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Description of document:	Eleven Selected Central Intelligence Agency (CIA) Inspector General (OIG) Audit documents, 1995-2003
Request date:	15-August-2006
Released date:	28-March-2014
Posted date:	01-December-2014
Note:	See following page for list of included Audit Reports
Source of document:	Information and Privacy Coordinator Central Intelligence Agency Washington, DC 20505 Fax: (703) 613-3007

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INCLUDED CIA INSPECTOR GENERAL AUDIT REPORTS Note: numbering follows that used in release letter

- 1. 1997-0001-AS Agency Honor and Merit Awards
- 2. 2003-0004-AS Central Intelligence Agency Retirement and Disability's System
- 3. 1995-0007-AS Compliance with Energy Management Mandates
- 5. 2000-0036-AS Financial and Managerial Controls over In-Q-Tel, Inc.
- 6. 1998-0002-AS Follow-Up-Audit of Agency use of Credit and Charge Cards
- 8. 2003-0002-AS Financial Reporting of Environmental and Disposal Liabilities
- 9. 1995-0003-AS Hazardous Material and Waste Followup
- 12. 2002-0013-AS Internal Quality Control Review and the Audit Staff
- 13. 1996-0017-AS Mechanisms for Adjudicating, Documenting, and Reporting Disciplinary Actions
- 16. 1997-0007-AS Special Assessment: Allegations Regarding the Handling of Information Concerning the Possible Exposure of United States Armed Forces to Chemical Weapons During the Persian Gulf War
- 17. 1996-0018-AS Special Assessment-Information Declassification & Release Effort



28 March 2014

Reference: F-2006-.01557

This is a final response to your 15 August 2006 Freedom of Information Act (FOIA) request for "a copy of the following CIA Inspector General Audit documents:

- 1. 1997-0001-AS Agency Honor and Merit Awards
- 2. 2003-0004-AS Central Intelligence Agency Retirement and Disability's System
- 3. 1995-0007-AS Compliance with Energy Management Mandates
- 4. 1992-0015-AS DOE Letter Requests
- 5. 2000-0036-AS Financial and Managerial Controls over In-Q-Tel, Inc.
- 6. 1998-0002-AS Follow-Up-Audit of Agency use of Credit and Charge Cards
- 7. 1997-0015-AS Follow-Up of the Administration of Covert Bank Accounts
- 8. 2003-0002-AS Financial Reporting of Environmental and Disposal Liabilities...
- 9. 1995-0003-AS Hazardous Material and Waste Followup
- 10. 1995-0034-AS IC Oversight and Management
- 11. 2003-0017-AS Intelligence Community Inspectors General Forum Review...
- 12. 2002-0013-AS Internal Quality Control Review and the Audit Staff...
- 13. 1996-0017-AS Mechanisms for...Disciplinary Actions
- 14. 1998-0010-AS OIG Peer Review
- 15. 1990-0035-ASSpecial Review
- 16. 1997-0007-AS Special Assessment...
- 17. 1996-0018-AS Special Assessment-Information Declassification & Release Effort."

We processed your request in accordance with the FOIA, 5 U.S.C. § 552, as amended, and the CIA Information Act, 50 U.S.C. § 431, as amended. Our processing included a search for records as described in our 8 September 2006 acceptance letter.

We completed a thorough search for records responsive to your request and made the following determinations:

With respect to Item 15 above, we did not locate the document responsive to your request. With respect to Items 1-3, 5-6, 8-9, 12 -13, and 16-17, we located copies of 11 documents above, consisting of 348 pages, which we determined can be released in segregable form with deletions made on the basis of FOIA exemptions (b)(1), (b)(3), and/or (b)(5). Copies of the documents and explanation of exemptions are enclosed. With respect to Items 4, 7, 10-11, we determined the documents are currently and properly classified and must be denied in their entirety on the basis of

FOIA exemptions (b)(1), (b)(3), and/or (b)(5). Exemption (b)(3) pertains to information exempt from disclosure by statute. The relevant statute is the Central Intelligence Agency Act of 1949, 50 U.S.C. § 403g, as amended, Section 6, which exempts from the disclosure requirement information pertaining to the organization and functions, including those related to the protection of intelligence sources and methods. As the CIA Information and Privacy Coordinator, I am the CIA official responsible for this determination. You have the right to appeal Items 1-13, 15-17 of this response to the Agency Release Panel, in my care, within 45 days from the date of this letter. Please include the basis of your appeal.

The cost associated with processing your request amounts to **\$24.80**. This consists of reproduction of 248 pages at a rate of **10** cents per page. As a requester in the "All Other" category, you are responsible for the cost of processing your request for reproduction charges beyond the first 100 pages. Please send your check or money order in the amount of **\$24.80** payable to the **Treasurer of the United States** citing F-2006-01557 to ensure proper credit to your account.

In addition, we also located one responsive document to Item 14 above that requires this agency to consult with other federal agencies, pursuant to 32 C.F.R. 1900.22(b). For administrative purposes, we opened a new case, F-2014-00720, to facilitate the processing of this document. When these coordinations are complete, we will provide a follow-up response.

Sincerely,

Auchala Rector

Michele Meeks Information and Privacy Coordinator

Enclosures

Approved for Release: 2014/02/04

(b)(3) (b)(5)

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SPECIAL ASSESSMENT Agency Honor and Merit Awards

SUMMARY

Reforms are needed to safeguard the integrity of the Agency honor and merit awards program, to ensure that it operates fairly and impartially, and to enhance employee understanding of its purposes and practices.

OBJECTIVES, SCOPE, AND METHODOLOGY

This special assessment was undertaken at the request of the DCI. The objectives of our review were to determine compliance with regulatory and other directives governing the Agency honor and merit awards program and to evaluate the adequacy of management controls, policies, and procedures for administering and maintaining the integrity of the program.

We interviewed current and former members of the Agency Honor and Merit Awards Board and representatives from the DCI Office of Protocol responsible for providing administrative support to the Board and



maintaining a centralized data base and files for all honor and merit award nominations. We reviewed _______ Honor, Merit, and Service Awards, governing the program (Exhibit A); a 1967 Inspector General Survey of the Agency Honor Awards Program; and the results of an early 1996 Agency Quality of Life Working Group review of policies and procedures for consideration of retiring employees for honor and merit awards. In addition, we reviewed Board meeting minutes and a judgmental sample of files for awards. We also examined US military and Department of State award policies.

Our review focused on awards requiring Board review, but it included an analysis of statistics for all awards compiled from data provided by the DCI Office of Protocol and the Office of Human Resources Management. We did not assess the reliability of computer-processed data in conjunction with our review. We did not attempt to validate information in the files supporting awards for individual award recipients, but we did address the sufficiency of the information provided to support award decisions.

Our work was conducted from July through September 1996. Comments on the draft report were obtained from appropriate officials and considered in the preparation of the final report.

BACKGROUND

The Agency's honor and merit awards program was initiated in 1954. It was designed by an Agency Working Group on Honor Awards and is similar in philosophy to military honor and merit award programs, with two basic types of awards—awards for valor and awards for achievement. The highest level awards remain the same today as in 1954—the Distinguished Intelligence Cross (DIC) and the Intelligence Star (IS) for valor, and the Distinguished Intelligence Medal (DIM) and the Intelligence Medal of Merit (IMM) for achievement. When the program was initiated in 1954, these were the only honor and merit awards.

In the late 1950s two additional awards were authorized: the Certificate of Distinction (CD), for either valor or achievement, and the Certificate of Merit (CM) for achievement. In 1972 the Career Intelligence Medal (CIM) for achievement was authorized and ranked in order between the IMM and the CD. In 1982 the Intelligence Commendation Medal (ICM)



for achievement was authorized and ranked in order between the CIM and the CD.

For nearly the first twenty years of the program, the Agency Honor and Merit Awards Board reviewed all levels of award nominations, and the DCI or his designee approved all awards issued. In 1973, approval authority for the CD was delegated to the Heads of the Career Services, although Board review was still required for CD nominations. In 1984, approval authority for awards at the level of the CIM and below was delegated to the Heads of the Career Services, and Board review of these awards was no longer required. Since then, approving authority for CDs and CMs has been delegated to responsible Operating Officials.

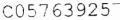
The Agency honor and merit awards currently authorized in rank order are the:

- Distinguished Intelligence Cross (DIC).
- Distinguished Intelligence Medal (DIM).
- Intelligence Star (IS).
- Intelligence Medal of Merit (IMM).
- Career Intelligence Medal (CIM).
- Intelligence Commendation Medal (ICM).
- Certificate of Distinction (CD).
 - Certificate of Merit (CM).

