

Audit



Report

OFFICE OF THE INSPECTOR GENERAL

QUICK-REACTION REPORT ON DOD PROCUREMENTS
THROUGH THE TENNESSEE VALLEY AUTHORITY

Report Number 92-069

April 3, 1992

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Department of Defense

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The following abbreviations and acronyms are used in this report.

DFARS.....Defense Federal Acquisition Regulation Supplement
DLA.....Defense Logistics Agency
DRMS.....Defense Reutilization and Marketing Service
FAR.....Federal Acquisition Regulation
MIPR.....Military Interdepartmental Purchase Request
O&M.....Operation and Maintenance
OMB.....Office of Management and Budget
TBP.....Technology Brokering Program
TVA.....Tennessee Valley Authority
USFK.....United States Forces Korea
WFO.....Work-For-Others Program



INSPECTOR GENERAL
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April 3, 1992

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
DIRECTOR OF DEFENSE PROCUREMENT
ASSISTANT SECRETARY OF THE DEFENSE (COMMAND,
CONTROL, COMMUNICATIONS and INTELLIGENCE)
COMPTROLLER OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARY OF THE ARMY (FINANCIAL
MANAGEMENT)
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL
MANAGEMENT)
ASSISTANT SECRETARY OF THE AIR FORCE
(FINANCIAL MANAGEMENT AND COMPTROLLER)
DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: Final Quick-Reaction Report on DoD Procurements Through
the Tennessee Valley Authority (Report No. 92-069)

Introduction

During FY 1991, the Office of the Director, Defense Research and Engineering; the Army, Navy, and Air Force; and Defense Logistics Agency (DLA) activities issued 306 interagency orders valued at about \$149 million to the Tennessee Valley Authority (TVA) to procure support services and various equipment items. Of the \$149 million, 160 orders valued at \$95.7 million were issued to TVA in August and September 1991 with expiring funds (Appendix A). On September 17, 1991, we met with representatives of the Inspector General, TVA, to discuss potential problems with DoD procurements through the TVA. On October 11, 1991, we announced a cooperative audit with the Inspector General, TVA, to evaluate the DoD use of interagency orders to obtain contracting support from the TVA.

Authorization of Orders. DoD officials, who lacked authority under the FAR and DFARS to approve interagency acquisitions, improperly authorized 147 interagency orders to transfer \$84.8 million of expiring funds during August and September 1991 to TVA to achieve technical obligation of those funds. The interagency orders to TVA involved "contract offloading" or using TVA contracting capabilities rather than the DoD contracting system. DoD is paying TVA a brokerage fee ranging from 5 to 10 percent of the total value of each order to perform contracting functions that DoD should perform. In addition, internal control procedures and practices at the DoD activities involved were not adequate to ensure that contracting officers approved interagency orders as required by the Federal

Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS), or to preclude the transfer of funds to the TVA on orders that were not properly authorized. This report addresses only those orders with funds issued to TVA in August and September 1991. A subsequent report will address the overall management of the interagency agreement program with TVA and funding received by the TVA from DoD activities before August 1, 1991. We are also performing similar audits with the Inspectors General of the Department of Energy and the National Aeronautical and Space Administration.

Corrective OSD Actions. We received excellent cooperation from the Comptroller of the Department of Defense, who insisted that the TVA cease contracting actions on questionable orders. On October 24, 1991, the Inspector General, DoD, sent the Comptroller a memorandum requesting that he authorize TVA to suspend contract awards for 30 days for those DoD orders received during September 1991. On November 12, 1991, in a letter to the President, Resources Group, TVA, the Comptroller requested that TVA suspend actions that would further obligate DoD funds on interagency orders received during September 1991. On November 13, 1991, the Comptroller issued a memorandum to inform the Military Departments and Defense agencies that he had requested TVA to temporarily suspend contracting actions. In a letter to TVA on December 17, 1991, the Comptroller requested that TVA refrain from further contract activity on the contracting actions until additional guidance was provided. The complete text of this correspondence is contained in Appendix B.

On October 25, 1991, the Under Secretary of Defense for Acquisition issued a memorandum to the Secretaries of the Military Departments and Directors of the Defense agencies to reinforce DoD policies regarding contract offloading and to request aggressive actions to ensure compliance with established policies regarding the use of interagency agreements (Appendix C). The memorandum solicited continued support from the Military Departments and DLA in minimizing the risk of orders for interagency acquisitions being placed by unauthorized DoD program officials.

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

Objectives and Scope

Inspector General, DoD. The objective of the audit was to evaluate the use of interagency agreements and orders to obtain contracting support from the TVA. For this report, we determined whether DoD contracting officers reviewed the requirements on the interagency orders and authorized the interagency acquisitions in accordance with the FAR and DFARS. We also examined the interagency orders issued to TVA in August and September 1991 to determine compliance with year-end spending restrictions. We visited the TVA, Knoxville, Tennessee, to interview representatives of the Technology Brokering Program (TBP) and General Counsel, TVA, obtain interagency agreements, ordering documents, invoices, and correspondence relating to DoD orders to the TBP and TVA's Work-For-Others (WFO) Program at Muscle Shoals, Alabama, during FY 1991. We queried DoD activities that issued interagency orders to TVA, using a questionnaire. We examined 186 orders valued at \$106.5 million that were issued to TVA by DoD activities during August or September 1991 to ensure compliance with year-end spending restrictions.

This report is based on work performed from October through December 1991. The audit was made in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD. Accordingly, we included such tests of internal controls as were considered necessary. We did not rely on computer-based data to accomplish the audit objectives. Activities contacted are listed at Appendix E.

Inspector General, TVA. As part of the cooperative audit between DoD and TVA, the Inspector General, TVA evaluated the TVA compliance with applicable procurement laws and regulations; achievement of the Technology Brokering Program objectives; and procedures used by DoD to obtain contracting support from the TVA. The review was conducted from October through December 1991. The Inspector General, TVA:

- o sampled contractual agreements issued by TVA during FY 1991 on a judgmental basis, to determine the nature of the work accepted by the TBP,
- o interviewed TVA contractors (cooperators) to determine how the TBP was marketed and the extent of the contract administration process performed by TVA,
- o performed a limited review of the internal controls relating to the contract administration process,
- o reviewed the basis for the brokerage fee charged by TVA to administer the TBP, and
- o examined the use of interest earned on monies from funding activities.

The Inspector General, TVA is planning to issue a final audit report on the results of their audit of the TBP in April 1992.

Internal Controls

The audit identified a material internal control weakness as defined by Public Law 97-255, OMB Circular No. A-123 and DoD Directive 5010.38. Internal accounting and administrative controls either did not exist or were inadequate to preclude unauthorized issuance of interagency orders and to preclude payments on interagency orders that were not approved by DoD contracting officers. DoD program officials circumvented established policy and exceeded their authority by not obtaining required approvals from DoD contracting officers in placing interagency orders with TVA. Additionally, corrective actions were not implemented on deficiencies reported in prior audit reports of interagency acquisitions through the Library of Congress and the Department of Energy. We attributed these conditions to a lack of management emphasis on implementing control procedures by the Military Departments. Compliance with the FAR and DFARS procedures for interagency acquisitions would probably have prevented the deficiencies discussed in this report. Contracting officers generally have the skills and requisite training necessary to determine whether another Federal agency can provide the needed supplies and services more economically and efficiently than through direct DoD contracting. In the DoD FY 1991 annual statement of assurance, the Army and Navy identified the inappropriate offloading of contract requirements as a material weakness. The target date for correction of the weakness is FY 1992. The Air Force stated that it corrected a material weakness in contract offloading identified in FY 1990 through changes to policy and regulations. Implementation of the report recommendations should correct the weaknesses. A copy of this report will be provided to the senior internal control officials in OSD and the Army, Navy, and Air Force.

Prior Audit Coverage

During the last 3 years, the Inspector General, DoD issued the following reports on contracting through interagency agreements with non-DoD agencies.

- o Report No. 90-034, "Contracting Through Interagency Agreements with the Library of Congress," February 9, 1990

- o Report No. 90-085, "DoD Hotline Allegation of Irregularities in DoD Contractual Arrangements with the Department of Energy," June 19, 1990

The Inspector General, DoD also has the following audits in process.

o Project No. 1CH-0033, "Allegations of Improprieties Involving DoD Acquisition of Services Through the Department of Energy," which is a cooperative audit with the Inspector General, Department of Energy.

o Project No. 1CA-8004, "DoD Procurements Through the Jet Propulsion Laboratory," which is a cooperative audit with the Inspector General, National Aeronautics and Space Administration.

Background

Interagency Acquisitions. The Economy Act of 1932, U.S.C., title 31, section 1535, provides the authority and conditions for interagency acquisition of goods and services. The Act authorizes the head of an agency or major organizational unit within an agency to acquire goods or services from another agency, if the other agency is in a position to provide or obtain by contract the services or goods ordered; the head of the agency or unit determines that it is in the best interest of the Government; and the head of the agency determines that the services cannot be obtained as conveniently or cheaply from a commercial enterprise. The Act further defines the head of an agency or unit as the Secretary of Defense or the Secretary of a Military Department. The FAR Subpart 6.002, "Competition Requirements," states that no agency shall contract for supplies and services from another agency for the purpose of avoiding the requirements of competitive contracting.

The FAR Subpart 17.502, "Interagency Acquisitions Under the Economy Act," requires that the head of the requesting agency, or designee, make a determination that orders placed under the Act with another agency are in the best interest of the Government prior to placing the orders. The DFARS 217.502 (1988 edition) states that a DoD contracting officer is the designee to make the determination required by the FAR. The purpose of the FAR and DFARS requirements are to ensure that the expert knowledge of DoD contracting officers is fully utilized in determining that it is in the best interest of DoD to obtain required supplies or services through an interagency acquisition rather than through direct contracting by DoD.

The FAR Subpart 17.504(b), "Ordering Procedures," states that an interagency order may be placed on any form or document that is acceptable to both agencies, as long as the order includes a description of the supplies or services required, delivery requirements, a funds citation, a payment provision, and acquisition authority as may be appropriate. Two documents that are used to place interagency orders are a contract instrument, such as a delivery order placed on a DD Form 1155, "Order for Supplies and Services," or a DD Form 448, "Military Interdepartmental Purchase Request (MIPR)." The contract instrument is signed by a contracting officer and, if above \$25,000, will be identified in the DD 350 Individual Contract

Action Reporting System. A MIPR is a purchase request authorized by DFARS 208.7006 to be used to procure items assigned to another DoD Component or the General Services Administration for integrated materiel management. A MIPR may also be used to acquire nonpersonal services in accordance with single department acquisition assignments or agreements between departments within DoD as provided in DFARS 208.7005. A MIPR is not intended to be used to procure supplies or services from other agencies, and there is no requirement for purchases using MIPRS to be identified in the DD 350 Individual Contract Action Reporting System.

TVA Programs. The TVA accepted interagency orders from DoD activities under two programs: the TBP, which is managed at TVA offices in Knoxville, Tennessee, and the WFO Program, which is managed by the TVA National Fertilizer and Environmental Research Center at Muscle Shoals, Alabama. For performing the contracting function and administering the programs, the TBP and WFO assessed DoD activities a fee ranging from 5 to 10 percent per order depending on total dollar values of the orders. The TVA established the TBP in 1988 and received \$500,000 in interagency orders from DoD activities in the first year. Total receipts for the TBP increased to over \$40 million in FY 1991, through July, and the program received an additional \$106.5 million from DoD activities in August and September 1991.

Year-end Spending. The subject of year-end spending was addressed in several Office of Management and Budget (OMB) policy letters during the last 10 years. In 1981, the Office of Federal Procurement Policy, OMB, issued Policy Letter 81-1, which stated that each agency head is responsible for ensuring efficient and economical procurement by reducing wasteful practices resulting from hurried or unnecessary end-of-year procurements. In 1987, and again in 1988, the Director, OMB, issued memorandums asking agency heads to prevent wasteful year-end spending through the obligation of funds solely to keep them from lapsing or being reported as unobligated at fiscal year end.

Discussion

DoD officials, who lacked authority under the Economy Act, the FAR, and the DFARS to approve interagency acquisitions, transferred expiring funds during August and September 1991 to achieve technical obligation of those funds. The TVA accepted the orders assuming they were properly authorized by DoD activities. The DoD activities that issued unauthorized interagency orders to the TVA are identified in Appendix A.

Contracting Officer Approval. Using a questionnaire, we contacted the DoD activities that issued interagency orders to the TVA during FY 1991 to determine whether the orders were approved in advance of issuance by a DoD contracting officer. We determined that only 3 of the 306 interagency orders issued during FY 1991 were properly authorized by DoD contracting

officers. Another 62 interagency orders were reported as reviewed by contracting officers, but those with determinations and findings did not adequately support the fact that the supplies or services could not be provided more conveniently or economically by a commercial source, and those without determinations and findings only had verbal contracting officer's approval. The remaining 303 orders were unauthorized acquisitions. The responses from all DoD activities queried are not included in this report because some responses clearly exhibited a lack of knowledge of DoD contracting principles and a lack of understanding of year-end spending restrictions. The responses were provided to appropriate command personnel in the Military Departments.

Year-end Spending. During August and September 1991, DoD activities issued 186 interagency orders valued at \$106.5 million to TVA. We determined that 160 of these orders valued at \$95.7 million involved transfers of funds due to expire at the end of FY 1991. Acceptance of the orders by TVA was sufficient evidence to support the recording of an obligation on the DoD financial records. We considered as inappropriate year-end spending, those interagency orders lacking proper contracting officer determinations and approvals, which were issued during August or September 1991 and cited expiring funds. We also considered as year-end spending orders citing expiring funds for ongoing projects that were not identified in statements of work prior to August or September 1991.

The following are examples of orders issued to the TVA during August or September 1991.

- o On August 21, 1991, the Naval Ship Systems Engineering Station in Philadelphia, Pennsylvania, requested that TVA contract with Engineering Visions, Incorporated, for various prototype modernization projects for Navy vessels. The Station transferred Navy Operation and Maintenance (O&M) funds in the amount of \$6,067,220 for this procurement.

- o On September 10, 1991, the U.S. Army John F. Kennedy Special Warfare Center and School at Fort Bragg, North Carolina, requested TVA to procure 404 Intel model 386 laptop computers, 404 portable Diconix printers, and associated software for the computers. These computers were for student use at the School. Army O&M funds in the amount of \$2,007,108 were provided for this procurement.

- o On September 16, 1991, U.S. Forces, Korea (USFK) requested TVA to contract for the development of a decision support system to support information requirements of the Commander, USFK. An initial increment of Army O&M funds in the amount of \$1.0 million was provided for this procurement. These funds were withdrawn by the USFK after we inquired about approval of the order.

o In September 1991, the Air Force, Headquarters, 834th Air Base Wing at Hurlburt Field, Florida, sent 10 MIPRs to TVA to obtain goods and services such as a gas utility vehicle, hand-held handi-talkies with headsets and boom microphones, asbestos removal, design of a machine gun range, and a requirement to clear trees and underbrush. Air Force O&M funds of \$995,000 were provided for these procurements.

o During August and September 1991, the Army All Source Analysis System Program Office (ASAS) transferred O&M funds of \$2,162,900 to TVA to develop requirements and evaluate hardware and software architecture for the ASAS Training System. These funds were subsequently withdrawn.

As a result of our inquiries during this audit, 10 activities withdrew \$5.9 million from TVA (Appendix F). The DoD activities listed in Appendix A should terminate those interagency orders issued inappropriately during August or September 1991 and procure the valid supplies or services through a contracting office.

Status of Orders Accepted by TVA. TVA stopped contracting actions on 137 of the 186 DoD interagency orders, valued at \$84.5 million, as the result of two requests from the Comptroller, DoD (November 12, and December 17, 1991). The TVA also delayed issuance of definitized contracts for another 16 orders, valued at \$20.2 million for which it had issued letters of intent to contractors prior to the suspension. A letter of intent authorizes the contractor to proceed with work and to incur costs up to a specified ceiling amount prior to receiving a formal contract. The TVA letters of intent, however, do not authorize contractors to submit invoices prior to award of the formal contract.

