting the aircraft to be flown safely.

RESTORATION OF F-4D THROUGH DONATION OF SERVICEABLE PARTS.

The DoD(IG) report on page 6 states: "The "Conditional Deed of Gift" specifies that the Foundation may utilize any F-4 parts from aircraft in the disposal account for the purpose of achieving a complete aircraft without cost other than cost of labor. Any restoration, overhaul, or repair necessary to achieve a complete aircraft will be at the expense of the Foundation."

"DoD Manual 4160.21-M requires that donations of property to recipients are to be completed on an "as is/where is" basis. However, the Air Force did not have a serviceable F-4D and planned to restore a flyable F-4D by taking serviceable parts from at least four other aircraft. In addition, the Air Force decided to waive procedures from Air Force Manual 23-110, volume 6, and provide technical, maintenance, and logistics support to the Foundation provided it reimbursed the Air Force for the cost of the Air Force labor."

"During a visit to AMARC in February 1997, the Air Force invited the Foundation to select an F-4D aircraft 65-0749 for donation. The Air Force issued a waiver to AMARC procedures and planned to allow AMARC to exchange unserviceable parts from the donated F-4D aircraft 65-0749 with serviceable parts from other F-4D aircraft. The Air Force designated four other F-4D aircraft as candidates for providing engines for the selected F-4D."

"The waiver violated a long-standing DoD policy that requires AMARC to charge fees in accordance with industrial-fund pricing guidance on parts reclaimed from excess aircraft. Also, the Air Force did not have a methodology to determine the incurred administrative and overhead costs related to the planned donation. Further, the "Conditional Deed of Gift" was unclear as to the meaning of "labor costs"."

MANAGEMENT COMMENTS: Parts will be exchanged in preparing the aircraft for donation. The Foundation would have paid for all costs (at standard AMARC rates) associated with the exchange of parts. The DoD(IG) has not identified where the "long-standing DoD policy" requiring AMARC to charge fees on "parts reclaimed from excess aircraft" is found, i.e., DoD regulation or policy letter. Additionally, the DoD(IG) has not identified where the AMARC procedures precluding exchange are found. In order to fully respond, the Air Force requests that information be provided.

Although parts reclaimed from aircraft in AMARC for DoD and FMS users are priced in accordance with standard pricing policies, the parts on the surplus F-4s in the disposal account have no demand and will not be reclaimed. They are destined to be destroyed and sold as scrap through the Tucson Defense Reutilization and Marketing Office (DRMO). The sole remaining use for the surplus F-4s and parts is donation. By using several F-4s to make a complete F-4D the Air Force, in effect, would have been donating the best collection of F-4 parts available to make a complete, flyable aircraft. It is in the best interests of DoD and public safety that any aircraft donated for flight have the safest

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parts available. For each part exchanged on the donated F-4, a like part would be turned in to the DRMO so the volume of scrap available for sale would be the same regardless of the parts exchange.

MAINTENANCE OF A FLYABLE F-4 AIRCRAFT.

The DoD(IG) report on page 7 states: "The "Conditional Deed of Gift" specifies that the Air Force is not required to give the Foundation any type of support, including, but not limited to, spare parts, manpower, or technical data, but the Air Force may do so, on a reimbursable basis, if such support is reasonably available. Specifically, the Foundation would be authorized to obtain all noncritical technical manuals, pilot manuals, parts manuals, technical order information, and other Air Force information necessary and available to operate and maintain the F-4D aircraft."

"The Foundation is not authorized access to classified data. AMARC will remove all classified systems prior to donation. However, the deed of gift indicated that by endorsing the Foundation request for certification to the United States/Canada Joint Certification Office, Defense Logistics Services Center, the Air Force could assist the Foundation in obtaining military-critical technical data that are necessary for the Foundation to safely operate the F-4D."

"The planned Air Force support is unprecedented, and the Air Force has no methodology for determining the actual costs of the support or whether excess capacity exists on current F-4E maintenance contracts. Air Force personnel estimated that it would cost up to \$1.2 million to restore the F-4D to flyable condition. The estimate includes any work the AMARC performs for the Foundation. In addition, the Air Force would need to arrange for the Foundation to be charged for using existing F-4E maintenance contracts, because the Foundation does not have the equipment or expertise to complete depot overhaul requirements."