The criteria for each award and the levels of approval and review required, as defined in are summarized at Exhibit B. Additionally, as explained on Form 600, *Recommendation For Honor or Merit Award* (Exhibit C), career recognition is not restricted to the CIM; the DIM, IMM, ICM, CD, and CM are also authorized to be awarded as "recognition of an entire career" as well as for a specific act or achievement.

DETAILED COMMENTS

Reforms are needed to safeguard the integrity of the Agency honor and merit awards program. DIMs and IMMs normally should be awarded at the time of accomplishments warranting such recognition rather than routinely bestowed upon senior officials at retirement. Agency Honor and Merit Awards Board membership should be changed and the Board's





operation and access to information improved. Awards should be publicized to promote equity and fairness in the program. Agency policy prohibiting receipt of both Agency and Intelligence Community awards for the same achievement should be either enforced or rescinded.

Management Controls, Policies, and Procedures

Management controls, policies, and procedures for the Agency honor and merit awards program are found in governing regulation and Form 600. The Chief of the DCI Office of Protocol serves as Executive Secretary and Recorder to the Agency Honor and Merit Awards Board and her staff maintains records and files for all honor and merit award nominations.

The primary management controls for all levels of awards are the criteria for each award as established by Controls for ensuring integrity and uniformity in the evaluation and application of the stipulated criteria for the four highest level awards—the DIC, DIM, IS, and IMM—are the responsibility of the Board. Controls for ensuring integrity and uniformity in the evaluation and application of the stipulated criteria for the remaining awards—the CIM, ICM, CD, and CM—are the responsibility of directorate and office management. Directorate and office management are also responsible for establishing policies and procedures for nominating employees for all levels of awards.

Directorate and component policies and procedures regarding Agency honor and merit awards were reviewed in early 1996 by an Agency Quality of Life Working Group team. That team determined there was a diversity of award practices among the directorates, and even between offices within the same directorate. Specifically, the team found that "some components held formal panels, others relied on the decisions of the component chief, and still others had no mechanism at all."

The team produced a pamphlet, *Standards for Retirement Presentations*, which was approved by the Executive Director. The pamphlet includes a requirement that "Every employee who retires from the Agency will be considered for an honor and merit award by an office-level management board or panel." The pamphlet also contains a summary of "Best Practices Across the Agency," which includes a suggestion for



assigning focal point officers within each office to provide resident expertise on all aspects of the award process.

Due to the diversity of practices regarding honor and merit awards among the directorates, and insufficient time for the directorates to have established procedures for compliance with pamphlet directives, we focused our assessment on those awards requiring Board review. We compiled and analyzed statistics for all awards using data provided by the DCI Office of Protocol and the Office of Human Resources Management.

Analysis of Honor and Merit Awards Issued

Our analysis of Agency honor and merit awards issued from 1 January 1992 through 31 July 1996 is presented at Exhibit D. The key findings of that analysis are:

- DCI area personnel received a greater proportion, relative to staff size, of honor and merit awards than personnel in each of the four directorates.
- DCI area personnel received a greater proportion, relative to staff size, of higher level achievement awards—DIMs and IMMs—than personnel in each of the four directorates.
- A significantly greater percentage of Senior Intelligence Service (SIS) retirees received an honor and merit award in comparison with other grade levels.
- Higher graded officers received higher level awards upon retirement, most notably the DIM, IMM, and CIM.

Use of the DIM and IMM as Career Achievement Awards

A 1967 Office of Inspector General (OIG) report on the Agency honor and merit awards program warned against setting a pattern of honoring senior officers with DIMs and IMMs upon retirement. The report noted that senior officers have typically "demonstrated unusual capabilities



and performance," but observed that "the attainment of high position does not necessarily equate with performance which is, for the purposes of formal honorary recognition, supposed to be exceptionally distinguished."

These words of caution notwithstanding, a pattern appears to have been established where senior officers at or above the level of office director can reasonably expect to receive a DIM or an IMM upon retirement. One senior level official told us that officials at the level of at least an office director whose performance met expectations were typically given a DIM upon retirement; others were likely to receive an IMM or possibly a CIM.

A review of DIMs and IMMs awarded from 1 January 1992 through 31 July 1996 supports this view. Eighty-one percent of the DIMs and 74 percent of the IMMs issued during that time period were in conjunction with retirement, separation, or death, and only two DIMs were awarded to employees below the grade of SIS-3. Moreover, 70 percent of the officers receiving DIMs held positions at levels equivalent to office director or above. Similarly, 83 percent of employees awarded IMMs had achieved the rank of GS-15 or above, and 74 percent of these were SIS officers.

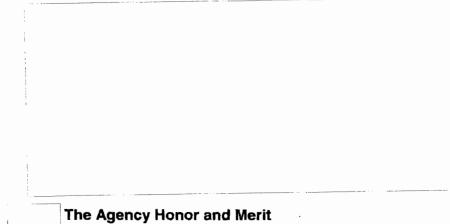
It is not unreasonable for senior officers to be given awards for career achievement upon retirement. But these officers assumedly have accomplishments that would have warranted earlier DIM or IMM recognition, and we are aware of several officers who have received more than one DIM or IMM in the course of their careers.

Services or accomplishments meeting the criteria for the DIM must be "outstanding" or "exceptional" in nature and must constitute a "major contribution" to the mission of the Agency. Services or accomplishments meeting the criteria for the IMM must be "especially meritorious" or "conspicuously above normal duties" and must have "contributed significantly" to the mission of the Agency. Accomplishments at such levels should be readily identifiable. In keeping with sound management practice to provide timely recognition, awards for such accomplishments should be made when they occur rather than deferred until retirement.

Thus, the DIM and IMM should normally be awarded during or immediately following the period in which the performance warranting such



recognition is demonstrated. The CIM—with its criteria of a "cumulative record of service" reflecting "exceptional achievement" that "substantially contributed" to the mission of the Agency—would then become the highest level career achievement award normally given upon retirement. Award of the DIM and IMM at retirement should be reserved for circumstances where it can be demonstrated that appropriate award recognition was not made during the employee's career.



Awards Board

The Agency Honor and Merit Awards Board provides an essential control for maintaining the integrity and fairness of the highest level Agency awards for valor and achievement. Board meeting minutes and comments from current and former Board members indicate that the Board strives to promote equity in the program and to ensure compliance with award criteria. In recent years, the Board appears to have had fewer problems with valor awards than achievement awards, possibly because fewer valor awards are issued and because the criteria for valor awards are less susceptible to subjective interpretation.

The role of the Board could be strengthened by changing its composition, reforming the way in which it does business, ensuring that it has access to all pertinent information, and preventing the award of DIMs and IMMs without Board review.

Co	mposition of the Board	,	
	appoints the Director an	d Deputy Director of	of Human

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Resources Management as chairperson and alternate chairperson of the Board. further provides for the appointment of one Board representative and one alternate by the Executive Director and each of the four Deputy Directors. All current Board members are senior SIS officers with broad managerial experience.

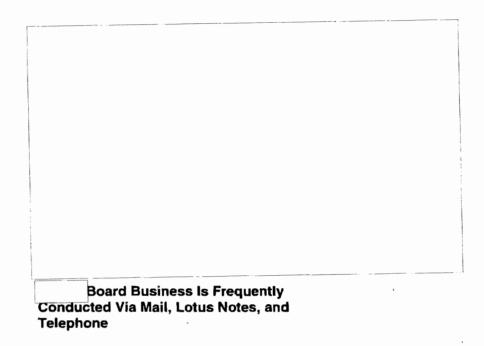
Among the five SIS officers appointed to the Board by the Executive Director and the Deputy Directors, only one currently serves in a human resources-related position within his directorate.

Human resources personnel would typically have the best knowledge of and access to personnel files and career service board information regarding award nominees from within their directorates. A human resources officer with Board experience could potentially provide better resident expertise for developing directorate policies and procedures, proposing award nominations, and reviewing and approving awards at those levels where Board review is not required. Moreover, human resources personnel are in the best position to promote awareness to supervisors throughout the Agency of their opportunity and responsibility for stimulating proper recognition for meritorious service.

Because of these potential benefits, and the fact that a membership tied to incumbency in specified positions would help regularize and ensure the integrity of the Board's operation, the senior human resources officer within each directorate and the DCI area should serve on the Board. In recognition of the fact that the Board chairperson is the Director of Human Resources Management, the Deputy Director of Human Resources Management should serve as the DA representative on the Board.