Under the Economy Act, U.S.C., title 31, section 1535, any funds transferred to another agency under the Act must be deobligated at the end of the fiscal year unless the performing agency has incurred valid obligations under the agreement. For these purposes, valid obligations can only be incurred after a contract has been established. Until a contract is issued by TVA, a binding obligation of DoD funds has not occurred. Further, section 1311(a) of the Economy Act states that the procuring agency may not have more time to execute the procurement through contracts than the agency issuing the orders would have had, if it had done the procuring. All DoD interagency orders issued to TVA, using expiring FY 1991 funds that were not placed on contracts by TVA prior to September 30, 1991, should have been canceled and the funds deobligated in accordance with the Act. Also, those orders with expiring funds issued to TVA on which TVA has issued letters of intent after September 30, 1991, should be terminated and funded with current year's funds. A onetime monetary benefit of \$13.2 million can be realized by the cancellation of these interagency orders. This includes \$7.3 million in TVA brokerage

fees, from cancellation of the interagency orders shown in Appendix A, and \$5.9 million for the interagency orders in Appendix F that were withdrawn by DoD activities. Additional savings of up to \$84.2 million could be realized if requirements for the orders, identified in Appendix A, are not needed.

Reasons for use of TVA. Some of the reasons cited by program officials, in response to our inquiries, for the absence of a DoD contracting officer's approval on the orders were:

- o the requiring activity did not have a contracting office,

- o the program official was not aware that approval by a DoD contracting officer was required,

- o the program office believed TVA was responsible for determining compliance with applicable laws,

- o a contracting officers approval would have delayed issuance of the order,

- o the program office did not want to "overtax" contract personnel, and

- o the contracting office denied the request to use TVA so the activity obtained services through TVA directly.

These reasons indicate that adequate corrective actions were not taken by the Military Departments to strengthen internal controls after issuance of previous Inspector General, DoD, audit reports on contract offloading. Those reports described the inappropriate issuance of DoD interagency orders to the Library of Congress in Report No. 90-034, "Contracting Through the Interagency Agreements with the Library of Congress," February 9, 1990, and the Department of Energy, Report No. 90-085, "DoD Hotline Allegation of Irregularities in DoD Contractual Arrangements with the Department of Energy," June 19, 1990. As a result of those audits, the Principal Deputy Assistant Secretary of Defense (Production and Logistics) issued a May 10, 1990, memorandum that solicited support of the Military Departments and DLA in training program officials and in establishing internal control procedures to prevent placement of interagency orders by unauthorized DoD program officials.

Forms Used. All of the unauthorized interagency orders were placed using MIPRs (DD Form 448) or similar Navy forms. MIPRs, when issued by one DoD Component to another DoD Component, do not require contracting officer approval. Because the interagency acquisitions to TVA were made on MIPRs rather than contract instruments, the acquisitions through another Government agency were not obvious to senior DoD managers. Also, the MIPRs were not included in the DD 350 Individual Contract Action Reporting System. Because these were unauthorized acquisitions that did not

comply with the requirements of the Economy Act, the FAR and DFARS, appropriate disciplinary actions should be initiated against those program officials who knowingly exceeded their authority and circumvented applicable laws and regulations when authorizing or placing interagency orders with TVA. In addition, DoD procurement officials should be required to use a form when procuring goods and services from non-DoD agencies that includes sections to be completed and signed by a contracting officer.

Recommendations for Corrective Actions

We recommend that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), the Service Acquisition Executives, and the Director, Defense Logistics Agency:

1. Cancel all interagency orders to the Tennessee Valley Authority listed in Appendix A that are determined to be improper or unauthorized, that have not been placed on contract, or that have letters of intent to contractors but where no costs were incurred.

2. Determine the appropriateness of terminating or reducing interagency orders where the Tennessee Valley Authority has only issued letters of commitment to contractors and verify that proper funding is used on any contracts that are awarded.

3. Prohibit placement of requests for supplemental work under existing interagency agreements if not properly approved by a DoD contracting officer.

4. Initiate disciplinary action against program officials who knowingly exceeded their authority by improperly authorizing or placing interagency orders with the Tennessee Valley Authority.

5. Discontinue the use of Military Interdepartmental Purchase Requests (DD Form 448) and similar forms to order goods and services from other Federal agencies and develop a form that includes a section for completion by contracting officers to document compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

6. Provide information on canceled orders and disciplinary actions taken against program officials to the Assistant Inspector General for Analysis and Followup, DoD.

Management Comments

A draft of this report was issued on December 18, 1991. We received prompt comments from the Assistant Secretary of the Army (Research, Development and Acquisition); Assistant Secretary of the Navy (Research, Development and Acquisition); Assistant Secretary of the Air Force (Acquisition); Director, Defense

Logistics Agency; and Director of Defense Procurement. We also received comments from the Director, Defense Research and Engineering and the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) on February 5, 1992. A complete text of all comments is provided in Appendices I through O.

Army comments. The Assistant Secretary of the Army (Research, Development and Acquisition) substantially concurred with the finding and recommendations and stated that all orders not placed on contract by TVA, and not processed in compliance with the Economy Act and DoD year-end spending policies would be canceled. The estimated completion date for this action is March 31, 1992. The Assistant Secretary stated that the Army would review all interagency orders where only letters of intent have been issued; and when appropriate, request that the orders be terminated, the funds returned, or that proper funds be used. The estimated completion date is April 30, 1992. The Assistant Secretary further agreed that by May 31, 1992, the Army would initiate disciplinary actions against officials who knowingly and willfully exceeded their authority by improperly authorizing and affecting interagency orders with TVA. On December 26, 1991, the Assistant Secretary directed all activities to require the approval of a contracting officer on any interagency agreement or individual interagency order issued to a non-DoD agency. The Assistant Secretary agreed that a form requiring a contracting officer's signature is needed, and in the December 26, 1991, message directed that during the interim, contracting officers must sign the MIPR to attest that an Economy Act determination has been made. The Assistant Secretary questioned the potential onetime monetary benefit of \$106.4 million cited in the draft report. The Assistant Secretary suggested that a more reasonable figure would be the difference between the estimated additional cost to go through TVA rather than through a DoD activity.

Navy comments. The Assistant Secretary of the Navy (Research, Development and Acquisition) concurred in principle with the finding and recommendations, stating that all orders issued to TVA that can be canceled will be canceled and that the orders may be reissued only after meeting all regulatory requirements for interagency and Economy Act orders. Those orders determined to be unauthorized and those citing inappropriate funds would be terminated, reduced, or ratified with proper funding, as appropriate. The Assistant Secretary also stated that the Navy will reissue guidance on the regulatory requirements for contracting officer approval of Economy Act orders as soon as practicable, and that disciplinary action would be initiated by activity commanders on those unauthorized personnel who abused interagency acquisitions by obligating expiring funds or using favored contractors. The Assistant Secretary agreed with the development of a form for interagency purchases and stated that the form should include requirements

for recording the acquisitions in the DD 350 Individual Contract Action Reporting System. The Assistant Secretary did not provide planned dates for completing the corrective actions and did not comment on the potential monetary benefits from cancellation of the orders.

Air Force comments. The Assistant Secretary of the Air Force (Acquisition) concurred with the finding and recommendations, stating that MIPRs were not appropriately used in all cases, and that actions would be taken to eliminate their unauthorized use. The Assistant Secretary stated that in the future, all MIPRs will be reviewed by an appropriate contracting authority, and all the interagency orders with TVA would be reviewed; and those orders not approved by a contracting officer would be canceled. The Assistant Secretary also stated that appropriate administrative and disciplinary action will be taken, as needed, consistent with appropriate policies, procedures, and legal considerations. A Management Policy and Procedures Directive will be issued requiring a contracting officer determination on all interagency agreements and additional guidance on interagency ordering will be included in the Air Force FAR Supplement. The Assistant Secretary did not agree with the potential monetary benefits of \$106.4 million and stated that some of the interagency orders represent bona fide requirements that will be reprocured. Tentative milestones for completion of the corrective actions were not identified.

Defense Logistics Agency comments. The Deputy Comptroller, Defense Logistics Agency partially concurred with the finding but did not agree that it constituted a material internal control weakness for DLA. The Deputy Comptroller stated that the service that DLA procured through TVA had been performed and there were no outstanding orders with TVA. Current policy regarding interagency agreements will be reinforced to specify that using another DoD interagency agreement also requires compliance with the FAR and approval for the transfer of funds.

The Deputy Comptroller did not agree that disciplinary action should be initiated against any DLA personnel because the Defense Reutilization and Marketing Service acted on the advice of Kelly Air Force Base personnel to fund the \$28,112 order with TVA, and the order was for a valid requirement. The Deputy Comptroller also nonconcurred with the recommendation to discontinue the use of MIPRs and similar forms to place orders with other Federal agencies, stating that DoD should instead clarify its use and approval process for interagency agreements in the Finance and Accounting Manual and other regulations. The comments did not identify a planned date for issuance of the amended policy specifying the need for contracting officer review and approval of the use of another DoD Component's interagency agreement.

Director of Defense Procurement comments. The Director of Defense Procurement concurred in principle with the recommendation to change the MIPR and similar forms used to place orders under the Economy Act. The Director stated that the DAR Council will be asked to develop DFARS language to require using only the DD Form 448 (MIPR) to place orders under the Economy Act, and to modify the MIPR by adding a signature block for the signature of the cognizant contracting officer, indicating a determination that the order being placed under the Economy Act is in the best interest of the Government.

Director, Defense Research and Engineering comments. The Director, Defense Research and Engineering stated that the \$10,000 interagency order issued to TVA expired on December 31, 1991, and it would not be renewed. The Director also stated that responsibility for the program has been transferred to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence). The Director did not plan to initiate disciplinary action against the program manager because the program had moved and the program officials did not exceed their authority.

Assistant Secretary of Defense (Command, Control, Communications and Intelligence) comments. The Assistant Secretary of Defense (Command, Control, Communications and Intelligence) also provided comments on the recommendations, disagreeing with most of the recommendations. The Assistant Secretary stated that the \$10,000 MIPR, issued in August 1991 to TVA to support the program transferred to his office from the Director, Defense Research and Engineering was properly authorized, and that disciplinary action should not be taken against any program official since no program officials exceeded their authority. The Assistant Secretary also suggested that the recommendations prohibiting placement of supplemental work under existing interagency agreements and developing a form that includes a contracting officer's completion be revised to allow for officials other than contracting officers to approve interagency agreements.

Audit Response to Management Comments

We consider the comments from the Army, Navy, Air Force, Director of Defense Procurement, and the Director, Defense Research and Engineering to be generally responsive. We accept DLA's position that the issuance of a single \$28,112 order by one activity is not sufficient evidence of a material internal control weakness that would require disciplinary action.

We consider the comments from the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) to be generally nonresponsive. The Contracting Officer's Technical Representative and the other officials identified in the response were not authorized to approve the MIPR to TVA and their actions do not constitute compliance with the FAR and DFARS. DFARS 217.502 (1988 edition) states that a DoD contracting

officer is the designee to make the determination required by the FAR. We believe this to mean that the program officials should have had a contracting officer in the Defense Supply Service-Washington review the MIPR and provide the determination and finding required by DFARS 217.502. We do not agree that a deviation to DFARS 217.502 is warranted for the program that was transferred to the Assistant Secretary.

Based on the comments from the Army and Air Force concerning the amount of onetime monetary benefits, we revised the amount to consider valid requirements that might be reprocessed after cancellation from TVA. Therefore, the onetime monetary benefit has been revised to \$13.2 million and consists of the TVA brokerage fee that would be saved by canceling the interagency orders in Appendix A and the amounts already withdrawn by DoD activities. In addition, potential additional savings exist if some of the other requirements are canceled.

Request for Comments

DoD Directive 7650.3 requires that all recommendations be resolved promptly and that completion dates for actions taken or planned be provided. Comments to the final report are requested by May 4, 1992. For the final report, we added Recommendation 6. that requests information on canceled orders and disciplinary actions be provided to the Assistant Inspector General for Analysis and Followup, DoD. We request that the Army, Navy, and Air Force provide a response on Recommendation 6. and completion dates for all agreed upon corrective actions. We also request that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) respond to Recommendation 6. and reconsider his position and provide additional comments on the recommendations. The comments must indicate concurrence or nonconcurrence in the finding and each recommendation addressed to you. If you concur, describe the corrective actions taken or planned, the completion dates for actions taken, and the estimated completion dates for the completion of planned actions. If you nonconcur, state your specific reasons for each nonconcurrence. If appropriate, you may propose alternative methods for accomplishing desired improvements.

We also request that the Army, Navy, and Air Force provide comments on the revised monetary benefits (Appendix F and G). If you nonconcur with the estimated monetary benefits or any part thereof, you must state the amount you nonconcur with and the basis for your nonconcurrence. Recommendations and potential monetary benefits are subject to resolution in accordance with DoD Directive 7650.3 in the event of nonconcurrence or failure to comment.

The cooperation and courtesies extended to the audit staff are appreciated. If you have any questions on this audit, please contact Mr. Garold E. Stephenson at (703) 614-6275 (DSN 224-6275) or Ms. Kimberley Caprio at (703) 614-3463 (DSN 224-3463). Copies of this final report will be distributed to the activities listed in Appendix H.



Robert J. Lieberman
Assistant Inspector General
for Auditing

Enclosures

cc:

Secretary of the Army
Secretary of the Navy
Secretary of the Air Force
Inspector General, Tennessee Valley Authority

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

SUMMARY OF OPERATIONS AND MAINTENANCE FUNDS ISSUED BY DOD ACTIVITIES TO TENNESSEE VALLEY AUTHORITY UNDER INTERAGENCY ORDERS IN AUGUST AND SEPTEMBER 1991

ACTIVITY	INTERAGENCY AGREEMENT	MIPR/ ORDER NUMBER	DOLLAR VALUE	DATE OF ORDER	NEW OR ONGOING PROJECTS	DATE OF TVA'S LETTER OF INTENT
ARMY						
ASAS	TV82211V	4J-1-2037	\$ 5,126	8/26/91	New	10/18/91
ASAS	TV82211V	4J-1-2037 AMEND 1	26,358	9/10/91	New	10/18/91
ASAS	TV82211V	4J-1-2037 AMEND 2	32,660	9/20/91	New	
ASAS	TV82211V	4J-1-7030	31,740	8/26/91	New	10/18/91
ASAS	TV82211V	4J-1-7030 AMEND 3	3,250	9/20/91	New	
ASAS	TV82211V	4J-1-7030 AMEND 1	1,700	8/29/91	New	10/18/91
ASAS	TV82211V	4J-1-7030 AMEND 2	2,500	9/09/91	New	
ASAS	TV82211V	4J-1-7031	64,628	8/27/91	New	
ASAS	TV82211V	4J-1-7031 AMEND 1	805,000	9/09/91	New	
ASAS	TV82211V	4J-1-7031 AMEND 2	7,372	9/10/91	New	
AIPC/AITT	TV85607V	MIPRAIT091011	20,000	9/19/91	New	
AIPC/AITT	TV85607V	MIPRAIT091011 AMEND 1	250,000	9/23/91	New	
ASAS	TV82211V	J J-25-91	218,000	9/04/91	New	10/18/91
ASAS	TV82211V	J 33-91	37,566	9/03/91	New	
ASAS	TV82211V	J33-91 CH 1	6,000	9/10/91	New	
ASAS	TV82211V	J33-91 CH 2	16,000	9/16/91	New	
DOD/AMEAA	TV83680V	EA 1183 1	400,000	9/09/91	New	
DOD/AMEAA	TV83680V	EA 1260 1	1,368,300	9/19/91	New	
USASOC	TV82045V	MIPRE41800L91	120,000	9/22/91	New	10/18/91
USASOC	TV82045V	MIPRO137500R91	200,000	9/18/91	New	10/18/91
USASOC	TV82045V	MIPRO09101041 AMEND 7	490,000	8/12/91	New	
USASOC	TV82045V	MIPRO09101041 AMEND 8	655,000	9/20/91	New	
USASOC	TV82045V	MIPR09103742	2,007,108	9/10/91	New	
CASCOM	TV85610V	MIPRAE13009125	200,000	9/20/91	New	

