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July 1, 2008

The Honorable Carl Levin  
Chairman  
The Honorable John McCain  
Ranking Member  
Committee on Armed Services  
United States Senate

The Honorable Ike Skelton  
Chairman  
The Honorable Duncan L. Hunter  
Ranking Member  
Committee on Armed Services  
House of Representatives

*Subject: Depot Maintenance: DOD's Report to Congress on Its Public-Private Partnerships at Its Centers of Industrial and Technical Excellence (CITEs) Is Not Complete and Additional Information Would Be Useful*

For several years, the Department of Defense (DOD) and Congress have encouraged the defense logistics support community to pursue partnerships with the private sector to combine the best commercial processes and practices with DOD's extensive maintenance capabilities. These public-private partnerships can combine the resources, risks, and rewards of public agencies and private companies and are intended to provide greater efficiency, better access to capital, and improved compliance with a range of government regulations. Although DOD has collected information on depot-level partnering arrangements for several years, DOD first issued a policy encouraging the use of public-private depot maintenance partnerships to improve the efficiency and viability of its depots in January 2002. DOD expects these improvements to depot operations to ultimately improve support for the warfighter.

Public-private partnerships for depot-level maintenance are cooperative arrangements between a depot-level maintenance activity and one or more private sector entities to perform DOD or defense-related work, to utilize DOD depot facilities and equipment, or both. Other government organizations, such as program offices, inventory control points, and materiel/systems/logistics commands, may also be parties to such agreements. Pursuant to Section 2474 of Title 10, United States Code, the secretaries of the military departments (and the Secretary of Defense in the

# Report Documentation Page

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case of defense agencies) designated their depot-level maintenance activities (other than facilities approved for closure or major realignment under the Defense Base Closure and Realignment Act of 1990) as Centers of Industrial and Technical Excellence (CITE) in their core competencies. Section 2474 states that the secretary concerned may authorize and encourage the head of a CITE to enter into public-private partnerships comprising of government and private sector employees to perform work related to the CITE's core competencies. The statute also permits private industry to use underutilized or unutilized facilities and equipment at the CITEs.

House Conference Report 110-477 accompanying H.R. 1585 directed DOD to submit a report to the House and Senate Armed Services Committees (hereafter referred to as, "the committees") on the public-private partnerships at its CITEs that describes the following six reporting elements: (1) common approaches and procedures for DOD CITEs to use in the implementation of partnerships; (2) consistent cost methodologies and reimbursement guidance applicable to maintenance and repair workload performed by federal personnel participating in public-private partnerships; (3) implementation procedures for completing contract negotiation for partnerships within 12 months of initiating negotiations; (4) the secretary's use of commercial practices in partnerships to replace existing inventory and component management, technical publication data, document management, equipment maintenance, and calibration requirements; (5) delegation during a partnership of Class 2 design authority<sup>1</sup> based on commercial practices to maintain the form, fit, and function of a weapons system platform, major end item, component of a major end item, or article; and (6) plans to expand core capabilities through the use of partnerships at DOD CITEs. In its report accompanying H.R. 1585,<sup>2</sup> the House Armed Services Committee explained that it was concerned that DOD CITEs are not using consistent approaches for public-private partnerships, and that it understood that a lack of uniform standards had created an environment where these partnerships take from 2 to 4 years to implement. The committee believed that without a standard approach for the military departments, the CITEs would not be able to adopt best business practices, maintain core competency requirements, maximize existing facility capacity, decrease the cost of services and products, or lower the cost of maintaining the logistics infrastructure. The conference report also directed that we review DOD's report for completeness. We agreed with committee officials to submit our report on July 1, 2008.<sup>3</sup> To assess the completeness of DOD's report, we determined (1) whether DOD's report described each of the six reporting elements as directed by the conference report and (2) for the reporting elements that were described, whether DOD could have included additional information in its report that would have made it more useful to the committees and other interested parties.

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<sup>1</sup> A Class 2 design change is a change in a project or system that does not affect safety or change the form, fit, or function of the weapon system, end item, component, or article to which it applies.

<sup>2</sup> H.R. Rep. No. 110-146, pg. 313 (2007).

<sup>3</sup> H.R. Conf. Rep. 110-477 directed that DOD submit its report by March 1, 2008, and that GAO submit its review of the report by May 1, 2008. However, because DOD's report was submitted 60 days after the deadline on April 30, 2008, the committee agreed that we would submit our report on July 1, 2008.

## Scope and Methodology

To determine if DOD's report to the committees on its public-private partnerships at its CITEs was complete, we reviewed each of the six elements contained in the conference report and examined whether DOD's report described these six elements as directed. We also reviewed the policies, guidance, and regulations that DOD and the services have developed for establishing, implementing, and managing public-private partnerships. We compared and analyzed the content of DOD's report with the data submitted by each of the military services to DOD that address the four of the six reporting elements in the conference report. DOD did not ask the military services to provide data on two of the reporting elements. We also interviewed appropriate DOD and service officials to understand and document the extent to which DOD has adequately reported on the six reporting elements. During this audit engagement, we met with officials from the Office of the Assistant Deputy Under Secretary of Defense for Maintenance Policy and Programs, Washington D.C.; the Army Materiel Command, Fort Belvoir, Virginia; the Tank and Automotive Command, Warren, Michigan, and Rock Island, Illinois; the Anniston Army Depot, Anniston, Alabama; and the Department of the Air Force, Washington, D.C.

