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Management, Committee on
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U.S. ARMY AND MARINE CORPS

Allegations of Contracting Irregularities and Conflicts of Interest





United States
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Office of Special Investigations

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The Honorable Carl Levin,
Chairman, Subcommittee on Oversight of
Government Management
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

On May 11, 1992, you requested that we investigate allegations of contracting irregularities and conflicts of interest involving a U.S. Army directorate and a Marine Corps contracting office. You further requested that we provide both a brief discussion of the results of our investigation for a hearing (GAO/T-OSI-93-2, July 30, 1993) before your Subcommittee and a more complete discussion of our findings in this report. We have referred information regarding this case to the Defense Criminal Investigative Service and the U.S. Army's Criminal Investigation Command for further investigation.

Our investigation focused on an allegation that the Army had abused the contract "offloading" process and, as a result, had circumvented the Competition in Contracting Act (CICA) of 1984. As used in this report, contract "offloads"—or contracts executed under the Economy Act—are task orders or contracts for the purchase of goods or services for one organizational unit that are issued under a contract held by another unit within the same agency or by another agency. In this case, a Directorate within the Army's Training and Doctrine Command (TRADOC) added tasks to an ongoing contract that was being administered by the Marine Corps Logistics Base for a unit within the Army Materiel Command. In addition, we investigated the lack of program management controls and oversight by contracting and program officials, including both Army and Marine Corps officials, and the alleged conflicts of interests of several key Army officials.

The allegations involved a Computer Sciences Corporation (CSC) contract that was awarded in 1986. The contract was a 3-year, \$8-million, indefinite delivery, indefinite quantity, time-and-materials contract for work that was performed primarily for the Army Communicative Technology Office at Fort Eustis, Virginia. The Marine Corps Logistics Base in Albany, Georgia, awarded and administered the contract for the Army under an interservice support agreement that provided contracting support services to the Army's Project Manager for Training Devices.

The contract expired in September 1989. However, the period of performance for orders placed under the contract was extended to September 1992, in part to permit completion of task orders issued under it from the Army's Collective Training, Instrumentation, and Engagement Systems (CTIES) Directorate. By March 1993, 38 task orders and numerous subtasks had been issued under the contract, raising its cost from \$8 million to \$32.9 million. Our investigation focused on Task Order 32 that had an initial ceiling price of \$134,000 but, after its 24 amendments, resulted in total costs of over \$16.5 million. In particular, we investigated the effort covered by Task Order 32/Subtask 16 that the CTIES Directorate generated to perform work for the Army's Joint Readiness Training Center (JRTC). The cost of Task Order 32/Subtask 16 was over \$11.5 million. The total cost of the JRTC project, which included an additional operations and maintenance contract for \$5.5 million, was over \$17 million. (See app. I.)

In brief, the Army's CTIES Directorate used the expiring Marine Corps Logistics Base contract to direct work (Task Order 32) to the contractor, CSC. The Marine Corps Logistics Base accepted the tasking, which included work (Subtask 16) that was outside the scope of the contract. Neither the Army nor the Marine Corps performed an initial cost analysis before Task Order 32 was added; thus, the government had no assurance that it had obtained a fair price for the work. In addition, the CTIES Directorate used appropriated funds for purposes other than that for which they were intended. As a result, the CTIES Directorate avoided competition and circumvented CICA, thereby abusing the TRADOC contract offloading process. The Army and Marine Corps also violated federal acquisition regulations that state requirements for contracting officers and their representatives, funding, and the purchase of automated data-processing equipment. (See app. III.)

This avoidance of competition and abuse of the TRADOC offload process were possible because both Army and Marine Corps officials demonstrated an overall lack of oversight for the contract taskings. In addition, two U.S. Army civilian employees had conflicts of interest involving the contract and CSC. We also found evidence that the costs on at least one independent government cost estimate had been "padded"—which, in this case, more than doubled the actual costs—at the direction of a CTIES employee who, at the time, was married to a CSC employee. (See app. II.)

Agency Comments

The Department of Defense (DOD) provided written comments on a draft of this report and partially concurred with the report. DOD commented that the events in the report had resulted from errors in judgement by both the Army and the Marine Corps and a breakdown in the normal checks and balances between a requiring activity and a supporting contracting activity, not from any systemic internal-management-control weaknesses or abuse of the contract offloading procedures. DOD agrees that a lack of management control and oversight took place in the generation of the requirement and subsequent award and administration of the order. As a result, both the Army and the Marine Corps have taken action to address these errors.

Although our investigation focused on only one case involving contract offloads within DOD, we found that the internal-control weaknesses identified in this investigation were similar to internal-control weaknesses identified by the DOD Office of the Inspector General involving DOD contract offloads to non-DOD agencies. As a result of the lack of internal control in this case, the CTIES Directorate was able to use TRADOC's contract-offloading procedures to direct work to CSC, thus avoiding competition and circumventing CICA. We believe that this was an abuse of TRADOC's contract-offloading procedures.

DOD's written comments, with our evaluation, are presented in appendix IV.

Methodology

We conducted interviews and reviewed files on the JRTC Interim Instrumentation System at the CTIES Directorate and its funding office at the Army Training Support Center at Fort Eustis, Virginia. We also interviewed several former CTIES employees regarding this contract. We conducted interviews with current and former officers at the JRTC, Fort Chaffee, Arkansas, and reviewed their files regarding the Interim Instrumentation System. We also visited the JRTC and reviewed the system. We interviewed CTIES' technical advisors and reviewed their reports on the status of the system. We interviewed officials from the Army's TRADOC at Fort Monroe, Virginia. We also obtained information regarding the Army's offloading policy from the U.S. Army Materiel Command in Arlington, Virginia.

We interviewed current and former officers at the Combined Arms Command at Fort Leavenworth, Kansas. We also interviewed the auditors who had conducted the internal review of the CTIES Directorate in 1991

and reviewed their workpapers. We reviewed the CSC/Marine Corps Logistics Base (CSC/MCLB) contract file and interviewed the Contracting Officers and Contracting Specialists assigned to this contract and to the Director of Contracting at the Marine Corps Logistics Base in Albany, Georgia. We reviewed the subvouchers that the Marine Corps Logistics Base submitted for CSC's payment by the Defense Finance Center in Columbus, Ohio. We coordinated our efforts with the U.S. Army Criminal Investigation Command and the Defense Criminal Investigative Service.

We briefed the Department of Defense Office of the Inspector General plus program officials for both the Army and the Marine Corps and provided them a copy of our draft report to enable them to comment on our findings. (See app. IV.)

We will send copies of this report to the appropriate congressional committees; Secretary of Defense; Acting Secretary of the Army; Commandant, Marine Corps; Commanders of TRADOC and the Marine Corps Logistics Base; and other interested parties. We will also make copies available to others upon request.

If we can be of further assistance to you, please contact me, or Assistant Director Barbara Cart of my staff, at (202) 512-6722. Major contributors to this report are listed in appendix V.

Sincerely yours,



Richard C. Stiener
Director

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Abbreviations

CICA	Competition in Contracting Act of 1984
CMTC	Combat Maneuver Training Center
COTR	Contracting Officer's Technical Representative
CSC	Computer Sciences Corporation
CTIES	Collective Training, Instrumentation, and Engagement Systems
DOD	Department of Defense
FAR	federal acquisition regulation
FORSCOM	U.S. Army Forces Command
GAO	General Accounting Office
JRTC	Joint Readiness Training Center
MCLB	Marine Corps Logistics Base
OMA	Operation and Maintenance, Army (funds)
OPA	Other Procurement, Army (funds)
OSI	Office of Special Investigations
RDT&E	Research, Development, Test, and Evaluation (funds)
TRADOC	U.S. Army Training and Doctrine Command

Background

Army Combat Training Centers

The U.S. Army has four Combat Training Centers. The National Training Center, for combat heavy forces, is located at Fort Irwin, California, under the U.S. Army Forces Command (FORSCOM). The Combat Maneuver Training Center, also for combat heavy forces, is located at Hohenfelds, Germany, under the U.S. Army-Europe Command. The Battle Command Training Program, for commanders at brigade level and above, is located at Fort Leavenworth, Kansas, under the U.S. Army Training and Doctrine Command (TRADOC). The Joint Readiness Training Center (JRTC), a joint effort for Army combat light infantry forces and Air Force tactical support forces, is located at Fort Polk, Louisiana.¹ JRTC was under TRADOC at the time of the events discussed in this report but is now under FORSCOM.

Instrumentation Systems for Army Combat Training Centers

Initial Systems

In the early 1980s, the Army began applying sophisticated instrumentation to its Combat Training Centers to increase the effectiveness of its training programs. The resulting instrumentation systems record battle events during training exercises to provide feedback and after-action reports to the training units.

By the mid-1980s, an instrumentation system was in place at the National Training Center in California; and plans to procure a permanent system were ongoing for the Combat Maneuver Training Center in Germany. However, instrumentation support for the JRTC had not yet been obtained. A former senior Army officer with the Combined Arms Command told us that when TRADOC approached the Army's primary procuring activity—the Army Materiel Command—to procure an instrumentation system for the JRTC, the Army Materiel Command advised TRADOC that a 5-year lead time was needed for the procurement.

According to the former senior officer, TRADOC officials determined that more immediate support to the JRTC was needed. As a result, TRADOC created what became known as the Collective Training, Instrumentation, and Engagement Systems (CTIES) Directorate within the Army Training

¹At the time of our investigation, JRTC was located at Fort Chaffee, Arkansas. The JRTC was relocated to Fort Polk in June 1993.

Support Center at Fort Eustis, Virginia.² CTIES' purpose was to coordinate and standardize the instrumentation systems used at all of the Army's major training centers. The advantage to this arrangement, according to the former officer, was that it gave TRADOC the ability to contract directly for training instrumentation support, without going through the procurement channels of the Army Materiel Command. In particular, the CTIES Directorate was given acquisition authority allowing it to use an analytical support contract through its assigned contracting activity within TRADOC—the TRADOC Contracting Activity—to make purchases for the training centers.