To promote diversity among Board members, consideration should be given to adding a representative from the "rank and file" to provide a broader representation of the Agency populace. Such a representative should logically have some experience in supervision and in serving on promotion or evaluation panels.





The Board is hampered by insufficient practices and procedures for the effective conduct of its business. The Board meets infrequently and the majority of business is conducted via mail, Lotus Notes, or telephone. The Office of Protocol gives Board members copies of award nomination packages, which include the required forms, written nomination justifications, and standard Agency biographic profiles. Board members review the packages and send their comments and votes on the nominees to the Office of Protocol. The comments and votes are then provided to the Board Chairperson, who determines whether there is a need for a Board meeting.

In our sample review of 26 DIMs that were submitted through the Board, only four were discussed at Board meetings. The remaining 22 DIMs were approved via mail, Lotus Notes, or telephone vote. For 14 of these 22 DIMs, Board members provided comments expressing some doubt as to the sufficiency of the nomination justification or the level or nature of the award proposed. In the case of a 1994 DIM nomination for a retiring official, for example: two Board members wanted more information; two Board members voted yes, but commented that the written nomination justification was weak; and two Board members voted yes without comment. The DIM was approved on the basis of this four-to-two vote



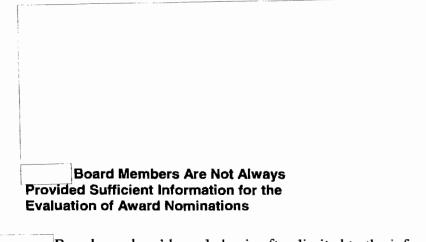
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without a Board meeting having been called.

In another two cases, Board members commented on significant issues affecting the nominations that were not addressed in the nomination packages. In an additional 10 cases, Board members commented that the written nomination justifications were weak or suggested that a lower level or different type of award would be more appropriate. Finally, in one case, a Board member commented that the DIM represented a "going away gift" in connection with the nominee's reassignment. Again, in all these cases, the DIMs were approved without the benefit of Board meetings for discussion of the issues raised.

The comments provided by Board members in these instances could potentially have affected the eventual outcome of the votes for award nominations had the members' views been shared and discussed at an actual Board meeting. Conducting award votes via mail, Lotus Notes, and telephone may be more expeditious for some Board members, but it does not allow for the interactive discussion and exchange of ideas that occur in an actual meeting, and does not provide the vetting and consideration warranted for the level of awards the Board is responsible for reviewing.

All award nominations should be discussed and voted upon in Board meetings. During the course of our review, we discussed the need to schedule regular Board meetings with Office of Protocol personnel, who have since established a policy of scheduling monthly Board meetings for the consideration of all award nominations under the Board's purview.



Board members' knowledge is often limited to the information

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provided by the sponsoring directorates in award nomination packages. Current and former Board members and Office of Protocol employees that we interviewed advised that significant unfavorable or adverse information regarding award nominees should be, but typically is not, provided by the sponsoring directorates.

Many Agency officers who have been subject to disciplinary action have achieved noteworthy accomplishments over the course of varied and successful careers, warranting consideration of an award for achievement. Accordingly, these officers should be considered for honor and merit awards before or at retirement, on the same basis as any other employee. It is essential, however, that aspects of performance which warranted official disciplinary action be considered along with accomplishments in evaluating the appropriateness of achievement awards.

These concerns are not new and, in fact, were addressed in the 1967 OIG report on the Agency's honor and merit awards program. That report expressed the specific concern that an award could be made that might embarrass the Agency. The 1967 OIG report noted that thorough "name checks" were conducted on all award nominees to preclude such an event.

Currently, the Agency component sponsoring an award nominee is required to conduct "background checks" with OIG and the Office of Personnel Security/Special Activities Staff (OPS/SAS). OIG maintains records of individual employees determined to have been accountable, either criminally or administratively, in conjunction with matters under OIG investigation or review. OPS/SAS serves as the Agency focal point for tracking cases of Agency employees with problems. OPS/SAS maintains centralized records of such cases, including adverse information discovered or developed by components, and any resulting actions taken, to include all official disciplinary actions except oral warnings or admonitions.





OIG and OPS/SAS typically reply via Lotus Notes when there is no "reportable information" to be considered in relation to an award nomination. In instances where OIG inquiries have been completed and adverse information regarding nominees exists, sponsoring components are orally advised of the circumstances. OPS/SAS procedures provide for routine advisement of adverse information only in instances where awards are prohibited in an active letter of reprimand. In such cases, OPS/SAS responds to the sponsoring component via Lotus Notes. In all other instances where disciplinary action is on record, OPS/SAS considers the circumstances associated with the disciplinary action and determines whether the sponsoring component should be informed of the action. In instances where OPS/SAS determines the sponsoring component should be advised of disciplinary action, advisement is typically oral.

The sponsoring component is then required to annotate on Form 600 whether OIG and OPS/SAS have given "approval" for the nomination. The term "approval" is inaccurate in this instance, as OIG and OPS/SAS do not approve award nominations. The role of these offices is simply to ensure that the sponsoring component is advised of any adverse information that should be considered in conjunction with an award nomination. As Form 600 is currently worded, however, sponsoring component management can annotate "yes" to having obtained the required OIG and OPS/SAS "approvals" even in instances where seriously adverse information is reported.

For two recent DIM nominations, the requirement for OIG and OPS/SAS "approval" was not even acknowledged on Form 600, and no mention of disciplinary action was included in the award nomination packages that were submitted to the Board. The Board conducted its deliberations on the award for one officer without having been made aware that he had received a letter of reprimand just nine months earlier. In the case of the other officer, Board members were aware of recent disciplinary action and requested a briefing from a knowledgeable official. Although Board members thought that this briefing was sufficient to make a decision on the DIM nomination, the briefing did not include the specific reasons for the disciplinary action. These reasons were succinctly stated in the letter of reprimand sent to the officer, but this letter was not furnished to the Board.

In another recent case, OIG and OPS/SAS "approvals" were obtained two months prior to the initiation of an OIG investigation involving the officer and four months before the award nomination package



was submitted to the Board. Executive Director approval for the DIM was obtained one month before completion of the OIG investigation and three months prior to related official disciplinary action. A note to the Executive Director on the routing slip for final award approval states: "... Per your query, all candidates for awards are subjected to rigorous security checks to include IG, before they are eligible to receive them."

Current procedures are inadequate to ensure that the Board and the Executive Director, as the DCI's approving designee, are made aware of any adverse information related to nominees for the awards under their purview (particularly with regard to the two highest level Agency achievement awards, the DIM and the IMM). OIG and OPS/SAS should be required to respond in writing to all requests for "background checks" for honor and merit award nominees. Where reportable information exists, written advisement from OIG and OPS/SAS should describe the nature and extent of the reportable information and any disciplinary action taken. The OPS/SAS role in this procedure should be purely ministerial; all disciplinary actions recorded in OPS/SAS should be reported. Where disciplinary action was reduced to writing, including letters of warning and any form of letter of reprimand, a copy of the actual document should be provided by OPS/SAS.

Directorates and components sponsoring award nominees should further be required to include official correspondence from OIG and OPS/SAS, along with copies of any written reprimands, in the award nomination packages that are forwarded to the Office of Protocol. This is necessary so there can be no question as to management or Board members having been fully informed of the nature and content of official disciplinary actions. Component, Office of Protocol, and Board personnel should, of course, handle this information in a manner commensurate with its sensitivity.

Additionally, Form 600 should be modified to make it clear that OIG and OPS/SAS do not "approve" award nominations, but only comment on the absence or presence of "reportable information" in OIG and OPS/SAS records. Moreover, there should be a requirement for OIG and OPS/SAS "background checks" to be current, having been obtained within thirty days prior to submission of the award nomination.

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DIMs and IMMs Have Been Approved Without Required Board Review and Required Written Nomination Justifications

Some DIM and IMM nominations were not submitted through the Board. Board members are not provided reports or listings of awards that are actually approved and issued, and certain Board members were not aware that the Board had been bypassed. One Board member said he did not become aware of a recent DIM award until he received an invitation to the presentation ceremony.

Of the 79 DIMs and 197 IMMs awarded from 1 January 1992 through 31 July 1996, at least 17 DIMs and four IMMs were not submitted for Board review. Seven of the DIMs were presented to senior managers as



a surprise by a departing DCI, and most of the others were awarded to senior level officials upon the occasion of their separation or retirement. Moreover, 11 of the 17 DIMs that were not submitted through the Board also were not supported by required written nomination justifications.