To determine whether there was additional information available to DOD that would have made DOD's report more useful to the committees and other interested parties, we examined DOD's public-private partnership reports for fiscal year 2005<sup>4</sup> and fiscal year 2006<sup>5</sup> to obtain a complete listing of all DOD partnerships and other relevant information. We also obtained a copy of DOD's public-private partnership database, which is managed by the Joint Depot Maintenance Activities Group located at Wright Patterson Air Force Base, Ohio, and queried the database to identify the benefits derived from each of DOD's public-private partnerships. In addition, we reviewed an April 2003 GAO report on DOD partnerships that recommended that DOD establish overarching goals for expected outcomes from its partnering initiatives, refine current metrics for measuring partnership benefits, and require specific assessment and planning for new capability where partnerships are expected for new systems.<sup>6</sup> Further, we reviewed a February 2008 Army Audit Agency report that examined the benefits of public-private partnerships within the Army.<sup>7</sup> We also met with officials from the Joint Depot Maintenance Activities Group located at Wright Patterson Air Force Base, Ohio, and officials from the Army Audit Agency, located at Redstone Arsenal, Alabama.

We conducted this performance audit from May 2008 through July 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit

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<sup>4</sup>Office of the Secretary of Defense, *Public-Private Partnerships for Depot-Level Maintenance Through the End of Fiscal Year 2005* (Washington, D.C.: Apr. 2006).

<sup>5</sup>Office of the Secretary of Defense, *Public-Private Partnerships for Depot-Level Maintenance Through the End of Fiscal Year 2006* (Washington, D.C.: July 2007).

<sup>6</sup>GAO, *Depot Maintenance: Public-Private Partnerships Have Increased, but Long-Term Growth and Results Are Uncertain*, [GAO-03-423](#) (Washington, D.C.: Apr. 10, 2003).

<sup>7</sup>Army Audit Agency, *Benefits of Public-Private Partnerships*, A-2008-0058-ALM (Alexandria, Va.: Feb. 7, 2008).

objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **Results in Brief**

DOD's report on public-private partnerships at DOD's CITEs provided responses to all six reporting elements; however, it did not directly describe reporting element three, and did not describe reporting element six, as directed by H.R. Conf. Rep. 110-477. Specifically, DOD did not directly describe the implementation procedures for completing contract negotiations for public-private partnerships within 12 months of initiating negotiations, nor did it describe its plans to expand core capabilities through the use of public-private partnerships at DOD CITEs. Although DOD did not provide a description of the implementation procedures for completing contract negotiations for public-private partnerships within 12 months of initiating negotiations, it provided an explanation of why imposing such a time frame on contract negotiations would have an adverse impact on creating new partnerships. While we believe this explanation is useful, DOD could have provided examples in its report to the committees to support its conclusion that imposing a 12-month time frame on contract negotiations would have an adverse impact on its partnerships. For example, DOD could have included case studies illustrating the factors that can increase the duration and complexity of partnership negotiations, and quantitative information showing how long contract negotiations take involving public-private partnerships at DOD's depot maintenance activities. Additionally, while we believe DOD's description of "core capability" and how core capabilities are managed and fostered at DOD's depot maintenance activities provides useful information, DOD did not describe its plans to expand core capabilities through the use of public-private partnerships. According to DOD officials, they could not describe the plans to expand core capabilities through the use of public-private partnerships because they had no plans to implement such an initiative. However, DOD does not explicitly state in its report to the committees that it has no plans to expand its core capabilities through the use of partnerships.

Although DOD provided responses for all six reporting elements, based on our review of DOD's report we concluded that DOD could have provided additional information to the committees and other interested parties for two of these reporting elements. For example:

- For reporting element four—describe the commercial practices to replace existing inventory and component management, technical publication data, document management, and equipment maintenance and calibration requirements for public-private partnerships—DOD's report to the committees could have included a more clear and descriptive explanation regarding the methodology used for selecting public-private partnerships identified in the appendix of the report. This appendix was included in DOD's report in order to identify specific public-private partnerships that employ these commercial practices. However, we found that the methodology used by DOD in developing this appendix was inconsistent. For example, although DOD planned to include only partnerships related to one of the four benefits attributed to partnering—improved business processes or updated

technology—we found that this was not the case.<sup>8</sup> In fact, many of the partnerships included in its appendix were related to two other benefits—product support or performance improvement and an identifiable increase in facility utilization—rather than improved business processes or updated technology, as DOD intended. We believe this additional information could have provided the committees with a better understanding of the commercial practices used in DOD public-private partnerships to improve the efficiency and effectiveness of the depots' operations and the related benefits of those partnerships.

- For reporting element one—describe common approaches and procedures for implementing partnerships—DOD's report to the committees could have disclosed the fact that the Army has not yet implemented DOD's policy requiring each of the services to conduct a business case analysis prior to entering into partnership arrangements to ensure that the partnership is in the best interest of the government, and could have described the Army's plans to do so. Additionally, DOD's report could have included a description of the various authorities, regulations, and other methods used to establish public-private partnerships, the various types of partnerships, and the benefits of public-private partnerships. This information is included in the annual internal report on public-private partnerships of the Office of the Deputy Under Secretary of Defense for Logistics and Material Readiness, which was not referenced in DOD's report to the committees. DOD uses this internal report to help track the progress of its public-private partnerships on an individual basis. It does not, however, have overarching goals and measures to assess the overall effectiveness of its partnerships—a key component in strategic planning. In our April 2003 report, we recommended that DOD establish baseline data and measurable goals to assess the collective effects of its public-private partnerships on depot operations, and develop or refine its metrics for measuring partnership benefits.<sup>9</sup> However, because DOD disagreed with our recommendations, we brought this issue to the attention of Congress.