Note: All funds expired September 30, 1991
Acronyms identified on last page of enclosure

SUMMARY OF OPERATIONS AND MAINTENANCE FUNDS ISSUED BY DOD ACTIVITIES TO TENNESSEE VALLEY AUTHORITY UNDER INTERAGENCY ORDERS IN AUGUST AND SEPTEMBER 1991 (Continued)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT</u>	<u>MIPR/ ORDER NUMBER</u>	<u>DOLLAR VALUE</u>	<u>DATE OF ORDER</u>	<u>NEW OR ONGOING PROJECTS</u>	<u>DATE OF TVA'S LETTER OF INTENT</u>
ARMY						
HQ DA (ISM)	TV85116V	MIPR2S139	\$ 250,000	9/20/91	New	10/18/91
HQ DA (ISM)	TV85116V	MIPR5491056	749,000	8/09/91	New	10/18/91
USAMPOA	TV82227V	MIPRK80008	\$ 165,000	8/21/91	New	
USAMPOA	TV82227V	MIPRK80009	170,500	8/19/91	New	
USAMPOA	TV82227V	MIPRK80010	130,350	8/21/91	New	
AMC S1MA	TV83739V	91-7LG-065	4,200,000	9/12/91	New	
USAISC	TV82153V	1-M310-014	34,026	8/02/91	New	
USAISC	TV82153V	1-M310-015	319,583	8/12/91	New	
USAISC	TV82153V	1-M310-016	66,250	8/16/91	New	
USAISC	TV82153V	1-M310-017	35,000	8/23/91	New	
USAISC	TV82153V	1-M310-018	33,099	9/06/91	New	
USAISC	TV82153V	1-M310-019	100,000	8/28/91	New	
USAISC	TV82153V	1-M310-021	2,178,341	9/09/91	New	10/15/91
USAISC	TV82153V	1-M310-023	471,000	9/09/91	New	10/18/91
USAISC	TV82153V	1-M310-024	801,300	9/09/91	New	
USAISC	TV82153V	1-M310-025	3,694,326	9/09/91	New	
USAISC	TV82153V	1-M310-026	309,000	9/09/91	New	
USAISC	TV82153V	1-M310-026 AMEND 1	75,000	9/13/91	New	
USAISC	TV82153V	1-M310-028	183,747	9/16/91	New	
USAISC	TV82153V	1-M310-029	152,000	9/16/91	New	
USAISC	TV82153V	1-M310-030	650,000	9/16/91	New	
USAISC	TV82153V	1-M310-031	1,756,500	9/17/91	New	
USAISC	TV82153V	1-M310-032	2,510,357	9/17/91	New	
USAISC	TV82153V	1-M310-27	620,230	9/12/91	New	
USAISC	TV85614V	SDC-91-05	199,280	8/06/91	New	
USFK	TV85603V	WT46DL 1 106	1,000,000	9/16/91	New	
HQ USAREUR/7A	TV83678V	DDA9033 AMEND 1	700,000	8/19/91	New	
HQ USAREUR/7A	TV83678V	DDA9033 AMEND 2	700,000	9/23/91	New	

Note: All funds expired September 30, 1991
Acronyms identified on last page of enclosure

SUMMARY OF OPERATIONS AND MAINTENANCE FUNDS ISSUED BY DOD ACTIVITIES TO TENNESSEE VALLEY AUTHORITY UNDER INTERAGENCY ORDERS IN AUGUST AND SEPTEMBER 1991 (Continued)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT</u>	<u>MIPR/ ORDER NUMBER</u>	<u>DOLLAR VALUE</u>	<u>DATE OF ORDER</u>	<u>NEW OR ONGOING PROJECTS</u>	<u>DATE OF TVA'S LETTER OF INTENT</u>
ARMY						
USARDEC	TV86020V	1311-1699	\$1,000,000	9/26/91	New	
FT. DEVENS	TV84974V	DEH-07-91	545,000	9/05/91	New	
FT. DEVENS	TV84974V	DEH-07-91 AMEND 1	-17,220	9/25/91	New	
DEH	TV86007V	MIPR 81-91	500,000	9/23/91	New	
DEH	TV86008V	MIPR 82-91	100,000	9/23/91	New	
DEH	TV86009V	MIPR 83-91	50,000	9/23/91	New	
DEH	TV86010V	MIPR 84-91	60,000	9/23/91	New	
USAI Corps	TV84995V	KM16347	240,260	9/18/91	New	
USAI Corps	TV84996V	KM16348	400,000	9/18/91	New	
USAI Corps	TV86033V	KM16362	1,664,000	9/30/91	New	
USAI Corps	TV86036V	KM16363	1,443,000	9/30/91	New	
USAI Corps	TV86037V	KM16364	1,782,000	9/30/91	New	
USAI Corps	TV84998V	KR3041A	50,000	9/18/91	New	
USAI Corps	TV84997V	KRX021B	611,000	9/18/91	New	
USEUCOM	TV86011V	FE 64 91	140,000	9/24/91	New	
USATHAMA	TV84956V	MIPR4731 AMEND 2	16,500	9/09/91	New	
USATHAMA	TV84979V	MIPR4891	5,800	8/28/91	New	
USATHAMA	TV84979V	MIPR4891 AMEND 1	3,817	9/27/91	New	
USATHAMA	TV84973V	MIPR4951	25,000	8/27/91	New	
USATHAMA	TV86004V	MIPR5281	24,750	9/24/91	New	
USATHAMA	TV86018V	MIPR5291	30,000	9/24/91	New	
USATHAMA	TV86014V	MIPR5341	500,000	9/25/91	New	
FT. DEVENS	TV86012V	DEH-10-91	925,420	9/25/91	New	
	TOTAL - ARMY		<u>\$39,321,524</u>			

Note: All funds expired September 30, 1991
Acronyms identified on last page of enclosure

SUMMARY OF OPERATIONS AND MAINTENANCE FUNDS ISSUED BY DOD ACTIVITIES TO TENNESSEE VALLEY AUTHORITY UNDER INTERAGENCY ORDERS IN AUGUST AND SEPTEMBER 1991 (Continued)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT</u>	<u>MIPR/ ORDER NUMBER</u>	<u>DOLLAR VALUE</u>	<u>DATE OF ORDER</u>	<u>NEW OR ONGOING PROJECTS</u>	<u>DATE OF TVA'S LETTER OF INTENT</u>
NAVY						
NESSEC	TV8569V	N6285291MP00011	\$ 25,000	9/03/91	New	
NAVSEA	TV83744V	N0002491MP00126	150,000	8/16/91	New	
NAVSEA	TV83744V	N0002491P001439	200,000	9/06/91	New	
	AMEND 1					
NAVSESSE	TV83561V	N6554091MP00013	9,007	9/25/91	New	
	AMEND 2					
NAVSESSE	TV83561V	N6554091MP00015	28,000	8/21/91	New	
NAVSESSE	TV83561V	N6554091MP00017	143,000	8/21/91	New	
NAVSESSE	TV83561V	N6554091MP00017	130,000	9/11/91	New	
	AMEND 1					
NAVSESSE	TV83561V	N6554091MP00018	6,067,220	8/21/91	New	10/04/91
NAVSESSE	TV83561V	N6554091MP00018	141,000	9/19/91	New	
	AMEND 1					
NAVSESSE	TV83561V	N6554091MP00019	5,624,230	8/21/91	New	10/07/91
NAVSESSE	TV83561V	N6554091MP00020	313,840	8/21/91	New	
NAVSESSE	TV83561V	N6554091MP00020	645,350	8/21/91	New	
NAVSESSE	TV83561V	N6554091MP00021	965,750	8/21/91	New	10/15/91
NAVSESSE	TV83561V	N6554091MP00022	36,000	8/22/91	New	
NAVSESSE	TV83561V	N6554091MP00022	2,556,000	8/22/91	New	
NAVSESSE	TV83561V	N6554091MP00023	944,400	8/22/91	New	
NAVSESSE	TV83561V	N6554091MP00023	217,500	8/22/91	New	
NAVSESSE	TV83561V	N6554091MP00024	2,451,000	8/22/91	New	
NAVSESSE	TV83561V	N6554091MP00024	594,680	8/22/91	New	
NAVSESSE	TV83561V	N6554091MP00025	2,354,570	8/22/91	New	
NAVSESSE	TV83561V	N6554091MP00026	1,077,830	8/22/91	New	
NAVSESSE	TV83561V	N6554091MP00027	2,963,320	8/22/91	New	
NAVSESSE	TV83561V	N6554091MP00028	1,758,000	8/23/91	New	

Note: All funds expired September 30, 1991
Acronyms identified on last page of enclosure

SUMMARY OF OPERATIONS AND MAINTENANCE FUNDS ISSUED BY DOD ACTIVITIES TO TENNESSEE VALLEY AUTHORITY UNDER INTERAGENCY ORDERS IN AUGUST AND SEPTEMBER 1991 (Continued)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT</u>	<u>MIPR/ ORDER NUMBER</u>	<u>DOLLAR VALUE</u>	<u>DATE OF ORDER</u>	<u>NEW OR ONGOING PROJECTS</u>	<u>DATE OF TVA'S LETTER OF INTENT</u>
NAVY						
NAVSES	TV83561V	N6554091MP00029	\$ 318,880	8/23/91	New	
NAVSES	TV83561V	N6554091MP00030	2,595,000	8/28/91	New	
NAVSES	TV83561V	N6554091MP00031	952,000	8/30/91	New	
NAVSES	TV83561V	N6554091MP00032	237,000	8/30/91	New	
NAVSES	TV83561V	N6554091MP00033	234,000	8/30/91	New	
NAVSES	TV83561V	N6554091MP00016	165,000	8/21/91	New	
NAVA IR	TV74702A	N6852091MPR1017	17,784	9/17/91	Ongoing	
NAVA IR	TV74702A	N6852091MPR1616	24,587	9/12/91	Ongoing	
NAVSES	TV83561V	N6554091MP00035	50,000	9/29/91	New	
NAS-CC	TV84980V	N0021691MPL0001	57,000	9/11/91	New	

TOTAL - NAVY \$34,046,948

Note: All funds expired September 30, 1991
Acronyms indentified on last page of enclosure

SUMMARY OF OPERATIONS AND MAINTENANCE FUNDS ISSUED BY DOD ACTIVITIES TO TENNESSEE VALLEY AUTHORITY UNDER INTERAGENCY ORDERS IN AUGUST AND SEPTEMBER 1991 (Continued)

ACTIVITY	INTERAGENCY AGREEMENT	MIPR/ ORDER NUMBER	DOLLAR VALUE	DATE OF ORDER	NEW OR ONGOING PROJECTS	DATE OF TVA'S LETTER OF INTENT
AIR FORCE						
6500HCSW	TV86002V	FTC-1-0102	\$ 56,000	9/17/91	New	
HQPACAF	TV84966V	91-0015	385,000	8/15/91	New	
HQPACAF	TV84984V	91-11	225,000	9/11/91	New	
HQPACAF	TV84983V	91-12	230,000	9/11/91	New	
HQPACAF	TV84982V	91-13	140,000	9/11/91	New	
HQPACAF	TV84981V	91-14	150,000	9/11/91	New	
HQPACAF	TV84990V	91-15	85,000	9/13/91	New	
HQPACAF	TV84992V	91-17	80,000	9/13/91	New	
HQPACAF	TV84993V	91-18	90,000	9/13/91	New	
HQPACAF	TV84991V	91-16	65,000	9/13/91	New	
92ND CSG	TV84978V	NS91-009	700,000	8/30/91	Ongoing	
USAFPAC	TV84967V	91-166	50,000	8/09/91	New	
834TH ABW	TV84999V	N DEV 91-11	55,000	9/18/91	New	
834TH ABW	TV86027V	N DEV 91-20	200,000	9/30/91	New	
834TH ABW	TV84989V	N DEV 91-09	16,000	9/12/91	New	
834TH ABW	TV86013V	N DEV 91-12	175,000	9/24/91	New	
834TH ABW	TV86017V	N DEV 91-14	110,000	9/25/91	New	
834TH ABW	TV86016V	N DEV 91-15	150,000	9/27/91	New	
834TH ABW	TV86021V	N DEV 91-16	190,000	9/28/91	New	
834TH ABW	TV86022V	N DEV 91-18	50,000	9/28/91	New	
834TH ABW	TV86028V	N DEV 91-19	8,512	9/30/91	New	
834TH ABW	TV86030V	N DEV 91-21	40,000	9/30/91	New	
SA-ALC	TV84968V	EM205912280001	55,483	8/18/91	New	
SA-ALC	TV84968V	EM205912280001	5,548	9/12/91	Ongoing	
		AMEND 1				
SA-ALC	TV84987V	EM205912460002	205,000	9/02/91	New	
SA-ALC	TV84977V	EM20591246001	150,000	9/02/91	New	

Note: All funds expired September 30, 1991
Acronyms identified on last page of enclosure

SUMMARY OF OPERATIONS AND MAINTENANCE FUNDS ISSUED BY DOD ACTIVITIES TO TENNESSEE VALLEY AUTHORITY UNDER INTERAGENCY ORDERS IN AUGUST AND SEPTEMBER 1991 (Continued)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT</u>	<u>MIPR/ ORDER NUMBER</u>	<u>DOLLAR VALUE</u>	<u>DATE OF ORDER</u>	<u>NEW OR ONGOING PROJECTS</u>	<u>DATE OF TVA'S LETTER OF INTENT</u>
AIR FORCE						
SA-ALC	TV84987V	EM205912460002 AMEND 1	\$ 25,000	9/24/91	Ongoing	
TAC	TV84969V	NS91 0068 AMEND 1	\$ 85,000	8/14/91	Ongoing	
TAC	TV84969V	NS91 0068 AMEND 3	7,416	9/30/91	Ongoing	
TAC	TV84987V	NS91-0068 AMEND 2	178,000	9/09/91	Ongoing	
TAC	TV86029V	NS91-0191	500,000	9/30/91	Ongoing	
SC-ALC	TV84964V	FD 2040 91 74017	15,000	8/15/91	Ongoing	
SC-ALC	TV86035V	FD2040-91-74014	500,000	9/30/91	Ongoing	
SC-ALC	TV86034V	FD2040-91-74016	500,000	9/30/91	Ongoing	
62nd CSG	TV84988V	NU 91-034	102,300	9/12/91	New	
WR-ALC	TV84976V	EM-91-08	175,000	8/29/91	New	
WR-ALC	TV84985V	UHHZ917025	385,000	8/29/91	New	
OC-ALC	TV86005V	FD2030-91-74042	1,382,000	9/24/91	New	
OC-ALC	TV86026V	FD2030-91-74043	645,000	9/30/91	New	
OC-ALC	TV86026V	FD2030-91-74043 AMEND 1	114,000	9/30/91	Ongoing	
HQ MAC	TV83679V	LEEV91-10 AMEND 1	5,500,000	9/01/91	Ongoing	
HQ MAC	TV83679V	LEEV 91-10	4,076,739	9/20/91	Ongoing	
AFSC/ASD	TV85605V	F6PKQ91255001	150,000	9/13/91	New	
HQ TAC	TV85608V	NS 91 166	150,000	9/19/91	New	
HQ TAC	TV85608V	NS 91 0182	700,000	9/29/91	New	
HQ TAC	TV85608V	NS 91 167	150,000	9/19/91	New	
NGB	TV85594V	91 30 97	<u>3,000,000</u>	8/29/91	Ongoing	
		TOTAL - AIR FORCE	\$22,006,998			

Note: All funds expired September 30, 1991
Acronyms identified on last page of enclosure

SUMMARY OF OPERATIONS AND MAINTENANCE FUNDS ISSUED BY DOD ACTIVITIES TO TENNESSEE VALLEY AUTHORITY UNDER INTERAGENCY ORDERS IN AUGUST AND SEPTEMBER 1991 (Continued)

<u>ACTIVITY</u>	<u>INTERAGENCY AGREEMENT</u>	<u>MIPR/ ORDER NUMBER</u>	<u>DOLLAR VALUE</u>	<u>DATE OF ORDER</u>	<u>NEW OR ONGOING PROJECTS</u>	<u>DATE OF TVA'S LETTER OF INTENT</u>
MARINE CORPS						
MCAGCC	TV86015V	M673999IMP0018	\$ 85,000	9/26/91	New	
MCAGCC	TV83142V	M673999IMP0005 AMEND 2	92,400	9/13/91	Ongoing	
MCAGCC	TV86001V	M673999IMP00017	<u>88,000</u>	9/17/91	New	
	TOTAL - MARINE CORPS		<u>\$ 265,400</u>			

Note: All funds expired September 30, 1991
 Acronyms identified on last page of enclosure

SUMMARY OF OPERATIONS AND MAINTENANCE FUNDS ISSUED BY DOD ACTIVITIES TO TENNESSEE VALLEY AUTHORITY UNDER INTERAGENCY ORDERS IN AUGUST AND SEPTEMBER 1991 (Continued)

ACTIVITY OTHER DOD	INTERAGENCY AGREEMENT	MIPR/ ORDER NUMBER	DOLLAR VALUE	DATE OF ORDER	NEW OR ONGOING PROJECTS	DATE OF TVA'S LETTER OF INTENT
DDR&E 1/ DRMS DLA	TV83639V TV84963V	DHAM10141 SC4400-1-0099	\$ 10,000 <u>28,112</u>	8/07/91 8/07/91	Ongoing New	
	TOTAL - OTHER DOD		\$ <u>38,112</u>			
	TOTAL FOR ALL SERVICES AND OTHER ACTIVITIES		\$ <u>95,678,982</u>			

1/ The Director, Defense Research and Engineering stated in their response that responsibility of the program supported by this order was transferred to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence).