The value of an award is that it is given only in cases where it is clearly deserved. Any award made without the benefit of required award justification and review procedures is apt to raise questions about the integrity and fairness of the entire program, even if the award is well deserved. It is, therefore, essential that all awards requiring Board review be submitted through the Board and that all awards be supported by written nomination justifications that fully satisfy the required award criteria, even if the award nomination is initiated by the DCI, DDCI, or Executive Director.



Information Regarding the Agency Honor and Merit Awards Program or Award Recipients

There is no regular dissemination of information about the Agency honor and merit awards program or the recipients of Agency honor and merit awards. The majority of the Agency's honor and merit awards are presented in small, relatively private ceremonies, and very few of the awards are publicized within the Agency. This is in distinct contrast to the Intelligence Community honor and merit awards program, where award ceremonies are hosted quarterly by the DCI in the CIA auditorium. Following each ceremony, the names of award recipients are published in "What's News at CIA." Articles in "What's News" have further described the criteria required for each Intelligence Community award and the relevant acts or achievements of each of the CIA employees who received awards.

Conversely, there have been only seven occasions since February 1994 when recipients of Agency honor and merit awards were





publicized in "What's News at CIA."

Only two of the articles focused on specific employee achievements.

Articles publicizing awards should be an integral part of the process of recognizing Agency honor and merit award recipients and sharing their achievements with the Agency populace. Publicizing awards can also serve to promote equity and integrity in the awards program and to inspire Agency employees toward greater levels of achievement. Including mention of the criteria required for each award and the relevant acts or achievements of each honor and merit awardee would further serve to familiarize and educate employees about the various awards and the differentiation among them.

Compliance With the Prohibition Against Receiving Agency and Intelligence Community Awards for



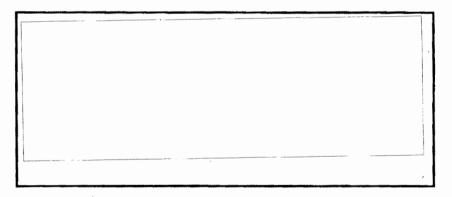


the Same Performance

(AIUO) recognizes that "Agency employees may be considered for recognition under the Intelligence Community honor and merit awards program," but specifically stipulates that "In accordance with Agency policy, an individual's performance that warrants an Intelligence Community award will not be the basis for a comparable Agency award."

Board meeting minutes indicate that the Board was enforcing this policy in 1992. Board minutes further indicate that the issue was again raised in 1995, but there was no objection at that time to employees receiving comparable Agency and Intelligence Community Awards for the same performance. Since then, according to Office of Protocol personnel, many Agency employees have received comparable Agency and Intelligence Community awards for the same performance.

Office of Protocol personnel were unable to determine the specific rationale behind the prohibition. The Board should reconsider this policy and either rescind it or enforce compliance.





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EXHIBIT A

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Honor, Merit and Service Awards



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EXHIBIT B

Honor and Merit Award Criteria

Awards Requiring Agency Honor and Merit Awards Board Review and DCI or DCI Designee* Approval

DISTINGUISHED INTELLIGENCE CROSS (DIC)	Awarded for a voluntary act or acts of exceptional heroism involving the acceptance of existing dangers with conspicuous fortitude and exemplary courage.
DISTINGUISHED INTELLIGENCE MEDAL (DIM)	Awarded for performance of outstanding services or for achievement of a distinctly exceptional nature in a duty or responsibility, the results of which constitute a major contribution to the mission of the Agency.
INTELLIGENCE STAR (IS)	Awarded for a voluntary act or acts of courage performed under hazardous conditions or for outstanding achievements or services rendered with distinction under conditions of grave personal risk.
INTELLIGENCE MEDAL OF MERIT (IMM)	Awarded for the performance of especially meritorious service or for an act or achievement conspicuously above normal duties that has contributed significantly to the mission of the Agency.

* The Executive Director is the DCI designee for approving these awards.

Awards Requiring Head of Career Service Approval

CAREER INTELLIGENCE MEDAL (CIM)	Awarded when an individual's cumulative record of service reflects exceptional achievement that substantially contributed to the mission of the Agency. Recipients must have no less than 10 years of service with the Agency.
INTELLIGENCE COMMENDATION MEDAL (ICM)	Awarded for the performance of especially commendable service or for an act or achievement significantly above normal duties which results in an important contribution to the mission of the Agency.

Awards Requiring Operating Official Approval

CERTIFICATE OF DISTINCTION FOR COURAGEOUS PERFORMANCE (CD)	Awarded for courageous performance under hazardous conditions.
CERTIFICATE OF DISTINCTION (CD)	Awarded for sustained superior performance of duty of high value or for a significant single act of special merit.
CERTIFICATE OF MERIT (CM)	Awarded for sustained superior performance of duty or a significant single act of merit.

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EXHIBIT C

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Form 600: Recommendations for Honor or Merit Awards

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EXHIBIT D

Distribution of Agency Honor and Merit Awards





EXHIBIT E

List of Recommendations









 We reviewed a judgmental sample of files for
 Distinguished Intelligence

 Medals,
 Intelligence Stars, and
 Intelligence Medals of Merit awarded during the period 1 January 1992 through 31 July 1996.

Although we are not aware of any awards that were not recorded in the Office of Protocol data base of Agency honor and merit awards issued from 1 January 1992 through 31 July 1996, the potential for such occurrences exists. With regard to awards recorded in that data base, we noted only minor transposition and other data entry errors during the course of our review.

The Executive Director and the four Deputy Directors are each Head of a Career Service as stipulated in

⁴ Operating Officials report directly to a Deputy Director. Operating Officials are authorized to perform duties and functions for which they are made responsible either by Agency directive or by express authorization of a Deputy Director as stipulated in

5 Pamphlet requirements are being formalized and incorporated in the current draft revision of

7 February 1994 is the earliest date of the "What's News at CIA" publication available in the Agency's Lotus Notes data base.



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REPORT OF AUDIT

Central Intelligence Agency Retirement and Disability System (CIARDS)

Central Intelligence Agency Office of Inspector General Audit Staff

> 2 April 2004 DATE ISSUED

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Report of Audit

Central Intelligence Agency Retirement and Disability System (CIARDS)

SUMMARY

The objectives of this audit were to determine whether:

- The fiscal year (FY) 2002 financial statements of the Central Intelligence Agency fairly present CIARDS in accordance with generally accepted accounting principles.
- Internal controls related to the management of CIARDS funds are adequate to detect or prevent errors or misstatements that have a material effect on the financial statements.
- The Agency complies with laws and regulations that have an effect on the financial statement presentation of CIARDS.

The Agency improved the presentation of assets and liabilities on the Balance Sheet by including (for the first time) the net book value of CIARDS investments and the actuarial pension liability on the Agency's FY 2002 financial statements. However, CIARDS financial data is not fairly presented on the statements. Assets, liabilities, revenues, expenses, and budgetary information were not fully reported. Not all of the necessary transactions to account for approximately

were recorded in the Agency Financial Management System (AFMS) and in Peachtree, the commercial off-the-shelf package used for CIARDS financial accounting. Numerous accounting errors in Peachtree also contributed to inaccurate CIARDS financial data.

In several instances CIA's Pay and Benefits and Finance personnel did not follow Agency regulations. As a result, \$6.0 million was disbursed

without appropriate oversight and owed to the Agency was erroneously waived and removed from the Agency's financial records without being approved by an authorized officer. Further, the notes to the FY 2002 financial statements and the Management's Discussion and Analysis (MD&A) are missing certain required disclosures and contain inaccuracies. Also, CIARDS assets declined in FY 2002 for the first time since its inception in 1964 and may be fully depleted by FY 2014. The Agency generally complied with laws and regulations that have an effect on the financial statement presentation of CIARDS.



1



BACKGROUND

CIARDS is a retirement and disability system separate from the Civil Service Retirement System and the Federal Employees Retirement System. The Central Intelligence Agency Retirement Act (50 U.S.C. 2001 et seq) established CIARDS for CIA employees who entered on duty prior to 1 January 1984 and have five years of qualifying service. Qualifying service is service in support of Agency activities abroad hazardous to life or health, or service so specialized because of security requirements as to be clearly distinguishable from normal government employment. The Director of Central Intelligence is responsible for administering CIARDS in accordance with the regulations prescribed and principles established within the Act. As the administering agency, the CIA is responsible for the management, financial accounting, and reporting of CIARDS.

