



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

August 29, 2003

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER)/CHIEF
FINANCIAL OFFICER
ACTING UNDER SECRETARY OF DEFENSE FOR
ACQUISITION, TECHNOLOGY, AND LOGISTICS

Subject: Assessment of DoD Leasing Actions (Report No. D-2003-129)

We are providing this report for your information and use. The assessment resulted from a July 22, 2003, request initiated by the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics. The request was based on a July 2, 2003, letter from the Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, urging the Secretary of Defense to ask the Inspector General to perform a review on aspects of the plan to lease Boeing 767 tanker aircraft.

Based on our discussions with the Acting Under Secretary, we determined the following assessment objectives: to review the decision process used by the Air Force and the Office of the Secretary of Defense to lease the Boeing 767 tanker aircraft, and to assess whether DoD interaction with Congress following the Lease Decision Memorandum signed May 23, 2003, was timely and reasonable.

Although not required by statute, applying a best business practice of weighing the need to conduct a formal analysis of alternatives to achieve the best possible system solution could have improved the Air Force Leasing process. Further, a best business practice would have been to expand the charter of the Leasing Review Panel to include the Panel's role in the acquisition process and in the life cycles of the leases. (Details are at pages 14 to 23.) Of the six letters from the Chairman, Committee on Commerce, Science, and Transportation and the one letter from the Congressional Budget Office, we determined that five were generally timely and two were not timely. Further, two responses could have been improved by a more comprehensive answer to portions of the requests. (Details are at pages 27 to 33.)

On August 29, 2003, we briefed the Acting Under Secretary on our results and incorporated into this report the comments provided during the briefing. We appreciate the courtesies extended to our staff. If you have questions about this report, please contact Ms. Mary L. Ugone, at (703) 604-9002 (DSN 664-9002) mlugone@dodig.osd.mil or Mr. Wayne Berry at (703) 604-8789 (DSN 664-8789) wberry@dodig.osd.mil.

David K. Steensma
Deputy Assistant Inspector General
for Auditing

Patricia A. Brannin
Assistant Inspector General
for Audit Policy and Oversight

Attachment

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 29 AUG 2003		2. REPORT TYPE N/A		3. DATES COVERED -	
4. TITLE AND SUBTITLE Assessment of DoD Leasing Actions (D-2003 2003-129)				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) DoD-IG ODIG-AUD (AFTS) Secondary Reports Distribution 400 Army Navy Drive (801) Arlington, VA 22202-4704				8. PERFORMING ORGANIZATION REPORT NUMBER D-2003 2003-129	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release, distribution unlimited					
13. SUPPLEMENTARY NOTES The original document contains color images.					
14. ABSTRACT See report.					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT UU	18. NUMBER OF PAGES 60	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			



Office of the Inspector General of the Department of Defense

Assessment of DoD Leasing Actions (D-2003-129)



August 29, 2003



Table of Contents

Assessment Objectives	3
Part I. Air Force and Office of the Secretary of Defense Lease Decision Process	4
Part II. DoD Interaction with Congress	24
Attachments	
A. Evolution of Assigned Tasking	37
B. Personnel Contacted During Review	42
C. FY 2002 National Defense Appropriations Act - Section 8159	47
D. FY 2003 DoD Appropriations Act - Section 8117	50
E. FY 2003 National Defense Appropriations Act - Section 133	51
F. Trust Business Relationship and Financing	53
G. Lease Timeline	55
H. Chronology of Congressional Interaction	56
I. Acronyms	59



Assessment Objectives

- **Objective I:** To review the decision process used to lease the Boeing 767 tanker aircraft. Decision process includes:
 - Air Force Process
 - Office of the Secretary of Defense (OSD) Process
- **Objective II:** To assess whether DoD's interaction with Congress, following the tanker lease decision on May 23, 2003, was timely and reasonable.
- See Attachment A for the evolution of the assigned tasking.
(*July 2, 2003 through August 12, 2003*)
- See Attachment B for the list of persons contacted during the review of the tanker lease decision process and the interaction with Congress.



Part I

Air Force and OSD Boeing Lease Decision Process



Scope and Methodology

Office of the Inspector (OIG) of the DoD team reviewed:

- OSD Leasing Review Panel documentation
 - Leasing Review Panel Charter
 - Leasing Review Panel Meeting minutes
 - Leasing Review Panel Working Group minutes
 - Information Paper on Leasing from Office of the Director (Program Analysis and Evaluation) (PA&E)
- Under Secretary of Defense for Acquisition, Technology, and Logistics (USD[AT&L]) “Reading Room” documentation
 - Various briefing slides
 - Capabilities of the 767 Boeing tanker aircraft
 - Modifications required
 - Draft contract



Scope and Methodology (continued)

OIG DoD team reviewed (continued)

- Tanker requirements documents
 - Mission Need Statement
 - Operational Requirements Document
 - Briefing slides for Tanker Requirements Study for FY 2005
 - KC-135 Economic Service Life Study
- Chairman of the Joint Chiefs of Staff letter, March 11, 2003, regarding recapitalization of the KC-135 tanker fleet provided to the Senate Armed Services Committee.
- Selected documents in the custody of the staff of Senator John McCain, Chairman, Committee on Commerce, Science, and Transportation, pertaining to recapitalization and the leasing process.
- USD (AT&L) Lease Decision Memorandum, May 23, 2003.



Scope Limitation

OIG DoD team did not:

- Obtain or evaluate detailed Air Force supporting documentation for the leasing process, in part because of time constraints on both the Air Force and the OIG team.
- Evaluate the draft contract to lease 100 tanker aircraft. (However, the contract was verbally discussed with OSD and Air Force General Counsel representatives.)
- Evaluate whether the process followed was in accordance with the DoD acquisition process. (However, the DoD 5000 Series was used as a guideline for reviewing key areas.)
- Evaluate or obtain documentation for the Boeing 737 aircraft lease.



Evolution of Tanker Requirement

November 2001 Air Force Mission Need Statement for Future Fuel Refueling Aircraft validated by the Joint Requirements Oversight Council. Air Force position was to begin tanker aircraft recapitalization in FY 2013, based on two February 2001 studies.

- Tanker Requirement Study for 2005
 - Conducted by Air Mobility Command
 - Addressed Defense planning guidance, future retirement of KC-135, and mobility requirements study
 - Study scenario based on:
 - Major Theater War in Southwest Asia
 - Major Theater War in Northeast Asia
 - Strategic Nuclear War
 - Small Scale Contingency
 - Special Operations



Evolution of Tanker Requirement

- Tanker Requirement Study for 2005 (continued)
 - Concluded air refueling requirements will not be less than current requirements because the Air Force needs:
 - 500-600 KC-135R equivalent aircraft with an 85 percent mission capable rate. Study recommended improvements in aircraft availability by reducing KC-135 depot levels.
 - 900-1000 aircrews required with a crew ratio of 1.66 –1.92 crews per aircraft. Study recommended increased KC-135 crew ratio.



Evolution of Tanker Requirement (continued)

November 2001 (continued)

- KC-135 Economic Service Life Study addressed aircraft aging costs, availability, future cost outlook and concluded:
 - Structural integrity of the KC-135 fleet remains strong
 - Aging-related structural repairs due to corrosion will continue to increase at a manageable rate
 - Depot level airframe and engine maintenance are the primary cost drivers to sustain the fleet through 2040.