We continue to believe that our former matter for congressional consideration—that Congress consider requiring DOD to develop measurable goals for improving the future operations of its depot maintenance activities and assess how public-private partnerships at DOD CITEs are helping to meet those goals—is still valid and would help DOD and the committees to determine the relative impact of partnerships on depot operations and efficiency. In addition, we believe Congress should consider having DOD provide the committees with information on the timing and challenges in implementing these partnerships and its ongoing and planned use of public-private partnerships to sustain elements of its core capabilities.

In oral comments on a draft of this report, DOD officials acknowledged that they could have provided a more comprehensive detailed description of the factors

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<sup>8</sup>The four categories of benefits attributed to partnering are explicit product support and performance improvement, improved business practices or updated technology, identifiable cost avoidance, and identifiable increase in facility utilization.

<sup>9</sup>[GAO-03-423](#).

involved in expanding and sustaining core capabilities at its CITEs. However, the officials felt that they adequately responded to reporting element three, explaining that to require a partnership agreement to be completed within 12 months would have an adverse impact on creating new partnering alliances and would be especially detrimental for efforts to create more complex partnering agreements. While we understand DOD's position, we believe that DOD could have provided additional data to support the variance in the time needed and the specific steps required to complete contract negotiations for public-private partnerships. With regard to asking the committees to reconsider our earlier matter to have DOD establish overarching goals and measures for assessing its partnerships, DOD officials reiterated DOD's position stating that it assesses its partnerships individually based on their stated goals and that to assess the effects at a DOD-wide level would have little meaning. Given that an assessment at the DOD-wide level is in concert with key strategic planning guidance, we continue to believe our matter to Congress is still valid. DOD's comments are discussed in more detail at the end of this report. DOD also provided technical comments and we have incorporated them where appropriate.

## **Background**

DOD must operate its logistics activities within the framework of various legislative provisions and regulatory requirements. Various legislative provisions govern the size, composition, and allocation of depot repair workloads between the public and private sectors. For example, pursuant to Section 2466 of Title 10, not more than 50 percent of the funds made available for depot-level maintenance and repair can be used to contract for performance by nonfederal government personnel. Other statutes that affect the extent to which depot-level workloads can be converted to private sector performance include (1) Section 2469 of Title 10, which provides that the Secretary of Defense ensure that DOD-performed depot maintenance and repair workloads valued at not less than \$3 million not be changed to contractor performance without using merit-based selection procedures for competitions among all depot-level activities or competitive procedures for competitions among private and public sector entities,<sup>10</sup> and (2) Section 2464 of Title 10, which provides, in part, that it is essential for the national defense that DOD maintain a government-owned, government-operated logistics capability to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency, and other emergency requirements.

For many years, Congress and various administrations have debated the issue of who should perform depot work and where it should be performed. Central to this debate has been the interplay between DOD's efforts to rely more on the private sector for depot maintenance and these Title 10 provisions. The public-private partnership concept for improving government operations provides a cooperative approach to resolving this debate. Historically, DOD has used public-private partnering arrangements for depot maintenance, such as work-share agreements and facility-use partnerships, under various legal authorities—although these arrangements generally

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<sup>10</sup>Section 2469(c) of Title 10 provides that these requirements may be waived in the case of a depot-level maintenance and repair workload that is performed at a CITE by a public-private partnership entered into under Section 2474 of Title 10 consisting of a depot-level activity and a private entity.

were not referred to as partnerships. Based on requirements in Section 2474 of Title 10, DOD's goals for partnering with the private sector are to (1) help sustain elements of core depot maintenance capabilities, (2) increase utilization of public facilities, and (3) leverage private sector investment in these military facilities. The objectives of public-private partnerships under Section 2474 are to (1) maximize capacity use at depots, (2) reduce or eliminate the depots' ownership costs in areas such as operations and maintenance and environmental remediation, (3) reduce the cost of products made or maintained at depots, (4) leverage private-sector investments in plant and equipment and promote commercial business ventures at depots, and (5) foster cooperation between the military and private industry.

### Prior GAO Work on DOD Public-Private Partnerships

In April 2003, we reviewed DOD's public-private partnerships to assess the extent that DOD is participating in these partnerships, the characteristics needed to achieve effective partnerships, and DOD's ability to measure success and the management challenges. We concluded that DOD had limited ability to measure overall success of the partnerships. Consequently, we recommended that DOD establish overarching goals for expected outcomes from its partnering initiative, refine current metrics for measuring partnership benefits, and require specific assessment and planning for new capability where partnerships are expected for new systems. DOD partially concurred with these recommendations, stating that our recommendations were not actionable as a practical matter. We disagreed, stating that we believe a key element needed for the department to achieve its objective of more effective military depot maintenance operations through public-private partnerships is the ability to measure and assess the contribution of partnerships to meeting that objective. Consequently, in the report we included a matter for congressional consideration that Congress consider requiring DOD to develop measurable goals for improving the future operations of its depot operations at its CITEs and periodically assess and report on its progress on these goals. To date Congress has not taken any action on this matter.