MANAGEMENT COMMENTS: It is both prudent and permitted by Air Force regulations (AFI 64-204, *Disseminating Scientific and Technical Information*) to provide the Foundation all of the technical data, maintenance manuals, maintenance history records, and any other data needed to safely operate and maintain the F-4. Similar data are routinely provided to contractors, lessees, and other authorized personnel when there is a need for this information and it is in the interest of the Air Force. The Air Force planned to recover all costs associated with the provision of these data from the Foundation using standard Air Force procedures for reimbursement for technical data (T.O. 00-5-2, *Technical Order Distribution System*, and AFPAM 37-145, *Schedule of Fees for Copying, Certifying, and Searching Records and Other Documentary Material*).

AMARC's planned support was limited to restoration of the aircraft to flyable condition, which would be done on a space-available and fully-reimbursed basis using AMARC's standard labor rates, which are intended to encompass actual costs. While the scope of AMARC's planned support may have been unprecedented, provision of support to

museum recipients is not unprecedented. AMARC's services are available to museums with static display aircraft on a reimbursable basis. In most cases, aircraft loaned for static display are restored by the recipient because it is more cost effective than paying AMARC labor rates. However, at the time an aircraft is transferred and during the term of a loan, AMARC may provide support to a museum on a reimbursable basis if such support is requested, is reasonable, and does not interfere with scheduled workloads.

Finally, the Air Force does not concur with the IG's assumption that the Air Force would need to determine capacity on current F-4E maintenance contracts and arrange for the Foundation to obtain maintenance support against those contracts. Following initial restoration services, the Air Force did not plan to provide the Foundation with continuing maintenance support. The Air Force had previously advised the Foundation of its responsibility to establish maintenance support.

RECOVERY OF RESTORATION COSTS.

The DoD(IG) report page 8 states: "The "Conditional Deed of Gift" specifies that the Air Force will give special consideration to the preservation and public display of a flyable F-4D and to the Foundation's interest in recovering its substantial costs of restoring the F-4D aircraft. The "Conditional Deed of Gift" states that nothing shall be construed as precluding the Foundation from seeking to recover such costs by agreement with a subsequent transferee, and every reasonable opportunity to do so will be afforded the Foundation."

"The terms allowing the Foundation to recover costs by transferring its rights to the flyable F-4D to another qualified recipient is in direct violation of procedures in DoD Manual 4160.21-M and Air Force Manual 23-110, volume 6. Paragraph 4, attachment 30 to chapter 13 of DoD Manual 4160.21-M indicates that if at any time, the donated property is no longer used for display or educational purpose, or if the donee no longer wishes to keep the donated property, written notice shall be given to the donor and title to the donated property shall, at the option of the donor revert to and vest in the donor who shall be entitled to immediate repossession of the donated property. The Air Force Manual restates the policy."

"It is our opinion that the terms call into question the Foundation's long-term ability to properly fund the maintenance of a flyable F-4D aircraft, since provisions are already being made to allow transfer of the aircraft to another potential recipient."

MANAGEMENT COMMENTS: The planned provision would give the Foundation the reasonable opportunity, not an absolute right, to recover restoration costs, provided that the subsequent transferee met Air Force and DoD criteria and were approved by the Air Force and DoD. Ultimate control remains with the government. The Air Force believes the planned provision for the Foundation to recover restoration costs does not conflict with current DoD or Air Force policy. Cost recovery is not addressed in those policies. In the past, cost recovery has not been an issue because costs to restore static display

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aircraft usually are not substantial. In the case of the F-4D, the Air Force estimated costs to restore it to flying status would be in the hundreds of thousands of dollars. The Air Force believed it would be appropriate that the Foundation should be permitted to seek to recover those costs, with the recognition that ultimate control over any transfer would rest with the Air Force and DoD. Any subsequent transferees would have to meet statutory qualifications as well as all Air Force and DoD regulations applicable to the transfer. This recovery would not have been for "its rights to the flyable F-4D", but for the technical expertise, maintenance planning, and other elements of the demonstration program the Foundation planned to develop to support the F-4 and which could be transferred to a subsequent donee, saving the gaining donee from expending resources to develop such a program. If the Foundation was unable to maintain the aircraft in perpetuity after investing substantial funds to restore it, the conditional deed of gift would have allowed the program to be continued through transfer to another qualified recipient, as approved by the Air Force. This arrangement would have allowed both the inception and continuation of this important new flying history program. Moreover, although not applicable in this case, there is a regulatory precedent for donees being reimbursed for restoration of donated property when the property is later returned to, or sold for, the government and/or the government's benefit. Section 41 C.F.R. 101.44-208(k).

MAINTENANCE PROGRAM.