January 2002 FY 2002 National Defense Appropriations Act - Section 8159 (Attachment C)

- authorizes the Secretary of the Air Force to lease not more than 100 Boeing 767 air refueling aircraft and 4 Boeing 737 aircraft,
- requires that the present value of lease payments shall not exceed 90 percent of the fair market value of the aircraft,



Evolution of Tanker Requirement (continued)

- | | |
|--------------|---|
| January 2002 | FY 2002 National Defense Appropriations Act (Continued) <ul style="list-style-type: none">• does not allow for the purchase of the aircraft by the Air Force or the transfer of ownership of the aircraft to the Air Force, and• provided Air Force opportunity to accelerate recapitalization beginning in FY 2006. |
| August 2002 | Traditional procurement for KC-X program in FY 2004
President's Budget <ul style="list-style-type: none">• Funding starts in FY 2006 and the first aircraft deliveries begin in FY 2009. |
| October 2002 | FY 2003 DoD Appropriations Act - Section 8117 authorizes the Secretary of the Air Force to make: (Attachment D) <ul style="list-style-type: none">• advanced payments; and |



Evolution of Tanker Requirement (continued)

October 2002

FY 2003 DoD Appropriations Act (continued)

- payments required for a lease, or special payments under Section 8159(c)(3), from operation and maintenance or procurement funds available at the time of the lease or when the payment is due, or funds appropriated for those payments.

December 2002

FY 2003 National Defense Authorization Act - Section 133 (Attachment E)

- Requires that, before establishing the lease, the Air Force must:
 - issue a report to Congress and
 - get authorization for funding or new start.



Evolution of Tanker Requirement (continued)

March 2003

Chairman of the Joint Chiefs of Staff letter to Senate Armed Services Committee supports the need to begin recapitalization sooner rather than later because:

- Impact of corrosion rate on operations and support cost of the existing tanker fleet is greater than predicted.
- Higher operational tempo due to the Global War on Terrorism and Homeland Defense mission.
- Combatant commanders consider operational availability of air refuelers and tanker recapitalization among highest priorities.

Operation Iraqi Freedom may effect military requirements originally determined in November 2001.



Air Force Leasing Process

- Air Force took full advantage of legislation to do the lease. Although not required by statute, in our opinion, a best business practice could have improved this process by:
 - Weighing the need for conducting a formal analysis of alternatives to achieve the best possible system solution with emphasis placed on innovation, competition, and the evolutionary acquisition process.
 - Better documenting the informal alternative solutions to the need for a tanker aircraft in the Air Force Report to Congress, July 11, 2003.
 - Leasing only enough Boeing 767 tanker aircraft to meet readiness and operations and support cost concerns until funding is obtained through the budget process to purchase the aircraft. We were orally informed that this option was discussed.



Air Force Leasing Process (continued)

- To lease the aircraft for 6 years, pay 90 percent of the price of the aircraft, and then return the aircraft to the Special Purpose Entity appears to be an inefficient use of money when the aircraft's useful life could be over in 40 years.
 - The Air Force has no assurance that Congress will allow it to purchase the aircraft at the end of the lease. If the Air Force wishes to purchase the aircraft, it should promptly develop the business case for purchasing.
- Conducting developmental and operational tests on a low-rate initial production model or a prototype to ensure that the tanker aircraft meets warfighters requirements before the Air Force enters into the contract.



Air Force Leasing Process (continued)

- Federal Government assumes greater financial risk with the lease:
 - Special Purpose Entity. The lease will be a three-party contract between the U.S. Government, Boeing, and a special purpose entity known as the KC-767A USAF Tanker Statutory Trust 2003-1.
 - At the request of the Air Force, Boeing will administer the leasing arrangement and will be responsible for delivery of the supplies and services under the contract.
 - Over the course of the lease, the Trust will:
 - issue bonds on the commercial market based on the strength of the lease contract with the U.S. Government, rather than the credit worthiness of Boeing;
 - buy the aircraft from Boeing;



Air Force Leasing Process (continued)

- Over the course of the lease, the Trust will (continued):
 - lease the aircraft to the Air Force;
 - have an independent director, an employee of the Wilmington Trust Company;
 - not make a profit but will provide the funds necessary to pay bondholders and pay off the debt after the sale of the aircraft; (Any residual funds acquired from the sale of the aircraft subsequent to lease termination will be refunded to the Government as an overpayment and any loss from the sale will be absorbed by the Trust.) and
 - purchase the tanker aircraft from Boeing for \$131 million per aircraft, subject to economic price adjustments that account for inflation and fluctuations in the cost of construction financing. (For financing purposes, the lease price will include the Trust's purchase price and construction financing interest for the aircraft. As sold to the Trust, the aircraft price is \$138.4 million [\$131 million base price plus \$7.4 million construction financing]. [Attachment F])



Air Force Leasing Process (continued)

- Federal Government assumes greater financial risk with the lease (continued):
 - The lease term for each of the 100 KC-767A aircraft will be 6 years. Lease of the initial aircraft is planned to begin in August 2006, with the last aircraft returned in September 2017. During the planned lease of 11 plus years, if interest rates increase more than projected, the economic price adjustments could result in the Air Force making higher than projected lease payments to cover the increased bond interest rates.
 - If Boeing experiences financial difficulties or if the investors question Boeing's ability to perform under the contract, the Air Force could end up making higher than projected lease payments to cover increased bond interest rates because of increased financial risk perceived by the bond investors.



Air Force Leasing Process (continued)

- Federal Government assumes greater financial risk with the lease (continued):
 - In FY 2003, \$3 million were appropriated for the lease effort; however, no funds for future years have been specifically identified for the effort. Further, funds must be realigned to begin military construction for aircraft hangars and bed-down (location where the aircraft will be based) costs. We were orally told that the Leasing Review Panel was informed that the Air Force has identified offsets for the lease effort and the military construction but did not want to reveal the offsets.
 - The Air Force has no assurance that it will be able to obtain funding over the 11 year lease period for lease payments or military construction. Attachment G shows the lease timeline.
- Under the proposed contract, Boeing will provide contractor logistic support for all levels of maintenance before the delivery of the first aircraft. After delivery, Air Force maintenance personnel will accomplish organizational level maintenance while Boeing will conduct depot maintenance. In the Air Force report to Congress, the Trust provided its concern that the leased aircraft be properly maintained during the lease period so that it will be marketable at the end of the lease.



OSD Involvement

- Leasing Review Panel chartered in November 2001 by USD(AT&L) and Under Secretary of Defense ([Comptroller]/Chief Financial Officer) (USD([C]/CFO))
 - Military Departments asked to identify candidate programs for acquisition by means of multiyear leases.
 - As of August 2003, two candidates have been identified:
 - Boeing 737 lease (implemented)
 - Boeing 767 tanker lease (pending)
- Charter role and responsibilities of the Leasing Review Panel
 - Review all lease proposals projected to cost a total of \$250 million or more over the life of the lease.