The Agency transferred certain functions of the administration of CIARDS benefits to the Office of Personnel Management during the period March 1999 through April 2000. The transfer involved functions associated with the computation of retirement benefits, the payment of annuities, and related administrative support. OPM is responsible for maintaining and ensuring the accuracy of annuitant records:

Pay and Benefits is responsible for verifying that candidates qualify for participation in CIARDS. Pay and Benefits and Treasury Operations are responsible for conducting the day-to-day operations of CIARDS. Their duties include, but are not limited to, managing CIARDS investment activity, and recording CIARDS financial transactions. Accounting Operations within the Office of Finance is responsible for reporting CIARDS information on the Agency financial statements.

The Act allows funds that are not immediately required for the payment of annuities, cash benefits, refunds, and allowances to be invested in interest-bearing securities of the United States. Under this provision, CIARDS funds are invested in Treasury securities (bills, notes, bonds, and overnight certificates of indebtedness) purchased from the Bureau of Public Debt in West Virginia.¹

As of 30 September 2002. Agency employees were contributing to CIARDS and retirees and survivors were receiving benefits. CIARDS had assets totaling \$902.6 million, an accrued liability of \$5.7 billion, and a negative net worth of \$4.8 billion.²

This information is based on the actuarial report as of September 30, 2002.



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Treasury bills are short-term securities that mature in one year or less from their issue date. Treasury notes mature in more than a year, but not more than 10 years from their issue date. Treasury bonds mature in more than 10 years from their issue date.

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AUDIT RESULTS AND RECOMMENDATIONS

CIARDS Financial Information Was Not Fairly Reported on Agency Financial Statements

Information Was Not Reported

The FY 2002 financial statements of the CIA do not present fairly CIARDS financial data in accordance with generally accepted accounting principles. CIARDS assets, liabilities, revenues, expenses, and budgetary information were not fully reported on the Agency financial statements. Revenues of ______million and expenses of ______were not reported on the Statement of Net Cost. Also, budgetary authority and expenditures totaling _______were not reported on the Statement of Budgetary Resources and the Statement of Financing. In addition, the Balance Sheet did not correctly report and present assets and liabilities as follows:

- Liabilities of \$26.1 million were not reported. Included in this amount were annuities payable (\$26.1 million) and former spouse health premiums/accounts payable (\$5,000).
- Assets of \$15.8 million were not reported. These assets included accrued revenues (\$15.3 million) and accounts receivable/purchased interest (\$.5 million).
- Assets were overstated by approximately \$14.7 million.
- Liabilities recorded in general ledger account 2256, *Due to CIARDS*, were overstated by \$4.0 million.
- The actuarial pension liability of ³ was reported as part of the line item, *Other Intragovernmental Liabilities*, rather than shown separately on the Balance Sheet.

CIARDS financial data was not fairly reported because certain data was not recorded in AFMS, which is the source of information used to prepare the Agency financial statements. The accounting model in place for FY 2002 was designed to track the CIARDS cash balance and did not provide a complete accounting of all CIARDS financial transactions. For example, the proprietary and budgetary accounts in AFMS were not set up to record CIARDS revenues (e.g., employee and employer contributions) and expenses (e.g., pension expense).

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Accounting Operations personnel were aware that AFMS did not contain the necessary information to accurately report CIARDS financial data on the Agency financial statements. To improve the FY 2002 financial statements, they adjusted the Balance Sheet to include the net book value of CIARDS investments and the actuarial pension liability. These amounts had not been included in prior year Agency financial statements. We believe these amounts to be materially accurate.

In an effort to continue to improve the reporting of CIARDS information, Accounting Operations personnel developed a new accounting model to capture and record all CIARDS financial transactions in AFMS beginning in FY 2004. The model should enable the Agency to fully report CIARDS data on the financial statements. We reviewed the new accounting model and will observe and monitor CIARDS transactions as part of our audit of the Agency's FY 2004 financial statements.

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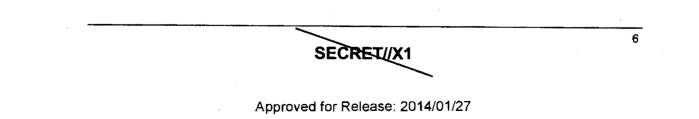
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Accounting Errors Were Made in Peachtree

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Numerous accounting errors were made when recording CIARDS transactions in Peachtree accounts. If erroneous entries are not corrected and items are not recorded in the proper period, CIARDS accounting information will not be accurate and will result in reporting inaccurate data on the Agency financial statements.



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Specifically, we found the following:

Pay and Benefits personnel did not use the correct amortization method to compute the discount and premium on CIARDS investments.⁶ Statement of Federal Financial Accounting Standard No. 1, Accounting for Selected Assets and Liabilities, states that Treasury securities should initially be recorded at their acquisition cost. Subsequent to acquisition, Treasury securities should be carried at their acquisition cost, adjusted for amortization of discounts and premiums over their life using the interest method.⁷ Pay and Benefits personnel erroneously used the straight-line method for amortizing discounts and premiums on the Treasury securities.⁸ As a result, the net book value of Agency investments was overstated by \$454,000. In addition, the amounts of FY 2002 revenues and expenses attributable to securities investment discounts and premiums were misstated.⁹

Accounting Operations personnel were aware that Pay and Benefits personnel used the incorrect method of amortization for CIARDS investments. Accounting Operations personnel plan to create new amortization schedules using the interest method to determine the correct investment information.

• Pay and Benefits personnel did not record purchased interest correctly on Treasury securities. Purchased interest is the interest that has accrued on a Treasury security when a security is purchased between interest payment dates. When the first interest payment is received, a portion of the payment is a return of the purchased interest. Pay and Benefits personnel correctly recorded purchased interest as a receivable when a Treasury security was purchased but incorrectly recorded the receipt of interest as interest revenue instead of reducing the purchased interest receivable. As a result, purchased interest was overstated by \$41.9 million and interest revenue was overstated by \$4.3 million.

⁹ To determine the net book value of investments, we completed amortization schedules for all Treasury securities held as of 30 September 2002. We did not complete amortization schedules for Treasury securities that matured during FY 2002. Therefore, we were not able to quantify the misstatements in the FY 2002 revenue and expense accounts attributable to the discounts and premiums amortized in FY 2002.



⁶ A discount is the excess of the security's face value over its purchase price. A premium is the excess of the purchase price over the security's face value.

⁷Under the interest method, the effective interest rate multiplied by the carrying amount (face value plus or minus the premium or discount) of the Treasury security at the start of the accounting period equals the interest income recognized during the period. The amount of amortized premium or discount is the difference between the computed effective interest and the nominal interest stated on the Treasury security.

⁸Under the straight-line method, the discount or premium is amortized evenly over the life of the Treasury security.

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Accounting Operations personnel were aware that Pay and Benefits personnel incorrectly recorded the receipt of purchased interest. Accounting Operations personnel plan to ensure that purchased interest information is corrected before it is incorporated into AFMS.

- Pay and Benefits personnel did not correctly calculate the amount of interest due on three Treasury securities held as of 30 September 2002. As a result, accrued interest was understated by \$271,000.
- Accounts receivable were not recorded in the proper accounting period. Pay and Benefits personnel recorded accounts receivable of \$165,000 in Peachtree two years after they had received notice that two CIARDS annuitants were deceased and that annuity payments should have been returned to CIARDS. Also, Pay and Benefits personnel had not established receivable accounts of \$9,000 for debt relating to overpayments made to five CIARDS annuitants.

The accounting errors occurred in part because personnel within Pay and Benefits responsible for CIARDS accounting were not familiar with generally accepted accounting principles. Also, Pay and Benefits personnel told us that downsizing resulted in a loss of personnel with financial expertise. With the implementation of a new accounting model in FY 2004, the ending balances in Peachtree will be entered into AFMS. If the Peachtree ending balances are not corrected and CIARDS transactions are not recorded properly, the Agency's official accounting system will contain errors.

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Pay and Benefits Did Not Always Obtain Appropriate Approvals

We noted several instances where Pay and Benefits and Finance personnel did not follow Agency regulations. As a result, \$6.0 million was disbursed without oversight and owed to the Agency was removed from the Agency's financial records without the proper authorization.