Decision to Pursue an Interim Instrumentation System for JRTC

In January 1988, CTIES tasked an analytical support contractor of the Army Training Support Center at Fort Eustis, Virginia, with developing an operational and organizational concept and drafting a requirements document for the permanent JRTC instrumentation system. (CTIES had planned to issue a request for proposals by June 10, 1991, and to award the contract by January 24, 1992.) According to documentation, in May 1989, before this task was completed, the Chief of Staff of the Army was briefed on the overall Combat Training Centers Training Strategy for the years 1990 through 2000. The purpose of the Master Plan Briefing, in part, was to establish funding priorities for the Army's training needs.

At the briefing, the Army Chief of Staff directed that plans for JRTC's permanent system be delayed and that a "mission essential instrumentation" system be developed for use until the permanent system could be procured. This decision was based upon the lack of available funding and the possible relocation of the JRTC. The two primary criteria for the JRTC interim system were that it be (1) a "poor man's instrumentation system," composed of in-house and government-furnished equipment and consisting of only those essential capabilities needed to gather information on weapons effects and to provide feedback, and (2) movable in the event the JRTC was relocated.

CTIES subsequently modified its previous task to the analytical support contractor of the Army Training Support Center. The modification required the contractor to address only the mission-essential instrumentation needs in the requirements document. These needs generally consisted of developing a means for capturing information

²The Directorate was initially known as the Combat Training Center-Instrumentation Support (CTC-IS) Directorate. In a 1991 reorganization, the CTC-IS Directorate was placed under the direct command of the Combined Arms Command at Fort Leavenworth, Kansas; and the name was changed to the Collective Training, Instrumentation, and Engagement Systems (CTIES) Directorate.

during the training exercises that could be recorded in after-action reports and provided to the units for further study. CTIES also attempted to have the TRADOC Contracting Activity extend the Army Training Support Center's analytical support contract, which expired in March 1990, to cover the additional work needed on the JRTC Interim Instrumentation System project. When this was not possible, CTIES sought an alternative means of continuing work on the JRTC project.

Unsuccessful Effort to
Award Sole-Source
Contract Results in Offload

We were told that CTIES attempted to obtain a sole-source contract for the remaining work on the JRTC interim system with Computer Sciences Corporation (CSC). A TRADOC Contracting Activity attorney denied CTIES' request for a sole-source contract because of inadequate justification. The former CTIES Director (now retired) told us that a contracting official, with the Army Materiel Command's Project Manager for Training Devices, then informed him of an omnibus U.S. Marine Corps contract with CSC. The official suggested that CTIES use the contract as a vehicle to procure the JRTC Interim Instrumentation System by assigning the work as a task under the contract. As a result, the work was added as a task to the existing CSC contract with the Marine Corps Logistics Base in Albany, Georgia.

The former CTIES Director claimed to have "found" the CSC/Marine Corps Logistics Base (CSC/MCLB) contract shortly before CTIES requested that the JRTC interim-system subtask be added to the contract. We discovered that CTIES had previously obtained work under this contract in March 1989, a year earlier. According to the TRADOC contracting official who determined that the offload request was in the government's best interest, TRADOC was unaware that the Marine Corps Logistics Base had previously added tasks to the CSC/MCLB contract for CTIES when it reviewed CTIES' request to offload the JRTC work. He indicated that CTIES' request to offload would have been given more scrutiny had TRADOC known this. However, the Army Training Support Center, which acted as a project manager for TRADOC, was aware that CTIES had previously directed work to the contract because its staff had prepared the Statement of Work for Task Order 32 several months earlier.

We were unable to establish why CTIES preferred CSC for the work on the interim system, especially since other contractors were available to assist in the effort. For instance, the analytical support contractor of the Army Training Support Center had previously suggested developing an interim system by using existing, government-furnished equipment. The contractor

estimated that the system could be developed within 9-12 months at a cost of about \$1 million. Alternatively, the JRTC mission support contractor had suggested using MacIntosh computers to assist in the preparation of training reports until the permanent system could be developed.

However, CTIES rejected these approaches in favor of the CSC approach. This decision resulted in the development of a more sophisticated system costing over \$17 million—\$11.5 million in charges against the CSC/MCLB contract, plus another \$5.5 million in maintenance costs. This “throw-away” system will be replaced by the more advanced technology required for the permanent system.

Ironically, according to JRTC officials, the requirements document that CSC ultimately presented appeared to “clone” an earlier requirements document that the Army Training Support Center’s support contractor had prepared. The support contractor had prepared the document for the interim system at the Combat Maneuver Training Center in Germany. Also according to the officials, CSC’s Data Collection and Feedback Plan, which was meant to be a blueprint for the interim system, was later rejected in favor of a plan developed by the JRTC mission support contractor.

The CSC/MCLB Contract

The 1986 CSC/MCLB contract was a competitively bid, 3-year (1 year plus 2 option years), \$8.6-million, indefinite delivery, indefinite quantity, time-and-materials contract for the acquisition of engineering support services.³ The contract’s expiration date was September 30, 1989. This contract specifically covered systems-engineering support in the area of interactive video disc technology, interactive training courseware design, and additional communicative technology systems for the U.S. Army Communicative Technology Office at Fort Eustis, Virginia. (This office was a subordinate element of the Army’s Project Manager for Training Devices, an Army Materiel Command activity.) The Marine Corps Logistics Base in Albany, Georgia, managed the contract pursuant to an interservice support agreement signed May 15, 1985, with the Army’s Project Manager for Training Devices.

According to the agreement, the Marine Corps received reimbursements from the Army for accumulated labor and materials costs. Marine Corps contracting officials acknowledged that the majority of their work in the

³Although this contract was competitively bid, CSC was the only contractor to submit a bid. The 1986 contract was a follow-on to a 1983 cost-plus, fixed-fee contract that CSC also won.

Special Projects Support Contracting Branch at Albany was from the Army's Project Manager for Training Devices and provided documentary proof of the reimbursable costs they had charged to the Army. From 1987 to 1993, the Project Manager for Training Devices paid over \$800,000 in administrative fees, on this and other U.S. Army contracts, to the Marine Corps Logistics Base for contracting support services.

Task Order 32

The contract file revealed that CTIES requested the Marine Corps to add Task Order 32 to the CSC/MCLB contract in March 1989. The task order initially tasked CSC to conduct a study for the Development of a Combined Arms Training Strategy for Devices, Simulations, and Simulators, at a cost of \$134,000. Five months later, in August 1989, after the Army Chief of Staff had directed CTIES to develop a mission-essential instrumentation system for JRTC, the Statement of Work was submitted for 11 subtasks under Task Order 32.⁴ Task Order 32 was then amended to extend the performance date retroactively from June 30, 1989, to August 30, 1989. The Task Order was amended again in September 1989 to further extend the performance date to September 30, 1991; increase the funding ceiling for Subtasks 1-11 by \$763,214; and change the objective to design, develop, and implement a Training Development Workload Management System. This September 1989 modification to Task Order 32—insofar as it allowed the contractor to implement, or install, a system—was outside the scope of the basic contract.

In December 1989, 3 months after the contract had expired for issuance of new task/delivery orders, the contract review committee determined that, as of September 30, 1989, 17 of the contract's 38 task orders—including Task Order 32—were open with estimated delivery dates ranging from September 30, 1990, through September 30, 1992. The committee further determined that CSC needed additional time to complete these task orders. The contract was amended in January 1990 to extend the period of performance from September 30, 1989, to September 30, 1992, and incorporate the negotiated labor rates for that period. The need to extend

⁴The Statement of Work directed the contractor to conduct an Information Requirements Analysis leading to the design, development, and implementation of a training-development, workload-management information system for TRADOC and non-TRADOC proponent schools, integrating centers, the Army Training Support Center, and Headquarters TRADOC. The subtasks required the contractor to (1) identify and report on the information requirements, (2) provide a briefing on the requirements, (3) finalize the report on the requirements, (4) develop a functional description of the requirements, (5) conduct systems design and development, (6) develop a program specification, (7) develop a test plan for the system, (8) write and test computer application programs for the system, (9) test the system, (10) prepare manuals for use with the system, and (11) install the system at each proponent site and conduct training. This project was separate from the JRTC Interim Instrumentation System.

the contract performance date by 3 years for almost half of the task orders on this contract, at quadruple the original cost, indicates a lack of adequate acquisition planning and poor contract administration.

Subtask 16: The JRTC Interim Instrumentation System

The January 1990 amendment also noted that "no new task orders" (delivery orders) were to be issued under the CSC/MCLB contract after the effective date of the modification. However, additional subtasks, approved Engineering Change Proposals, and change orders were incorporated in various task orders under the contract after September 1989. For example, on March 30, 1990, CTIES submitted a request to modify the CSC/MCLB contract to add five subtasks (Subtasks 12-16) to Task Order 32. On May 3, 1990, the Marine Corps Logistics Base added the subtasks to the CSC/MCLB contract. Subtask 16 covered the continuation of the JRTC Interim Instrumentation System work that had been performed by the Army Training Support Center's support contractor. The estimated cost of Subtask 16 was \$1 million.

Subtask 16 tasked CSC to provide analytical and technical support to CTIES in the concept development, implementation, and evaluation of an improved instrumentation system for JRTC in two phases. Phase I was to be an analysis of the current instrumentation capability of JRTC and would use existing computer hardware and software from JRTC and the Army Training Support Center in developing an improved system for JRTC. Phase II was to provide for the preparation of a concept implementation plan, software modifications, implementation, and evaluation of the approved JRTC Interim Instrumentation System, also using existing computer hardware and software from JRTC and the Army Training Support Center.

By June 1990, two additional phases had been added to the JRTC project. Phase III referred to the implementation of a simultaneous two-battalion rotation through the JRTC as required by the Chief of Staff of the Army. Phase IV referred to milestones that CTIES hoped to meet regarding the permanent JRTC system.