OSD Involvement (continued)

- Charter role and responsibilities of the Leasing Review Panel (continued)
 - Financial perspective
 - Assess the impact of leasing proposals on the Defense budget
 - Ensure that real economic advantages of leasing proposals are reflected
 - Determine that future leasing liabilities do not impair DoD operating accounts
 - Review the financial aspects of lease to include:
 - Full funding
 - Equity financing
 - Indemnification, warranties, reparation and disposition of assets
 - Lease with buy option
 - Multiyear financing
 - Planning for exercise of purchase options and termination
 - Provide recommendations to the Defense Acquisition Board or the DoD Chief Information Officer



OSD Involvement (continued)

Leasing Review Panel Membership, who participated in the Boeing 767 lease review

- Co-Chairs of Leasing Review Panel
 - Dr. Dov Zakheim, USD([C])/CFO)
 - Mr. Edward Aldridge, former USD (AT&L), now Mr. Michael Wynne (Acting)

- Other Panel Members include:
 - Dr. Wayne Schroeder, Deputy Under Secretary of Defense (Resource Planning/Management)
 - Dr. Nancy Spruill, Director, Acquisition Resources and Analysis
 - Ms. Dee Lee, Director, Defense Procurement and Acquisition Policy
 - Mr. Doug Larsen, Deputy General Counsel (Acquisition and Logistics)



OSD Involvement (continued)

- Leasing Review Panel formally met 4 times to review Boeing 767 tanker lease:
 - Obtained independent purchase price analysis from Institute for Defense Analyses
 - Resulted in reduction of lease price from \$150 million to \$131 million per aircraft
 - Reviewed terms and conditions of leasing contract
- We were orally informed that the Leasing Review Panel was supported by numerous working group meetings and staff reviews.
- Leasing Review Panel did not provide recommendations to the Defense Acquisition Board or Chief Information Officer as required by their Charter; however, the Defense Acquisition Executive is co-chair of the Panel and the Board is advisory to the Defense Acquisition Executive.
- In our opinion, a best business practice would have been to have the Leasing Review Panel's Charter expanded to include the Panel's role in the acquisition process and in the life cycles of the leases the Panel reviewed.



Part II

DoD Interaction with Congress



DoD Interaction with Congress

The following charts discuss the assessment of the DoD interaction with Congress on the Boeing lease decision.

Request from Mr. Michael W. Wynne – “... assessment of the Department’s Interaction with Congress following the decision.”

- OSD decision was May 23, 2003

Objective – Assess whether the Department’s interaction was timely and reasonable.



DoD Interaction with Congress

Scope

- Six letters from Senator John McCain, Chairman, Committee on Commerce, Science, and Transportation and OSD responses (See Attachment H for a chronology of the letters and responses).
- House Armed Services Committee July 23, 2003, hearing and questions for record.
- Congressional Budget Office request for Institute for Defense Analyses report.
- Any other formal contacts - Due to the short turnaround on tasking, concentrated on formal taskings and contacts with Congress related to Boeing Lease after May 23, 2003.
- Limited assessment of Air Force interaction with Congress.
- Did not assess if “all records” were provided.
- Did not assess interaction with General Accounting Office.



DoD Interaction with Congress

Were the OSD responses timely?

- Generally the responses were timely except for the Congressional Budget Office May 29 request and Senator McCain (Chairman) June 20 request.
 - Replies by the Secretary of Defense to Congress are required in 4 workdays or within suspense date. Interim reply required in writing within suspense if suspense cannot be met.

Request	Response Requested by	Response provided	Response Time
CBO - May 29, 2003 to Mr. Wynne	None stated (IDA report or briefing)	July 15, 2003	Not timely - 47 days since request and 20 days after internal suspense date.
Chairman - June 20, 2003 to SecDef	June 24 (IDA report)	Letter - July 8 interim Meeting – July 10 – Chart on IDA results provided	Not timely – no interim or response by suspense.
Chairman - July 2 to SecDef	July 9 (answer 4 questions)	July 9 answered	Timely
July 2 continued	July 14 (records for 14 areas)	July 15 first records July 21 second July 23 third	Considered timely - first response within one day of requests as interims until July 31 final.
Chairman - July 16 to Mr. Wynne	Request lease as soon as possible	July 21	Timely - Within 5 days – available in reading room.
Chairman - July 28 to Mr. Wynne	July 30 - Certify all records were provided	July 31	Timely - Within one day of request.
Chairman - July 29 to Mr. Wynne	Repeat request for Lease Proposal	July 31	Timely - Within two days of request – copy provided
Chairman - August 12 to SecDef	No due date – Make available Dr. Spruill & General Welch (ret), IDA	August 25 –Dr. Spruill met.	Timely - No suspense set.



DoD Interaction with Congress

Were the OSD responses reasonable?

- Generally the responses were reasonable except for:
 - Response to July 2 request could have been improved by:
 - explaining why the documents were provided chronologically or
 - sorting the records by the 14 areas requested.
 - Not providing the responses by areas requested or explaining why not could raise concern on the comprehensiveness of the response.
 - Response to the July 28 letter could have been clearer.
 - The July 31 response that “information relevant to our review” could be interpreted to mean that all records relating to the request of which the Department was aware were not provided.
 - Response could be interpreted as only the records considered relevant by the responder were provided.



DoD Interaction with Congress

Assessment of OSD Responses

- Congressional Budget Office request of May 29 for Institute for Defense Analyses study results. Congressional Budget Office requested a briefing if report results were not published.
 - OUSD(AT&L) tasking suspense was June 25 (OUSD(AT&L) established June 16).
 - Mr. Wynne responded on July 15 that final report not yet available.
 - OUSD(AT&L) response took 47 days from May 29 letter date and 20 days after internal OUSD(AT&L) suspense to reply that the Institute for Defense Analyses report was not yet available.
 - No indication a briefing was provided as requested.



DoD Interaction with Congress

- OSD response to the Chairman's June 20, 2003, request for Institute for Defense Analyses report by June 24.
 - Office of the USD(AT&L) drafted a response dated June 24 and submitted it to Office of General Counsel. Original tasking suspense was June 24, date requested by the Chairman. The draft response would have answered the Chairman's request but was not issued.
 - "Secretary of Defense Correspondence Suspense Requirements," as of January 31, 2001 – "... Unless special instructions for preparation of a faster/later response are indicated, the suspense requirements for final replies are as follows: ...
 - Four (4) workdays ... when correspondence is from a Cabinet Head, Member of Congress, Governor or Senior White House Staff."



DoD Interaction with Congress

- OSD response to the Chairman's June 20, 2003, request for Institute for Defense Analyses report by June 24. (Continued)
 - OSD Deputy General Counsel, Acquisition & Logistics stated it was determined that instead of providing a letter response, a meeting should take place between the Chairman and Mr. Wynne.
 - No interim reply in writing provided within suspense as required when a suspense cannot be met. (Administrative Instruction Number 7, DoD Manual for Written Material, March 1996.)
 - July 8 interim response to June 20 and July 2 letters that documents will be provided expeditiously.
 - The first indication the Institute for Defense Analyses reports were discussed was at a July 10 meeting between the Chairman and Mr. Wynne (July 3 letter from Secretary of Defense to the Chairman, Attachment H). Mr. Wynne provided a chart, which summarizes the Institute for Defense Analyses KC-767 price estimate.
 - An interim reply should have been made within suspense of June 24.



DoD Interaction with Congress

- OSD responses to the Chairman's July 2 request to answer four questions by July 9 and provide records addressing the 14 areas by July 14.
 - OSD answered four questions by requested date (July 9).
 - OSD provided first records on July 15, one day from requested date and all records provided or made available by July 31.
 - However, the response to the request did not identify the records provided to the specific 14 areas. Based on our discussions, the records were provided chronologically because:
 - chronological sequence would best show the process involved in making the decision,
 - the records may overlap several of the areas, and
 - incorrectly identifying records to one of the 14 areas could be considered non-responsive.



DoD Interaction with Congress

- OSD responses to the Chairman's July 2 request to answer four questions by July 9 and provide records addressing the 14 areas by July 14.

(Continued)

- The responses could have explained the reasons the records were not identified to the 14 areas.
- The responses were unclear how the individual records related to specific areas requested, thereby requiring the Senate staff to identify the documents to the requested areas.