In FY 2002, payments of \$6.0 million were made without appropriate approval. Pay and Benefits personnel initiated eight payments by recording payments as advances and entering the payment amounts in an automatic disbursement account. However, the vouchers to establish the advances and automatic disbursements were not signed by an approving officer.

Approval, Certification, and Documentation of Disbursements and Other Financial Transactions, states that official funds may be disbursed only with the approval of a designated approving officer. The absence of an approving officer's signature resulted in the disbursement of Agency funds without the level of oversight called for by the internal control structure.

In addition, we noted that Chief, Pay and Benefits waived debt for erroneous payments of even though the debt did not meet the Agency criteria to be waived.¹⁰ Waiver of Claims for Erroneous Payments, states that the Chief, Pay and Benefits or designee has the authority to review and waive claims submitted for erroneous payment to annuitants provided that:

- Applications for waivers of erroneous retirement payments are received by the Agency within three years immediately following the date on which the erroneous payments are discovered and within 30 calendar days of the date of notice that an overpayment has occurred.
- b. The overpayment was not made to an estate.
- c. The waiver request be in writing and include supporting documentation, such as copies of prior correspondence, a written explanation of the circumstances surrounding the overpayment, and a written explanation stating why the requester believes he or she may qualify for a waiver.

A waiver of debt is a forgiveness of the debt and relieves the debtor from having to repay it.



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Overpayments made to 40 CIARDS annuitants did not meet the conditions under which a waiver may be granted. There were no written requests to waive the debt nor was there any other supporting documentation as required by Agency regulation to substantiate that the debt should have been waived. The debt could have been written off¹¹ in accordance with Agency regulation and policies.¹² The Director of Finance has the authority to write off debt for cases not exceeding \$100,000 (excluding interest). Because the debt was erroneously waived, debt totaling was removed from the Agency's accounting records without the approval of

an authorized officer.

In commenting on a draft of this report, the Deputy Chief, Pay and Benefits stated that the FY 2003 vouchers for disbursements made were approved on 12 March 2004. Archived vouchers for disbursements made

in FY 2002 are being retrieved for post-approval. In addition, a memo is being prepared to request post-approval by the Chief Financial Officer via the Director of Finance for the debt that was erroneously waived.

CIARDS Disclosures Were Incomplete and Inaccurate in the FY 2002 Financial Statements

The notes to the FY 2002 financial statements were missing certain required disclosures and contained inaccuracies. In addition, CIARDS financial information was not adequately addressed in the Management's Discussion and Analysis (MD&A). Note disclosures and required supplementary information should provide accurate information in compliance with Federal reporting requirements. OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*, and the Statements of Federal Financial Accounting Standards provide detailed guidance on information to be

¹² Collection and Settlement of Debts Due the Agency; Collection and Settlement of Debts Due the Agency; and Finance Bulletin PB 02-013, Write-off Guidance.



¹¹ To write off a debt means to remove the debt from the Agency's accounting records, that is, stop carrying it as a receivable.

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included in the annual financial statements. Without adequate disclosures and supplementary information, users of the financial statements cannot fully comprehend the meaning of the financial information.

The notes to the Agency's financial statements contained errors and omissions. Financial statement note 4 erroneously classified CIARDS investments as "Investments in Private Sector Stocks and Bonds" rather than "Investments in US Treasury Securities Issued by Public Debt." Also, the market value of investments was disclosed as \$900,113,000 rather than \$900,842,000—an understatement of \$729,000. In addition, the Agency did not disclose components of pension expense in the notes to the financial statements. SFFAS No. 5, *Accounting for Liabilities of the Federal Government*, requires the disclosure of an agency's net pension expense for the following components: normal cost, interest on the pension liability during the period, service costs due to plan amendments, and actuarial gains or losses during the period.¹³ Accounting Operations personnel told us that the inaccuracies occurred because the Agency's FY 2002 financial statements did not receive a quality control review due to key personnel not being available.

The Agency's MD&A did not address key CIARDS financial information. OMB Bulletin No. 01-09 requires agencies to explain major changes in types or amounts of assets, liabilities, costs, revenues, obligations, and outlays in the MD&A. The MD&A should also discuss important problems that need to be addressed and actions that have been planned or taken to address those problems. The CIARDS investments of

were included for the first time in the FY 2002 Agency financial statements, but were not addressed in the MD&A. The possible future effect of the unfunded liability was also not addressed.

This and other audits have identified internal control issues related to the compilation of the Agency's financial report. Internal controls should be an integral part of an organization's structure to provide reasonable assurance that financial reports are reliable. The recommendation in this section of our report is focused on strengthening controls to improve the accuracy of presenting CIARDS financial information in the Agency's financial statements.

¹³ Normal cost is the level percentage of an employees' salary required to finance the benefits that the employee is expected to receive from the system.



11

CIARDS Assets Are Being Depleted

CIARDS assets declined in FY 2002 for the first time since its inception, and the decline is expected to continue and even accelerate. Based on actuarial projections, CIARDS assets may be fully depleted by FY 2014. However, CIARDS will be required to make payments far beyond that date.

The Central Intelligence Agency Retirement Act established the following funding sources for CIARDS:

• Employee contributions.

• Agency contributions.

- Contributions, deductions, and accrued interest for creditable service under other Federal civilian retirement systems.¹⁴
- Interest earned by investments in Treasury securities.
- An annual supplemental appropriation.

Because employee and Agency contributions are the primary funding sources to finance retiree benefits, the funding of CIARDS depends on a continual infusion of new personnel into the system. However, CIARDS is not available to Agency employees hired after 31 December 1983, which limits the number of new personnel eligible to participate in CIARDS and significantly reduces the primary funding source. As CIARDS personnel retire, employee and Agency contributions decline but the amount needed for benefit payments increases.¹⁵ As of 30 September 2002, Agency employees were contributing to CIARDS and retirees and survivors were receiving benefits.

CIARDS funds that are not immediately required for payment of annuities, cash benefits, refunds, and allowances are invested in interest-bearing securities of the Unites States. Because the amount of funds available for investing is declining, CIARDS investment income is also declining.

CIARDS also depends on an annual appropriation from Congress to cover costs not provided by employee and employer contributions. The formula developed by the actuary to determine the amount of the appropriation was based on criteria in the Central Intelligence Agency Retirement Act as well as the assumption that CIARDS would be an open system that would continue to accept new employees.

¹⁵Contributions, deductions, and accrued interest for creditable service under other Federal civilian retirement systems are similar to employee and Agency contributions and are also declining.



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For example, if a State Department employee transfers to the Agency and becomes eligible to participate in CIARDS, contributions that had been made to the State Department's retirement system on the employee's behalf are transferred to CIARDS.

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When CIARDS was closed in December 1983, the formula was not adjusted to offset the decline in employee and Agency contributions. This has resulted in a systematic underfunding of CIARDS over the past 18 years. For FY 2003, the Agency requested an increase to the annual appropriation to finance the unfunded liability and place CIARDS on a sound actuarial funding basis. However, the Intelligence Committees did not authorize the increase.

With no new sources of contributions, an increase in the number of individuals eligible to receive benefits, and the shortfall of the annual appropriation, the funding of CIARDS will not be sufficient to support benefit payments. As of 30 September 2002, CIARDS had assets totaling \$902.6 million and accrued liabilities totaling \$5.7 billion. If funding sources remain unchanged, CIARDS assets are expected to be fully depleted by FY 2014.

In commenting on the draft report, the Deputy Chief, Pay and Benefits agreed with the report's presentation of the CIARDS funding issue. The Deputy Chief added that the actuary has completed a long-term projection of the CIARDS assets and reported that CIARDS assets will be depleted by approximately 2014 but benefits to CIARDS annuitants and to their survivors will be payable until approximately 2080. If CIARDS assets are depleted, CIARDS will become a pay-as-you-go system. Benefit payments will be partially funded by payroll contributions as long as there are active participants, but the primary and growing proportion of benefit payments will come from annual Congressional appropriations. The actuary's report clearly projects that the long-term cost of benefit payments will be higher if the system becomes pay-as-you-go than if the system were fully funded. However, the annual cost in the short term will be higher if the system is put on a fully funded basis.

The Deputy Chief, Pay and Benefits, stated that the Chief, Pay and Benefits has prepared a briefing for Agency senior management that describes the current and projected status of CIARDS and presents several options for addressing the funding issue.