Note: All funds expired September 30, 1991
Acronyms identified on last page of enclosure

The following abbreviations and acronyms are used in this Enclosure.

DEPARTMENT OF THE ARMY

AIPC/AITT.....Army Information Processing Center Implementation Transition Team (7th Signal Command)
 AMC SIMA.....U.S. Army Materiel Command, Systems Integration and Management Activity
 ASAS.....U.S. Army All Source Analysis System Project Office
 CASCOM.....U.S. Army Combined Arms Support Command
 DEH.....Directorate of Engineering and Housing Environmental Branch-6th Infantry Division
 HQ DA (ISM).....Department of the Army, Headquarters Services, Washington
 (Management Systems and Support)
 USACRDEC.....U.S. Army Chemical Research, Development and Engineering Center
 HQ USAREUR/7A.....U.S. Army Europe and 7th Army
 Ft. DEVENS.....U.S. Army Ft. Devens
 USAISC.....U.S. Army Information Systems Command - MICOM
 USAMPOA.....U.S. Army Military Police Operations Agency
 USASDC.....U.S. Army Special Operations Command
 USATHAMA.....U.S. Army Toxic and Hazardous Materials Agency
 USEUCOM.....Headquarters U.S. European Command
 USFK.....United States Forces Korea
 USAI CORPS.....U.S. Army I Corps and Ft. Lewis Department of the Army, Defense Supply Services

DEPARTMENT OF THE NAVY

NAS-CC.....Naval Air Station, Corpus Christi
 NAVAIR.....Naval Air Systems Command
 NAVSEA.....Naval Sea Systems Command
 NESSEC.....Naval Electronic Systems Security Engineering Center
 NAVSSES.....Naval Ship Systems Engineering Station

DEPARTMENT OF THE AIR FORCE

AFSC/ASD.....Air Force Systems Command, Aeronautical Systems Division
 HQMAC.....Headquarters, Military Airlift Command
 HQTAC.....Headquarters, Tactical Air Command
 HQPACAF.....Headquarters, Pacific Air Force, Elmendorf Air Force Base
 OC-ALC.....Oklahoma City Air Logistics Center, Tinker Air Force Base
 SA-ALC.....San Antonio Air Logistics Center Kelly Air Force Base
 SC-ALC.....Sacramento Air Logistics Center
 USAFPAC.....U.S. Air Force Pacific, Hickam Air Force Base
 WR-ALC.....WR-ALC Warner Robins Air Logistics Center, Robins Air Force Base
 62nd CSG.....62nd Combat Support Group, McChord Air Force Base
 92nd CSG.....92nd Combat Support Group, Fairchild Air Force Base
 834th ABW.....834th Air Base Wing, Huriburt Field
 6500th CSM.....6500th Combat Support Wing, Edwards Air Force Base
 TAC.....Tactical Air Command, Langley Air Force Base

OTHER ACTIVITIES

DoD AMEAA.....Department of Defense, Asset Management Executive Agent
 NGB.....Departments of the Army and the Air Force, National Guard Bureau, Andrews Air Force Base
 DRMS-DLA.....Defense Re-utilization Marketing Service
 DOR&E.....Office of the Director, Defense Research and Engineering
 Naval Warfare and Mobility Division
 MCAGCC.....U.S. Marine Corps Ground Combat Center, Twentynine Palms

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CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY



INSPECTOR GENERAL
 DEPARTMENT OF DEFENSE
 400 ARMY NAVY DRIVE
 ARLINGTON, VIRGINIA 22204-5004

OCT 24 1991

MEMORANDUM FOR COMPTROLLER, DEPARTMENT OF DEFENSE

SUBJECT: Interagency Orders at Tennessee Valley Authority

Jan,
 During the initial stages of a joint audit with the Office of the Inspector General, Tennessee Valley Authority (TVA), we found that DoD activities sent \$100 million in interagency purchase orders to the TVA during September 1991. Preliminary indications are that many of those orders may not have been processed in accordance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

Previous and ongoing audits have revealed problems with unauthorized DoD personnel bypassing DoD contracting officers to place interagency acquisition orders with the Library of Congress, the Department of Energy, and other Federal Agencies. We are concerned that the surge of interagency orders to the TVA could be another manifestation of the need for both the DoD and other Agencies to tighten internal controls over Economy Act orders to prevent their misuse for circumventing procurement regulations.

Our audit team will begin reviewing the DoD interagency requests at the TVA offices in Knoxville on October 28. We may conduct further audit work at the DoD activities that originated the orders. We will issue quick reaction reports addressing any improperly placed purchase requests. In the interim, we request that you authorize the TVA to suspend contract awards for 30 days for DoD orders received during September 1991. The cognizant TVA official is:

Mr. John G. Stewart
 Vice President, Valley Resources
 Tennessee Valley Authority
 400 W. Summit Hill Drive
 Knoxville, TN 37902-1699

Thank you for your cooperation.

Susan J. Crawford
 Susan J. Crawford
 Inspector General

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)



COMPTROLLER OF THE DEPARTMENT OF DEFENSE
WASHINGTON, DC 20301-1100

NOV 12 1991

Mr. W. F. Willis
President, Resources Group
Tennessee Valley Authority
400 W. Summit Hill Drive (ET-12B-K)
Knoxville, Tennessee 37902-1499

Dear Mr. Willis:

This letter solicits your support to temporarily suspend further actions by your staff that would result in obligating funds received from the Department of Defense on interagency orders received during September 1991.

This suspension has been recommended by the Department of Defense Inspector General (DoDIG) to enable that organization to determine if applicable interagency orders were placed in accordance with Department of Defense procedures.

Cordially,


Sean O'Keefe
Comptroller

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)



COMPTROLLER OF THE DEPARTMENT OF DEFENSE
 WASHINGTON DC 20301-1100

NOV 15 1991

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (ACQUISITION)
 ASSISTANT SECRETARY OF DEFENSE (PRODUCTION &
 LOGISTICS)
 ASSISTANT SECRETARY OF THE ARMY (FINANCIAL
 MANAGEMENT)
 ASSISTANT SECRETARY OF THE NAVY (FINANCIAL
 MANAGEMENT)
 ASSISTANT SECRETARY OF THE AIR FORCE (FINANCIAL
 MANAGEMENT AND COMPTROLLER)
 DIRECTORS OF THE DEFENSE AGENCIES
 DIRECTOR, WASHINGTON HEADQUARTERS SERVICES

SUBJECT: Interagency Orders at Tennessee Valley Authority

Recently, I requested that actions by the Tennessee Valley Authority, on Department of Defense interagency orders issued in September 1991, be temporarily suspended (see attachment 1). This action was taken in response to a request from the Department of Defense Inspector General (DoDIG). The DoDIG maintains that such a suspension is required in order to give DoD auditors sufficient time to determine if applicable DoD interagency orders were issued in accordance with DoD procedures (see attachment 2). In a separate memorandum, dated October 25, 1991, (see attachment 3), the Under Secretary of Defense (Acquisition) expressed similar concerns to the Secretaries of the Military Departments and the Directors of the Defense Agencies.

Sean O'Keefe
 Sean O'Keefe

Attachments

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37922

John G. Stewart
 Vice President, Valley Resources

December 3, 1991

Mr. Sean O'Keefe
 Comptroller
 Attn: Mr. Nelson Toye
 Department of Defense
 Washington, DC 20301-1100

Dear Mr. O'Keefe:

Your letter of November 12, 1991, to W. F. Willis requested that TVA temporarily suspend further action to obligate funds received from the Department of Defense on interagency orders. TVA is complying with your request and is assisting the DoDIG staff as they obtain information to determine if DCO procedures have been followed properly.

In clarification of your request, we made Mr. Carol Stephenson of the DoDIG aware at the time of his visit with us in October that TVA had issued 21 letters of intent to contract with 15 cooperators for a total of \$21,228,470. We informed him that these letters represent contract actions which had been initiated but not completed prior to his arrival. We explained that in each case the cooperator has been given a work start date and an initial spending limit. Further, based on these letters, billable work has been performed and TVA must honor the cooperators' invoices. To do this, however, we must complete the contracting process for each cooperator which will create the necessary payment procedures.

Mr. Stephenson indicated he would consider the letters of intent and respond early to TVA regarding the completion of those contract actions. He has since verbally indicated to the TVA IC staff that the letters appeared to represent a TVA contract obligation and that TVA should honor the cooperators' invoices.

This letter, then, is to inform you, and by copy, Mr. Stephenson, that on Friday, December 6, 1991, TVA intends to begin completing contract

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)

Mr. Sean O'Keefe
 Page 3
 December 3, 1991

actions to obligate funds up to the amounts stated in the letters of intent.

Please let us know if you need additional clarification on this action and if we may assist DOD further.

Sincerely,


 John G. Stewart

cc: Mr. Harold S. Dale
 General Manager
 System Technology Associates
 1002 Coronado Drive
 Huntsville, Alabama 35802

Ms. Sheila Casserly
 AMC Professional Services Group, Inc.
 Information Systems Division
 140 E. Division Road
 Oak Ridge, Tennessee 37830

Ms. Gail Christian
 Ogden/EMC Government Systems
 702 South Illinois Avenue
 Oak Ridge, Tennessee 37830

Mr. Anthony M. Cieri, Director
 Attn: Anthony McCullough
 Naval Ship Systems Engineering Station
 Department of Defense
 Building 59 Code 163C
 Philadelphia, Pennsylvania 19112-5083

Mr. C. F. Colbert
 Manager of Contracts
 CH2I, Inc. - Federal
 1725 Jefferson Davis Highway Suite 600
 Arlington, Virginia 22202

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)

Mr. Sean O'Keefe
Page 3
December 3, 1991

Ms. Rose DiCeronimo
Naval Sea Systems Command
Code SEA 04PAF
Washington, DC 20362-5101

Mr. J. W. Engles
Department of the Navy
Naval Electronic Systems Security Engineering Center
Code 041
3801 Nebraska Avenue NW
Washington, DC 20393-5270

Mr. Wayne D. Hoyt, President
Attn: Michael Moorshead
COR, Inc.
105 North Virginia Avenue
Falls Church, Virginia 22046

Mr. W. R. Jones, President
Attn: John J. Gibson
G.B.D. Systems, Inc.
4646 North Witchduck Road
Virginia Beach, Virginia 23455

Commander
U.S. Army Special Operations Command
Attn: Darrell W. Katz, COL GS DCSOPS
Fort Bragg, North Carolina 28307-5200

Mr. Bill Largent
U.S. Army Information Systems Command-MICOM
Attn: ASQNC-NIC-RM-RS
Redstone Arsenal, Alabama 35898-7340

Mr. Johnnie Lawton
Attn: Amy T. DeRieux
American Management Systems, Inc.
1777 North Kent Street
Arlington, Virginia 22209

Mr. Douglas Lising, President
Remtech Services
102 Main Street
Newport News, Virginia 23601

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)

Mr. Sean O'Keefe
 Page 4
 December 3, 1991

Ms. Karen Lisets
 Vice President of Contracts
 Science Applications International Corporation -
 American Systems Engineering Corporation
 3829 Guardian Lane P.O. Box 8988
 Virginia Beach, Virginia 23452

Mr. Dick Watson
 Headquarters, Department of the Air Force
 Electronics Systems Division
 Attn: Capt. Conrad J. Mergiewica
 Hanscom AFB, Massachusetts 01731-5000

Mr. R. Bruce McCommons
 SRM Study CDR
 Department of the Army
 U.S. Army Laboratory Command
 Human Engineering Laboratory
 Aberdeen Proving Ground, Maryland 21005-5001

LTC Dennis A. McLaugh, U.S. Army
 Product Manager, CH-CMS
 United States Southern Command
 SOUTCOM Washington Field Office
 1919 South Edge Suite 109
 Arlington, Virginia 22202

Mr. Stuart Phillips
 Science Applications International Corporation
 301 Laboratory Road P.O. Box 2501
 Oak Ridge, Tennessee 37831

Dr. Lee Riedinger
 Assistant Vice Chancellor
 Office of Research and Development
 The University of Tennessee
 404 Andy Holt Tower
 Knoxville, Tennessee 37996-0140

Mr. Leslie A. Rice
 Belts Research Corporation
 4400 Highway 20 East Suite 511
 Sicville, Florida 32578

Mr. Gerald Stephenson
 DoD/C-CH
 400 Army Navy Drive Room 600
 Arlington, Virginia 22202-2884

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)

Mr. Sean O'Keefe
Page 5
December 3, 1991

Mr. Mark Tanner
Engineering Visions, Inc.
Corporate Center One, Suite 310
4460 Corporation Lane
Virginia Beach, Virginia 23462

Mr. Thomas C. Tate
Naval Undersea Warfare Engineering Station
Research Projects Branch Code 70B3
Keyport, Washington 98345-5000

Chief, Resource Management, 4th POC(A)
U.S. Army Special Operations Command
Attn: AORC-POC-CE (Maj. Mike Thomas)
Fort Bragg, North Carolina 28307-5240

Mr. Franklin M. Tierra
Chief Financial Officer
Attn: Mr. Kimball R. Stuhlmuller
Ray Systems, Inc.
7000 K Street NW Suite 650
Washington, DC 20036-3307

Mr. Al von der Esch, President
Tennessee Center for Research and Development
Attn: Mr. Jerry Christian
11020 Solway School Road Suite 103
Knoxville, Tennessee 37931

Mr. Robert H. Wilkinson
SFC, USA COTB
Department of the Army
All Source Analysis System Project Office
1500 Planning Research Drive
McLean, Virginia 22102-5099

Ms. Kay B. Witt
Colonel, U.S. Army
Deputy Chief of Staff for
Information Management
Headquarters, U.S. Army Special Operations Command
Fort Bragg, North Carolina 28307-5200

MAJ(P) Cheryl Sales
Headquarters, Department of the Army
Office of the Director of Installation Management
CSA, HOSVCS-W (JDMSS-W) Room 3C641, Pentagon
Washington, DC 20310-6602

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)



Tennessee Valley Authority 400 West Summit Hill Drive Knoxville Tennessee 37902

John G Stewart
Vice President, Valley Resources

December 6, 1991

Mr. Sean O'Keefe
Comptroller
ATTN: Mr. Nelson Toye
Department of Defense
Washington, DC 20301-1100

Dear Mr. O'Keefe:

Our letter of December 3, 1991, informed you that on Friday, December 6, 1991, TVA began completing contract actions to obligate funds up to the amounts stated in outstanding TVA letters of intent to contract for DOD projects in TVA's Technology Brokering Program. This letter is to further inform you that on Monday, December 9, 1991, TVA will resume the necessary contracting actions to obligate the additional DOD funds received under the program in FY 91.