### **DOD's Public-Private Partnership Report to the Committees Does Not Describe Two of the Reporting Elements**

DOD's report to the committees on public-private partnerships at its CITEs provided responses to all six reporting elements; however, it did not directly describe reporting element three, and did not describe reporting element six, as directed by H.R. Conf. Rep. 110-477. Specifically, DOD did not directly describe the implementation procedures for completing contract negotiations for public-private partnerships within 12 months of initiating negotiations; nor did DOD describe its plans to expand core capabilities through the use of public-private partnerships at DOD CITEs. In our review of DOD's data call provided to the military services requesting input addressing the key elements of the conference report, we found that DOD elected not to ask the military services to provide data or comments on these two reporting elements.

## Implementation Procedures for Completing Contract Negotiations within 12 Months Were Not Included in DOD's Report to the Committees

DOD did not directly describe the implementation procedures for completing contract negotiations for public-private partnerships within 12 months of initiating negotiations as directed by the conference report for reporting element three. Instead, DOD's report stated that imposing a requirement that all negotiations for potential depot maintenance public-private partnerships must be completed within a specified period of time, such as 12 months, would have an adverse impact on creating new partnership alliances. According to DOD's report, the Office of the Secretary of Defense, and service-level and depot-level officials, contract negotiations involving public-private partnerships can be very complex and can vary depending on the number of parties involved in the negotiations, the type of partnering arrangements, and whether the two parties have previously partnered together. While we believe this explanation is useful, DOD could have provided additional information to the committees and other interested parties to support its conclusion that imposing a 12-month time frame on contract negotiations would have an adverse impact on its partnerships. For example, DOD could have provided case studies illustrating the factors that can increase the duration and complexity of partnership negotiations, and quantitative information showing how long contract negotiations take involving public-private partnerships at DOD's depot maintenance activities. These case studies could have included a description of the step-by-step procedures taken by DOD and private sector companies, and a description of the various factors involved with the completion of the partnership negotiations. For example, during our visit to Anniston Army Depot, officials provided us with a detailed diagram that included the step-by-step process followed before a contract is signed. In addition, after reviewing previously signed contracts, these officials were able to provide us with the dates negotiations began and when the corresponding contracts were signed, which provided us with a frame of reference regarding how long it took to finalize various contract negotiations associated with six of its partnership efforts. Based on our analysis of the limited data provided, the time required to complete contract negotiations for the public-private partnerships at Anniston Army Depot varied from a few days to a maximum of 2 years. Quantitative information of this type, which was not included in DOD's report, could have provided the committees with more insight into how long contract negotiations involving public-private partnerships at DOD's CITEs take and could have provided stronger support for DOD's position that the duration of partnership negotiations should not be limited to a specified period of time.

## DOD's Plans to Expand Core Capabilities Were Not Included in DOD's Report to the Committees

DOD did not describe its plans to expand core capabilities through the use of public-private partnerships as directed by the conference report for reporting element six. Instead, DOD provided a brief overview of the definition of a "core capability" and how core capabilities are managed and fostered at DOD's depots. DOD also outlined some of the circumstances that may initiate a partnership between DOD and private sector companies, such as the requirement for additions or revisions to capabilities at particular CITEs to reflect changes in technology or force structure. While we believe

DOD's description of core capability and how core capabilities are managed and fostered at DOD's depot maintenance activities was useful information, DOD did not describe plans to expand core capabilities through the use of public-private partnerships. According to DOD officials, they did not describe the plans to expand core capabilities through the use of public-private partnerships because they had no plans to implement such an initiative. DOD and service officials told us that partnerships are used to help sustain elements of a depot's core capability, and that core capabilities, by definition, are government-owned and government-operated (involving government personnel and government-owned and government-operated equipment and facilities). Thus, according to the officials, simply increasing the number of public-private partnerships would not automatically expand core capabilities at its CITEs, but rather increase the level of production at the CITEs. In addition, according to DOD officials, there are other factors involved in increasing a CITE's core capabilities that must be considered and are beyond the control of partnerships. These factors involve complex workload requirements, the capacity of a CITE to perform work related to its core capabilities, and the current skills and capabilities of the CITE's workforce. According to DOD officials, without a careful consideration of these factors, increasing a CITE's core capabilities would not be possible. However, DOD's report does not provide support for its position nor does it provide a detailed description of the factors related to expanding DOD's core capabilities. Including such a description in DOD's report to the committees could have provided additional information helpful to Congress in gaining an understanding of DOD's position with respect to the feasibility of utilizing partnerships in order to expand a CITE's core capabilities.

### **DOD's Public-Private Partnerships Report to the Committees Lacks Additional Information That Could Have Made It More Useful**

Although DOD provided responses for all six reporting elements as directed by the conference report, based on our assessment of DOD's report to the committees we concluded that DOD could have also provided additional information for two of the reporting elements in order to provide the committees with a more useful report. Specifically, DOD's report to the committees could have provided more detailed information for (1) reporting element four, the use in a public-private partnership of commercial practices to replace existing inventory and component management, technical publication data, document management, and equipment maintenance and calibration requirements, and (2) reporting element one, the common approaches and procedures for implementing public-private partnerships at DOD CITEs. On the basis of our work, we did not identify additional information that would have been helpful with regard to (1) reporting element two, consistent cost methodologies and reimbursement guidance applicable to the maintenance and repair workload performed by federal government personnel participating in public-private partnerships, and (2) reporting element five, delegation during public-private partnerships of Class 2 design authority based on commercial practices to maintain the form, fit, and function of a weapon system platform, major end item, component of a major end item, or article.