Although tasking CSC to "implement," or install, the system was outside the scope of the original CSC/MCLB contract, we found no evidence that the Army or Marine Corps contracting officials ever questioned whether the subtask was within the contract's scope.

The JRTC Interim Instrumentation System

Phase I and the Decision to Proceed to Phase II

Although Subtask 16 was not added to Task Order 32 until May 3, 1990, the Marine Corps Contracting Officer approved the start of work a month earlier, on April 4, 1990, after a Marine Corps legal review of the subtask. Several days later, on April 10, 1990, TRADOC notified the CTIES Director that the TRADOC approval should have been obtained before work on the subtask had begun; but work on the project was allowed to continue.

In August 1990, the CTIES Director was notified that “[e]ffective immediately all ‘offloads’ to include third party contracts require TRADOC DCSK [Deputy Chief of Staff for Contracting] review and approval before certification of funds.” By this time, CSC had completed the analysis phase, Phase I, of Subtask 16. This included development of the requirements into a final document, a data collection and feedback plan, and a best technical approach and “trade-off” analysis. The Deputy Chief of Staff for Training, TRADOC, and the Commander of the Combined Arms Training Activity, then decided to proceed with Phase II of the project.

Request to TRADOC to Proceed With Phase II

Because of the August 1990 policy announcement regarding contract offloads, CTIES was required to submit a request to TRADOC to continue the contractual support for Phase II. Part of the officials’ rationale for continuing to use the CSC/MCLB contract was based on Army demands that the JRTC increase its training capabilities from one-battalion rotations to two-battalion rotations by fiscal year 1992. CTIES argued that the “strict timeline does not permit another complete competitive effort to do this work.” CTIES estimated the cost of Phase II at \$2.3 million in Operations and Maintenance, Army (OMA) funds and \$1.2 million in Other Procurement, Army (OPA) funds.⁵

TRADOC approved the offload request for Phase II of the JRTC Interim Instrumentation System on September 12, 1990, subject to three qualifications: (1) “the requirement [for the Interim Instrumentation System] meets the provisions of AR [Army Regulation] 25-1, paragraph 1-4a (i.e., information resources acquired are embedded in an instrumentation system and do not interface or communicate outside the

⁵Operation and Maintenance, Army (OMA) funds include (a) funding for operation and maintenance of all Army organizational equipment and facilities, (b) purchasing equipment and supplies, (c) production of audiovisual instructional materials and training aids, and (d) operation of training. Other Procurement, Army (OPA) funds provide for manufacturing, engineering, and acceptance testing during the production period of other major end items of equipment, including (a) communications and electronics equipment, (b) production engineering of equipment, (c) construction, (d) automated data-processing equipment costs, and (e) procurement of executive software. Research, Development, Test, and Evaluation (RDT&E) funds provide for work performed by an agency, private individuals, or private organizations under a contractual or grant agreement with the federal government. RDT&E funds also include research and development in all fields.

host system),”⁶ (2) “the OMA/OPA [Operations and Maintenance, Army/Other Procurement, Army] mix is correct and does not circumvent or violate current guidance,” and (3) “the performing agency (USMC) issues a task order that is effective. The acceptance of the MIPR [Military Interdepartmental Purchase Request] alone by USMC is not sufficient to hold an obligation of funds past 30 Sep 90.” The Marine Corps contracting office “must incur cost in the form of a contractual obligation on CTIES’s behalf.”

“Embedded” Provisions of AR
25-1

The CTIES requirement for the JRTC Interim Instrumentation System did not meet the provisions of AR 25-1. However, CTIES maintained that the proposed system was “embedded” and, therefore, was exempt from AR 25-1. The resulting JRTC Interim Instrumentation System does not meet this criterion.

JRTC’s original May 1990 draft requirements document for the Interim Instrumentation System provided for “TAF [Tactical Analysis and Feedback] analysis workstations integrated [capable of interacting with other systems and of being expanded] into a TAF/DTOC [Division Tactical Operations Center] local area network.” The August 1990 Requirements Document prepared by CSC restated this need as “[t]he JRTC Interim Instrumentation System must support the evolution of the current Exercise Maneuver Control Center (EMCC) at JRTC into a CTC-style Training Analysis and Feedback” and Division Tactical Operations Center operation. It further noted, “[t]he JRTC Interim Instrumentation System requires reconfiguration to a single, integrated [emphasis added], relational database comparable to existing CTC computer systems” used to integrate the Training Analysis and Feedback/Division Tactical Operations Center operation. Clearly, what was envisioned was an integrated system, not an embedded system.

Guidance Regarding Operations
and Maintenance, Army/Other
Procurement, Army Funds

Army policy, which became effective in May 1990, stated that

“[using] a MIPR [Military Interdepartmental Purchase Request] or RO [Reimbursable Order] to acquire IMA [Information Mission Area] hardware and/or software from another Army activity or Federal agency is proper and legal, provided the appropriate color of money [type of funding, e.g., Other Procurement, Army funds] is cited. Neither the MIPR nor the RO can be used to circumvent the expense/investment criteria or to change the

⁶In January 1988, the Director of Training Development and Analysis, TRADOC, had authorized a limited waiver of AR 25-1 that applied “only to instrumentation that consists of embedded hardware and software primarily designed to operate ranges and Combat Training Centers (CTC).” He had further directed that “[t]he requirements and procurement documentation for these systems will be submitted to HQ TRADOC . . . for review and approval prior to contract award to insure [sic] that this information accessibility requirement will be met.”

color of money. It is illegal for one activity to MIPR Operation and Maintenance funds to another Federal Agency to purchase IMA equipment and software which should be financed with procurement funds.⁷

On September 28, 1990, the contracting office at the Marine Corps Logistics Base raised the ceiling price of Task Order 32/Subtask 16 to \$3.1 million by adding an additional \$1,235,000 in Other Procurement, Army funding for computer hardware/software. This use of Other Procurement, Army funding for hardware/software purchases was consistent with Army policy. However, the contract acquisition plan called for using Operations and Maintenance, Army funding (30 percent) and Research, Development, Test, and Evaluation funding (70 percent). As a result, this was not the appropriate contract for such a purchase.

Task Order Issued by Marine Corps Logistics Base

The third qualification of the September 12, 1990, TRADOC offload approval stated that the Military Interdepartmental Purchase Request to the Marine Corps Logistics Base was not sufficient to obligate Army funds after the close of the fiscal year on September 30, 1990. The Marine Corps Logistics Base had to incur a contractual obligation on CTIES' behalf before the end of the fiscal year.

Thus, the September 28, 1990, amendment to Task Order 32, which raised the ceiling price for Subtask 16 to \$3.1 million, was issued 2 days before the end of the fiscal year. Hardware and software costs were expected to total \$1.48 million. The Statement of Work regarding Phase II was also amended to add the requirement to support a system composed of Commercial Off-the-Shelf and Government Furnished Equipment hardware and software components.

However, the amendment prohibited CSC from purchasing the equipment until the Contracting Officer authorized the contractor to do so. The Army did not provide the Delegation of Procurement Authority to the Marine Corps Logistics Base to purchase the hardware until October 22, 1990; and CSC did not receive the Contracting Officer's authorization to purchase the hardware until November 13, 1990—6 weeks after the fiscal year had ended.

When asked why the Marine Corps accepted the transfer of expiring 1990 funds for work that was to be done in fiscal year 1991, a Contract Specialist assigned to the CSC/MCLB contract told us that the tasking provided work for her office.

⁷A February 1992 legal opinion by an Army Attorney-Adviser to CTIES determined that OMA funds were used inappropriately on the CSC/MCLB contract.

Request for Warner Amendment Exemption

Despite the qualified approval of TRADOC, the Marine Corps Logistics Base questioned the purchase of automated data-processing equipment under the CSC/MCLB contract because it was nonmission-essential and, therefore, unallowable. As a result, the JRTC Commander requested the assistance of the Combined Arms Command-Training Commander at Fort Leavenworth, Kansas, in obtaining a "mission critical" Warner Amendment Exemption from the U.S. Army's Information Systems, Selection, and Acquisition Agency, to allow the purchase.

Under the Brooks Act, the General Services Administration has the sole authority to procure automated data-processing resources for federal agencies. The Warner Amendment exempts certain Department of Defense acquisitions from the Brooks Act if, for example, the procurement is necessary to fulfill a mission-critical need. Computer resources are considered mission-critical when the functions, operations, or use (1) involves intelligence activities, (2) involves cryptoanalytic activities related to national security, (3) involves the command and control of military forces, (4) involves equipment that is an integral part of a weapon system, or (5) is critical to the direct fulfillment of military or intelligence missions.

According to the "Mission Critical Computer Management Guide" from the Defense Systems Management College, the test as to whether the acquisition of computer resources is covered by the Warner Amendment or the Brooks Act is the intended use of the equipment and services and not their commercial marketplace availability.

The Army's Information Systems, Selection, and Acquisition Agency granted the needed exemption on October 22, 1990, on the basis that the JRTC Interim Instrumentation System was "critical to the direct fulfillment of a military mission (excluding routine administrative and business applications)." The Delegation of Procurement Authority emphasized the TRADOC Contracting Activity's responsibilities to ensure that all contracting actions taken under this Delegation of Procurement Authority "are in the best interests of the Army." The Delegation of Procurement Authority then outlined these responsibilities as follow:

- ensure that appropriate contracting officials clearly understand the scope of this Delegation of Procurement Authority;
- advise and provide the contracting officer of the terms and conditions of the delegated authority and the attached Warner Amendment determination document;

-
- monitor the administration of the contract for adherence to the requirements of this Delegation of Procurement Authority, to include acquisition of only the automatic data-processing equipment listed at enclosure and the maximum total value of the automatic data-processing equipment of \$1.48 million;
 - ensure timely adherence to the reporting requirements of this Delegation of Procurement Authority; and
 - ensure that all federal statutes, policies, and regulations governing the acquisition, management, and utilization of Federal Information Processing resources are adhered to.