The DoD(IG) report on page 9 states: "The Foundation does not have the capability of maintaining the F-4D aircraft without the help of the Government and its unique support equipment. As a result, the Air Force would need to modify existing Government maintenance contracts to allow the Foundation to use the contractors for maintenance of the F-4D. However, the "Conditional Deed of Gift" does not provide the Foundation the needed access to the Government contracts."

MANAGEMENT COMMENTS: As previously stated, the Air Force does not concur with the IG's assumption that the Air Force would need to arrange for maintenance support. A variety of military aircraft, flown today in the FAA experimental category, including MIGs, Super Sabres, Starfighters, etc., are maintained commercially without the support of the government. The Foundation has not approached the Air Force for continuing support. There is no intention to provide access to Government contracts in the conditional deed of gift.

On page 9, the DoD(IG) report states: "Any maintenance plan developed by the Foundation would need to include demilitarization controls over F-4D parts. Tracking the disposition of parts and verifying demilitarization of condemned parts would create a significant work load for the Air Force. Further, the Air Force would need to implement additional demilitarization controls, because F-4 parts and components are in demand by hostile countries. However, the "Conditional Deed of Gift" does not adequately address mandatory demilitarization controls of those parts."

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MANAGEMENT COMMENTS: The demilitarization controls applied to the proposed donation are the same as those applied to aircraft donations for static display purposes and those applied for other DoD transfers of demil-required property outside of DoD. That is, the Foundation would sign a legally binding agreement to use the property for a specific purpose and to return it or transfer it to a similarly approved recipient when it is no longer needed. The proposed Conditional Deed of Gift would have prohibited the Foundation from loaning, leasing, selling or exchanging the aircraft or parts to another party. The aircraft, and parts thereof, would be required to be returned to the Air Force when no longer needed for the Foundation's educational program. Parts accounting is not needed under this agreement just as parts accounting is not maintained for any DoD donations or transfers made under End Use Certificates. Prior to entering into agreements to provide demil-required property, entities are determined to have valid needs which permit waiver of demil requirements and are screened against debarred bidders lists. These entities do not pose a risk and establishing stock number or serial number controls to ensure the return of demil-required items is not justified. Additionally, the number of demil-required items remaining on the F-4D would have been limited to the least necessary to maintain the aircraft in flyable status.

INSURANCE FOR THE F-4D.

The DoD(IG) report states on page 9: "The "Conditional Deed of Gift" does not provide adequate insurance for the F-4D. The deed of gift requires less insurance for the F-4D than the insurance required in the similar conditional donation of a vintage B-29 bomber. The Foundation's planned insurance coverage was \$2 million single liability for the F-4D. In 1974, the B-29 was insured for \$7.5 million single liability, \$5 million for personal injury liability, and \$2.5 million for property damage liability."

"The operation of a high-performance, combat aircraft at air shows, exhibitions, reunions, and special events is clearly more dangerous. For example, in 1972, 22 people were killed and 28 others were injured when an obsolete F-86 jet aircraft crashed. The aircraft had been retired from the Royal Canadian Air Force and restored to use. Six other F-86 jet aircraft that have been restored to private use have crashed since 1968. The F-86 is not a supersonic jet and flies at less than 740 miles per hour. The F-4 is capable of flying at speeds in excess of 1,400 miles per hour."

"Allowing private individuals or foundations to maintain and fly high performance combat aircraft poses a more significant risk to public safety. There have been crashes of other obsolete combat aircraft, including Russian-made MIGs, Super Sabres, and Starfighters brought into the United States by private entities. Those crashes reflect the difficulty and risk in safely operating combat aircraft. Accordingly, the DoD needs to prohibit the waiver of DoD demilitarization requirements on the donation of high-performance combat aircraft."

MANAGEMENT COMMENTS: A draft conditional deed of gift reviewed by the DoD(IG) may have incorporated the \$2M dollar insurance figure because that was the

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value originally proposed by the Foundation. However, the Air Force determined that the \$2M figure was not sufficient and never agreed to it. The Air Force asked the Foundation to contact potential insurers and obtain information on how much insurance they would be willing to issue for the F-4D. The Air Force previously suggested the Foundation obtain at least \$10M single liability insurance. The Air Force will work with DoD to evaluate insurance requirements.

The Air Force acknowledges that there are different public safety concerns in seeking a waiver for "jet era" high performance aircraft versus WW II aircraft (B-17 or B-29). However, the Air Force does not concur that these additional safety concerns should necessarily be a complete barrier to the program. There is a strong public interest in preserving and displaying our nation's military aviation history. Moreover, as some of the examples in the DoD(IG) report demonstrate, parties may obtain combat aircraft which were never demilitarized according to DoD 4160.21-M-1 requirements and reintroduce them at air shows in the United States. Thus, prohibiting a waiver of DoD demilitarization requirements for the F-4D does not eliminate all risks to public safety from high performance combat aircraft. The Air Force believes that a combination of careful screening of applicants and development of living history criteria by the Air Force and DoD, together with FAA regulatory oversight, should serve the dual goals of historical preservation and public safety.