## Use of Commercial Practices in DOD Public-Private Partnerships

Although DOD described, as required by reporting element four, the commercial practices to replace existing inventory and component management, technical publication data, document management, and equipment maintenance and calibration requirements for public-private partnerships, it could have provided a more clear and descriptive explanation regarding its methodology for selecting public-private partnerships identified in the appendix of its report. This appendix was included in DOD's report in order to identify specific public-private partnerships that employ the commercial practices described in reporting element four. DOD has identified four categories of benefits provided to its depot maintenance activities that are attributed to partnering: explicit product support performance improvement, improved business practices or updated technology, identifiable cost avoidance, and identifiable increase in facility utilization. DOD officials determined that only those depot maintenance public-private partnerships that showed improved business practices or updated technology as a benefit would be included in its report to address this reporting element. Thus, according to DOD officials, they selected the public-private partnerships by querying DOD's public-private partnership database, which is maintained by the Joint Depot Maintenance Activities Group, and by asking the services to provide a listing of the public-private partnerships that they believed addressed this reporting element. However, the public-private partnerships identified in the report resulted in a misrepresentation of DOD's original intent to include only a listing of partnerships that reported an improved business practice. For example, many of the partnerships identified by the services that DOD included in its report to the committees reported a product support or performance management benefit, increased facility utilization benefit, or both derived from the partnerships, rather than an improved business practice or updated technology benefit. The inclusion of these partnerships with various types of benefits in the appendix of DOD's report was the result of an inconsistent methodology used by DOD to develop its list. In addition, the body of DOD's report stated that there were 48 of these partnerships, while the appendix listed 76 partnerships. This is because the number identified in the body of the report represented only partnerships taken from the partnership database and the appendix listed those as well as those submitted by the services. We also found that the appendix excluded some other partnerships that reported improved business practices or an updated technology benefit and contained one Air Force partnership that was listed twice.

We also found that some of the service- and depot-level officials we met with thought that DOD could have provided additional information to the committees with regard to reporting element four by listing all of the public-private partnerships that cite 2474 of Title 10, United States Code, as partnering authority, which provides, in part, that the secretary concerned may authorize and encourage the CITEs to enter into public-private partnerships to perform work within their core competencies and for private industry to use underutilized or unutilized facilities and equipment at the CITEs. These officials believe that the inclusion of these additional partnerships would have provided the committees with a more complete and comprehensive view of current public-private partnerships that resulted in various kinds of benefits and that to have done so would have been an appropriate and relevant response to the direction identified in the conference report. We believe this additional information could have provided the committees with a better understanding of the commercial practices

used in DOD public-private partnerships to improve the efficiency and effectiveness of the depots' operations and the related benefits of those partnerships.

### Common Approaches and Procedures Used in Implementing Public-Private Partnerships

Although DOD described reporting element one as directed by the conference report, DOD could have provided additional information to the committees and other interested parties by providing more detail about the common approaches and procedures used in the implementation of public-private partnerships. For example, DOD's report to the committees could have disclosed the fact that the Army had not yet implemented the DOD guidance requiring each of the services to conduct a business case analysis to support decisions to enter into partnership arrangements to ensure that the partnership is in the best interest of the government, as was reported by the Army Audit Agency, and it could have described the Army's plans to do so. Additionally, this report could have included a description of the various authorities, regulations, and other methods used to establish public-private partnerships, the various types of partnerships, an explanation of the services' differing views of what constitutes these various partnership arrangements, and the benefits of public-private partnerships. This information is included in the annual internal report on public-private partnership of the Office of the Deputy Under Secretary of Defense for Logistics and Material Readiness, which was not referenced in DOD's report to the committees. According to DOD officials, this report is used internally to assess the progress of their partnering efforts and is not provided to Congress, unless it is requested. In this report, DOD also identifies the anticipated benefits that are expected and realized through the development of public-private partnerships and recaps the services' progress in implementing partnerships by providing summary-level information on its public-private partnership arrangements. Although DOD uses this internal public-private partnership report to help track the progress of its partnerships on an individual basis, our prior work demonstrates the importance of establishing overarching goals and measures in order for an agency to assess the overall effectiveness of a program, which DOD still has not done.

#### Army Has Not Yet Implemented DOD's Policy to Conduct a Business Case Analysis

DOD's report could have provided useful information to the committees pertaining to reporting element one by disclosing that the Army has not yet implemented the DOD guidance requiring each of the services to conduct a business case analysis to support decisions to enter into partnership arrangements to ensure that the partnership is in the best interest of the government, and describing the Army's plans to do so. DOD Instruction 4151.21 states that the decision to enter into a partnership must be supported by a business case analysis considering costs, benefits, and best use of public and private sector capabilities that demonstrates that it is in the best interest of the government. However, while DOD's report to the committees references DOD Instruction 4151.21, the report does not provide an overview of this particular requirement of a business case analysis, nor does it specifically mention this requirement as a common approach or procedure used in the implementation of public-private partnerships, although CITEs are required to produce such an analysis

before a partnership is formed. According to a February 2008 Army Audit Agency report,<sup>11</sup> the Army has not implemented this DOD requirement. In response to DOD's data call to the military services to obtain information that addresses this reporting element, the Army notified DOD that it was in the process of updating its policies to reinforce this DOD requirement as a result of this internal Army audit; however, DOD did not include this information in its report to the committees.