During our investigation, we approached both the TRADOC Contracting Activity and the Army's Information Systems, Selection, and Acquisition Agency and requested copies of their files on the Delegation of Procurement Authority issued on the JRTC Interim Instrumentation System. We were told by officials of both agencies that, at that time, they had no files. The TRADOC Contracting Activity official who determined that this offload was in the government's best interest admitted that the Contracting Activity had not obtained files on the project from the Marine Corps Logistics Base. An Information Systems, Selection, and Acquisition Agency official admitted that his agency had never followed up the provisions of the Army's Delegation of Procurement Authority.

Implementation of JRTC Interim Instrumentation System: Phase II

Originally, the JRTC Interim Instrumentation System project was to design and implement a system using government-furnished equipment and software for an estimated cost of \$1 million. When the plan was amended to add commercial off-the-shelf items—specifically, a mapping and server workstation and mapping software—the estimated cost of the system increased to over \$3 million. Ultimately, more than \$11 million was spent to purchase hardware and develop software for the JRTC project.

Government-Furnished Hardware Surplused and New Hardware Purchased

Initially, the plan was to obtain about 20 Zenith Z-248 computers, in addition to the 15 Zenith Z-248 computers already at the JRTC, reconfigure them, and add them to the existing local area network. According to the Chief of the Instrumented Branch at JRTC, this option was discounted because of high maintenance costs. Instead, according to the Chief, it was decided to obtain excess ARTECON computers from the Army's National Training Center in California and government-furnished software from the Combat Maneuver Training Center in Germany, where an interim system was being developed, for use in developing the JRTC Interim

Instrumentation System. According to the September 1990 amendment to Task Order 32, a DEC 5000M mapper/server workstation was also to be purchased.

In about November 1990, the ARTECONs were shipped to CSC where they were reviewed for serviceability. CSC advised the Contracting Officer's Technical Representative (COTR) for Subtask 16 that the equipment was unsuitable because some pieces had been cannibalized, while others had been broken in shipment. The contract file indicates that in January 1991, additional money was provided to CSC to repair five ARTECON computers damaged during shipment from the National Training Center to CSC and to ship the remaining 14 ARTECON computers from the National Training Center to CSC.

In February 1991, CSC reported that the DEC 5000M workstations were not available and recommended SUN equipment as a substitute. In addition, the JRTC team proposed using new equipment "in lieu of ARTECON and Zenith GFE [government-furnished equipment] . . . based on the repair and maintenance costs." As a result, the CTIES Directorate then requested an amendment to the Army's Delegation of Procurement Authority because of the "non-delivery by DEC, broken GFE, and increase in workload[, and] thus requirements[,] from JRTC." We question the validity of this request for the following reasons:

- First, we found no evidence that the COTR or other responsible individual adequately assessed or monitored the purchase. CSC's recommendations as to the need to purchase SUN equipment were approved without government scrutiny.
- Second, the Chief of the Instrumentation Branch at JRTC was told by CSC that the ARTECONs were nice but that they were a "plain Jane" version and not what the National Training Center was using. He told us that he examined the ARTECONs while they were still packaged and that some appeared to be new, while others appeared to be used. Documents indicate that repairs were made to some of the ARTECON computers, and all were then sent to another military facility where they are still in use.

The equipment may not have been capable of handling the software needs even if it was in good repair. We were told by the Independent Verification and Validation contractor—hired to act as technical advisor to CTIES on the JRTC Interim Instrumentation System project—that computer technicians would or should have known from the outset that these

computers were incapable of handling the software needs of the proposed interim system.

- Finally, it is unclear what the “increase in workload” was, since it was known in May 1989 that the Army planned to increase the amount of training from one to two battalions at JRTC by the summer of 1992. This increase was apparently considered when the interim system was initially planned.

Regardless, the Army's Information Systems, Selection, and Acquisition Agency approved the amendment to the Delegation of Procurement Authority on April 3, 1991, authorizing total expenditures of \$6.9 million for the JRTC Interim Instrumentation System. The agency's Director again noted, in his memorandum to the TRADOC Contracting Activity, that “[t]he extraordinary circumstances of this procurement authority places emphasis on your contracting responsibility to insure [sic] that all contracting actions taken under this amended DPA [Delegation of Procurement Authority] are in the best interest of the Army.”

Modifications to Government-Furnished Software Result in Software License for Contractor

In addition to government-furnished hardware, CSC also received government-furnished software to use in the development of the JRTC interim system. The software was an upgraded baseline software that was being developed for the Combat Maneuver Training Center in Germany by Engineering and Economics Research, Inc.

CSC had modified the Center's software as part of the JRTC Tactical Analysis and Feedback, Phase I. By the summer of 1991, CSC had identified and proposed several significant enhancements to the system, which were needed to move the system into the next phase for use during the upcoming two-battalion training rotations. These enhancements included the proposed purchase of a Battle Management Software marketed by VITec. However, Engineering and Economics Research, Inc. and VITec had already developed enhancements for similar problems encountered in Germany; and CSC, according to the following memorandum, had received a copy of the developed enhancements.

A June 21, 1991, memorandum to the CTIES Director from a CTIES Training Systems Management Specialist noted serious questions about this proposed purchase:

"Under the CMTC [Combat Maneuver Training Center] Initial Instrumentation System contract, EER [Engineering and Economics Research, Inc.] purchased Object Library Software/license, boards and Software Engineer Time from VITec to assist in the integration of the VITec hardware/firmware/software into the CMTC-IIC. This effort involved one of the early CMTC software version[s—]1.0.

"VITec apparently walked away from their earlier effort with actual copies of EER/VITec developed CMTC-unique integrated source code, screen and map prints, and a working knowledge of how it was to be accomplished. . . . VITec is currently marketing a Battle Management Software that may have been developed, apparently utilizing the CMTC-IIC [software].

"Early after the CMTC-IIC was accepted, a copy of their software/source code was given to CSC as GFI [government-furnished information] in their developmental effort. My understanding is that it was Version 1.2. In December 1990, CSC was given a copy of the updated CMTC Software Version 1.3, which includes significant modifications, enhancements and changes.

"Without further analysis of the proposed license agreement, the Government may be purchasing software that it has already purchased through EER's effort with VITec as a subcontractor. If the current VITec software is based on CMTC-IIC Version 1.0, the Government may be repurchasing an old/earlier version which obviates the debugging and increased functionality of CMTC-IIC Versions 1.2 and 1.3. The JRTC Interim Instrumentation System software may end up being a grab-bag of portions of CMTC-IIC Versions 1.0, 1.2, and 1.3 with MAPPER and VITec layered on top, and with proprietary restrictions which inhibit debugging and incorporating changes."

We found no evidence that the Army ever addressed these questions. Despite the questions raised by the Training Systems Management Specialist, CTIES proceeded to request yet another amendment to the Delegation of Procurement Authority from the Army's Information Systems, Selection, and Acquisition Agency in September 1991. Claiming it had "inadvertently exceeded the DPA [Delegation of Procurement Authority] ceiling with regard to hardware and support services," CTIES requested an increase of \$4.2 million for "additional resources." The Agency granted the amended acquisition, raising the total cost of the project to \$11.4 million.

JRTC Increase to Two-Battalion Rotation: Phase III

Phase III of JRTC's Interim Instrumentation System involved the implementation of the simultaneous two-battalion rotations through the training center. The plan was to develop the interim system for the regular one-battalion training program, then to expand the system by cloning the

existing equipment and software to meet the training center's increased needs for the two-battalion rotation. Instead, through engineering change proposals to develop the identified enhancements, the system for the two-battalion rotation was greatly enhanced and the cost significantly increased. Although some Army officials objected to the costly enhanced system, it was installed. Furthermore, although the federal government paid for the system's development, it apparently has granted ownership of the system to CSC and must pay license fees to use it.

Army Advisors' Objections to Proposed System Enhancements

In November 1991, a CTIES technical advisor reviewed CSC's proposed enhancements for the JRTC two-battalion rotation system. In his report to the CTIES Directorate, the technical advisor questioned the "drastic" increase in labor and software costs and noted that "CTIES stands to spend excessive money on enhancements to an 'interim system' against requirements that are invalidated by any procurement CM process. . . . What started off as a replication . . . has blossomed into the inventing of a new wheel."

He also noted that "CSC has not yet presented a complete ECP [engineering change proposal] with all the new proposed (and as yet invalidated) changes nor any type draft design drawings to illustrate the configuration of all this new, proposed equipment." Without this information, "the Government has no basis on which to make an informed and responsible decision for approval of the cost estimates presented by CSC."

These concerns were echoed, in part, by the Chief of the Instrumentation Branch at the JRTC. The Chief noted in an internal memorandum that the engineering change proposal for the two-battalion system "is actually more than just the installation of a second TAF [system], but also involves additional requirements . . . [to include] (f) Testing. As envisioned, no one from outside CSC would see the software until the end of June. This is unacceptable." He added a handwritten comment to his list of concerns that noted, "I suspect some creative funding is taking place. We need a detail[ed] backbrief from COG [Commander, Operations Group] staff on 2 BN [battalion] TAFF."

Finally, in March 1992, a quality assurance specialist reported to the COTR for Subtask 16 that "[t]he equipment and labor detailed, particularly in ECP [engineering change proposal] 003 appears to be in excess of that required for second TAF [system] augmentation. This indicates a

consolidation of several requirements into a single, untraceable effort which makes verification nearly impossible.” Because CSC had not broken down the interim system’s cost, the specialist could not determine the amount of the various funding types—e.g., Other Procurement, Army funds—that had been expended.

Despite these concerns, in April 1992, the Army’s Information Systems, Selection, and Acquisition Agency authorized yet another amendment to the Delegation of Procurement Authority, raising the total value limit of the Interim Instrumentation System project to \$16.07 million. We found no evidence that the Army addressed any of the concerns before the value limit was raised.

In the summer of 1992, the enhanced two-battalion system was installed at the JRTC. The two-battalion training rotations were initiated soon thereafter.