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Exhibit A

Objectives, Scope, and Methodology

The objectives of this audit were to determine whether:

- The fiscal year (FY) 2002 financial statements of the Central Intelligence Agency fairly present the Central Intelligence Act Retirement and Disability System (CIARDS) in accordance with generally accepted accounting principles.
- Internal controls related to the management of CIARDS funds are adequate to detect or prevent errors or misstatements that have a material effect on the financial statements.
- The Agency complies with laws and regulations that have an effect on the financial statement presentation of CIARDS.

We reviewed CIARDS FY 2002 financial information, including the FY 2002 beginning and ending balances. We reviewed the amounts reported on the Agency's financial statements: Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, Statement of Budgetary Resources, Statement of Financing, and the related note disclosures. We also reviewed the Required Supplementary Information accompanying the financial statements.

To identify key issues and processes, we reviewed reports and supporting workpapers from prior Agency Office of Inspector General audits of CIARDS.¹ We interviewed officials from Pay and Benefits, Office of Human Resources and Treasury Operations and Accounting Operations, both in the Office of Finance, to determine current financial practices and accounting processes used to compile and report CIARDS financial information on the statements. We reviewed transactions in the subsidiary accounting system, Peachtree, and reviewed the CIARDS accounting model in effect during FY 2002 that was used to record CIARDS data into the Agency's official accounting system—Agency Financial Management System (AFMS).² We also reviewed the process for reporting CIARDS data in the Agency's FY 2002 financial statements.

¹ Prior audits reviewed included: Central Intelligence Agency Retirement and Disability System 1 October 1991 – 30 September 1993, dated 20 January 1995, and Central Intelligence Agency Retirement and Disability System 1 October 1993 – 30 September 1996, dated 13 May 1998.

² Peachtree is a commercial off-the-shelf software package used by Pay and Benefits personnel to manage CIARDS financial accounting. Peachtree and AFMS do not interface.

regulations.

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To obtain an understanding of the requirements for reporting CIARDS information on the Agency financial statements, we reviewed Office of Management and Budget (OMB) Bulletin No. 01-09, Form and Content of Agency Financial Statements; Statement of Federal Financial Accounting Standard (SFFAS) No. 1, Accounting for Selected Assets and Liabilities; SFFAS No. 5, Accounting for Liabilities of the Federal Government; and the Department of the Treasury Financial Manual (TFM).

We reviewed Agency regulations and policies to obtain an understanding of internal controls and requirements for managing and recording CIARDS. We reviewed Agency Regulation CIA Retirement and Disability System; Approval, Certification, and Documentation of Disbursements and Other Financial Transactions Collection and Settlement of Debts Due the Agency; and Waiver of Claims for Erroneous Payments. We also reviewed Finance Bulletin PB 02-013, Write-off Guidance, and Collection and Settlement of Debts Due the Agency. We tested internal controls by reviewing 15 of 151 annuitant files for employees who retired in FY 2002 and vouchers supporting 94 of 354 FY 2002 financial transactions to determine whether CIARDS transactions complied with Agency policies and

To determine whether CIARDS was administered in accordance with laws and regulations, we reviewed the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 et seq) and the Intelligence Authorization Act for FY 2002 and FY 2003. We reviewed the Agency's agreement with the Office of Personnel Management (OPM) to transfer certain functions of the administration of CIARDS benefits from the Agency to OPM. In addition, we met with OPM personnel to discuss processes and internal controls used to manage payments to CIARDS annuitants.³

We reviewed four actuarial reports as of 30 September 1999-2002. We met with the actuary to obtain an understanding of the assumptions used to calculate the information reported on the financial statements. We also compared actuarial valuations that project the amount of appropriated funds needed to the amount of funds requested in the Congressional Budget Justification for FY 2002 and FY 2003.

We conducted our audit work from March to August 2003 in accordance with generally accepted government auditing standards. Comments on a draft of this report were received from the Director of Finance and the Deputy Chief, Pay and Benefits and were considered in the preparation of this report.

The Agency reimburses OPM for payments made to CIARDS annuitants.

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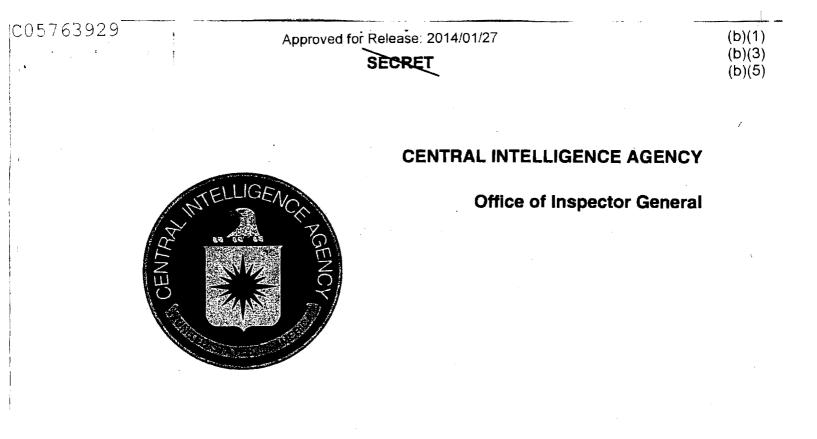
Exhibit C

Audit Team Members

This report was prepared by the Financial Management Division, Audit Staff, Office of the Inspector General.

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REPORT OF AUDIT

Compliance With Energy Management Mandates

WARNING NOTICE INTELLIGENCE SOURCES OR METHODS INVOLVED 12 4 JAN 1995 SEGRET DATE ISSUED

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REPORT OF AUDIT

Compliance With Energy Management Mandates

SUMMARY

The Agency should strengthen its compliance with energy management mandates by centralizing responsibility for administration of energy management projects and coordination of required reporting.

The Office of Logistics (OL) has developed a comprehensive energy management plan for the Headquarters compound and eight buildings in the Washington DC area, and OL has implemented several programs to increase energy efficiency in certain buildings. But the OL plan does not provide energy management for Agency facilities located outside the Washington DC area, establish an Agency-wide funding strategy for implementing energy management projects, or include Agency motor vehicles not controlled by the Headquarters motorpool. The Agency also is not fully complying with energy use and management reporting requirements. Nevertheless, Department of Energy (DOE) officials acknowledge that many other Federal agencies will fall short of mandated energy management goals, and DOE believes that the Agency has taken significant steps towards meeting energy management requirements.

The recommendation in this report is considered to be significant and will be included in the Inspector General's next semiannual report to the Director of Central Intelligence.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of the audit were to examine Agency compliance with Federal energy management requirements and obligations to report to the Department of Energy.

We interviewed OL officials and representatives from DOE to determine the adequacy of Agency efforts in meeting Federal energy management goals. We discussed energy management projects with Agency officials who provide maintenance support for

We reviewed applicable statutes and Executive orders (Exhibit A), regulations, and OL's Energy Management Plan



1995—2000 prepared by an energy consulting firm. We also examined the Agency's strategy for funding energy management requirements. Our work was conducted from May through September 1994 and was performed in accordance with generally accepted government auditing standards. Comments on the draft report were received in December 1994 and have been considered in preparing this final report.

BACKGROUND

The audit was initiated at the request of Senators John Glenn and J. Bennett Johnston, Chairmen of the Committees on Government Affairs and Energy and Natural Resources respectively during the 103rd Congress, who sought the assistance of inspectors general in creating a heightened awareness of Government-wide energy management projects. The Energy Policy Act of 1992 requires inspectors general to examine their agency's compliance with Federal energy efficiency requirements and the reliability of energy cost figures reported to the Secretary of Energy.¹

Energy management laws and Executive orders require Federal agencies to establish goals for energy reduction and prepare a 10-year energy management plan for owned and leased buildings. Agencies must reduce energy consumption in Federal buildings by 30 percent by the year 2005, using fiscal year 1985 as the base year. Other energy management requirements include:

- Reducing the use of petroleum fuels;
- Conducting surveys to determine cost effective means of reducing energy consumption in existing buildings;
- Establishing accounting and tracking mechanisms to accurately measure and report energy management progress;
- Converting motor vehicles to nonpetroleum fuel alternatives;
- Incorporating energy efficient design into new buildings; and
- Reporting energy management progress annually.

¹ Although the Energy Policy Act of 1992 does not specifically apply to the CIA's Inspector General, we responded positively to the letter from Senators Glenn and Johnston requesting that all inspectors general participate in energy management compliance efforts.



The Facilities Management Group (FMG) of OL contracted with an energy consulting firm to develop an energy management plan for facilities managed by FMG. The plan—*Energy Management Plan* 1995-2000—established an energy use baseline and recommended projects intended to reduce energy usage. The plan covers the Headquarters compound buildings, including the motorpool, and eight external buildings in the Washington DC area. The plan was submitted to DOE in accordance with statutory requirements. A DOE official contacted during the audit stated that the FMG plan was among the most comprehensive energy management plans he had reviewed.