DoD Interaction with Congress

Other Issues Related to the Chairman's Requests

- Records identified as Company Proprietary/Negotiation Sensitive were made available in Pentagon Reading Room but not directly provided.
 - Additional time would have been required to submit all company proprietary records to Boeing for release determination and to review all negotiation documents.
- In our opinion, making records available in the reading room was a reasonable accommodation.



DoD Interaction with Congress

- E-mails – the Chairman’s July 28 letter commented that no e-mails had been included in documents provided.
 - Based on our discussions with OSD personnel, the decision to obtain and release e-mails was elevated to Mr. Wynne. He did not obtain and release because:
 - DoD has a long standing practice of not sending pre-decisional information to the Congress and
 - formal records more accurately reflect process.
- In our opinion, the OSD July 31 response to the Chairman’s July 28 request could have explained why e-mails were not included. The most commonly invoked privilege incorporated within Exemption 5, FOIA (FOIA Guide, 2002 Edition: Exemption 5) is the deliberative process privilege, the general purpose of which is to prevent injury to the quality of agency decisions.



DoD Interaction with Congress

Other Interactions

- Mr. Wynne testified before House Armed Services Committee on July 23
 - Questions for Record requested and responses from both USD(AT&L) and Air Force, dated on or before August 14 were timely.
- Air Force Taskings (In addition to information provided through OSD)
 - July 10 Air Force provides “Report to Congressional Defense Committees on KC-767A Air Refueling Aircraft Multi-Year Lease Pilot Program” (required by FY 2002 DoD Appropriations Act - Section 8159).
 - July 11 Air Force provides new start notification (required by Section 133 of FY 2003 Defense Authorization Act).
 - July 15 Tasking from briefing to House Armed Services Committee (responses sent on August 25 – committee staff indicated document could be delayed.)
 - July 18 Tasking from briefing to Senate Armed Services Committee (responses sent on August 25 because Congress was on recess until August 25).
 - Aug 13 Tasking from Senate Commerce, Science and Transportation Committee (response sent August 25).

Responses to committee staff taskings generally appear timely.



Attachment A - Evolution of Assigned Tasking

The following discusses the evolution of tasking by Mr. Michael W. Wynne (USD[AT&L]) to review the DoD decision process concerning the Boeing 767 tanker aircraft lease.

July 2, 2003	The Chairman sent a letter to Secretary of Defense Donald Rumsfeld suggesting that he ask the Inspector General of the Department of Defense to independently review and advise him on whether it is appropriate for the Air Force, the lessee in this agreement, to sign a multiyear/multibillion dollar deal with Boeing while, at the same time, the Air Force and the Justice Department are investigating serious allegations regarding Boeing's government contracting practices.
--------------	---



Attachment A - Evolution of Assigned Tasking

- July 22, 2003 Mr. Wynne sent a memorandum to Mr. Joseph E. Schmitz, Inspector General of the Department of Defense:
- As a result of the Boeing Tanker Lease decision, it is requested that you conduct a review of the process by which DoD achieved the decision.
 - As part of the review, request your assessment of DoD's interaction with Congress following the decision.
- August 4, 2003 Deputy Inspector General for Auditing received tasking to respond to Mr. Wynne's request.



Attachment A - Evolution of Assigned Tasking (continued)

- August 5, 2003 OIG DoD team met with Dr. Robert Buhrkuhl, Deputy Director Acquisition Management, USD(AT&L) to clarify Mr. Wynne's tasking. He requested that the Inspector General:
- Verify the process DoD used to select the multi-year lease option and
 - Assess DoD's interaction with Congress following the decision.
- August 8, 2003 Office of the Deputy Inspector General for Auditing issued announcement memorandum.
- The evaluation objectives were to review the:
 - DoD decision process concerning the Boeing 767 tanker aircraft lease by August 29, 2003, and
 - Acquisition process DoD used to conclude that it should lease the Boeing 767 tanker aircraft to determine whether DoD complied with its process requirements.



Attachment A - Evolution of Assigned Tasking (continued)

August 8, 2003 (continued)

- Announcement letter did not address the congressional interaction assessment.
- Office of the Deputy Inspector General for Inspections and Policy addressed the congressional interaction. The objective was to determine whether DoD's interaction with Congress, following the tanker lease decision on May 23, 2003, was timely and reasonable.

August 12, 2003 OIG DoD team met with Mr. Wynne for a “heading check” to discuss his tasking. During the meeting, Mr. Wynne clarified the evaluation objective, which was re-scoped as follows:

- Review the decision process used by the Air Force and the OSD to lease the Boeing 767 tanker aircraft.



Attachment A - Evolution of Assigned Tasking (continued)

August 12, 2003 (continued)

- Include in the review the acceleration of the Boeing 767 tanker aircraft requirement that was based in part on the escalation of KC-135 aircraft corrosion.
- Office of the Deputy Inspector General for Inspections and Policy's objective remained the same.



Attachment B – Personnel Contacted During Review

- Office of the USD(AT&L)
 - Mr. Michael Wynne, Acting USD(AT&L)
 - Dr. Nancy Spruill, Director, Acquisition Resource and Analysis
 - Mr. Robert Nemetz, Principal Deputy for Acquisition Resource and Analysis
 - Dr. Robert Buhrkuhl, Deputy Director of Acquisition Management
 - Military Deputy for Acquisition Resource and Analysis
 - Program Analysts for Acquisition Resource and Analysis
- Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer
 - Dr. Wayne Schroeder, Deputy USD for Resource Planning/Management
 - Ms. Caral Spangler, Director of Investments



Attachment B – Personnel Contacted During Review (continued)

- Office of the General Counsel, OSD
 - Associate General Counsel (Acquisition and Logistics)

- Office of the Legislative Affairs, OSD
 - Special Assistant for Advanced Development
 - Special Assistant for Weapon System and Acquisition Policy

- Office of the Director, Program Analysis and Evaluation
 - Dr. Jerome E. Pannullo, Director, Economic and Manpower Analysis Division
 - Ms. Kathleen Conley, Division Director
 - Economist/Analysts



Attachment B – Personnel Contacted During Review (continued)

- Office of the Director, Operational Test and Evaluation
 - Staff Specialist for Tactical Air Systems

- Office of the Legislative Liaison, Secretary of the Air Force
 - Chief of Mobility and Special Operations Forces, Weapons Systems Liaison Division

- Office of the Assistant Secretary of the Air Force (Acquisition)
 - Chief, Mobility Division
 - Chief, Tanker Acquisition

- Office of the Assistant Secretary of the Air Force (Financial Management and Comptroller)
 - Major General George Miller (Retired), Advisor
 - Mr. Richard Hartley, Director, Economics and Business Management
 - Economist
 - Financial Analyst



Attachment B – Personnel Contacted During Review (continued)

- Office of the Air Force General Counsel
 - Mr. James Hughes, Deputy General Counsel (Acquisition)
- Air Force Program Executive Office for Strategic Programs
 - Brigadier General Ted F. Bowlds, Program Executive Officer
 - Director, Tanker Programs
 - Deputy Chief, Mobility Division
 - Analyst
- Office of the Deputy Chief of Staff for Air and Space Operations
 - Global Mobility Programmer, Global Mobility Division
- Office of the Deputy Chief of Staff for Plans and Programs
 - Deputy Division Chief, Global Mobility Division and Special Operations Forces Requirements
- Office of the Deputy Chief of Staff for Installations and Logistics
 - Global Mobility Tankers/Special Operations Forces Division