TRANSFER OF SAFETY RESPONSIBILITIES TO FAA.

The DoD(IG) report on page 10 states: "The "Conditional Deed of Gift" indicates that the FAA will qualify the aircraft and pilot for flight. However, the Air Force has not worked with the FAA to determine whether the F-4D could be safely operated by civilians."

MANAGEMENT COMMENTS: The Air Force on several occasions has discussed the potential donation of the F-4 with FAA Headquarters personnel to determine whether the FAA would consider issuing a special airworthiness certificate to an F-4 and procedures for the certification process. The FAA assured us that it is possible and probable that the F-4 would be able to obtain certification based on the fact that commercial sources are available for fighter aircraft maintenance, and the Foundation proposed to use a former F-4 pilot with recent experience in the F-4. The FAA indicated that various types of military aircraft have obtained the special airworthiness certification in the experimental category, and in most cases the applicant uses qualified commercial repair sources and former military pilots. FAA Aviation Safety Inspectors (ASI) working in Flight Standards District Offices (FSDO) are ultimately responsible for determining whether a specific aircraft will be issued the special airworthiness certificate and for final resolution of any safety issues. The Foundation understood its responsibility to contact the FSDO to start the certification process. HQ FAA has advised the Air Force that no determination on the certification of an F-4D could be made until the formal certification process, directed in FAA Order 8130.27, January 1, 1996, was initiated.

On page 10 the DoD(IG) report states: "the Foundation crashed a World War II vintage Douglas A-26 Invader aircraft on June 22, 1993, in Kankakee, Illinois. The crash was attributed to mechanical problems with an engine."

MANAGEMENT COMMENTS: The Air Force has requested the Foundation provide a complete accounting of all previous accidents involving Foundation aircraft and pilots. The safety record as a whole must be reviewed in deciding whether to make a donation; particular events should not be viewed in isolation.

PRECEDENCE FOR FURTHER REQUESTS.

The DoD(IG) report states on page 10: "The DoD has never allowed a museum or other qualified recipient to fly a donated or loaned, high-performance combat aircraft. In addition, the DoD has never provided technical, maintenance, and logistics support to restore a donated combat aircraft to flyable condition. We believe the approval of the donation of a flyable F-4D aircraft would set a precedent that could lead to significant parts-control problems and additional workload for the Military Departments."

"The Air Force has loaned 182 and donated 28 F-4 aircraft to qualified recipients for display purposes only. If the subject donation is approved, the DoD would not have a reasonable basis for denying demilitarization waivers to the other qualified recipients. The Air Force also would not have a reasonable basis for denying technical, maintenance, and logistics support requested by qualified recipients from AMARC. The Air Force museum at Wright-Patterson Air Force Base receives numerous waiver requests from qualified recipients to fly donated or loaned aircraft. The donees of other combat equipment could request similar waivers in the future, for attack helicopters, tanks, and armored personnel carriers."

"In February 1977, the then Deputy Assistant Secretary of Defense (Supply, Maintenance and Services) denied a similar waiver request from the Air Force on the donation of a vintage B-29 bomber. The denial occurred after congressional concerns related to DoD controls over munitions list items. We see no reason for DoD to alter its policy on limiting the use of donated aircraft to display purposes at this time, principally because of safety concerns."

MANAGEMENT COMMENTS: Although the donation would set a precedent, the Air Force is developing restrictive criteria and controls to ensure the living history program for flyable combat aircraft is limited to entities that can demonstrate their ability to safely operate and maintain aircraft. Entities whose capabilities do not extend beyond static display would not qualify. Additionally, since the authority to waive the DoD demilitarization policy resides solely with the Deputy Under Secretary of Defense, Logistics (DUSD(L)), the approval of such waivers can be tightly controlled. The 1977 denial of a waiver to donate a B-29 is a good example of how an organization without the proper qualifications can be denied participation. Although donation of an F-4D to the Collings Foundation will be deferred, the Air Force plans to work closely with the

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DUSD(L) to develop a military aircraft living history program that will address safety concerns and make military aviation history available to a much wider audience than can be achieved through static display programs. The Air Force believes benefits of such a precedent-setting program can be achieved while managing and minimizing any associated risks.

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