### Public-Private Partnership Authorities

DOD could have provided additional information to the committees and other interested parties pertaining to element one by including a description of the authorities pertaining to public-private partnerships. Depot maintenance public-private partnerships take many forms. According to DOD's report, entitled *Public Private Partnerships for Depot-Level Maintenance Through the End of Fiscal Year 2006*, some partnerships have been established by contract under statutory authority, while others are work-share arrangements pursuant to memorandums of understanding (MOU) or similar agreements. The services have used a number of authorities to establish these public-private partnerships. See enclosure I for a brief description of the principal statutory and regulatory authorities. Although there are several authorities and regulations used to establish public-private partnerships, DOD's 2006 report indicated that the most widely cited authority used is that contained in 10 U.S.C. 2474.<sup>12</sup> As of the end of fiscal year 2006, DOD reported that it had 348 partnerships (active and closed), of which 222 or 64 percent cited Section 2474 of Title 10. Of these 348 public-private partnerships through the end of fiscal year 2006, DOD reported that 182 are Army, 104 are Navy, 53 are Air Force, and 9 are Marine Corps. Additionally, according to DOD, there are two authorities, 10 U.S.C. 2471 and 10 U.S.C. 2469a, that are no longer valid for new public-private partnering arrangements, although they were cited in DOD partnerships arrangements established prior to 2001. Aspects of the provisions of the former were incorporated into 10 U.S.C. 2474, while 10 U.S.C. 2469a, which dealt with workloads that were realigned because of base realignment and closure actions, was eliminated as obsolete by the Fiscal Year 2003 National Defense Authorization Act.

### Types of Public-Private Partnerships

DOD's report could have provided additional information to the committees and other interested parties pertaining to reporting element one by including a description of all of the various types of public-private partnerships. The circumstances surrounding a depot maintenance activity's workload shape how the services develop the approach used for each of their partnerships, including the selection of a partnership type and dividing responsibilities for the performance of logistics functions. According to DOD, the military services have differing interpretations of what constitutes a particular type of partnering agreement. The types of agreements that are viewed differently by the services include work-share arrangements, facilities-use agreements, and arrangements that provide government nondepot maintenance services to on-site contractors performing depot maintenance. However, according to DOD, the public-private partnership definition in DOD

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<sup>11</sup>Army Audit Agency, *Benefits of Public-Private Partnerships*.

<sup>12</sup>This report also noted that a single partnership may cite two or more authorities.

Instruction 4151.21 encompasses all of the services' interpretations. As described in our April 2003 report,<sup>13</sup> public-private partnerships can be formed through various types of arrangements such as:

- **Work share:** An arrangement whereby a combination of military and commercial facilities, employees, or both is used to execute a program manager's work package—including tasks such as weapon systems remanufacture, modification, or upgrade. Under the work-share arrangement, the program manager issues a work order to the military participant and a contract to the private sector participant. The relationship between the participants to accomplish the work package is usually coordinated with an MOU or memorandum of agreement instead of a contract.
- **Direct sale:** An arrangement whereby military and commercial entities enter into a contractual relationship for the use of military depot maintenance facilities and employees to provide the private sector with articles, services, or both.
- **Lease:** An arrangement whereby military and commercial entities enter into a contractual relationship for the private sector's use of public depot maintenance facilities, its equipment to perform work for either the public or private sector, or both.
- **Government-furnished resources:** An arrangement whereby military and commercial entities enter into an agreement for private sector use of public depot maintenance facilities, its equipment and employees, or both at no cost in connection with and under the terms of a contract.
- **Teaming:** An arrangement whereby military and commercial entities enter into a contractual relationship to accomplish a deliverable stipulated in a contract. The relationship between the participants is usually initially outlined in a teaming agreement during the proposal's preparation and then formalized as a contractor/subcontractor relationship subsequent to contract award.

#### Benefits of Public-Private Partnerships

DOD could have provided additional information to the committees and other interested parties pertaining to reporting element one by including a description of all of the benefits derived from public-private partnerships. According to DOD, its goals for depot maintenance partnerships are more responsive product support, better facility utilization, reduced cost of ownership, and more efficient business processes. The benefits DOD identified in support of its partnership goals are (1) explicit product support and performance improvement, (2) improved business practices or updated technology, (3) identifiable cost avoidance, and (4) identifiable increase in facility utilization. DOD's annual internal public-private partnership report identifies these common benefits derived from its partnerships and summarizes the specific benefits that are included in these four categories. It also identifies the number of

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<sup>13</sup>[GAO-03-423](#).

partnerships that provided each of the benefits and how many reported two or more of these benefits. For fiscal year 2006, DOD cited the following examples as benefits derived from its public-private partnerships:

- Improved business practices or updated technology: increased depot efficiency, improved schedule conformance, quicker turnaround time, and additional capabilities or processes resulting from application of new technologies.
- Product support and performance improvement: a reduction in the amount of time associated with the maintenance, repair, or overhaul of items or systems; reduction in the amount of time for related material/parts support; a reduction in product support/logistics costs; improved weapon system availability, reliability, and maintainability; and enhanced performance of the weapon system for the warfighter. Additionally, DOD cited performance improvement benefits: improved aircrew training, more efficient use of labor, improved quality, and enhanced testing, diagnostics, or inspection.
- Identifiable cost avoidance: resulted from contractors using existing capability at a DOD CITE rather than having to establish additional capability, reduction or elimination of shipping and transportation costs, or the implementation of specific process improvements for production and repair.
- Identifiable increase in facility utilization: resulted from additional workload accomplished directly by federal government workers, contractor personnel, or a combination of the two.