What Did the Government Buy?

During our investigation, we requested the Contracting Officer to provide us access to the property books listing the hardware and software items purchased by CSC with government funds for the JRTC Interim Instrumentation System. We were told that there were no property books. Furthermore, neither the Marine Corps Logistics Base nor CTIES had maintained a record of—or knew—what funds were used to make the purchases for the system.

According to a February 21, 1992, memorandum from an Army Attorney-Advisor to Critical Design Review, Combined Arms Command, Ft. Eustis, Operations and Maintenance, Army funds had been used inappropriately on the CSC/MCLB contract. The maintenance costs had not been properly priced. Although the Attorney-Advisor instructed CTIES to determine what purchases had been made with the Army’s various funding types, CTIES made no attempt to determine the information until December 1992.

A January 8, 1993, memorandum to TRADOC from the Army’s Director of Resource Management, ATIC-RM, noted a similar difficulty in determining whether appropriate funding types had been expended for labor on the JRTC Interim Instrumentation System.

“In December 1992, CTIES asked the Computer Sciences Corporation (CSC) to review their accounting records to determine the installation costs for the hardware installed at the

JRTC for the two task orders in question. CSC advised CTIES that this information was not available because they were unable to distinguish between different categories of installation labor, eg, hardware (OPA) versus developed software (OMA cost). Furthermore, at the time the original task orders were accepted, a detailed labor estimate by category was not available and would have to be estimated if required for funding purposes.”

When we reviewed the contract file, we found a handwritten note signed by JRTC's COTR for the Interim Instrumentation System, recording that she had

“spoken w/ . . . , Contracting Specialist [assigned to the CSC/MCLB contract at the Marine Corps Logistics Base] re color of money. She indicated that it did not matter as long as it is \$. If not directed to do otherwise, she applies all money toward direct labor.”

When we interviewed the Marine Corps Contracting Specialist, she stated that she had applied all of the Army funds toward direct labor costs, even though contract records indicated that installation costs had been incurred.

Who Owns Software for JRTC Interim Instrumentation System?

In their November 1991 memorandum to the CTIES Directorate on the two-battalion system enhancements, technical advisors also questioned the unresolved status of the software development and integration. They asked, “[I]s the Government paying CSC and VITec for engineering time for them to develop what will become a proprietary commercial product that the Government has no data rights to?”

In December 1991, the CTIES Director requested a legal opinion from the TRADOC Contracting Activity on the ownership of the software being developed for the JRTC Interim Instrumentation System. The Director noted that CTIES had reviewed the license agreement and “maintains the position that the software in question was developed with money from the government in conjunction with the software effort for the . . . (JRTC Interim Instrumentation System) program. If this is indeed the way the software was ‘paid for,’ the ownership question is not an issue. The product belongs to the government.”

Although Army officials repeatedly told us—even after August 1992—that the software should belong to the government, the Marine Corps Contracting Officer signed a license agreement in August 1992, giving CSC the proprietary interests in the Battle Data Management and Display

System software—the JRTC Interim Instrumentation System software. According to the licensing agreement, the government-financed software is now owned by CSC. The government must now pay CSC a license fee so that the Army may use the software.

Operations and Maintenance of the JRTC Interim Instrumentation System: Phase IV

As early as April 1991, CTIES began preparing to move into phase IV—the operations and maintenance phase of the contract with CSC. Initially, additional funds were required to extend the operations and maintenance from May through September 1991. Later, an additional \$2.1 million in Operations and Maintenance, Army funds were requested “to continue the day to day O&M [operations and maintenance] activities necessary to allow the . . . [JRTC] to fulfill its mission. The O&M staff will also be responsible for minor software efforts as required by the JRTC Operations Group. . . . The current O&M effort will end 30 Sep 92,” with the expiration of the CSC/MCLB contract.

CTIES also met with the TRADOC Contracting Activity Legal Advisor in April 1991 “to determine a course of action to legally and effectively execute the O&M of the IIS [Interim Instrumentation System] at JRTC after 1 OCT 92.” The contract was needed to continue operations and maintenance support for the interim system until the permanent system was built and in place. One of the problems affecting the decision was that “full documentation was not purchased and is therefore not available to turn over to a third party.” As a result, competition for the operations and maintenance contract was not feasible “because the lack of documentation available will hamper a new contractor’s ability to perform the O&M mission.” However, the TRADOC Contracting Activity Legal Advisor refused to award a sole-source letter contract to CSC—but indicated that he would not object if the Marine Corps did so. Ultimately, this is what the Marine Corps Logistics Base did.

Documents indicate that, on September 17, 1992, the Army’s Information Systems Selection and Acquisition Agency approved a Delegation of Procurement Authority with a cost limit of \$5.5 million for support services. The procurement authority was specifically redelegated to the Marine Corps. However, the agency noted that this approval was unique and directed that “[t]his DPA [Delegation of Procurement Authority] is contingent upon receipt of a signed Justification and Approval (J&A) document before contract award . . . or the DPA is void.”

We were told that the Marine Corps was also concerned about the sole-source letter contract with CSC and that Justification and Approval documents were transferred simultaneously between the Marine Corps Logistics Base and the Army's Information Systems Selection and Acquisition Agency. On September 30, 1992, the Marine Corps Logistics Base issued a 1-year letter contract, not to exceed \$5,492,255, to CSC for operations and maintenance of the JRTC Interim Instrumentation System.

Internal Review of CTIES

In early 1991, the CTIES Directorate was placed under the direct command of the Combined Arms Command at Fort Leavenworth, Kansas. Shortly thereafter, the Deputy Commanding General for Training, Combined Arms Command, expressed his concern about the "escalating costs of contract support" at CTIES and its reliance on "exceptions to normal contract award procedures." He also indicated his concern about "less than desirable contractor performance," "consistent milestone slippage," and CTIES' "reliance on temporary and overhire personnel."

The Deputy Commander ordered an internal review of CTIES "to examine the processes and procedures of CTC [Combat Training Center] related contract and manpower actions generated by CTIES during FY 90 & 91." The review was completed in late 1991, after the General had been reassigned to the Department of the Army Headquarters as the Director of the Army's Training Directorate and the CTIES Director had been reassigned as the Assistant Deputy Chief of Staff for Training at TRADOC. The reviewers found numerous problems at the CTIES Directorate, but these findings were summarily dismissed without action by the new CTIES Director and by officials at the Combined Arms Command who concluded that the review found nothing to indicate culpability. No further action was taken.

Conflicts of Interest

Procurements without competition and adequate oversight are vulnerable to fraud and abuse, especially when conflicts of interest are involved. We identified two instances of conflict of interest during our investigation. Both individuals were personally and substantially involved in either the JRTC Interim Instrumentation System project or the CSC/MCLB contract. In addition, the U.S. Army Criminal Investigation Command is currently investigating two retired Army officers who were involved in either the JRTC Interim Instrumentation System project or the CSC/MCLB contract and who were subsequently hired by CSC.

The JRTC Team
Leader/Subtask 16 COTR

Ms. B, the wife of a retired Army officer who works for CSC, is a career federal employee who served as the Project Manager and JRTC Team Leader for the JRTC Interim Instrumentation System between December 1988 and September 1991. She also served as the COTR for Task Order 32/Subtask 16 (JRTC Interim Instrumentation System) between September 1990 and September 1991. Her duties as the COTR included preparing contract statements of work and task orders, certifying the Independent Government Cost Estimates, and reviewing CSC's monthly labor-hour charges.

During our investigation, a former U.S. Army officer, who had been assigned to work for the COTR—Ms. B—admitted that he had “padded” travel and other costs on what was supposed to be an Independent Government Cost Estimate on work for CSC. He told us that Ms. B had given him CSC's cost estimate and told him to “make the numbers come out.” He examined CSC's cost estimate and discovered that the costs were approximately three times what they should have been. When he brought this to the COTR's attention, he was told to “quit making waves” and maximize the contractor's costs by adding such items as extra days and extra rental cars. He recalled that the final government cost estimate was approximately twice the actual cost of the services.

Ms. B's husband retired from the Army as a Lieutenant Colonel in July 1989. CSC interviewed him for employment in October 1989 and hired him in September 1990—during the same time that his wife was the COTR for the JRTC Interim Instrumentation System—as an Information Systems Designer. His compensation package included a salary and ownership in CSC stock.

We were told by an officer at the Combined Arms Command at Fort Leavenworth that he had heard a rumor that Mr. B was working for CSC while Ms. B was the COTR on the JRTC Interim Instrumentation System. The officer stated that he then advised the Deputy Commanding General for Training that Ms. B had a potential conflict of interest. The officer told us that he was present when the General telephoned the CTIES Director and discussed the matter with him. According to the Combined Arms Command officer, the CTIES Director subsequently transferred Ms. B.

Neither the General nor the former CTIES Director recalled discussing the matter. The former CTIES Director, who supervised Ms. B when she worked at CTIES, told us that Ms. B and her husband had advised the former CTIES Director of her husband's negotiations with CSC for

employment. The former CTIES Director acknowledged that there were "appearance" problems but stated that he had no one else to assign as the COTR. He said that he had asked his legal staff if this would present a conflict of interest and was advised that it was not a problem. However, he did not obtain a written opinion to this effect, and he could not recall who had provided this verbal opinion.

The General, who subsequently ordered the internal audit of the CTIES Directorate contracts, told us that he was unaware of Ms. B's potential conflict of interest until our investigation.

In September 1991, Ms. B was promoted to GS-13 and transferred to the TRADOC Office of the Deputy Chief of Staff for Base Operations Support at Fort Monroe, Virginia, where she is currently a Requirements Acquisition Management Officer. This is the TRADOC office that grants offload approvals. After she was transferred to Fort Monroe, CSC assigned her husband to the JRTC Interim Instrumentation System project.