Our reasons for resuming technology brokering contract actions are the following:

- o An executed Military Interdepartmental Purchase Request (MIPR) from a DOD agency to TVA indicates that the DOD process for the interagency transfer of funds has been completed. The interagency agreement executed between TVA and each agency participating in the Technology Brokering Program, to which the MIPRs become subagreements, requires the funding agency to follow its procedures for Economy Act determinations and interagency funds transfers. TVA has in good faith and as a matter of contract properly relied upon the funding agencies in this regard.
- o TVA has accepted all DOD funds in the Technology Brokering Program in support of specific cooperative research and development projects as described in statements of work which accompanied the MIPRs. The DOD sponsor agencies of these

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)

Mr. Sean O'Keefe
Page 2
December 6, 1991

projects are depending on TVA to accomplish the projects, many of which are mission critical and must proceed, or the sponsor agencies will suffer the consequences.

- o Upon their arrival at TVA on October 29, the DoDIG staff verbally requested TVA voluntarily to hold up for 30 days on further obligations of DOD funds to allow time for them to verify that proper DOD procedure had been followed. Fourteen days later, your letter of November 12, 1991, confirmed the request for a voluntary contract suspension on funds received during September 1991. We honored this request, and we have worked diligently since then with representatives of DoDIG to assist them in their ongoing audit. On December 9, 1991, 40 days will have passed since the initial DoDIG request to TVA for a voluntary contracting suspension.
- o Consistent with the TVA Act of 1933, TVA's purpose under the Technology Brokering Program is regional economic development through matching the technological capabilities of institutions and firms in the Tennessee Valley region with the R&D needs and available funding of other Federal agencies, administering the resulting projects through interagency and cooperative agreements, and then promoting the transfer of the R&D results for commercialization by Valley firms.
- o Economic activity in the Valley region is now being adversely affected by the contracting suspension requested by DOD. Valley companies are having to stop work on previously funded ongoing projects, lay off employees, and possibly close offices, all at a time of general economic downturn. Further business development by these companies is also jeopardized due to the uncertainty that the suspension has introduced into the Technology Brokering Program.
- o Since the inception of the Technology Brokering Program, TVA has made certain that the program was soundly based, consistent with appropriate legal and administrative requirements, and that participating agencies and cooperators understood what was expected of them. We believe the tremendous growth in the program in Fiscal Year 1991 attests the validity and appropriateness of the program.
- o TVA remains committed to the Technology Brokering Program but we must resume activity to prevent serious adverse impact to the program's operation. Of course, we will continue to support your inquiry to clear up and correct any deficiencies in the process.

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)

Mr. Sean O'Keefe
Page 3
December 6, 1991

By copies of this letter, Mr. Garold Stephenson of the DoDIG as well as the cooperators and funding agencies whose projects have been affected by the DOD suspension, are hereby informed of TVA's resumption of Technology Brokering contracting actions beginning December 9, 1991.

Sincerely,


John G. Stewart

cc: Mr. Floyd A. Ashdown, Colonel, USAF
ASST DIR, ENG & SVS DCS LOG & ENG
Headquarters, Military Airlift Command,
U.S. Air Force
Attn: Mr. Gary Dewerff/LEE
Scott AFB, Illinois 62225-5000

LTC J. L. Beamon, Jr.
Head, Installations Division
U.S. Marine Corps Air Ground Combat Center
Attn: Mr. Edgar A. Poe
Twentynine Palms, California 92278-5000

Mr. Terry E. Beane
Vice President
Brown International Corporation
2103-A West Ferry Way
Huntsville, Alabama 35801

Dr. Harold B. Buie
General Manager
System Technology Associates
1002 Coronado Drive
Huntsville, Alabama 35802

Ralph L. Burkhart
Lieutenant Colonel, Infantry
ADSS Project Officer,
CINC's Initiative Group
Headquarters, United States Forces, Korea
APO San Francisco 96301-0010

CORRESPONDENCE ON SUSPENSION OF CONTRACTING ACTIVITY
BY THE TENNESSEE VALLEY AUTHORITY (Cont'd)



COMPTROLLER OF THE DEPARTMENT OF DEFENSE
WASHINGTON, DC 20381-1100

DEC 17 1991

Mr. W. F. Willis
President, Resources Group
Tennessee Valley Authority
400 W. Summit Hill Drive (ET-12B-K)
Knoxville, Tennessee 37902-1499

Dear Mr. Willis:

Thank you for your letter of December 6, 1991, informing me of your intent to resume contracting actions necessary to obligate the additional Department of Defense funds received under the program in fiscal year 1991.

The Inspector General, Department of Defense informs me that those contracting actions listed in the enclosure have not been properly authorized within DoD. Therefore, I ask that the Tennessee Valley Authority refrain from further contract activity on these actions until additional guidance is provided by this office.

Cordially,


Sean O'Keefe

Enclosure

UNDER SECRETARY OF DEFENSE FOR ACQUISITION MEMORANDUM
ON INTERAGENCY ACQUISITIONS



ACQUISITION

THE UNDER SECRETARY OF DEFENSE
 WASHINGTON, DC 20301

25 OCT 1991

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

SUBJECT: Contracting Through Interagency Agreements

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

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

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

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

UNDER SECRETARY OF DEFENSE FOR ACQUISITION MEMORANDUM
ON INTERAGENCY ACQUISITIONS (Cont'd)

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

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



Don Hockley

Attachment

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

ASSISTANT SECRETARY OF THE ARMY (RESEARCH, DEVELOPMENT AND ACQUISITION) MESSAGES ON CONTRACT OFFLOADING TO THE TENNESSEE VALLEY AUTHORITY

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HQDA WASH DC //SARD-PP//

ARSTAF

AIG 32523

AIG 32343

AIG 7405

INFO: HQDA WASH DC //SARD-ZR/SARD-ZC/SARD-ZC/SARD-ZS/SARD-ZT/
SARD-PC/SFRD-ZK//

PASS TO ALL LEGAL OFFICES, COMPTROLLERS/RESOURCE MANAGERS AND
FINANCE AND ACCOUNTING OFFICES

UNCLAS

SUBJECT: CONTRACT OFFLOADING TO TENNESSEE VALLEY AUTHORITY (TVA)

- A. SFRD-KP MEMORANDUM DATED JANUARY 31, 1993, SIGNED BY HONORABLE STEPHEN E. CONVER, ASAC(RDA), SUBJECT: CONTRACT OFFLOADING.
- B. AUDIT OF 303 PROCUREMENTS THROUGH THE TENNESSEE VALLEY AUTHORITY (TVA) TECHNOLOGY BROKERING PROGRAM, 303IC PROJECT NO. 2CH-5003, OCTOBER 1993.
- C. INITIAL INFORMATION GENERATED UNDER REFERENCE B REVEALS CONTINUING IMPROPER OFFLOADING PRACTICES AND POSSIBLE SERIOUS VIOLATIONS BY ARMY ACTIVITIES, TO INCLUDE HQDA AND PEOS/PHOS. THESE PRACTICES MUST CEASE IMMEDIATELY!

COMEBACK COPY SARD-PP

JOHN R. CONKLIN, GH-3S, SARD-PP
X70723

STEPHEN E. CONVER, ASAC(RDA)



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ASSISTANT SECRETARY OF THE ARMY (RESEARCH, DEVELOPMENT AND ACQUISITION) MESSAGES ON CONTRACT OFFLOADING TO THE TENNESSEE VALLEY AUTHORITY (Cont'd)

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2. PENDING REVISION OF DOD/ARMY REGULATIONS, ALL MIPRS TO NON-DOD AGENCIES, AND RELATED INTERAGENCY AGREEMENTS, SHALL BE APPROVED IN WRITING BY AN ARMY CONTRACTING OFFICER, WHO SHALL CITE THE AUTHORITY USED, AND SHALL BE REVIEWED BY LEGAL COUNSEL. IF THE ECONOMY ACT (33 U.S.C. 1535) IS THE AUTHORITY FOR THE ACTION, AN ARMY CONTRACTING OFFICER SHALL MAKE THE DETERMINATION REQUIRED BY FAR/DFARS 17.502, CERTIFY TO SAME ON THE DD FORM 448 (MIPR), AND ENSURE THAT THE PROPOSED MIPR IS REVIEWED AND ANNOTATED BY LEGAL COUNSEL. MIPRS ARE NOT AUTHORIZED FOR DISPATCH UNLESS AND UNTIL APPROVED AS REQUIRED HEREIN. OFFICIALS CERTIFYING TO THE AVAILABILITY OF FUNDS TO BE TRANSFERRED TO NON-DOD AGENCY BY A MIPR (E.G., PEO/PM RESOURCE MANAGERS) SHALL BE RESPONSIBLE FOR ENSURING COMPLIANCE WITH THIS REQUIREMENT. HQDA (SAFM AND SARDA) WILL SPONSOR CHANGE TO DOD FINANCE SERIES REGULATIONS AND ANY DELEGATIONS OF COMPTROLLER AUTHORITY, AS APPROPRIATE, TO CITE THIS RESPONSIBILITY.
3. IN THIS REGARD, I WOULD LIKE A DETAILED REPORT FROM ANY PROGRAM/PROJECT MANAGER, REQUIRING ACTIVITY MANAGER, COMMANDER, STAFF OR ACTIVITY DIRECTOR WHOSE ORGANIZATION HAS SENT WORK/FUNDS TO TVA IN FY90 OR FY91. THE REPORT SHALL PROVIDE INFORMATION ON:

ASSISTANT SECRETARY OF THE ARMY (RESEARCH, DEVELOPMENT AND ACQUISITION) MESSAGES ON CONTRACT OFFLOADING TO THE TENNESSEE VALLEY AUTHORITY (Cont'd)

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- A. THE NATURE OF THE WORK OR DELIVERABLES REQUESTED;
- B. TYPE AND AMOUNT OF FUNDS INVOLVED;
- C. RATIONALE FOR SELECTION OF TVA AS THE SOURCE OF SUPPORT;
- D. WHETHER OR NOT AN ECONOMY ACT DETERMINATION (SEE PAR SUBPART 37.8) WAS PROPERLY EXECUTED AND APPROVED BY A CONTRACTING OFFICER AS REQUIRED BY DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS) 837.8021
- E. THE AMOUNT OF BROKER OR PLACEMENT FEE(S) PAID TO TVA;
- F. WHETHER ANY INTERAGENCY AGREEMENT WITH TVA, OR THE TRANSFER OF THE REQUIREMENT ITSELF TO TVA, WAS APPROVED BY THE REQUESTING ACTIVITY'S LEGAL COUNSEL AND THE ASSIGNED CONTRACTING OFFICE AS REQUIRED BY REFERENCE A. REPORTS SHALL BE PROVIDED BY THE MOST EXPEDITIOUS MEANS AVAILABLE (E.G., MSG/PAX) TO SP7D-KP NO LATER THAN JANUARY 30, 1992.
- G. AS THE ARMY'S AGENCY HEAD FOR ACQUISITION MATTERS, AND THE ARMY ACQUISITION EXECUTIVE, I AM ULTIMATELY RESPONSIBLE FOR THE "ACQUISITION" PRACTICES OF ALL ARMY ACTIVITIES. UNAUTHORIZED AND ILL-CONSIDERED OFFLOADING OF ARMY ACQUISITION REQUIREMENTS TO OTHER AGENCIES, PARTICULARLY TO AGENCIES NOT SUBJECT TO THE FEDERAL ACQUISITION REGULATION AND THE COMPETITION IN CONTRACTING ACT (CICA)

ASSISTANT SECRETARY OF THE ARMY (RESEARCH, DEVELOPMENT AND ACQUISITION) MESSAGES ON CONTRACT OFFLOADING TO THE TENNESSEE VALLEY AUTHORITY (Cont'd)

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(THUS CIRCUMVENTING THE COMPETITION REQUIREMENTS OF CICA), ARE ACTIONS CLEARLY CONTRARY TO POLICY AND REGULATION. THEY COST THE ARMY MILLIONS OF DOLLARS IN FEES FOR PERFORMANCE OF A FUNCTION (CONTRACTING) THAT WE ALREADY PAY A HIGHLY TRAINED, PROFESSIONAL STAFF TO PERFORM PROPERLY. IN ADDITION, BECAUSE TVA ROUTINELY REQUESTS ADVANCE "PAYMENT" (ACTUAL TRANSFER OF FUNDS) IN ADVANCE OF CONTRACT REQUIREMENTS, THE TREASURY CANNOT AVOID INTEREST PAYMENTS ON THOSE BORROWED FUNDS PRIOR TO DISBURSEMENT, WHICH IT WOULD IF THE FUNDS REMAINED WITHIN DOD. UNLIKE MANY FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER (FFRDC) ARRANGEMENTS, THERE IS NO RESTRICTION ON DIRECT ARMY CONTRACTING WITH TVA'S CONTRACTORS, IF JUSTIFIABLE. YET NO APPARENT ATTEMPT WAS MADE TO CONTRACT DIRECTLY WITH THESE COMMERCIAL FIRMS THROUGH ASSIGNED CONTRACTING SUPPORT OFFICES.

5. TRANSFERS OF EXPIRING FUNDS IN THE 4TH QUARTER OF THE FISCAL YEAR WITH THE PRINCIPAL PURPOSE OF ACHIEVING TECHNICAL OBLIGATION AND "DISBURSEMENT" OF THOSE FUNDS UNDER GUISE OF THE ECONOMY ACT, AND ABSENT APPROVALS REQUIRED BY DOD AND ARMY REGULATIONS, IS A CLEAR VIOLATION. IN SOME CASES EXPIRING O&M FUNDS WERE TRANSFERRED FOR USE FOR REQUIREMENTS TO BE ORDERED AND PERFORMED IN THE NEXT

ASSISTANT SECRETARY OF THE ARMY (RESEARCH, DEVELOPMENT AND ACQUISITION) MESSAGES ON CONTRACT OFFLOADING TO THE TENNESSEE VALLEY AUTHORITY (Cont'd)

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FISCAL YEAR, OR FOR CAPITAL EXPENDITURES. IT ALSO APPEARS THAT INSUFFICIENT REQUIREMENTS STATEMENTS WERE PROVIDED TO THE TVA. WITHOUT A CLEAR STATEMENT OF REQUIREMENTS AND REQUIRED DELIVERABLES, INCLUDING REPORTS AND APPROPRIATE COST AND PERFORMANCE REPORTING, THERE CAN BE NO TRACKABILITY FROM THE VALUE OF WORK REQUIRED AND RECEIVED TO THE DOLLARS EXPENDED. IN ADDITION, ILLEGAL PERSONAL SERVICES ARRANGEMENTS MAY HAVE RESULTED.

6. THE LEGITIMATE CHECKS AND BALANCES OF THE DEFENSE/ARMY PROCUREMENT PROCESS SERVE A PURPOSE BEYOND FRUSTRATING THOSE REQUIRORS WHO WANT EVERYTHING "YESTERDAY", BUT WHO REFUSE TO PLAN, OR TO PREPARE "CONTRACT-ABLE" REQUIREMENTS STATEMENTS. IT IS THE FUNCTION OF OUR HIGHLY REGULATED CONTRACTING PROCESS TO PROTECT THE INTERESTS OF BOTH THE ARMY AND THE TAXPAYERS IN THE PUBLIC TRUST WHILE ACQUIRING OUR VALID MISSION NEEDS AS EFFECTIVELY AS POSSIBLE AND AT THE BEST VALUE FOR THE GOVERNMENT.