DOD Tracks Progress of Its Public-Private Partnerships, but Has Not Established Overarching Goals and Measures to Collectively Assess Its Partnerships

While DOD uses its internal public-private partnership report to help track the progress of its public-private partnerships on an individual basis, it has not established overarching goals and measures to collectively assess its partnerships. In our assessment of DOD's April 2008 report to the committees, we asked DOD officials about their strategic goals for managing DOD public-private partnerships and discovered that they do not plan to analyze partnership performance data to measure the degree to which the partnerships are meeting the goals of more responsive product support, better facility utilization, reduced cost of ownership, and more efficient business processes. DOD officials stated that it would be difficult to develop overarching goals and measures because of the differences in the nature and employment of each public-private partnership. However, our prior work demonstrates the importance of establishing overarching goals and measures in order for an agency to assess the overall effectiveness of a program—a key component in strategic planning and a common approach that an agency employs when establishing or implementing its programs. Given this principle, we continue to believe DOD should establish overarching goals and measures to assess the collective effects of its public-private partnerships on depot operations and develop or refine its metrics for

measuring partnership benefits, as we recommended in our April 2003 report.<sup>14</sup> However, because DOD disagreed with our recommendations, we raised this issue to the attention of Congress. Without these data, DOD cannot assess whether it is achieving its public-private partnerships goals as outlined in DOD guidance. Further, without this data, DOD, the committees and other interest parties cannot assess whether the overall costs and benefits support DOD's use of partnerships.

The need for these data was reaffirmed by the February 2008 Army Audit Agency report on the benefits of public-private partnerships, which recommended that the Army, among other things, issue partnering guidance for establishing baseline data and standard metrics for tracking its partnerships and collect and monitor data to determine if intended partnering benefits are being achieved. The report stated that without metrics and these relevant data, Army managers lacked the information needed to assess options to continue, expand, or reduce these partnerships. In its response to the report, the Army stated that it plans to start measuring the benefits of its partnerships.

## **Conclusion**

As we discussed earlier, Congress provided legislation to establish public-private partnerships at DOD's CITEs to provide greater efficiency, better access to capital, and improved compliance with government regulations. While DOD tracks the progress of its public-private partnerships on an individual basis, it has not established overarching goals and measures to collectively assess its partnerships. Our prior work demonstrates that establishing overarching goals and measures are key components to strategic planning when assessing the overall effectiveness of a program. Consistent with our 2003 report, we still believe that Congress should consider having DOD establish overarching goals and measures for public-private partnerships at DOD CITEs. The Army Audit Agency also had similar findings in its February 2008 report on the benefits of public-private partnerships. Without such data, DOD, the committees, and other interested parties cannot assess whether the partnerships are meeting DOD's stated goals for its public-private partnerships and whether their costs and benefits support DOD's use of partnerships. Thus, we believe our previous matter for congressional consideration—that Congress consider requiring DOD to develop measurable goals for improving the future operations of its depot maintenance activities and assess how public-private partnerships at DOD CITEs are helping to meet those goals—is still valid and would help DOD and the committees to determine the relative impact of partnerships on depot operations and efficiency.

## **Matter for Congressional Consideration**

In order to provide congressional decision makers with information on the challenges of implementing public-private partnerships at CITEs and the progress in meeting its intended goals of more responsive product support, better facility utilization, reduced cost of ownership, and more efficient business processes, in addition to reiterating our former matter, we also believe Congress should consider having DOD provide the

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<sup>14</sup>[GAO-03-423](#).

committees with information on the timing and challenges in implementing these partnerships, and its ongoing and planned use of public-private partnerships to sustain elements of core capabilities, which were not directly described in DOD's April 2008 public-private partnership report to the committees.

### **Agency Comments and Our Evaluation**

Officials from the Office of the Assistant Deputy Under Secretary of Defense for Maintenance Policy and Programs provided oral comments on a draft of this report. In commenting on our conclusion that DOD did not directly describe reporting element three, and did not describe reporting element six, as directed by H.R. Conf. Rep. 110-477, the officials acknowledged that DOD could have used this opportunity to provide a more comprehensive detailed description of the factors involved in expanding and sustaining core capabilities at its CITEs. However, the officials felt that they adequately responded to reporting element three—explaining that to require a partnership agreement to be completed within 12 months would have an adverse impact on creating new partnering alliances and would be especially detrimental for efforts to create more complex partnering agreements. While we understand DOD's position, we believe that DOD could have provided additional data to support the variance in the time needed and the specific steps required to complete contract negotiations for public-private partnerships. Providing such information could have provided the committees with more insight into how long contract negotiations take involving public-private partnerships at DOD's CITEs, and provided stronger support for DOD's position that the duration of partnership negotiations should not be limited to a specified period of time.

With respect to the two reporting elements the common approaches and procedures used in the implementation of public-private partnerships, and the use of commercial practices in public-private partnerships—we concluded that DOD could have provided additional information in its public-private partnership report to the committees. DOD officials said that the committee report did not direct DOD to provide this additional information and therefore it was not included in the DOD public-private partnership report to the committees. However, the DOD officials acknowledged that some of our observations were insightful and valid. While we agree that DOD was not asked to provide the additional information, given the availability of this information, we believe that DOD could have provided the committees with a more comprehensive view of the issues surrounding the implementation of public-private partnerships at DOD CITEs, which could assist the committees in conducting its oversight responsibilities.