During our investigation, we were told that at a late 1992 meeting between TRADOC Contracting Activity officials, Ms. B was introduced as the point of contact for the Army's training needs. A TRADOC Contracting Activity Legal Advisor subsequently questioned whether this presented a conflict of interest, since Ms. B's husband was working for CSC on the JRTC Interim Instrumentation System and was a potential bidder on other Army work. The attorney told us that she was advised that Ms. B had been given ethics counseling and told not to discuss her work with her husband.

**Army Training Support
Center Program and
Budget Officer**

Ms. W is the Army Training Support Center's Program Budget Officer and Chief, Budget Branch. She is also a career federal employee, GM-13, whose husband is employed by CSC. Her position description states that she, among other duties, exercises responsibility for the certification of funds and the issuing of direct and reimbursable funds. She was delegated the authority to certify funds availability on May 5, 1988. Ms. W signed most of the Military Interdepartmental Purchase Requests transferring Army funds to the Marine Corps Logistics Base for use on the JRTC Interim Instrumentation System—Task Order 32/Subtask 16 of the CSC/MCLB contract.

Lieutenant Colonel W, her husband, retired as the Director, Army Extension Training, Army Training Support Center on May 1, 1989.⁸ He began negotiating for employment with CSC in February 1989 and was employed by the company on September 25, 1989, as a Senior Member of the Advisory Staff. He has a salaried position with CSC and owns CSC stock.

In August 1992, almost 3 years after her husband was employed by CSC, Ms. W requested a legal opinion on her potential conflict of interest. The signed opinion issued by the Acting Staff Judge Advocate, U.S. Army Transportation Center, Fort Eustis, on October 15, 1992, stated that, by certifying the funds intended for use on the CSC/MCLB contract, she had participated "personally and substantially in contracting actions" and that this was a "conflict of interest."

Former Division Chief,
Combat Training Centers
Division, CTIES

Lieutenant Colonel M (Ret.), as the former Division Chief for the Combat Training Centers Division of CTIES, was responsible for supervising the contract instrumentation work at the Army training centers, including the JRTC. He retired from the Army on June 1, 1991, and was employed by CSC 3 days later. CSC assigned Mr. M to the JRTC Interim Instrumentation System as a Training Analyst II on August 20, 1991.

On March 25, 1991, several months before he retired, Lieutenant Colonel M sought a legal opinion regarding his negotiations for employment with CSC. He specifically noted that his involvement with the CSC/MCLB contract "has been that of conducting high level supervisory reviews," that he had "no official dealings with CSC," and that he had "issued a disqualification statement which includes CSC." The Assistant Staff Judge Advocate/Ethics Counselor responded to Lieutenant Colonel M in an April 12, 1991, legal opinion. That opinion noted that "there is no general prohibition on accepting any employment with CSC" but noted that "[t]here are certain restrictions on representing CSC on matters that you have had responsibility for during government service and on selling to certain government agencies." The opinion also notes that "it appears that

⁸While reviewing the CSC/MCLB contract, we discovered that, as the Army Extension Training Director, Lieutenant Colonel W had participated in the contract. In a November 1, 1988, memorandum to the Contracts Division at the Marine Corps Logistics Base, Lieutenant Colonel W and the Acting Product Manager for the Army Communicative Systems recommended that a software license agreement covering software enhancements (unrelated to JRTC) made by CSC, at government expense, be signed and incorporated into the CSC/MCLB contract. As stated previously, Lieutenant Colonel W began negotiations for employment with CSC in February 1989 and was hired by the contractor in September 1989. Lieutenant Colonel W is currently under investigation by the Army's Criminal Investigation Command.

you were not personally and substantially involved in the tasks that CSC performed for your division. . . . Members of your staff had primary responsibility," and "[y]ou have disqualified yourself from further participation in any matter concerning CSC."

However, Lieutenant Colonel M misrepresented his role in the JRTC Interim Instrumentation System, i.e., the CSC/MCLB contract, to the Ethics Counselor. As the CTIES Division Chief, Lieutenant Colonel M was responsible for the JRTC instrumentation project and directly supervised the COTR—he prepared her performance appraisals in 1990 and 1991. He also participated in discussions and planning for the JRTC Interim Instrumentation System. Specifically, a month after he had advised the Ethics Counselor that he had disqualified himself from participation in matters concerning CSC, Lieutenant Colonel M participated in an April 24, 1991, meeting between CTIES officials and their legal advisor "to determine a course of action to legally and effectively execute the O&M [operations and maintenance] of the IIS [Interim Instrumentation System] at JRTC after 1 OCT 92." As a result of that meeting, it was decided that the operations and maintenance contract would not be competed but would be awarded as a sole-source contract to CSC. Ultimately, that contract was worth \$5.5 million to CSC.

Lieutenant Colonel M's role in the JRTC Interim Instrumentation System was also discussed in a May 22, 1991, memorandum to TRADOC Headquarters, which requested an increase to the Task Order 32 offload to cover operations and maintenance costs prior to October 1, 1992. That memorandum noted, "[b]ased on a conversation on or about mid Feb 91, several plans of attack were deliberated. The basic concept was to draft up an amendment to the off-load contract per Lieutenant Colonel M . . . 's guidance."

We were also told by the former COTR for Task Order 32/Subtask 16 and the former CTIES Director that Lieutenant Colonel M had initially recommended using the CSC/MCLB contract as a means of offloading the JRTC Interim Instrumentation System.

In addition, we were told that Lieutenant Colonel M had been advised that an Independent Government Cost Estimate for Work to be performed by CSC had been inflated at the COTR's direction and that he took no action. A short time later, Lieutenant Colonel M retired and began working for CSC.

Appendix II
The JRTC Interim Instrumentation System

Lieutenant Colonel M is currently under investigation by the Army's Criminal Investigation Command.

Investigative Analysis and Findings

Contract Offloading Used to Circumvent Competition

CICA requires federal agencies to use competitive procedures when procuring goods and services (10 U.S.C. section 2304 (1988)). While CICA allows certain exceptions to this rule, agencies are prohibited from contracting for supplies or services from another agency to avoid full and open competition (10 U.S.C. section 2304 (f)(5)(B)). However, the head of an agency, or a designee, may place orders with another agency for supplies or services on the other agency's contract, when, among other factors, it is in the best interest of the government (Economy Act of 1932, 31 U.S.C. section 1535).

The Army's CTIES Directorate used the CSC/MCLB contract to direct work to Computer Sciences Corporation and procure the Interim Instrumentation System for the JRTC, thereby avoiding competition, circumventing CICA and federal acquisition regulations, and abusing TRADOC's contract offloading process. We were told that from the time the CTIES Directorate was first created, one of its goals was to avoid the Army's complicated, lengthy acquisition process in an attempt to meet Army training needs. The Directorate aggressively pursued this goal, first by trying to extend the Army Training Support Center's analytical support contract; next by seeking to award a sole-source contract to CSC; and finally, by requesting the Marine Corps Logistics Base to issue a task order under the CSC/MCLB contract for the JRTC Interim Instrumentation System.

Regardless of whether the intent was to provide immediate assistance to the JRTC or to direct work to CSC, the result was the same—by offloading the requirement to the existing CSC/MCLB contract, CTIES avoided having to compete the procurement of the JRTC Interim Instrumentation System. In addition, the Marine Corps Logistics Base should not have used an expiring contract for work that was not within the scope of the contract. Furthermore, no cost analysis was performed prior to the decision to offload Task Order 32, which grew from \$134,000 to over \$16.5 million. As a result, the government had no assurance that this was the best price for the work performed.

By offloading the JRTC project, CTIES effectively shielded CSC from competition by allowing CSC to conduct the initial analysis, develop, and implement (or install) the system in a competition-free environment. If the installation of the JRTC Interim Instrumentation System had been competed after CSC had designed and developed the requirements for the system, CSC would have been prohibited from competing on that contract because of an organizational conflict of interest.

Finally, appropriated funds were used for purposes other than that for which they were intended.

Lack of Management Controls/Oversight Resulted in Abuse of Contract Offloading

Adequate oversight of the management of the tasks assigned to the CSC/MCLB contract might have prevented this abuse of contract offloading.

In discussing interagency acquisition under the Economy Act, the Federal Acquisition Regulation (FAR section 17.502) and the Department of Defense FAR Supplement (DFARS subsection 217.5) require the contracting officer of the agency placing the interagency order—in this case, the TRADOC Contracting Activity—to determine whether the task is in the best interests of the government. This determination also states that legal authority for the acquisition exists and that the action does not conflict with any other agency's authority or responsibility. The requesting agency is responsible for furnishing other assistance that may be necessary, such as providing contract terms or conditions or limitations applicable to the funds of the requesting agency. The servicing agency is responsible for compliance with all legal or regulatory requirements, including the competition requirements under CICA and federal acquisition regulations.

We found no evidence that either the TRADOC Contracting Activity or the Marine Corps Logistics Base complied with these regulations.

The TRADOC Contracting Activity

As discussed in appendix II, the CTIES Directorate did not initially seek approval from the TRADOC Contracting Activity for the JRTC Interim Instrumentation System offload to the CSC/MCLB contract. When TRADOC discovered the offload request, it informed the CTIES Director that TRADOC approval was needed. The CTIES Directorate then sought a determination from TRADOC that the offload was in the government's best interest. The TRADOC Contracting Activity approved the offload request using the rationale that (1) Phase I of the JRTC project had been completed; (2) the analytical support contract supporting that office had expired and the CSC/MCLB contract was recommended as an alternative; and (3) the strict timeline imposed by the implementation of a two-battalion rotation by the first quarter of fiscal year 1992 did not permit a complete competitive effort. However, as stated above—because the contract was expiring, the work was not within the contract's scope, no cost analysis had been performed, and funds had been inappropriately

applied to the contract—TRADOC's determination that this offload was in the government's best interest is questionable.