7. EVERY ARMY COMMANDER, DIRECTOR AND MANAGER IS ACCOUNTABLE FOR THEIR ACQUISITION ACTIONS. WE CANNOT AFFORD TO WORRY MERELY ABOUT SPENDING (OBLIGATING) OUR SCARCE FUNDS; WE MUST ACCEPT RESPONSIBILITY FOR VALIDATING OUR NEEDS, HOW MUCH IS SPENT, AND THE VALUE RECEIVED. WE WILL NOT IGNORE THE LAW AND REGULATIONS

ASSISTANT SECRETARY OF THE ARMY (RESEARCH, DEVELOPMENT AND ACQUISITION) MESSAGES ON CONTRACT OFFLOADING TO THE TENNESSEE VALLEY AUTHORITY (Cont'd)

UNCLASSIFIED

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FOR SOME PERCEIVED SHORT TERM GAIN. IF WE DO NOT MAINTAIN HIGH STANDARDS IN EXECUTING OUR FIDUCIARY RESPONSIBILITIES, WE SHALL NOT BE ENTRUSTED WITH THOSE RESPONSIBILITIES AND AUTHORITY IN THE FUTURE. IN THE PAST I ASKED FOR YOUR COOPERATION IN PUTTING A STOP TO THESE PRACTICES. NOW I MUST DEMAND IT.

8. THE POC FOR THIS MESSAGE IS MR. JOHN R. CONKLIN, SARD-PP, AT DSN 227-0723, COMM'L 703/697-0723. THE POC FOR REPORTING REQUIREMENTS IS MR. RAY KELLY, SFRD-KP, DSN 289-7563, COMM'L 703/756-7563.

9. SIGNED: STEPHEN K. CONVER, ASSISTANT SECRETARY OF THE ARMY (RESEARCH, DEVELOPMENT AND ACQUISITION), ARMY ACQUISITION EXECUTIVE.

ACTIVITIES VISITED OR CONTACTEDOffice of the Secretary of Defense

Under Secretary of Defense of Acquisition, Washington, DC
 Deputy Director, Defense Research and Engineering (Tactical Warfare Programs), Washington, DC
 Director of Defense Procurement, Washington, DC
 Assistant Secretary of Defense (Command, Control, Communications, and Intelligence), Washington, DC
 Comptroller of the Department of Defense, Washington, DC

Department of the Army

Deputy Assistant Secretary of the Army (Procurement), Washington, DC
 U.S. Army Special Operations Command, Fort Bragg, NC
 U.S. Army Office of the Program Executive Officer, Aviation, St. Louis, MO
 U.S. Army Information Systems Engineering Command, Fort Huachuca, Arizona
 U.S. Army Test, Measurement, and Diagnostic Equipment Activity, Redstone Arsenal, AL
 U.S. Army Missile Command, Redstone Arsenal, AL
 U.S. Army All Source Analysis System Project Office, McLean, VA
 U.S. Eighth Army, Seoul, Korea
 Office of the DoD Executive Agent for Asset Management, St. Louis, MO
 U.S. Army Information Processing Center, Fort Belvoir, VA
 U.S. Army Laboratory Command, Adelphi, MD
 U.S. Army Military Command Systems Integration and Management Activity, St. Louis, MO
 U.S. Army Human Engineering Laboratory, Aberdeen Proving Ground, MD
 U.S. Army Office of the Program Executive Officer, Standard Army Management Information Systems, Fort Belvoir, VA
 U.S. Army Engineer Division, Huntsville, AL
 U.S. Army Armament, Munitions and Chemical Command, Rock Island, IL
 Headquarters, U.S. Army, 6th Infantry Division (Light) and U.S. Army Garrison, Alaska, Fort Wainwright, AK
 U.S. Army, Europe, and Seventh Army, Heidelberg, Germany
 U.S. Army Toxic and Hazardous Materials Agency, Aberdeen Proving Ground, MD
 U.S. Army Strategic Defense Command, Huntsville, AL
 Vicksburg District, U.S. Army Corps of Engineers, Vicksburg, MS
 Little Rock District, Corps of Engineers, Little Rock, AR
 Program Manager for Rocky Mountain Arsenal, Commerce City, CO
 Headquarters, Fort Devens, Fort Devens, MA

ACTIVITIES VISITED OR CONTACTED (Cont'd)Department of the Army (Cont'd)

Lexington-Blue Grass Army Depot, Lexington, KY
 I Corps and Fort Lewis, Fort Lewis, WA
 U.S. Army Chemical Research, Development and Engineering Center,
 Aberdeen Proving Ground, MD

Department of the Navy

Director, Procurement Policy, Office of the Assistant Secretary of
 the Navy (Research, Development and Acquisition), Arlington, VA
 Naval Ship Systems Engineering Station, Philadelphia, PA
 Naval Aviation Depot, Naval Air Station, Pensacola, FL
 Space and Naval Warfare Command, Arlington, VA
 Naval Electronic Systems Security Engineering Center, Washington, DC
 Naval Coastal Systems Center, Panama City, FL
 Long Beach Naval Shipyard, Long Beach, CA
 Navy Pacific Missile Test Center, Point Mugu, CA
 Naval Sea Systems Command, Washington, DC
 Naval Civil Engineering Laboratory, Port Hueneme, CA
 Headquarters, Military Sealift Command, Washington, DC
 David Taylor Research Center, Annapolis, MD
 Navy Submarine Maintenance Engineering, Planning and Procurement
 Activity, Portsmouth, NH
 Naval Air Systems Command, Arlington, VA
 Naval Undersea Warfare Engineering Station, Keyport, WA
 Naval Air Station, Corpus Christi, TX
 Marine Corps Air Ground Combat Center, Twentynine Palms, CA

Department of the Air Force

Acquisition Management Policy Division, Office of the Assistant
 Secretary of the Air Force, (Acquisition), Washington, DC
 Wright Laboratory, Eglin Air Force Base, FL
 Aeronautical Systems Division, Wright-Patterson Air Force Base, OH
 Tactical Air Command, Langley Air Force Base, VA
 National Guard Bureau, Andrews Air Force Base, DC
 Electronic Systems Division, Hanscom Air Force Base, MA
 Military Airlift Command, Scott Air Force Base, IL
 Air Force Flight Test Center, Edwards Air Force Base, CA
 Pacific Air Forces, Hickam Air Force Base, HI
 Warner Robins Air Logistics Center, Robins Air Force Base, GA
 Headquarters, 92D Support Group, Fairchild Air Force Base, WA
 Headquarters, 62D Combat Support Group, McChord Air Force Base, WA
 Oklahoma City Air Logistics Center, Tinker Air Force Base, OK
 Sacramento Air Logistics Center, McClellan Air Force Base, CA

ACTIVITIES VISITED OR CONTACTED (Cont'd)Department of the Air Force (Cont'd)

Headquarters 834th Air Base Wing, Hurlburt Field, FL
San Antonio Air Logistics Center, Kelly Air Force Base, TX
Air Force Center for Environmental Excellence, Brooks
Air Force Base, TX

OTHER

Headquarters, Tennessee Valley Authority, Knoxville, TN
Headquarters, Defense Logistics Agency, Cameron Station,
Alexandria, VA
U.S. Southern Command, Quarry Heights, Republic of Panama
U.S. European Command, Stuttgart-Vaihingen, Germany

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PROJECTED SAVINGS FROM CANCELING ORDERS WITH TVA

<u>Action</u>	<u>Projected Savings</u> (in millions)
Funds on orders withdrawn from TVA	\$ 5.9 ^{1/}
Recoupment of TVA brokerage fee if remaining orders in Appendix A are canceled	7.3 ^{2/}
Value of remaining interagency orders in Appendix A, less the TVA brokerage fee on the orders	<u>84.2</u>
Total	<u>\$97.4</u>

^{1/} The following activities withdrew orders totaling \$5,891,000 from the TVA as a result of our audit.

AMOUNT DEOBLIGATED

Military Sealift Command	\$1,000,000
U.S. Army Special Operations Command	200,000
Pacific Missile Test Center	497,000
Naval Electronics Systems Security Engineering Center	500,000
U.S. Army Human Engineering Lab	99,000
U.S. Forces Korea	1,000,000
Air Force Systems Command, Aeronautical Systems Division	150,000
U.S. Army, Europe	140,000
U.S. Army All Source Analysis System Project Office	2,200,000
U.S. Army Laboratory Command, Harry Diamond Laboratories	105,000

The amount includes \$1.7 million of interagency orders issued prior to August 1991.

^{2/} This amount represents the brokerage fee on orders with a total of \$91.5 million that were issued during August and September 1991 and had not been withdrawn as of January 15, 1992. The amount of the brokerage fee on each order ranged from 5 to 10 percent, and averaged about 8 percent of the total amount of the orders.

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POTENTIAL BENEFITS RESULTING FROM AUDIT

<u>Recommendation Reference</u>	<u>Description of Benefit</u>	<u>Amount and/or Type of Benefit</u>
1., 2., 3. and 4.	Economy and efficiency. Avoid unnecessary use of interagency orders to support DoD projects.	Funds put to better use in the amount of \$13.2 million. An additional undetermined amount may occur of up to \$84.2 million.
5.	Internal control and compliance with regulations. Development of a form that requires approval of contracting officer prior to procurements made through interagency orders.	Nonmonetary
6.	Internal control. Information on orders canceled and disciplinary action taken is needed for followup on Recommendations 1., 2., and 4.	Nonmonetary

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House Subcommittee on Defense, Committee on Appropriations
Ranking Minority Member, House Committee on Appropriations
House Committee on Armed Services
House Committee on Government Operations
House Subcommittee on Legislation and National Security,
Committee on Government Operations

Inspector General, Tennessee Valley Authority

MANAGEMENT COMMENTS: DIRECTOR, DEFENSE RESEARCH AND ENGINEERINGFinal Report
Page No.

DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

WASHINGTON, DC 20301-3010

. 26/11/93 4:2

MEMORANDUM FOR THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Project No. 2CH-5003.01

This is in response to your Draft Quick-Reaction Report on DoD Procurements through the Tennessee Valley Authority (TVA). Of the \$106,471,747.00 in contracts that you refer to, DDR&E issued one \$10,000.00 MIPR on August 7, 1991. The contract was for a four-month effort to produce a report in support of a Congressionally-directed program. This was not an attempt to transfer expiring funds. It was a necessary and legitimate business practice used to maintain program continuity. In response to your recommendations:

1a. "Cancel all interagency orders to the Tennessee Valley Authority listed in Enclosure 2 that have not been placed on contract or that have letters of commitment to contractors but where no costs were incurred."

--- I concur. The single DDR&E MIPR, DWAM10141, expired 31 December. I have no plans to renew it.

1b. "Determine the appropriateness of terminating or reducing interagency orders where the Tennessee Valley Authority has only issued letters of commitment to contractors and ensure proper funding is used on any contracts that are awarded."

--- I concur. The single MIPR, DWAM10141, has expired after a contract was awarded with proper funding which has been expended. Responsibility for the program supported by this contract has been transferred to the Assistant Secretary of Defense for Command, Control, Communications and Intelligence.

1d. "Initiate disciplinary action against program officials who exceeded their authority by placing interagency orders with the Tennessee Valley Authority."

--- I concur. The single MIPR, DWAM10141, was placed with the Tennessee Valley Authority in full compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement and complies with all internal Office of the Secretary of Defense and Washington Headquarters Services Regulations and Instructions. The MIPR was reviewed and approved by all the appropriate authorities. No disciplinary action is necessary as authority was not exceeded.

VHR
Victor H. Reis

17

APPENDIX I

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MANAGEMENT COMMENTS: DIRECTOR OF DEFENSE PROCUREMENT

ACQUISITION

OFFICE OF THE UNDER SECRETARY OF DEFENSE

WASHINGTON, DC 20301-3000

JAN 23 1992

DP/CPA

MEMORANDUM FOR DIRECTOR, CONTRACT MANAGEMENT DIRECTORATE, INSPECTOR
GENERAL, DEPARTMENT OF DEFENSESUBJECT: Draft Quick-Reaction Report on DoD Procurements Through the
Tennessee Valley Authority (Project No. 2CH-5003.01)

Although the subject report did not recommend any corrective actions for consideration by my office, I want to address the recommendation concerning the use of Military Interdepartmental Purchase Requests (DD Form 448) and similar forms to order goods and services under the Economy Act.

I concur in principle with your recommendation and will ask the DAR Council to make the following changes: (1) Develop DFARS language requiring the Department to use only the DD Form 448 to place orders under the Economy Act. FAR 17.504(b) currently indicates that an order under the Economy Act may be placed on any form or document that is acceptable to both agencies. (2) Modify the DD Form 448 to add a signature block for the cognizant contracting officer. This signature will indicate a determination under FAR 17.502 that the order being placed under the Economy Act is in the government's best interest. (3) Amend DFARS 217.502 to indicate that the contracting officer is required to sign the DD Form 448 when an order is being placed under the Economy Act.

We believe these changes to the DD Form 448 and DFARS are responsive to your recommendation and hope it will alleviate the placing of orders under the Economy Act without contracting officer scrutiny.

Eleanor R. Spector
Director, Defense Procurement

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MANAGEMENT COMMENTS: ASSISTANT SECRETARY OF DEFENSE (COMMAND,
CONTROL, COMMUNICATIONS AND INTELLIGENCE)



COMMAND CONTROL
COMMUNICATIONS
AND
INTELLIGENCE

ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-3040

February 3, 1992

MEMORANDUM FOR THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Draft Quick-Reaction Report on DoD Procurements Through
the Tennessee Valley Authority (TVA) (Project No.
2CH-5003.01)

The attached comments are provided in response to your
memorandum of December 18, 1991.


Duane P. Andrews

**MANAGEMENT COMMENTS: ASSISTANT SECRETARY OF DEFENSE (COMMAND,
CONTROL, COMMUNICATIONS AND INTELLIGENCE (Cont'd))**

Final Report
Page No.

**Response to DODIG Recommendations Described in the Draft
Quick-Action Report on DoD Procurements Through the Tennessee
Valley Authority (Project No. 2CM-5001.01)**

Recommendation:

a. Cancel all interagency orders to the Tennessee Valley Authority listed in Enclosure 2 that have not been placed on contract or that have letters of commitment to contractors but where no costs were incurred.

Response: Do not concur with recommended action regarding MIPR DWAM10141 dated August 7, 1991 for a \$10K effort. The effort addresses a specific requirement which arose in the summer of 1991. We contacted the Tennessee Valley Authority (TVA) to determine if the referenced interagency order had been placed on contract. TVA has accepted the interagency order, prepared the required documents between TVA and the Office of the Secretary of Defense (OSD), and received payment from the Department of Defense (DoD). At this time, TVA has not issued the supplemental agreement to the contractor under the existing contract. The issuance of the supplemental agreement did not occur because of two factors. The first factor was that other interagency orders being handled by TVA took priority over the OSD interagency order. The second factor was that by the time the OSD interagency order priority was reached, the Defense Comptroller requested that TVA place a freeze on the processing of all interagency requests received during the period of August through September of 1991.

We do not feel that it is appropriate for OSD to issue a deobligating interagency order to deobligate these funds because the interagency order was issued in accordance with the requirements of the Federal Acquisition Regulation (FAR) and Department of Defense FAR Supplement (DFAR) as well as the memorandum of understanding between TVA and OSD and the Economy Act. The request for the interagency order was issued by the Program Manager and approved by Contracting Officer's Technical Representative, the Director of the Naval Warfare and Mobility Office, and the Deputy Director, Tactical Warfare Programs (Head of the Requiring Activity). The request for an interagency order was approved and the interagency order was issued by Washington Headquarters Services (WHS). The interagency order was approved and issued in accordance with all requirements of the FAR and DFAR and the appropriate determinations for use of TVA and the interagency order was made.

Recommendation:

b. Determine the appropriateness of terminating or reducing interagency orders where the Tennessee Valley Authority has only issued letters of commitment to contractors and ensure proper funding is used on any contracts that are awarded.