Attachment B – Personnel Contacted During Review (continued)

- KC-767 Tanker System Program Office, Air Force Aviation Systems Command
 - Program Director
 - Deputy Program Director
 - Acquisition Program Manager
 - Chief of Air Vehicle Integrated Product Team
- Air Force Operational Test and Evaluation Command
 - Commander, Detachment 5
- General Accounting Office
 - Assistant Director for Defense Capabilities and Management)
 - Senior Attorney
 - Senior Economist
- U.S. Senate Committee on Commerce, Science, and Transportation
 - Senior Investigative Counsel



Attachment C - FY 2002 National Defense Appropriations Act - Section 8159

PUBLIC LAW 107-117—JAN. 10, 2002

DEPARTMENT OF DEFENSE AND
EMERGENCY SUPPLEMENTAL
APPROPRIATIONS FOR RECOVERY FROM AND
RESPONSE TO TERRORIST ATTACKS ON THE
UNITED STATES ACT, 2002

115 STAT. 2284

PUBLIC LAW 107-117—JAN. 10, 2002

Deadline.
Reports.

(c) Not later than 6 months after enactment of this Act, the Secretary shall report to Congress on safety and security procedures used for U.S. munitions shipments in European NATO countries, and provide recommendations on what procedures or technologies used in those countries should be adopted for shipments in the United States.

SEC. 8158. In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, \$15,000,000, to remain available until September 30, 2002 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of \$15,000,000 to the Citadel for the Padgett Thomas Barracks in Charleston, South Carolina.

10 USC 2401a
note.

SEC. 8159. MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may, from funds provided in this Act or any future appropriations Act, establish and make payments on a multi-year pilot program for leasing general purpose Boeing 767 aircraft and Boeing 737 aircraft in commercial configuration.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease Pilot Program authorized by this section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of 1 year's lease payment under the lease.

(4) Subchapter IV of chapter 15 of title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A-11, as in effect at the time of the lease.

(6) Lease arrangements authorized by this section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

(B) A period of not less than 30 calendar days has elapsed after submitting the report.

(7) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly

Deadline.

Deadline.
Reports.



Attachment C - FY 2002 National Defense Appropriations Act – Section 8159 (continued)

PUBLIC LAW 107-117—JAN. 10, 2002

115 STAT. 2285

thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.

(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

(d) No lease entered into under this authority shall provide for—

(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

(f) The authority provided under this section may be used to lease not more than a total of 100 Boeing 767 aircraft and 4 Boeing 737 aircraft for the purposes specified herein.

SEC. 8160. From within amounts made available in the title II of this Act, under the heading "Operation and Maintenance, Army National Guard", and notwithstanding any other provision of law, \$2,200,000 shall be available only for repairs and safety improvements to the segment of Camp McCain Road which extends from Highway 8 south toward the boundary of Camp McCain, Mississippi and originating intersection of Camp McCain Road; and for repairs and safety improvements to the segment of Greensboro Road which connects the Administration Offices of Camp McCain to the Troutt Rifle Range: *Provided*, That these funds shall remain available until expended: *Provided further*, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings.

SEC. 8161. From funds made available under title II of this Act, the Secretary of the Army may make available a grant of \$2,100,000 to the Chicago Park District for renovation of the Broadway Armory, a former National Guard facility in the Edgewater community in Chicago.

SEC. 8162. SENSE OF CONGRESS CONCERNING THE MILITARY INDUSTRIAL BASE. (a) IN GENERAL.—It is the sense of the Congress that the military aircraft industrial base of the United States be preserved. In order to ensure this we must retain—

(1) adequate competition in the design, engineering, production, sale and support of military aircraft;

115 STAT. 2286

PUBLIC LAW 107-117—JAN. 10, 2002

(2) continued innovation in the development and manufacture of military aircraft;

(3) actual and future capability of more than one aircraft company to design, engineer, produce and support military aircraft.

(b) STUDY OF IMPACT ON THE INDUSTRIAL BASE.—In order to determine the current and future adequacy of the military aircraft industrial base a study shall be conducted. Of the funds made available under the heading "PROCUREMENT, DEFENSE-WIDE" in this Act, up to \$1,500,000 may be made available for a comprehensive analysis of and report on the risks to innovation and cost of limited or no competition in contracting for military aircraft and related weapon systems for the Department of Defense, including the cost of contracting where there is no more than one primary manufacturer with the capacity to bid for and build military aircraft and related weapon systems, the impact of any limited competition in primary contracting on innovation in the design, development, and construction of military aircraft and related weapon systems, the impact of limited competition in primary contracting on the current and future capacity of manufacturers to design, engineer and build military aircraft and weapon systems. The Secretary of Defense shall report to the House and Senate Committees on Appropriations on the design of this analysis, and shall submit a report to these committees no later than 6 months from the date of enactment of this Act.

SEC. 8163. In addition to the amounts appropriated or otherwise made available in this Act, \$5,200,000, to remain available until September 30, 2002, is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of \$5,200,000 to the Armed Forces Retirement Homes.

SEC. 8164. (a) ASSESSMENT REQUIRED.—Not later than March 15, 2002, the Secretary of the Army shall submit to the Committees on Appropriations of the Senate and House of Representatives a report containing an assessment of current risks under, and various alternatives to, the current Army plan for the destruction of chemical weapons.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description and assessment of the current risks in the storage of chemical weapons arising from potential terrorist attacks.

(2) A description and assessment of the current risks in the storage of chemical weapons arising from storage of such weapons after April 2007, the required date for disposal of such weapons as stated in the Chemical Weapons Convention.

(3) A description and assessment of various options for eliminating or reducing the risks described in paragraphs (1) and (2).

(c) CONSIDERATIONS.—In preparing the report, the Secretary shall take into account the plan for the disassembly and neutralization of the agents in chemical weapons as described in Army engineering studies in 1985 and 1986, the 1991 Department of Defense Safety Contingency Plan, and the 1993 findings of the National Academy of Sciences on disassembly and neutralization of chemical weapons.

Reports.
Deadline.

Deadline.
Reports.



Attachment C - FY 2002 National Defense Appropriations Act – Section 8159 (continued)

PUBLIC LAW 107-117—JAN. 10, 2002

115 STAT. 2287

SEC. 8165. Of the amount appropriated by title II for operation and maintenance, Defense-wide, \$47,261,000 may be available for the Defense Leadership and Management Program.

SEC. 8166. SENSE OF THE CONGRESS REGARDING ENVIRONMENTAL CONTAMINATION IN THE PHILIPPINES. It is the sense of the Congress that—

(1) the Secretary of State, in cooperation with the Secretary of Defense, should continue to work with the Government of the Philippines and with appropriate non-governmental organizations in the United States and the Philippines to fully identify and share all relevant information concerning environmental contamination and health effects emanating from former United States military facilities in the Philippines following the departure of the United States military forces from the Philippines in 1992;

(2) the United States and the Government of the Philippines should continue to build upon the agreements outlined in the Joint Statement by the United States and the Republic of the Philippines on a Framework for Bilateral Cooperation in the Environment and Public Health, signed on July 27, 2000; and

(3) Congress should encourage an objective non-governmental study, which would examine environmental contamination and health effects emanating from former United States military facilities in the Philippines, following the departure of United States military forces from the Philippines in 1992.

SEC. 8167. (a) AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

SEC. 8168. In fiscal year 2002, the Department of the Interior National Business Center may continue to enter into grants, cooperative agreements, and other transactions, under the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, and other related legislation.