According to the Federal Acquisition Regulation, the Army was also responsible for providing information to the Marine Corps Logistics Base regarding contract terms and limitations or conditions on the funding. TRADOC Headquarters notified the CTIES Directorate that there were three conditions or qualifications that were required to be met prior to the offload: (1) the requirement for the Interim Instrumentation System meets the provisions of Army Regulation 25-1 "that information resources acquired are imbedded in an instrumentation system and do not interface or communicate outside the host system," (2) "the OMA/OPA mix is correct and does not circumvent or violate current guidance," and (3) the Marine Corps "issues a task order that is effective." For a task order to be "effective," the Marine Corps' contracting office "must incur cost in the form of a contractual obligation on CTIES's behalf" before the close of the fiscal year, September 30, 1990. We found no evidence that these conditions were conveyed to the Marine Corps Logistics Base, although the CTIES COTR should have provided this information to the Marine Corps Contracting Officer. TRADOC did not confirm that the qualifications had been met, yet TRADOC allowed the offload. We believe the abuse of the offload process could have been prevented with oversight by TRADOC.

The Marine Corps Logistics Base

Under the Federal Acquisition Regulation, FAR section 1.602-1, contracting officers are responsible for ensuring that all requirements of law, executive orders, regulations, and other applicable procedures have been met before the government enters into a contract. The federal acquisition regulation also requires contracting officers to ensure that the terms of the contract are met and that the government's interests are safeguarded.

In this case, the CSC/MCLB contract had expired and the period of performance had been extended to allow only completion of existing tasks. No new orders—or subtasks—were to be added. Yet, the Marine Corps Logistics Base subsequently allowed the CTIES Directorate to add several new subtasks, including Task Order 32/Subtask 16, for the JRTC Interim Instrumentation System. These subtasks should not have been allowed.

In addition, the CSC/MCLB contract was a contract for professional and technical services, not for equipment purchases. Task Order 32/Subtask 16, insofar as it involved the installation of the JRTC Interim Instrumentation System, was outside the scope of the contract; and the Marine Corps Logistics Base should never have allowed the request to offload the task. A modification does not exceed the contract's scope as long as the modified contract is substantially the same as the work for which the parties originally contracted. Indian and Native American Employment and Training Coalition, 64 Comp. Gen. 460 (1985). A modification that is outside the scope of the contract can be viewed as an attempt to circumvent the competitive procurement statutes. Cray Research, Inc., 62 Comp. Gen. 22 (1982).

Finally, both agencies failed to keep accurate records indicating the cost of operations and maintenance services versus hardware and installation costs, making it extremely difficult to determine whether appropriated funds were properly expended.

Conflicts of Interest

Conflict-of-interest rules prohibit government employees from engaging in certain activities that create a conflict between the employees' personal interest and their duty to serve the government. Title 18 U.S.C. section 208 prohibits certain acts by government employees affecting their personal financial interests.

Specifically, Title 18 U.S.C. section 208 prohibits government employees from participating personally and substantially in a particular matter in which they, their spouse, child, partner, or organization in which they are serving as officer, director, trustee, general partner, or employee, knowingly has a financial interest. "Participating personally and substantially" includes such things as deciding, approving, recommending, advising, and investigating. A "particular matter" includes judicial or other proceedings, contracts, claims, and controversies.

The statute provides an exception from the prohibition if the employee informs the agency of the potential conflict and the agency recuses the employee on the basis of a determination that the conflict is not substantial enough to affect the integrity of the services to the government.

Appendix III
Investigative Analysis and Findings

In our opinion, both the COTR for Task Order 32/Subtask 16, Ms. B, and the Army Training Support Center Budget Officer, Ms. W, violated the provisions of 18 U.S.C. section 208.

Comments From the Department of Defense

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



ACQUISITION
DP/CPA

OFFICE OF THE UNDER SECRETARY OF DEFENSE

WASHINGTON, DC 20301-3000

SEP 16 1993

Mr. Richard C. Steiner
Director
Office of Special Investigations
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Steiner:

This is the Department of Defense (DoD) response to the General Accounting Office (GAO) Draft Report GAO/OSI-93-12, "U.S. ARMY AND MARINE CORPS: Allegation of Contracting Irregularities and Conflicts of Interest," dated July 30, 1993 (GAO Code 600246/OSD Case 9477-A). The DoD partially concurs with the report.

The events in the report are not indicative of any systemic internal management control weaknesses nor of an abuse of contract offloading procedures, but rather the result of errors in judgment as well as a breakdown in the normal checks and balances between a requiring activity and a supporting contracting activity. The DoD does not agree that efforts were made to purposefully evade common practices and procedures.

The Army has issued two policy memoranda that call for strict oversight of interagency fund transfers and amended two internal regulations to require more stringent review of all proposed offload actions. The Marine Corps is in the process of issuing a policy that will require Head of Contracting Activity approval prior to any Marine Corps contracting activity's entering into a support agreement with a non-Marine Corps requiring activity. The Marine Corps Logistics Base, Albany, Georgia, conducted a review of other indefinite delivery type contracts and found no other similar problems. The software licensing issue has been referred to the Naval Investigative Service for potential fraud implications.

The detailed DoD comments on the report findings are enclosed. The Department appreciates the opportunity to comment on the draft report.

Sincerely,

A handwritten signature in cursive script that reads "Eleanor R. Spector".

Eleanor R. Spector
Director, Defense Procurement

Enclosure

See comment 1.

See comment 2.

GAO DRAFT REPORT - DATED JULY 30, 1993
(GAO CODE 600246) OSD CASE 9477-A

"U.S. ARMY AND MARINE CORPS: ALLEGATION OF CONTRACTING
IRREGULARITIES AND CONFLICTS OF INTEREST"

FINDINGS TO BE ADDRESSED IN THE DOD
RESPONSE TO THE GAO DRAFT REPORT

* * * * *

FINDINGS

FINDING A: Instrumentation Systems for Army Combat Training Centers.

The GAO observed that, in the early 1980s, the Army began applying sophisticated instrumentation to the Combat Training Centers to increase the effectiveness of training programs. The GAO reported that, by the mid-1980s, the Army had plans to procure an instrumentation system for the Joint Readiness Training Center. The GAO noted that the Army created the Collective Training, Instrumentation, and Engagement Systems Directorate at Fort Eustis, Virginia, to provide more immediate support to the Joint Readiness Training Center and other Army training centers. The GAO found that, in May 1989, the Army directed that plans for the Joint Readiness Training Center permanent system be delayed--because of lack of funds and the possible relocation of the Joint Readiness Training Center. The GAO further found that it was decided an interim system would be developed for use until the permanent system could be procured.

The GAO reported that the U.S. Army Collective Training, Instrumentation, and Engagement Systems Directorate attempted to award a sole-source contract for the work on the Joint Readiness Training Center interim system to Computer Sciences Corporation. The GAO found that, when an Army contracting activity attorney denied the request to award the sole-source contract because of lack of justification, the Army added the work as a task under an existing Computer Sciences Corporation contract with the Marine Corps Logistics Base in Albany, Georgia. The GAO noted that the Marine Corps Logistics Base had previously added tasks to the Computer Sciences Corporation/Marine Corps Logistics Base contract for the Collective Training, Instrumentation, and Engagement Systems Directorate. (pp. 8-14/GAO Draft Report)

DOD RESPONSE: Partially concur. The DoD does not agree with the implication that it was improper or inappropriate for the Marine Corps to provide contracting support to the Army. The DoD also does not agree that the transfer of requirements from one Service to another to conduct a procurement, a procedure known as contract

Now on pp. 8-11.

See comment 3.

See comment 4.

Appendix IV
Comments From the Department of Defense

See comment 3.

offloading, has any relevance to the sequence of events which occurred. Interservice support agreements, especially for programs that have multi-service applications, are common in the DoD. In this specific case, the Army requiring office, and its successor, were authorized by the Department of the Army to receive contracting support from the Naval Training and Equipment Center, Orlando, Florida, as well as the Marine Corps Logistics Base, Albany, Georgia. The subsequent events which occurred have no relationship to the value of such cross-service support agreements.

FINDING B: The Contract Offloading Process Was Used To Circumvent Competition. The GAO explained that contract offloads--i.e., contracts executed under the Economy Act of 1932--are task orders or contracts for the purchase of goods or services for one organizational unit that are issued under a contract held by another unit within the same agency or another agency. The GAO pointed out that, under the Competition in Contracting Act, agencies are prohibited from contracting for supplies or services from another agency to avoid full and open competition. The GAO noted, however, that per the Economy Act, an agency may place orders with another agency for supplies or services on another agency contract when it is in the best interest of the Government.

The GAO found that, in March 1989, the Marine Corps added Task Order 32 to the Computer Sciences Corporation/Marine Corps Logistics Base contract. The GAO noted that the Task Order 32 was amended in June 1989 and again in September 1989. The GAO concluded that the modification made in September 1989 was outside the scope of the basic contract. The GAO further concluded that the need to extend the contract performance date by 3 years for almost half of the task orders on the contract--at quadruple the original cost--indicated poor contract administration.

The GAO contended that the U.S. Army Collective Training, Instrumentation, and Engagement Systems Directorate use of the contract offloading process circumvented both the Competition in Contracting Act and the Federal Acquisition Regulation. The GAO concluded that, by using the offloading process, the Collective Training, Instrumentation, and Engagement Systems Directorate avoided having to compete the procurement of the Joint Readiness Training Center interim instrumentation system. The GAO further concluded that (1) the Collective Training, Instrumentation, and Engagement Systems Directorate should not have used an expiring contract for work that was not within the scope of the contract and (2) because no cost analysis was performed prior to the decision to offload the task, the Government had no assurance that the price was the best for the work performed.

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Comments From the Department of Defense

Now on pp. 1-2, 11-13,
and 32-33.

See comments 2, 3, and
5.

See comment 5.

See comment 6.