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**MANAGEMENT COMMENTS: ASSISTANT SECRETARY OF DEFENSE (COMMAND,
CONTROL, COMMUNICATIONS AND INTELLIGENCE (Cont'd))**

Final Report
Page No.

Response: Concur with recommended action. Since TVA has not issued a letter of commitment for this interagency order no action is required to consider the termination or reduction of the commitments made by TVA for the interagency order listed in Enclosure 7. An interagency order deobligating the funds would not be appropriate since the interagency order was issued in compliance with appropriate regulations and accepted and processed by TVA.

Recommendation:

c. Prohibit placement of requests for supplemental work under existing interagency agreements if not properly approved by a DoD contracting officer. (and/or other official designated by the Economy Act, the FAR and departmental regulations in accordance with the DFAR Subpart 217.5)

Response: Concur with recommendation as amended. Based on the requirements of the Economy Act, the FAR, DFAR, and the Memorandum of Understanding between OSD and TVA; all requests for supplemental work under existing interagency agreements will be issued with the appropriate authorizing official's review and signature. In the case of OSD, this will include approval by the Head of the Requesting Activity (or his designee) and WHS. The approval documents will accompany all interagency orders to TVA for their records.

Recommendation:

d. Initiate disciplinary action against program officials who exceeded their authority by placing interagency orders with the Tennessee Valley Authority.

Response: Concur with recommended action. A review of the procedures followed and approvals obtained to issue the interagency orders to TVA revealed that all interagency orders issued under the program were issued in accordance with the requirements of the FAR and DFAR and that no program officials exceeded their authority. Therefore, there is no need for disciplinary action to be taken. To ensure that no confusion exists with the use of TVA by any OSD program official, the actual issuance of the MIPR by WHS will be accompanied by all required documentation showing the approvals required to TVA.

Recommendation:

e. Discontinue the use of Military Interdepartmental Purchase Requests (DD Form 448) and similar forms to order goods and services from other Federal agencies and develop a form that includes a sections to be completed by a contracting officer (and/or other official designated by the Economy Act, the FAR and departmental regulations in accordance with the DFAR Subpart 217.5) to document compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

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MANAGEMENT COMMENTS: ASSISTANT SECRETARY OF DEFENSE (COMMAND,
CONTROL, COMMUNICATIONS AND INTELLIGENCE (Cont'd)

Response: Concur with recommendation when amended as in
recommendation c, but should not discontinue use of MIPR until
new form has been developed and approved.

MANAGEMENT COMMENTS: ARMYFinal Report
Page No.DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, DC 20310-0103

SARD-PP

17 JAN 1992

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE
ATTN: DIRECTOR, CONTRACT MANAGEMENTSUBJECT: Draft Quick-Reaction Report on DoD Procurements
Through the Tennessee Valley Authority
(Project No. 2CN-5003.01)Department of Army comments on subject draft audit
report are as follows:

1. Executive Summary: The Army concurs with the IG's interim findings regarding a material weakness in internal controls that did not preclude inappropriate procedures in transferring requirements and funds to the Tennessee Valley Authority (TVA) in August and September 1991. Our response to the Recommendations for Corrective Actions is set forth below. Additional detailed comments on the Draft Report are at Enclosure 1.

2. Response to Recommendations for Corrective Actions, page 9 of the Draft Report:

"a. Cancel all interagency orders to the Tennessee Valley Authority listed in Enclosure 2 that have not been placed on contract or that have letters of commitment to contractors but where no costs were incurred."

Response: Concur in substance. Recommend that this Recommendation be reworded as follows to clarify that only unauthorized or improper orders are required to be cancelled:

"Cancel all interagency orders to the Tennessee Valley Authority (TVA) listed in Enclosure 2 that are unauthorized or improper and that have not been placed on contract by TVA, or that have TVA letters of commitment to contractors but no costs have been incurred."

This office will direct that all Army-originated orders to the TVA in August and September 1991, not effectively placed on contract by TVA, and not processed in compliance with the requirements of the Economy Act and DoD appropriations and year-end spending policies, be cancelled by the requesting Army activity. It is anticipated that this will be completed by March 31, 1992.

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MANAGEMENT COMMENTS: ARMY (Cont'd)

"b. Determine the appropriateness of terminating or reducing interagency orders where the Tennessee Valley Authority has only issued letters of commitment to contractors and ensure proper funding is used on any contracts that are awarded."

Response: Concur. This office, in coordination with the Assistant Secretary of the Army (Financial Management), will ensure review of all such orders/contracts and, when considered appropriate, request their termination, return of unused funds, and/or use of proper funds. It is estimated that this action will be completed by April 30, 1992.

"c. Prohibit placement of requests for supplemental work under existing interagency agreements if not properly approved by a DoD contracting officer."

Response: Concur. This office has already issued direction to all Army activities that will require approval of a contracting officer on any interagency agreement with TVA or for any Military Interdepartmental Purchase Order (MIPR) proposed to be sent to TVA (or any other agency outside of DoD). A copy of the Army direction is at Enclosure 2. In addition Army Regulation (AR) 70-1, Systems Acquisition Policy -- Research, Development, and Acquisition, is being revised to reiterate this policy to the Army acquisition community. (AR 70-1 implements DoD Directive 5000.1, DoD Instruction 5000.2 and DoD Manual 5000.2-M.)

"d. Initiate disciplinary action against program officials who exceeded their authority by placing interagency orders with the Tennessee Valley Authority."

Response: Concur in part. We recommend that this recommendation be reworded as follows: "After a review of the facts, initiate appropriate disciplinary action against those officials who knowingly and willfully exceeded their authority by improperly authorizing, directing or effecting interagency orders with the Tennessee Valley Authority."

After a substantive review of the orders and the rationale and procedures used, appropriate disciplinary action will be initiated against those responsible for violations. Because of the number of activities, and the volume of orders, involved, we anticipate completion of this corrective action by May 31, 1992.

MANAGEMENT COMMENTS: ARMY (Cont'd)

"e. Discontinue the use of Military Interdepartmental Purchase Requests (DD Form 448) and similar forms to order goods and services from other Federal agencies and develop a form that includes sections to be completed by a contracting officer to document compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement."

Response: Concur in substance. Whether the MIPR form is revamped or a new form developed, this is not an action to be taken by the Service Acquisition Executives, but must be accomplished within the Office of the Secretary of Defense, to apply uniformly throughout DoD. In the interim, the Army has already issued direction (Encl 2) requiring that a contracting officer sign on the DD Form 448 attesting that the Economy Act determination has been made pursuant to the requirements of the Defense FAR Supplement. This, in turn, must be verified by the official certifying to the availability of funds to be transferred via the MIPR.

The active cooperation and coordination of the resource/financial management community and commanders and managers at all levels is deemed essential to preclude the continued bypass of the organic DoD contracting community through offloading actions.

Many of the individuals responsible for offloading and year-end spending violations believe they are acting in the best interest of the Army to timely accomplish their assigned mission with dwindling resources. We must find a way to raise the credibility and responsiveness of our organic contracting operations in addition to shutting down the "inappropriate" short cuts. As was the case with both Department of Energy and Library of Congress offloading, TVA and its support contractors ("cooperators") actively advertised their quick contracting capability and solicited work from DoD activities.

MANAGEMENT COMMENTS: ARMY (Cont'd)

Although these circumstances do not excuse any blatant wrongdoing or poor judgment, they may explain in part the actions of many well-meaning activities frustrated by a budgetary process and procurement system that often cannot respond to real-time needs. If every action is a priority then none of them are, except to the individual that has the requirement.



Stephen R. Burde
Acting Assistant Secretary of the Army
(Research, Development and Acquisition)

Enclosures

CF:
SAIG-PA
SAFM

MANAGEMENT COMMENTS: ARMY (Cont'd)Final Report
Page No.ADDITIONAL COMMENTS ON DRAFT AUDIT REPORT
(Project No. 2CR-5003.61)

I. Executive Summary and Draft report, p.8: We question the cited "potential" onetime monetary benefit (\$106.4 million) that could be realized by the cancellation of all interagency orders at TVA that have not been placed "on contract". We feel that this figure is inflated, unrealistic and misleading.

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Even if all such interagency orders were to be canceled (and that is highly unlikely), many of these requirements would still exist and will need to be satisfied by proper procedures. These actions will have a cost, and likely a higher cost, to DoD than the orders foregone at TVA, even considering their "broker" fee or other charges. Although we may have "saved" some FY 91 funds (which would then be lost to DoD), we will still have to pay in FY92 and beyond for the same work. If the funds for the canceled requirements are not expiring appropriations, then they will be used perhaps in direct contracting by the agencies involved. At best, the most that could be considered "saved" would be the equivalent of TVA's charges for processing the transaction. Again, however, DoD may end up paying more to get the work done than if they had continued with TVA.

In addition, a strict reading of the Economy Act language would appear to allow TVA to claim that they (TVA) had begun effort on the orders, even if they were not placed "on contract" before the funds allegedly expired. In that case, they could charge the canceling agency for all costs incurred by TVA in prosecuting in good faith the duly accepted Military Interdepartmental Purchase Requests (MIPRs).

A more reasonable approach to speculating on monetary benefits associated with the audit recommendations would be to estimate the delta between what it would have cost DoD activities to perform direct contracting for these requirements and what it was going to cost at TVA (e.g., \$106.4 million x the 10% TVA fee; or \$10.6 million). It is, after all, just as likely that the moneys transferred to TVA would have gone to meet other needs if the TVA "vehicle" was unavailable, as it is to assume that the money would have been excess, and returned to the Treasury.

II. The Draft Report (on p.7) states: "While letters of intent have been found to constitute legally enforceable agreements, such documents are only valid if issued prior to the end of the fiscal year." (emphasis added) It is the understanding of the Army, based upon previous discussions of

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MANAGEMENT COMMENTS: ARMY (Cont'd)Final Report
Page No.

this issue with the IG audit managers, that the DoD Comptroller demurred when asked to issue a binding ruling on the issue of the viability of expiring funds furnished to TVA on reimbursable orders via MIPR. In addition, the guidance in the DoD Accounting Manual (DoD 7220.9-N) relating to reimbursable orders varies somewhat from the treatment of direct-cite orders, as regards the continuing viability of funds provided. Therefore, the matter of validity of the TVA-issued letters of intent is not as clear as the report would indicate. Certainly TVA must have a voice in this conclusion, as they will be the agency with ultimate contractual liability.

The burden of complying with the Economy Act requirements, once funds have been transferred and the task accepted, is with the receiving agency (in this case TVA). It would be presumptuous at best for Defense agencies to unilaterally determine that the funds provided and accepted (and in many cases disbursed to TVA) had expired before TVA could place them on contract (as they normally would under their Technology Brokering Program).

III. The Draft Report (on pp.7&8) further states that: "For these purposes, valid obligations can only be incurred after a contract has been established. Until a contract is issued by TVA, a binding obligation of DoD funds has not occurred." (emphasis added) As stated above, this is an issue that cannot properly be determined unilaterally by DoD, since the agency with post-acceptance Economy Act compliance responsibility is TVA.

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IV. Draft Report (p.8) states: "Also, those work orders using expiring funds where TVA has issued letters of intent after September 30, 1991, should also be terminated and funded with current year funds." As stated above, the determination of the continued viability of funds provided to, and accepted by, TVA under the auspices of the Economy Act must be made by TVA, particularly in the case of existing letters of intent, whereby TVA has ostensibly incurred contractual (pecuniary) liability.

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V. Based on the foregoing, and upon advice of Counsel, we recommend deletion of the following sentences on p.8 of the Draft Report:

["Until a contract is issued by TVA, a binding obligation of DoD funds has not occurred."]

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["All DoD interagency orders issued to TVA using expiring FY 1991 funds that have not been placed on contracts by TVA should be deobligated in accordance with the Act."]

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MANAGEMENT COMMENTS: ARMY (Cont'd)

It is further recommended that the following recommendation on p.8 be revised as shown below:

["All expiring FY 1991 funds transferred to TVA under DoD interagency orders that have not been placed on contract should be deobligated in accordance with the Act."] change to read:

"All funds expiring at the end of FY 1991 transferred to WTVA under DoD interagency orders, that were not properly obligated by TVA, should be deobligated in accordance with the Act."

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MANAGEMENT COMMENTS: NAVY

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

JAN 22 1992

MEMORANDUM FOR THE DEPARTMENT OF DEFENSE ASSISTANT INSPECTOR
GENERAL FOR AUDITING

Subj: DRAFT QUICK-REACTION REPORT ON DOD PROCUREMENTS THROUGH
THE TENNESSEE VALLEY AUTHORITY
(PROJECT NO. 2CH-5003.01)

Ref: (a) DODIG Memo of 18 December 1991

Encl: (1) DON Response to Draft Quick-Reaction Report

I am responding to the draft quick-reaction report forwarded by reference (a) concerning procurements through the Tennessee Valley Authority.

The Department of the Navy response is provided at enclosure (1). We generally agree with the draft quick-reaction report findings and recommendations. As outlined in the enclosed comments, the Department has taken, or is planning to take specific actions to ensure adequate management controls of similar procurements in the future.


Gerald A. Cann

Copy to :
NAVINGEN
NAVCOMPT (NCB-53)

MANAGEMENT COMMENTS: NAVY (Cont'd)Final Report
Page No.

Department of the Navy Response
to
DODIG Draft Report of December 18, 1991
on
DOD Procurements through the Tennessee Valley Authority
Project 2CH-5003.01

Recommendations for Corrective Action

1. We recommend that the Director, Defense Research and Engineering; Service Acquisition Executives; and the Director, Defense Logistics Agency:

Recommendation 1.A:

a. Cancel all interagency orders to the Tennessee Valley Authority listed in Enclosure 2 that have not been placed on contract or that have letters of commitment to contractors but where no costs were incurred.

DON Position:

Concur in principle. The Navy will cancel all of the Enclosure 2 orders which can be canceled. If appropriate, they may be reissued citing proper funding and meeting other legal and regulatory requirements.

Recommendation 1.B:

b. Determine the appropriateness of terminating or reducing interagency orders where the Tennessee Valley Authority has only issued letters of commitment to contractors and ensure proper funding is used on any contracts that are awarded.

DON Position:

Concur. Orders will be examined on a case by case basis. Unauthorized orders and those citing inappropriate funds will be terminated, reduced, or ratified with proper funding as appropriate.

Recommendation 1.C:

c. Prohibit placement of requests for supplemental work under existing interagency agreements if not properly approved by a DoD contracting officer.

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MANAGEMENT COMMENTS: NAVY (Cont'd)DON Position:

Concur. We have previously issued guidance reminding Navy activities of the legal and regulatory requirements for contracting officer approval of Economy Act orders. It is clearly necessary to reissue this guidance as soon as practicable, but not later than 10 February 92.

Recommendation 1.d:

d. Initiate disciplinary action against program officials who exceeded their authority by placing interagency orders with the Tennessee Valley Authority.

DON Position:

Concur in principle. Abuse of interagency acquisition to obligate expiring funds or obtain services of favored contractors should result in disciplinary action, and Commanders of Navy activities involved will be directed to take such action where appropriate. However, the failure to obtain contracting officer approval of such acquisition, while regrettable, may not in itself warrant disciplinary action. Improved procedures and better training may be more appropriate remedies.

Recommendation 1.e:

e. Discontinue the use of Military Interdepartmental Purchase Requests (DD Form 448) and similar forms to order goods and services from other Federal agencies and develop a form that includes a section to be completed by a contracting officer to document compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

DON Position:

Concur. If practicable, acquisitions utilizing this new DoD form should be recorded in the DD 350 Reporting System.

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MANAGEMENT COMMENTS: AIR FORCE

DEPARTMENT OF THE AIR FORCE
WASHINGTON DC 20330-1000

OFFICE OF THE ASSISTANT SECRETARY

19 JAN 1992

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

**SUBJECT. DoDIG Draft Quick-Reaction Report on DoD Procurements
through the Tennessee Valley Authority, December 18, 1991
(Project No. 2CH-5003.01)
- INFORMATION MEMORANDUM**

You requested Air Force Acquisition Executive (AFAE) comments on the findings and recommendations made in the subject report.