SEC. 8169. Of the total amount appropriated by this division for "Operation and Maintenance, Defense-Wide", \$3,500,000 may be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-77).

SEC. 8170. Of the total amount appropriated by this division for "Operation and Maintenance, Air National Guard", \$435,000 may be available (subject to section 2805(c) of title 10, United States Code) for the replacement of deteriorating gas lines, mains,

115 STAT. 2288

PUBLIC LAW 107-117—JAN. 10, 2002

valves, and fittings at the Air National Guard facility at Rosecrans Memorial Airport, St. Joseph, Missouri, and (subject to section 2811 of title 10, United States Code) for the repair of the roof of the Aerial Port Facility at that airport.

SEC. 8171. Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in cooperation with the Secretaries of State and Energy, shall submit a report to Congress describing the steps that have been taken to develop cooperative threat reduction programs with India and Pakistan. Such report shall include recommendations for changes in any provision of existing law that is currently an impediment to the full establishment of such programs, a timetable for implementation of such programs, and an estimated 5-year budget that will be required to fully fund such programs.

SEC. 8172. (a) MODIFICATION OF GENERAL REQUIREMENTS.—Section 1078(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106-398; 114 Stat. 1654A-283) is amended—

(1) in paragraph (1), by inserting "or its contractors or subcontractors," after "Department of Defense"; and

(2) in paragraph (3), by striking "stored, assembled, disassembled, or maintained" and inserting "manufactured, assembled, or disassembled".

(b) DETERMINATION OF EXPOSURES AT IAAP.—The Secretary of Defense shall take appropriate actions to determine the nature and extent of the exposure of current and former employees at the Army facility at the Iowa Army Ammunition Plant, including contractor and subcontractor employees at the facility, to radioactive or other hazardous substances at the facility, including possible pathways for the exposure of such employees to such substances.

(c) NOTIFICATION OF EMPLOYEES REGARDING EXPOSURE.—(1) The Secretary shall take appropriate actions to—

(A) identify current and former employees at the facility referred to in subsection (b), including contractor and subcontractor employees at the facility; and

(B) notify such employees of known or possible exposures to radioactive or other hazardous substances at the facility.

(2) Notice under paragraph (1)(B) shall include—

(A) information on the discussion of exposures covered by such notice with health care providers and other appropriate persons who do not hold a security clearance; and

(B) if necessary, appropriate guidance on contacting health care providers and officials involved with cleanup of the facility who hold an appropriate security clearance.

(3) Notice under paragraph (1)(B) shall be by mail or other appropriate means, as determined by the Secretary.

(d) DEADLINE FOR ACTIONS.—The Secretary shall complete the actions required by subsections (b) and (c) not later than 90 days after the date of the enactment of this Act.

(e) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the results of the actions undertaken by the Secretary under this section, including any determinations under subsection (b), the number of workers identified under subsection (c)(1)(A), the content of the notice to such workers under subsection (c)(1)(B), and the status

Deadline.
Reports.

Deadline.



Attachment D - FY 2003 DoD Appropriations Act - Section 8117

PUBLIC LAW 107-248—OCT. 23, 2002

116 STAT. 1519

Public Law 107-248
107th Congress

An Act

Making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

Oct. 23, 2002
[H.R. 5010]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, for military functions administered by the Department of Defense, and for other purposes, namely:

Department of
Defense
Appropriations
Act, 2003.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$26,855,017,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$21,927,628,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except

116 STAT. 1564

PUBLIC LAW 107-248—OCT. 23, 2002

SEC. 8112. The amount appropriated in title II of this Act is hereby reduced by \$120,000,000, to reflect Working Capital Fund cash balance and rate stabilization adjustments, to be derived as follows:

“Operation and Maintenance, Navy”, \$120,000,000.

SEC. 8113. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$48,000,000, to reduce excess funded carryover, to be derived as follows:

“Operation and Maintenance, Army”, \$48,000,000.

SEC. 8114. Of the amounts appropriated in title II of this Act, not less than \$1,000,000,000 is available for operations of the Department of Defense to prosecute the war on terrorism.

SEC. 8115. (a) In addition to the amounts provided elsewhere in this Act, the amount of \$3,400,000 is hereby appropriated to the Department of Defense for “Operation and Maintenance, Army National Guard”. Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of \$3,400,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

SEC. 8116. (a) During the current fiscal year, funds available to the Secretary of a military department for Operation and Maintenance may be used for the purposes stated in subsection (b) to support chaplain-led programs to assist members of the Armed Forces and their immediate family members in building and maintaining a strong family structure.

(b) The purposes referred to in subsection (a) are costs of transportation, food, lodging, supplies, fees, and training materials for members of the Armed Forces and their family members while participating in such programs, including participation at retreats and conferences.

SEC. 8117. Section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107-117; 115 Stat. 2284), is revised as follows:

(1) in subsection (c) by inserting at the end of paragraph (1) the following new sentence: “Notwithstanding the provisions of Section 3324 of Title 31, United States Code, payment for the acquisition of leasehold interests under this section may be made for each annual term up to one year in advance.”.

(2) by adding the following paragraph (g):

“(g) Notwithstanding any other provision of law, any payments required for a lease entered into under this Section, or any payments made pursuant to subsection (c)(3) above, may be made from appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the lease takes effect; appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the payment is due; or funds appropriated for those payments.”.

10 USC 2401a
note.



Attachment E - FY 2003 National Defense Authorization Act – Section 133

PUBLIC LAW 107–314—DEC. 2, 2002

BOB STUMP NATIONAL DEFENSE
AUTHORIZATION ACT FOR FISCAL YEAR 2003

STAT. 2460

PUBLIC LAW 107–314—DEC. 2, 2002

Subtitle B—Army Programs

- Sec. 111. Pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.
- Sec. 112. Report on impact of Army aviation modernization plan on the Army National Guard.
- Sec. 113. Family of Medium Tactical Vehicles.

Subtitle C—Navy Programs

- Sec. 121. Extension of multiyear procurement authority for DDG–51 class destroyers.
- Sec. 122. Sense of Congress on scope of conversion program for Ticonderoga-class cruisers.
- Sec. 123. Continuation of contract for operation of Champion-class T–5 fuel tanker vessels.

Subtitle D—Air Force Programs

- Sec. 131. Multiyear procurement authority for C–130J aircraft program.
- Sec. 132. Pathfinder programs.
- Sec. 133. Leases for tanker aircraft under multiyear aircraft-lease pilot program.

Subtitle E—Other Programs

- Sec. 141. Destruction of existing stockpile of lethal chemical agents and munitions.
- Sec. 142. Report on unmanned aerial vehicle systems.
- Sec. 143. Global Information Grid system.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

- Sec. 201. Authorization of appropriations.
- Sec. 202. Amount for defense science and technology.
- Sec. 203. Defense health programs.

Subtitle B—Program Requirements, Restrictions, and Limitations

- Sec. 211. RAH–66 Comanche aircraft program.
- Sec. 212. Extension of requirements relating to management responsibility for naval mine countermeasures programs.
- Sec. 213. Revised requirements for plan for Manufacturing Technology Program.
- Sec. 214. Advanced SRAL Delivery System.
- Sec. 215. Army experimentation program regarding design of the objective force.
- Sec. 216. Program to provide Army with self-propelled Future Combat Systems non-line-of-sight cannon indirect fire capability for the objective force.
- Sec. 217. Prohibition on transfer of Medical Free Electron Laser program.
- Sec. 218. Littoral combat ship program.