The GAO pointed out that, by offloading the Joint Readiness Training Center project, the Army Collective Training, Instrumentation, and Engagement Systems Directorate effectively shielded the contractor from competition. The GAO also concluded that appropriated funds were used for purposes other than that for which they were intended. In summary, the GAO concluded that the Collective Training, Instrumentation, and Engagement Systems Directorate used the contract offload process to add a task outside the scope of an expired Marine Corps Logistics Base contract. The GAO pointed out that the Army avoided competition and circumvented the Competition in Contracting Act, resulting in the directing of work to the specific contractor--Computer Sciences Corporation. (pp. 1-4, pp. 15-18, pp. 53-54/GAO Draft Report)

DOD RESPONSE: Partially concur. As indicated in the DoD response to Finding A, the use of interservice support agreements is a valuable asset within the DoD. As use of these support agreements is recognized as valid throughout the Department, the DoD does not agree that there was an intent on the part of the Army or Marine Corps to circumvent the Competition in Contracting Act. In addition, the DoD does not agree that no cost analysis was performed and that the price paid was not necessarily the best that could be obtained. The Marine Corps did use an Army-provided Independent Government Cost Estimate and conducted negotiations with Computer Sciences Corporation based on Defense Contract Audit Agency audited/approved labor rates and a technical analysis. Additionally, as a time and material contract, payments are based only on hours worked by specific personnel in support of named tasks, subject to audit. Materials and travel costs are paid as they are actually incurred. If Computer Sciences Corporation overbilled or mischarged, that would constitute fraud, and would have to be investigated separately. The DoD also does not agree that appropriated funds were improperly used. Both Army appropriations used on the contract, Operations and Maintenance and Other Procurement, were certified by Army Comptroller offices for the purposes for which they were expended. The issue as to the exact trackability of the funds expended relates more to the contract type and structure of the line items and has no bearing on whether the funds were used improperly.

FINDING C: The Lack of Management Controls/Oversight Resulted in Abuse of Contract Offloading Process. The GAO concluded that adequate oversight of the management of the tasks assigned to the Computer Sciences Corporation/Marine Corps Logistics Base contract might have prevented the abuse of the contract offloading process. The GAO observed that the Federal Acquisition Regulation requires the contracting officer of the requesting agency to determine whether the task is in the best interest of the Government. The GAO further

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Comments From the Department of Defense

observed that the servicing agency must approve the request by executing and issuing a determination and findings from information provided by the requesting agency. The GAO emphasized that no evidence was found that either the contracting activity--the Army Training and Doctrine Command--or the servicing agency--the Marine Corps Logistics Base--complied with the regulations. The GAO further discussed the contracting activity and the servicing agency, as follows:

- The Army Training and Doctrine Command Contracting Activity--The GAO found that the Army Training and Doctrine Command contracting activity approved the offload request because (1) Phase 1 of the Joint Readiness Training Center project had been completed (2) the analytical support contract had expired and the Computer Sciences Corporation/Marine Corps Logistics Base contract was recommended as an alternative, and (3) the strict due date imposed did not permit a complete competitive effort. The GAO concluded, however, that because the contract was expiring, the work was not within the scope of the contract, no cost analysis had been performed, and funds had been inappropriately applied to the contract, the contracting activity determination that this was in the best interest of the Government was questionable. The GAO further concluded that the conditions or qualifications required to be met prior to the offload, per the Federal Acquisition Regulation, were not in evidence--although the Collective Training, Instrumentation, and Engagement Systems Directorate should have provided the information to the Marine Corps contracting officer. The GAO also concluded that the abuse of the offload process could have been prevented with oversight by the Army Training and Doctrine Command.

- The Marine Corps Logistics Base. The GAO observed that the Federal Acquisition Regulation requires that contracting officers ensure that the terms of a contract are met and that the interests of the Government are safeguarded. The GAO noted that the Computer Sciences Corporation/Marine Corps Logistics Base contract had expired and the period of performance had been extended to allow only completion of existing tasks--no new orders or tasks were to be added. The GAO reported however, that the Marine Corps Logistics Base allowed the Collective Training, Instrumentation, and Engagement Systems Directorate to add several new tasks--including Task Order 32/Subtask 16--for the Joint Readiness Training Center Interim Instrumentation System. The GAO advised that the tasks should not have been allowed.

According to the GAO, neither the Army nor the Marine Corps performed a cost analysis before the task was added, therefore, the Government had no assurance that a fair price had been obtained. The GAO

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Now on pp. 1-2 and
33-35.

See comment 4.

concluded that the Collective Training, Instrumentation, and Engagement Systems Directorate acquired a computer system without competing a contract and used appropriated funds for purposes other than that for which intended. The GAO also concluded that the Army and the Marine Corps violated the Federal Acquisition Regulations that state requirements for contracting officers and their representatives, funding, and the purchase of automated data-processing equipment. The GAO indicated that the ability to avoid competition and the abuse of the offload process were possible because the Army and the Marine Corps demonstrated an overall lack of oversight for the contract taskings. Finally, the GAO concluded that both agencies failed to keep accurate records indicating the cost of operations and maintenance versus installation costs, making it difficult to determine whether appropriated funds were properly expended. (pp. 1-4, pp. 55-59/GAO Draft Report)

DOD RESPONSE: Partially concur. The DoD agrees that errors in judgment and procedures were made by both the Army and the Marine Corps. While there clearly were a lack of management controls and oversight in the generation of the requirement and subsequent award and administration of the order, we do not agree that this constitutes abuse of the "Contract Offloading Process," a term which we have previously indicated is being used with negative connotations while the actions in question were part of a legitimate interservice support agreement. Actions have been taken to address these errors. On January 14, 1991, December 26, 1991, and April 21, 1993, the Army issued policy memoranda to all Army contracting activities and Program Executive Officers that call for strict oversight of interagency fund transfers. The Army also amended Army Regulation 37-1, Army Accounting and Fund Control, in February 1992 and Army Regulation 70-1, Army Acquisition Policy, in April 1992 to require more stringent review of all proposed contract offload actions. The Marine Corps is preparing guidance that will amend the Marine Corps Field Purchasing Manual to require Head of the Contracting Activity approval prior to any Marine Corps contracting activity entering into a support agreement with a non-Marine Corps requiring activity. The Marine Corps guidance is expected to be issued by December 1993. The Marine Corps Logistics Base, Albany, Georgia, also conducted a review of other indefinite delivery type contracts in June and July of 1993 and found no other similar problems. In August 1993, the software licensing issue was referred to the Naval Investigative Service for potential fraud implications.

FINDING D: Conflicts of Interest. The GAO observed that rules governing conflict of interest prohibit Government employees from engaging in certain activities that create a conflict between the personal interests of the employees and their duty to serve the Government. The GAO added that Title 18 U.S.C. prohibits certain

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acts by Government employees affecting their personal financial interests. The GAO concluded that both the contracting officer technical representative for Task Order 32/Subtask 16 and the Army Training Support Center Budget Officer violated the provisions of the statute. The GAO also contended that both individuals were personally and substantially involved in either the Joint Readiness Training Center project or the Computer Sciences Corporation/Marine Corps Logistics Base contract.

The GAO reported that conflicts of interest existed between two Army civilian employees, who were involved in the contract and the Computer Sciences Corporation. The GAO mentioned that there is evidence that the costs on at least one independent Government cost estimate were padded--which more than doubled the actual costs--at the direction of a Collective Training, Instrumentation and Engagement Systems Directorate employee who, at the time, was married to a Computer Sciences Corporation employee. (pp. 1-4, pp. 44-52, pp. 59-60/GAO Draft Report)

DOD POSITION: The report findings of possible conflicts of interest were referred by the GAO to the Defense Criminal Investigative Service and to the U.S. Army Criminal Investigations Command. Separate investigations have been initiated.

* * * * *

RECOMMENDATIONS

- NONE

Now on pp. 1-2, 26-31,
and 35.

The following are GAO's comments on the Department of Defense's letter dated September 16, 1993.

GAO Comments

1. The Department of Defense's (DOD) Office of the Inspector General previously identified material internal-control weaknesses involving interagency agreements between DOD agencies and non-DOD agencies, including "Contracting Through Interagency Agreements With the Library of Congress," No. 90-034, Feb. 9, 1990; "DOD Hotline Allegation of Irregularities in DOD Contractual Arrangements With the Department of Energy," No. 90-085, June 19, 1990; and "Quick-Reaction Report on DOD Procurements Through the Tennessee Valley Authority," No. 92-069, Apr. 3, 1992. Although our investigation focused on the use of interagency agreements within DOD, in this case example, we found similar internal-control weaknesses. As a result of this lack of internal control, the CTIES Directorate was able to use TRADOC's contract offloading procedures to direct work to CSC, thus avoiding competition and circumventing CICA. We believe that this was an abuse of TRADOC's contract offloading procedures.
2. This case has been referred to the Defense Criminal Investigative Service and the U.S. Army Criminal Investigation Command and is currently under investigation.
3. Our investigation focused on Task Order 32/Subtask 16 and did not address the overall issue of whether it is appropriate for the Marine Corps to provide contracting support to the Army. However, in this case, we believe that it was inappropriate for the Marine Corps contracting office to allow the CTIES Directorate to offload work, which was outside the scope of the contract, to the Marine Corps/CSC contract.
4. The TRADOC Contracting Activity had denied the CTIES Directorate's request to award a sole-source contract to CSC. Without the ability to offload this work to an existing contract, CTIES would have had to compete the work. As a result, TRADOC's contract offloading process allowed CTIES to direct the work to CSC through the Marine Corps Logistics Base.
5. On the basis of our review of the contract file, no cost analysis was performed before the decision was made to offload Task Order 32, which grew from \$134,000 to over \$16.5 million. Although costs analyses were performed at various stages of the work, the Combined Arms Command's

internal review noted that "CTIES had no plan or baseline to measure or evaluate program execution." The review further noted that "[p]roper development and accuracy of Independent Government Cost Estimates (IGCE) and mathematical analysis is poor," and that "[i]nternal controls would . . . save dollars, and avoid appearance of questionable transactions."

6. Our finding was based in part upon a February 1992 legal opinion by a TRADOC Contract Activity Legal Advisor to the CTIES Directorate. That opinion determined that the OMA funds had been used inappropriately on the CSC/MCLB contract. (See pp. 15-16.)

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