We concur with your findings that the Military Interdepartmental Purchase Requests (MIPRs) cited in this case were not appropriately used in all cases, and are taking actions to eliminate the use of interagency agreements by unauthorized program officials.

We have added a section (part 5, section J, Use of Interagency Agreements) to the draft of Air Force supplement 1/DoDI 5000.2 Acquisition Management Policy and Procedures, which directs that Air Force ordering offices shall follow procedures in FAR 17.504 and obtain contracting officer determination as specified in the FAR.

We concur in your finding that compliance with existing policy has been less than satisfactory and that management controls require additional emphasis. In response to previous audits, we issued the following guidance: HQ USAF/SC ltr dtd 4 Nov 88, Policy on Use of Dept of Energy Interagency Agreements; HQ USAF/SC, ltr dtd 30 Jan 89, Policy on Use of DOE Interagency agreements; HQ/LEEV ltr dtd 1 Dec 89, Task Orders Through The Department of Energy. Based on the continuing problems found in this draft report, we also intend to insert additional coverage in the AF FAR supplement in the near future. Further, we support a recommendation that steps be taken by the Defense Finance and Accounting Service (DFAS) to redesign the MIPR (DD Form 448) so that mandatory

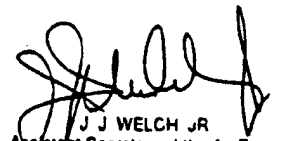
MANAGEMENT COMMENTS: AIR FORCE (Cont'd)

review by the appropriate contracting authority can occur to assure compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

We do not agree that the savings of \$106.4 million cited in the report are correct. At least some of the cancelled interagency orders represent bona fide requirements which will be reprocured using other contracting methods. As a result of the cancellation of interagency orders with bona fide requirements, those elements would have to obtain new funding for the basic requirement, incur additional costs for reprocurement, and incur substantial delays in delivery. We do not believe such action would be in the best interests of the Government.

Regarding proposed corrective actions (a) and (b), we suggest that all the requirements be reviewed prior to cancelling the interagency orders. Further, we believe that only those orders that would not have been approved had proper procedures been followed should be cancelled. The reprocurement cost of these items could greatly outweigh the value of any cost savings identified in this report.

Finally, in response to item (d), all transactions will be reviewed, and appropriate administrative/disciplinary actions will be taken as needed consistent with appropriate personnel policies, procedures, and legal considerations.


J. J. WELCH JR.
Assistant Secretary of the Air Force
(Acquisition)

MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY

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



IN REPLY
REFER TO DLA-CI

13 JAN 1992

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDITING,
DEPARTMENT OF DEFENSE

SUBJECT: Draft Quick-Reaction Report on DoD Procurements Through
the Tennessee Valley Authority (Project No. 2CH-5003 01)

This is in response to your 18 Dec 91 memorandum requesting our
comments pertaining to the subject draft report. The attached
positions have been approved by Ms Helen T McCoy, Deputy
Comptroller, Defense Logistics Agency

6 Encl

Jacqueline G. Bryant
JACQUELINE G. BRYANT
Chief, Internal Review Division
Office of Comptroller

MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY (Cont'd)

TYPE OF REPORT: AUDIT

DATE OF POSITION: 10 Jan 92

PURPOSE OF INPUT: INITIAL POSITION

AUDIT TITLE AND NO: Draft Quick-Reaction Report on DoD Procurements Through the Tennessee Valley Authority (TVA)
(Project No. 2CH-5003.01)

FINDING:

a. A total of 186 interagency orders, valued at \$106.5 million were sent to TVA in August and September 1991. There were 175 orders valued at \$104.8 million that involved transferred funds due to expire in FY 1991. Internal control procedures and practices did not preclude program officials from obtaining the funding required to issue the interagency orders or preclude accounting and finance offices from transferring funds to TVA on orders that were not properly authorized.

b. Internal Controls The audit determined that internal accounting and administrative controls either did not exist or were inadequate to preclude unauthorized issuance of interagency orders and to preclude payments on interagency orders that were not approved by DoD contracting officers. We consider these internal control weaknesses to be material.

DLA COMMENTS: Partially concur. Based on the misuse of interagency agreements with the Library of Congress and the Department of Energy, Defense Logistics Agency (DLA) issued a policy letter dated 26 September 1990 which established internal controls on the use of non-DoD agencies under the Economy Act (copy attached). The letter did not specifically cover use of another DoD Component's agreement. We will amend the policy specifying the need for review and approval when using other DoD Component's agreement. We agree that request for support from a civil agency should be justified and approved by a contracting officer or a delegated official serving in the best interest of the Government.

We do not agree that the weakness is material considering the condition under which DLA got involved with the Tennessee Valley Authority (TVA). The Air Force (AF) requested us to fund a statutorily required action for obtaining a fire protection certification of a building in Kelly Air Force Base (AFB) used to store flammable liquids. As a tenant and under the Interagency Support Agreement between Kelly AFB and DLA Defense Reutilization and Marketing Service (DRMS), DLA was obligated to fund the action taken.

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

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

ACTION OFFICER: Frank Bokowski, DLA-LR, x46295, 10 Jan 92

PSE REVIEW/APPROVAL: Roger C. Roy, Assistant Director, Office of Policy & Plans (DLA-L), x46271, 10 Jan 92

DLA APPROVAL: Helen T. McCoy, Deputy Comptroller

MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY (Cont'd)

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



FORM 1
DLA-L
001010

26 SEP 1980

SUBJECT: Use of Interagency Agreements with Federal Agencies

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

1. Recently, the DoD Inspector General issued two reports stating that DoD components misused interagency agreements with the Library of Congress and the Department of Energy to obtain contractor support by not fulfilling the required authority and justification documentation by the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS). Although DLA is not specifically cited in either report, internal controls are required to preclude improper use of interagency agreements (hereafter referred to as agreements) to circumvent statutory and regulatory (FAR/DFARS) procedures, such as bypassing the Competition in Contracting Act of 1984 or avoiding the necessity for advanced procurement planning to accommodate normal procurement lead time.

2. Several agreements for support services have been made with civil agencies by certain elements of DLA. The Economy Act of 1932 applies to the interagency acquisition of services required under these agreements whereby the services are to be provided by contractors through the servicing agency in accordance with FAR/DFARS Subpart 17.5. Prior to signing any agreement through which the servicing agency will provide support by means of servicing agency resources and/or a contractor, a determination must be made that the agreement is in the "best interest of the Government." To establish necessary controls, each acquisition made under the agreement stands alone and must be certified by an official designated by the Director that all requirements of the Economy Act, the FAR, the DFARS or any other governing rule are met. For proposed agreements and each acquisition to be obtained thereunder originating within DLA, the designated official for the Director is the Assistant Director, Policy and Plans (DLA-L).

3. When contractor support is to be acquired under an agreement, there is an additional requirement under DoD Directive 4205.2, DoD Contracted Advisory and Assistance Services (CAAS), for the requiring component to comply with management controls/procedures and account for the funds attributed to those services which involve CAAS category tasks. Thus, each proposed interagency acquisition for services must be in compliance with the management controls and preparation responsibilities set forth in FAR Sections 37.205 and 37.206. DLAR 5010.3, DLA CAAS, assigns DLA-L

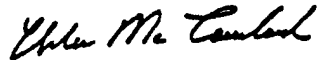
MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY (Cont'd)

DLA-L PAGE 2
SUBJECT: Use of Interagency Agreements with Federal Agencies

responsibility for CAAS approval to Policy and Plans or the Director/Deputy Directors, DLA, where applicable. In order to fulfill this responsibility, all purchase requests for services proposed for acquisition under an agreement are to be submitted to DLA-L for determination of CAAS applicability. Where it is found that proposed acquisitions are for CAAS services to be provided under contract through an agreement with a servicing agency, Policy and Plans will obtain the CAAS approval(s) required under regulatory guidelines. The approval documents are to accompany the purchase request transmitted to the servicing agency contracting activity.

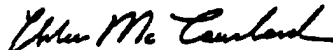
4. As of the date of this letter, future agreements with Federal Agencies are to be coordinated with and approved/signed by the Assistant Director, Policy and Plans. Additional review by other Principal Staff Elements, such as the Comptroller, the Counsel, and Contracting, may be required. Certification will be obtained, where necessary, to ensure the agreement's contents are sound on a business, legal, and financial basis, that they provide for effective contract administration and reporting, and that they are otherwise in the Government's best interest. Further, the Comptroller will ensure that no funds are transferred to the servicing agency until all required certifications and approvals are accomplished. These procedures also apply to each requirement for services to be ordered under an agreement once in place. The policy is not to discourage agreements where it is in the Government's best interest to do so, but to ensure all regulatory guidelines are complied with and that the agreement is properly prepared, justified, and approved.

5. The point of contact is Frank Bokowski, DLA-LR, AV 284-6295.


CHARLES McCAUSLAND
Lieutenant General, USAF
Director

MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY (Cont'd)**DELEGATION OF AUTHORITY FOR INTERAGENCY
ACQUISITIONS MADE UNDER THE ECONOMY ACT OF 1932**

Wherein Subpart 17.5 of the Federal Acquisition Regulation and the DOD Federal Acquisition Regulation Supplement provides for the head of the requesting agency to delegate authority to make the determination that the Government's best interest is served through an interagency acquisition, I hereby delegate such authority for interagency acquisitions by the Defense Logistics Agency to the Assistant Director, Office of Policy and Plans.



CHARLES McCAUSLAND
Lieutenant General, USAF
Director
Defense Logistics Agency

MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY (Cont'd)Final Report
Page No.

TYPE OF REPORT: AUDIT

DATE OF POSITION: 10 Jan 92

PURPOSE OF INPUT: INITIAL POSITION

AUDIT TITLE AND NO: Draft Quick-Reaction Report on DoD Procurements Through the Tennessee Valley Authority (Project No. 2CM-5003.01)

RECOMMENDATION 1.a: We recommend that the Director, Defense Research and Engineering; Service Acquisition Executives; and the Director, Defense Logistics Agency (DLA), cancel all interagency orders to the Tennessee Valley Authority listed in Enclosure 2 in the report that have not been placed on contract or that have letters of commitment to contractors but where no costs were incurred.

DLA COMMENTS: Not applicable. On advice of Kelly AFB, DRMS under DLA placed an order against an existing AF contract with TVA to provide service required to obtain a Texas National Fire Protection Association (NFPA) certification for a building used to store flammable/combustible liquids. The work was completed in September 1991 and the certification was obtained. There is no outstanding DLA orders with the TVA.

DISPOSITION:

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

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

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

ACTION OFFICER: Frank Sokowski, DLA-LR, #46295, 10 Jan 92

PSE REVIEW/APPROVAL: Roger C. Roy, Assistant Director, Office of Policy & Plans (DLA-L), #46271, 10 Jan 92

DLA APPROVAL: Helen T. McCoy, Deputy Comptroller

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MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY (Cont'd)

TYPE OF REPORT: AUDIT

DATE OF POSITION: 10 Jan 92

PURPOSE OF INPUT: INITIAL POSITION

AUDIT TITLE AND NO: Draft Quick-Reaction Report on DoD Procurements Through
the Tennessee Valley Authority
(Project No. 2CH-5003.01)

RECOMMENDATION 1.b: We recommend that the Director, Defense Research and Engineering; Service Acquisition Executives; and the Director, Defense Logistics Agency, determine the appropriateness of terminating or reducing interagency orders where the Tennessee Valley Authority has only issued letters of commitment to contractors and ensure proper funding is used on any contracts that are awarded.

DLA COMMENTS: Not applicable. See Recommendation 1.a.

DISPOSITION:

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

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

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

ACTION OFFICER: Frank Bokowski, DLA-LR, x46295, 10 Jan 92

PSE REVIEW/APPROVAL: Roger C. Roy, Assistant Director, Office of Policy & Plans (DLA-L), x46271, 10 Jan 92

DLA APPROVAL: Helen T. McCoy, Deputy Comptroller

MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY (Cont'd)

TYPE OF REPORT: AUDIT

DATE OF POSITION: 10 Jan 92

PURPOSE OF INPUT: INITIAL POSITION

AUDIT TITLE AND NO: Draft Quick-Reaction Report on DoD Procurements Through
the Tennessee Valley Authority
(Project No. 2CM-5003 01)

RECOMMENDATION 1.c: We recommend that the Director, Defense Research and Engineering; Service Acquisition Executives; and the Director, Defense Logistics Agency, prohibit placement of requests for supplemental work under existing interagency agreements if not properly approved by a DoD contracting officer.

DLA COMMENTS: Concur. We will amend our policy dated 26 September 1990 reinforcing the requirement for approval of interagency agreements and orders for contract support. We will specify that the use of another DoD component's agreement requires compliance with the Federal Acquisition Regulation and approval of funds transfer. We will codify the DLA policy letter and revision into a DLA regulation. Basic policy is in place. We will emphasize and monitor compliance.

DISPOSITION:

- (x) Action is ongoing Estimated Completion Date: 30 Jun 92
- () Action is considered complete

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

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

ACTION OFFICER: Frank Bokowski, DLA-LR, x46295, 10 Jan 92

PSE REVIEW/APPROVAL: Roger C. Roy, Assistant Director, Office of Policy & Plans (DLA-L), x46271, 10 Jan 92

DLA APPROVAL: Helen T. McCoy, Deputy Comptroller

MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY (Cont'd)

TYPE OF REPORT: AUDIT

DATE OF POSITION: 10 Jan 92

PURPOSE OF INPUT: INITIAL POSITION

AUDIT TITLE AND NO: Draft Quick-Reaction Report on DoD Procurements Through the Tennessee Valley Authority (Project No. 2CH-5003.01)

RECOMMENDATION i.e: We recommend that the Director, Defense Research and Engineering; Service Acquisition Executives; and the Director, Defense Logistics Agency, discontinue the use of Military Interdepartmental Purchase Requests (DD Form 448) and similar forms to order goods and services from other Federal agencies and develop a form that includes a section to be completed by a contracting officer to document compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

DLA COMMENTS: Nonconcur As opposed to eliminating Military Interdepartmental Purchase Request, DoD should initiate action to clarify its use and approval process for interagency procurements in the Finance and Accounting Manual and other pertinent regulations.

DISPOSITION:

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

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

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

ACTION OFFICER: Carl Kerby, DLA-CXF, x46221, 30 Dec 91

PSE REVIEW/APPROVAL: Linda Walker, Chief, Financial Systems & Control Division (DLA-CX), x46221, 30 Dec 91

DLA APPROVAL: Helen T. McCoy, Deputy Comptroller

MANAGEMENT COMMENTS: DEFENSE LOGISTICS AGENCY (Cont'd)**TYPE OF REPORT: AUDIT****DATE OF POSITION: 10 Jan 92****PURPOSE OF INPUT: INITIAL POSITION****AUDIT TITLE AND NO: Draft Quick-Reaction Report on DoD Procurements Through the Tennessee Valley Authority (Project No. 2CM-5003.01)****RECOMMENDATION 1.6: We recommend that the Director, Defense Research and Engineering; Service Acquisition Executives; and the Director, Defense Logistics Agency, initiate disciplinary action against program officials who exceeded their authority by placing interagency orders with the Tennessee Valley Authority.****DLA COMMENTS: Nonconcur. DRMS acted on the advice of Kelly AFB to fund an order against an existing AF contract with TVA. The program officials acted in a prudent manner to obtain the required certification for the building within the required time frame.****DISPOSITION:**

- Action is ongoing Estimated Completion Date:
- Action is considered complete

INTERNAL MANAGEMENT CONTROL WEAKNESSES:

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

ACTION OFFICER: Frank Bokowski, DLA-LR, x46295, 10 Jan 92**PSE REVIEW/APPROVAL: Roger C. Roy, Assistant Director, Office of Policy & Plans (DLA-L), x46271, 10 Jan 92****DLA APPROVAL: Helen T. McCoy, Deputy Comptroller**