Lastly, with regards to asking the committees to reconsider our earlier matter to have DOD establish overarching goals and measures for assessing its partnerships, DOD officials reiterated DOD's position that the department has metrics which it uses to monitor the general health of the depot maintenance public-private partnership initiatives at DOD CITEs. Furthermore, these officials stated that it is far more practical to assess individual partnerships based on their stated goals than it is to assess the effects at a DOD-wide level. According to these officials, this task would be difficult because of the differences in the missions and character of each depot, and the unique scope and goals of individual partnerships. In addition, these officials stated that each public-private partnership is unique and is assessed at the depot level

to determine if the partnership is moving in a positive direction. Therefore, according to these officials, assessing its public-private partnerships on a DOD-wide level would have little meaning. While we recognize that information is collected on each partnership individually, without overarching goals and measures it would be difficult to determine whether the costs and benefits support use of partnerships on a broader DOD-wide level. Furthermore, given that establishing overall goals and measures on a broader DOD-wide level is in concert with key strategic planning guidance, we continue to believe our matter to Congress is still valid and is an important step toward gauging the overall success of DOD's public-private initiative. DOD also provided technical comments and we have incorporated them where appropriate.

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We are sending copies of this report to the appropriate congressional committees. We are also sending copies to the Secretary of Defense, the Secretaries of the Army, the Navy, and the Air Force; the Commandant of the Marine Corps; and the Director, Office of Management and Budget. Copies will be made available to others upon request.

In addition, this report will be available at no charge on GAO's Web site at <http://www.gao.gov>. If you or your staff have any questions regarding this report, please contact me at (202) 512-8365 or [solisw@gao.gov](mailto:solisw@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are Marilyn Wasleski, Assistant Director; Jason Jackson; Katherine Lenane; Jacqueline McColl; John Strong; and Karen Werner.



William M. Solis, Director  
Defense Capabilities and Management

Enclosure - 1

Enclosure I: Principal Authorities Cited for Public-Private Partnerships

Authority	Brief description <sup>a</sup>
10 U.S.C. 2208(j)	Permits the secretary of a military department to authorize an industrial facility financed through working capital funds to sell articles and manufacturing, remanufacturing, and engineering services outside DOD if the purchaser is fulfilling a DOD contract or subcontract and the solicitation for the contract or subcontract is open to public-private competition or if the secretary would advance the objectives of Section 2474(b)(2) of Title 10 by authorizing the facility to do so. The Secretary of Defense may waive these conditions for a particular sale under certain circumstances.
10 U.S.C. 2474	Requires the secretaries of the military departments (or the Secretary of Defense in the case of defense agencies) to designate depot maintenance activities (other than facilities approved for base realignment and closure) as CITEs, authorizes and encourages public-private partnerships at CITES to provide for the performance of work related to depot maintenance core competencies and private sector use of facilities and equipment not fully utilized by DOD, and permits amounts received by a CITE for work performed under a public-private partnership to be credited to the appropriation or fund that incurs the cost of performing the work.
10 U.S.C. 2539 <sup>b</sup>	Authorizes the sale of services of any government laboratory, center, range or other testing facility for the testing of materials, equipment, models, computer software, and other items.
10 U.S.C. 2563	Authorizes the sale of articles or services manufactured or performed by any armed forces working capital-funded industrial facility to a person outside DOD (excluding sales of those articles and services authorized under 10 U.S.C.

	4543) that are not available from any U.S. commercial source under specified conditions.
10 U.S.C. 2667	Allows leasing of nonexcess facilities and equipment in accordance with specified rules and conditions.
10 U.S.C. 4543	Specifies that the regulations under Section 2208(h) of Title 10 shall authorize Army working capital-funded industrial facilities that manufacture cannons, gun mounts, and so forth to sell articles or services outside DOD under specified conditions.
10 U.S.C. 4544	Authorizes Army working capital-funded industrial facilities to enter into a contract or other cooperative arrangement with a non-Army entity to carry out a variety of specified activities under specified conditions. This authority may be used to enter into not more than eight contracts or cooperative agreements.
10 U.S.C. 7300	Authorizes naval shipyard sales of articles or services to private shipyards that are made at the request of private shipyard in order to facilitate the private shipyards' fulfillment of DOD contracts for nuclear ships without the conditions set forth in Section 2208(j)(1)(B) of Title 10 and Subsections (a)(1) and (c)(1)(A) of Section 2563 of Title 10 applying.
22 U.S.C. 2754	Requires that the sale or lease of articles or services under chapter 22 of the U.S. Code be made to friendly countries solely for certain specified reasons and under certain conditions.
22 U.S.C. 2770	Allows the President to sell defense articles and services to a U.S. company for incorporation into end items (and for concurrent or follow-on support) to be sold by such company either on a direct commercial basis to a friendly foreign country pursuant to a specified export license or approval, or in the case of specified ammunition parts, using commercial practices that restrict actual delivery directly to a friendly foreign country or international organization under specific conditions.

FAR <sup>a</sup> Subpart 45.3	Prescribes the policies and procedures for contractor use and rental of government property.
FAR Subpart 45.4	Prescribes the rules pertaining to the title to government-furnished property and the title to contractor-acquired property. For example, under fixed price type contracts, the contractor retains title to all property acquired by the contractor for use on the contract, except for property identified as a deliverable item.

Sources: DOD's Fiscal Year 2006 Public-Private Partnerships for Depot Level Maintenance Report and GAO analysis.

<sup>a</sup>The descriptions of these authorities are not intended to be exhaustive; rather, they describe particular aspects of the authorities pertinent to public-private partnerships at CITEs.

<sup>b</sup>Federal Acquisition Regulation.

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