



Highlights of [GAO-05-957](#), a report to the Committee on Armed Services, House of Representatives

Why GAO Did This Study

In April 2004, the Secretary of the Air Force approved a permanent waiver of the requirements of the Berry Amendment for 23 commercial derivative aircraft systems, representing more than 1,200 aircraft in the Air Force's inventory. The Berry Amendment generally requires the Department of Defense (DOD) to purchase certain domestically grown or produced items, including specialty metals used in defense systems such as aircraft. Waivers to the Berry Amendment can be granted under certain circumstances. GAO was asked to evaluate the supporting evidence and analysis that the Air Force relied on to waive the Berry Amendment. GAO did not conduct a legal analysis of the waiver.

What GAO Recommends

GAO recommends that the Department of Defense direct the Air Force to (1) conduct an analysis of each commercial derivative aircraft system in the waiver to consider opportunities to achieve compliance with the Berry Amendment requirements or document why such compliance is not possible and (2) assess, on a periodic basis, whether changes have occurred in the supplier base for each aircraft system in the waiver that would provide opportunities to procure domestically produced items as required by the Berry Amendment. DOD and the Air Force agreed with both of GAO's recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-05-957.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Ann Calvaresi-Barr at (202) 512-4841 or calvaresibarra@gao.gov.

DEFENSE PROCUREMENT

Air Force Did Not Fully Evaluate Options in Waiving Berry Amendment for Selected Aircraft

What GAO Found

The Air Force did not follow established policy when evaluating the need for a waiver of the Berry Amendment for 23 commercial derivative aircraft systems. Specifically, the Air Force did not thoroughly analyze the opportunities for compliance with the Berry Amendment on a system-by-system basis, thereby diminishing the persuasiveness of the waiver's support.

The Air Force's review of its compliance with the Berry Amendment regarding these systems began in early 2003 when it became aware that some aircraft manufacturers could not meet the Berry Amendment requirements. Faced with this problem, a senior Air Force acquisition official visited an aircraft manufacturer, two of its subcontractors (including a titanium producer), and an engine manufacturer. The Air Force's conclusion, based on these visits and knowledge of the aerospace industry, was that other contractors involved in the Air Force's acquisition and support of commercial derivative aircraft systems would also have difficulty complying with the Berry Amendment. In September 2003, the Secretary of the Air Force signed a temporary waiver that was initiated at the headquarters level and covered 19 systems. That was followed in April 2004 with a permanent waiver of the Berry Amendment for these 19 systems plus another 4.

Air Force policy calls for certain actions before issuing a waiver, including conducting market research and conducting an analysis of what alternatives are available and why they are not acceptable. In this instance, the Air Force did not conduct market research for each system, as it believed no company could produce compliant parts—a position not explained in the waiver's supporting documents. The Air Force documented an analysis of alternatives for only 1 aircraft system in the waiver. Memos representing 18 other aircraft systems state that alternatives to the waiver had been considered and rejected as not feasible but did not identify what the alternatives were, while memos for 3 additional aircraft systems make no reference to whether alternatives had been considered. The Air Force provided no documentation about its analysis of alternatives for the 1 remaining aircraft system in the waiver. After discussions with representatives for all 23 aircraft systems, GAO concluded that the Air Force did not document alternatives or thoroughly review possible options to achieve compliance with the Berry Amendment for many of the aircraft systems.

GAO has identified several instances that highlight the Air Force's lack of thoroughness in its waiver process for the 23 aircraft systems. For example, the Air Force did not question contractors' inability to provide compliant spare parts when they were military unique and therefore not the same as the parts used in commercial aircraft. Also, the Air Force included some aircraft systems in the waiver that were already covered under other regulatory exceptions to the Berry Amendment.