Subtitle C—Ballistic Missile Defense

- Sec. 221. Report requirements relating to ballistic missile defense programs.
- Sec. 222. Responsibility of Missile Defense Agency for research, development, test, and evaluation related to system improvements of programs transferred to military departments.
- Sec. 223. Limitation on obligation of funds for Theater High Altitude Area Defense Program pending submission of required life-cycle cost information.
- Sec. 224. Provision of information on flight testing of Ground-based Midcourse National Missile Defense system.
- Sec. 225. References to new name for Ballistic Missile Defense Organization.
- Sec. 226. One-year limitation on use of funds for nuclear armed interceptors.

Subtitle D—Improved Management of Department of Defense Test and Evaluation Facilities

- Sec. 231. Department of Defense Test Resource Management Center.
- Sec. 232. Objective for institutional funding of test and evaluation facilities.
- Sec. 233. Uniform financial management system for Department of Defense test and evaluation facilities.
- Sec. 234. Test and evaluation workforce improvements.
- Sec. 235. Compliance with testing requirements.

Subtitle E—Other Matters

- Sec. 241. Pilot programs for revitalizing Department of Defense laboratories.
- Sec. 242. Technology Transition Initiative.



Attachment E - FY 2003 National Defense Authorization Act – Section 133 (continued)

116 STAT. 2472

PUBLIC LAW 107-314—DEC. 2, 2002

Sec. 113. Family of Medium Tactical Vehicles.

Subtitle C—Navy Programs

Sec. 121. Extension of multiyear procurement authority for DDG-51 class destroyers.

Sec. 122. Sense of Congress on scope of conversion program for Ticonderoga-class cruisers.

Sec. 123. Continuation of contract for operation of Champion-class T-5 fuel tanker vessels.

Subtitle D—Air Force Programs

Sec. 131. Multiyear procurement authority for C-130J aircraft program.

Sec. 132. Pathfinder programs.

Sec. 133. Leases for tanker aircraft under multiyear aircraft-lease pilot program.

Subtitle E—Other Programs

Sec. 141. Destruction of existing stockpile of lethal chemical agents and munitions.

Sec. 142. Report on unmanned aerial vehicle systems.

Sec. 143. Global Information Grid system.

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Army as follows:

(1) For aircraft, \$2,186,296,000.

(2) For missiles, \$1,152,299,000.

(3) For weapons and tracked combat vehicles, \$2,276,751,000.

(4) For ammunition, \$1,229,533,000.

(5) For other procurement, \$5,857,814,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Navy as follows:

(1) For aircraft, \$8,979,275,000.

(2) For weapons, including missiles and torpedoes, \$2,375,349,000.

(3) For shipbuilding and conversion, \$9,111,023,000.

(4) For other procurement, \$4,494,754,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Marine Corps in the amount of \$1,355,491,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement of ammunition for the Navy and the Marine Corps in the amount of \$1,170,750,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Air Force as follows:

(1) For aircraft, \$12,676,505,000.

(2) For missiles, \$3,504,139,000.

(3) For ammunition, \$1,290,764,000.

(4) For other procurement, \$10,846,048,000.

PUBLIC LAW 107-314—DEC. 2, 2002

116 STAT. 2477

SEC. 133. LEASES FOR TANKER AIRCRAFT UNDER MULTIYEAR AIRCRAFT-LEASE PILOT PROGRAM.

10 USC 2401a note.

The Secretary of the Air Force may not enter into a lease for the acquisition of tanker aircraft for the Air Force under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107-117; 115 Stat. 2284; 10 U.S.C. 2401a note) until—

(1) the Secretary submits the report specified in subsection (c)(6) of such section; and

(2) either—

(A) authorization and appropriation of funds necessary to enter into such lease are provided by law; or

(B) a new start reprogramming notification for the funds necessary to enter into such lease has been submitted in accordance with established procedures.

Subtitle E—Other Programs

SEC. 141. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

50 USC 1521a.

(a) PROGRAM MANAGEMENT.—The Secretary of Defense shall ensure that the program for destruction of the United States stockpile of lethal chemical agents and munitions is managed as a major defense acquisition program (as defined in section 2430 of title 10, United States Code) in accordance with the essential elements of such programs as may be determined by the Secretary.

(b) REQUIREMENT FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER) ANNUAL CERTIFICATION.—Beginning with respect to the budget request for fiscal year 2004, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees on an annual basis a certification that the budget request for the chemical agents and munitions destruction program has been submitted in accordance with the requirements of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

SEC. 142. REPORT ON UNMANNED AERIAL VEHICLE SYSTEMS.

(a) REPORT.—Not later than January 1, 2003, the Secretary of Defense shall submit to Congress a report on unmanned aerial vehicle systems of the Department of Defense.

(b) MATTERS TO BE INCLUDED CONCERNING UNMANNED AERIAL VEHICLE SYSTEMS.—The Secretary shall include in the report under subsection (a) the following, shown for each system referred to in that subsection:

(1) A description of the infrastructure that the Department of Defense has (or is planning) for the system.

(2) A description of the operational requirements document (ORD) for the system.

(3) A description of the physical infrastructure of the Department for training and basing.

(4) A description of the manner in which the Department is interfacing with the industrial base.

(5) A description of the acquisition plan for the system.

(6) A description of the process by which the Department will ensure that any unmanned aerial vehicle program proceeding past the science and technology stage does so only

Deadline.

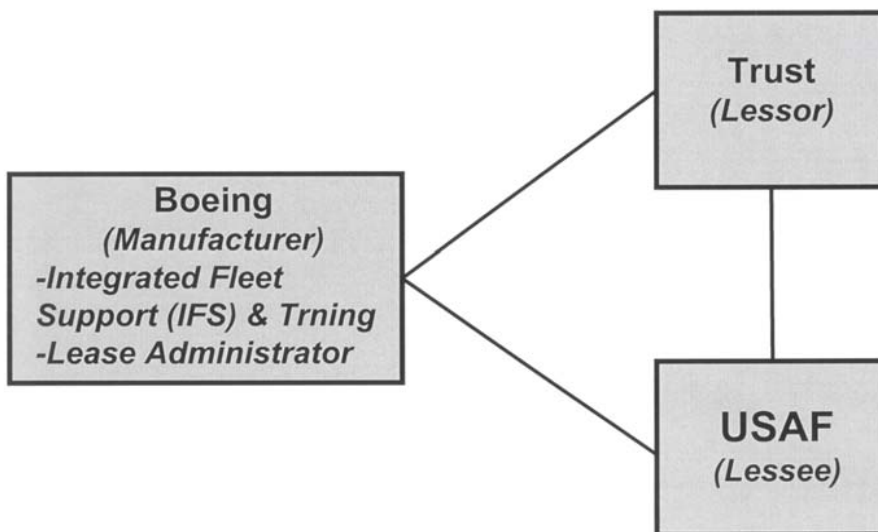


Attachment F – Trust Business Relationship and Financing



U.S. AIR FORCE

Business Relationship



Integrity - Service - Excellence

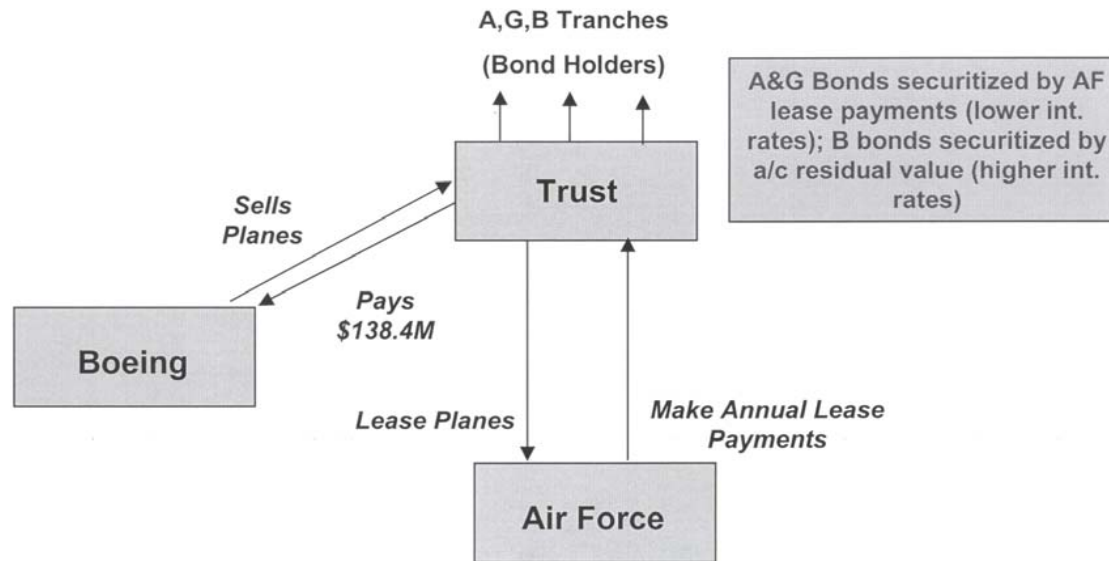


Attachment F – Trust Business Relationship and Financing (continued)



U.S. AIR FORCE

Aircraft Price/Financing



Integrity - Service - Excellence

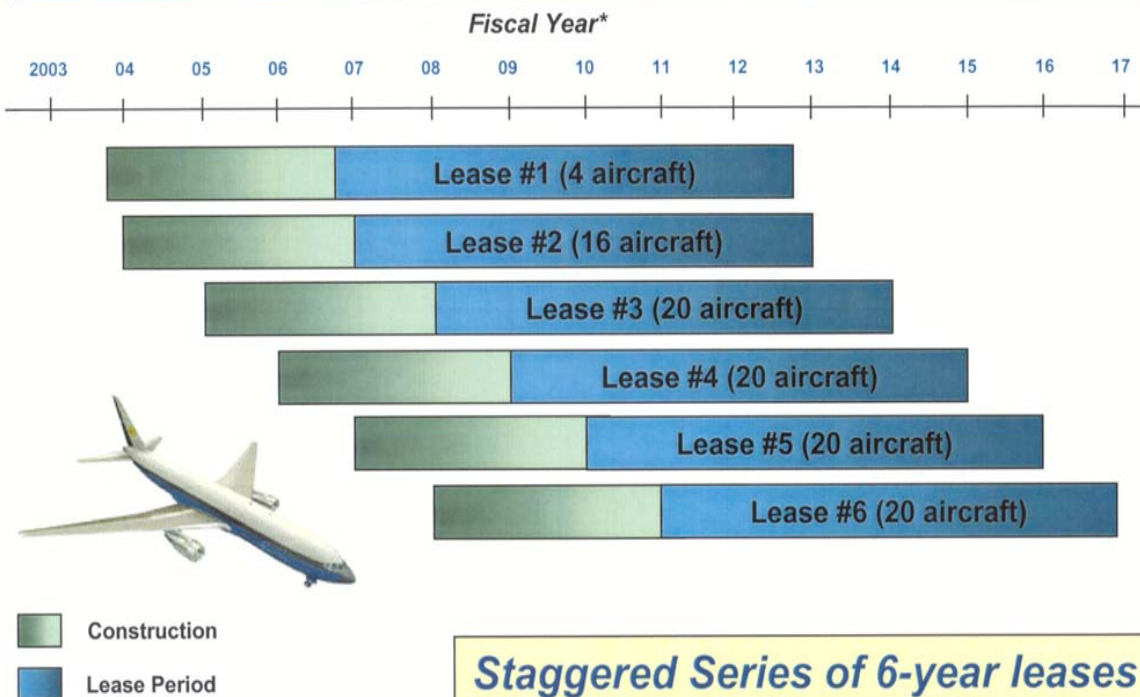


Attachment G – Lease Timeline



U.S. AIR FORCE

Lease Timeline



* Timeline reflects 1st aircraft delivered in each lot

***Staggered Series of 6-year leases
Spreads costs***

Integrity - Service - Excellence



Attachment H – Chronology of Requests and Responses to Senator John McCain, Chairman, Committee on Commerce, Science, and Transportation

- June 20 2003 The Chairman requests all Institute for Defense Analyses reports by June 24
No response by June 24 (Response drafted not sent)
- July 2 The Chairman requests answer to 4 questions and records for 14 areas including the second request for Institute for Defense Analyses reports.
Requested response by July 7 and documents by July 14.
- July 3 Secretary of Defense responds that Mr. Wynne will contact the Chairman to ensure members of Congress have as much information as DoD is able to provide.
- July 8 Mr. Wynne responded to the June 20 and the July 2 letters - will provide all appropriate information in the most expeditious manner- 4 questions by July 9; longer to address the 14 areas.
- July 9 Mr. Wynne answered the four questions and stated that a response to the Chairman's request for records is still being worked.



Attachment H – Chronology of Requests and Responses to Senator John McCain, Chairman, Committee on Commerce, Science, and Transportation (continued)

- July 10 Mr. Wynne met with the Chairman and provided written response dated July 9 to 4 questions and one chart (KC-767 Price Estimate update). Explained the process on lease decision. Mentioned that Institute for Defense Analyses report would be finalized by the end of the month.
- July 15 Mr. Wynne provided* 66 records in response to the July 2 request and indicated more would be provided to answer the 14 areas.
- July 16 The Chairman requests copy of the lease.
- July 21 Mr. Wynne responded to July 16 letter, provided additional documents including redacted version of Institute for Defense Analyses report; and notified the Chairman that the unredacted version of the Institute for Defense Analyses reports and classified documents were in reading room.

* Provided is defined as – a copy provided or made available in reading room.



Attachment H – Chronology of Requests and Responses to Senator John McCain, Chairman, Committee on Commerce, Science, and Transportation (continued)

- July 23 Mr. Wynne provided 24 additional records in response to the July 2 request.
- July 28 The Chairman asked for confirmation that all documents were provided.
- July 29 The Chairman requested proposed lease contract.
- July 30 Mr. Wynne provided 3 records in response to the July 2 request.
- July 31 Mr. Wynne provided additional records with a Master List of 215 records including the previously provided records.
- July 31 Mr. Wynne provided a copy of draft leasing agreement after obtaining Boeing's authorization to release.
- Aug 12 The Chairman requested Secretary of Defense to make Dr. Spruill and General Welch (ret), President and CEO, Institute for Defense Analyses, available for interviews with Senate staff.
- Aug 25 Dr. Spruill met with Senate staff.



Attachment I – Acronyms

IDA	Institute for Defense Analyses
OIG DoD	Office of the Inspector General of the Department of Defense
OSD	Office of the Secretary of Defense
PA&E	Program Analysis and Evaluation
SecDef	Secretary of Defense
USD([C]/CFO)	Under Secretary of Defense ([Comptroller]/Chief Financial Officer)
USD(AT&L)	Under Secretary of Defense (Acquisition, Technology, and Logistics)