Even before the *Energy Management Plan 1995-2000* was developed, OL had initiated energy management projects that included:

- Retrofitting three boilers to dual fuel use, resulting in a 78 percent reduction in petroleum use;
- Replacing two energy inefficient chillers, resulting in a 52 percent improvement in electrical energy efficiency;
- Installing double-pane windows in the Original Headquarters Building; and
- Participating in electrical demand management with the Virginia Electric Power Company through the Agency's standby power agreement, resulting in a saving of \$1.4 million in 1993.

In comments on our draft report, the General Counsel advised that the Agency also has an impressive record in meeting the requirements of the Environmental Protection Agency's Energy Star Computer Program. Executive Order 12845 directs Federal agencies to participate in the Program by purchasing energy-efficient computers and computer equipment.

DETAILED COMMENTS

Energy Management Plan Does Not Fully Meet Mandated Requirements

The Agency does not have an overall plan to meet energy management requirements established by statute and Executive order for Federal agencies. A comprehensive Agency-wide energy management plan must



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consider all overt and covert facilities, establish an overall funding strategy for energy management projects, and include all motor vehicle controlled by the Agency.

The CIA is not unique among Federal agencies in not having implemented a comprehensive plan to satisfy energy management mandates. A representative of the DOE's Federal Energy Management Program advised that only 12 of 36 agencies reporting progress to DOE will meet their energy reduction goals for 1995.

Buildings and Facilities

Although the OL plan outlines a detailed strategy for meeting energy management requirements at certain facilities for which FMG is responsible, there is no Agency-wide plan encompassing all domestic facilities. For example, the Agency has not developed an energy management strategy for its covert domestic installations including

These are ostensibly but as with environmental protection laws, it is the Agency's responsibility to determine whether and how these facilities will meet energy management mandates. In addition, a comprehensive energy management plan should document the extent of Agency responsibility, if any, for bringing Agencyoccupied leased buildings into compliance with energy management mandates.

Funding Strategy

An Agency-wide energy management plan must establish a strategy for funding energy management projects. OL's *Energy Management Plan* 1995-2000 estimates that implementing the energy conservation measures² (ECMs) recommended within the plan's limited scope would require an initial investment of \$10 million and result in first year energy savings of \$2.5 million. However, the Agency has not been appropriated funds specifically earmarked for energy management projects. In comments on our draft report, the Director of Logistics (D/OL) advised that approximately \$5 million of the initial investment to implement ECMs recommended in the

² Energy conservation measures are projects to improve the energy efficiency of existing buildings that have been determined to be cost effective through an analysis of the projects' payback periods. ECMs include energy conservation projects, use of renewable energy sources, improvements in operations and maintenance efficiencies, and retrofit activities.



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OL plan is incorporated in the BACKFILL and Recapitalization Programs.³

Identifying funding sources is an essential step in implementing an energy management plan. Potential sources of funding in developing an overall funding strategy include:

- Appropriated funds;
- Utility company sponsored energy management programs that seek to increase energy efficiency through financial incentives;
- Energy savings performance contracts for the design, acquisition, installation, testing, operation, maintenance, and repair of approved energy conservation measures; and
- The Federal Energy Efficiency Fund that provides grants to agencies to assist in meeting energy management requirements.⁴

Motor Vehicles

The Agency has not developed an overall strategy to comply with mandated goals for acquiring alternative fuel vehicles (AFVs) and reducing gasoline and diesel fuel consumption. Executive Order 12844 (21 April 1993) directed Federal agencies to exceed by 50 percent the goals for converting to AFVs established by the Energy Policy Act of 1992.

Our September 1994 audit report, Acquisition and Disposal of Motor Vehicles, estimated that the Agency was responsible for 2,700 motor vehicles. Only the 150 motor vehicles controlled by the Headquarters motorpool are considered in the OL energy management plan. The Agency has not developed an energy management strategy for the approximately 1,250 motor vehicles operated domestically by other Agency components.

In comments on the draft report, D/OL noted that the limited availability of AFVs, alternative fuel refueling stations, and mechanics certified in the repair and maintenance of AFVs, has made compliance with applicable

³The BACKFILL Program is a major renovation of the original Headquarters building begun in 1987. The Recapitalization Program, begun in 1994, is a seven year program to upgrade or replace obsolete equipment and infrastructure systems on the Headquarters compound.

⁴D/OL advised that the Agency will receive \$200,000 in DOE fiscal year 1995 funds for energy management projects.



Executive order provisions difficult. Although there is not a fully developed infrastructure to support AFVs, the Washington DC Area does have 22 alternative fuel refueling stations, including 13 compressed natural gas (CNG) stations. This is the alternative fuel selected by the Agency, and a CNG refueling station has been in trial operation at the Headquarters motorpool since August 1994. We also note that the motorpool has developed in-house expertise in repair and maintenance of AFVs. The seven motorpool vehicles equipped for dual fuel use were converted by Agency mechanics. DOE guidance on preparing plans for conversion to AFVs underscores the need for Federal agencies to determine what types of AFVs can be used to satisfy mission requirements--whether or not these vehicles are available. Such plans are designed to encourage original equipment manufacturers to expand development and production of AFVs.

Reporting Requirements

The Agency has not fully complied with energy management reporting requirements. Federal agencies are required by statute to report their energy reduction achievements annually to the Secretary of Energy. The Agency has submitted only two reports to DOE—the *Energy Management Plan* 1995-2000 and fiscal year 1995 budget data for facility maintenance costs. Required reports that have not been submitted include:

- Energy consumed by vehicles and equipment as well as buildings and facilities;
- Gross square footage of buildings and energy cost data for each year since 1985;
- Status of funding and completion of energy management projects to meet mandated goals; and
- Description of operation and maintenance procedures designed to increase energy efficiency.

OL officials believed initially that the Agency was not required to follow energy management reporting requirements. However, the Office of General Counsel (OGC) has determined (OGC #93-53068) that the Agency is not exempt from such requirements imposed by statute or Executive order. OL officials advised that, consistent with cover and security, they intend to begin reporting as required. Responsible officials at

stated that neither the

sponsor for these installations--nor the Agency have

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reported energy management data as required by Federal law. An Agencywide energy management plan should address the issue of how reporting from covert Agency facilities is to be handled

Focal Point is Needed for Agency-Wide Implementation of Energy Management Plan

No Agency component has been assigned responsibility for implementation of an Agency-wide energy management plan. Responsibility for compliance with energy management requirements imposed by statute and Executive order is dispersed among various components, many of which do not rely on OL to manage their buildings and motor vehicles. The lack of a focal point to oversee the Agency's compliance with energy management mandates has resulted in incomplete implementation, ambiguity concerning responsibility for compliance, and only partial reporting to DOE.

In our followup audit of *Hazardous Materials and Waste Management* (5 October 1994), we noted that a focal point within the Office of Medical Services to manage resources, provide guidance, and perform periodic inspections of Agency components had proven to be effective in implementing an Agency-wide environmental compliance program.⁵ The requirements of an energy management program are similar to those of an environmental program in that both programs involve responsibilities that transcend organizational lines, deal with relevant laws and regulations that are technically complex, and are likely to be long term efforts. We believe that successful programs in both environmental and energy management require centralized oversight and expertise.



⁵ The policy, authorities, and responsibilities for the Agency's Environmental Protection Compliance Program are set forth in



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EXHIBIT A

Significant Energy Management Laws and Executive Orders

22 December 1975	Energy Policy and Conservation Act (P.L. 94-163) mandated that Federal agencies prepare a 10-year energy management plan for Federally owned and leased buildings.
9 November 1978	National Energy Conservation Policy Act (P.L. 95-619 as amended by P.L. 99-272 and P.L. 100-615) called for energy audits, life cycle cost analyses for new Federal buildings, and retrofitting existing Federal buildings to improve energy efficiency.
5 November 1988	Federal Energy Management Improvement Act (P.L. 100-615) established energy reduction goals and requires agencies to improve Federal building construction design so that energy consumption by fiscal year 1995 would be at least 10 percent less than in fiscal year 1985. The Act requires annual progress reports to Congress.
17 April 1991	Executive Order 12759 (Federal Energy Management) requires Federal agencies by the year 2000 to reduce energy use by 20 percent from 1985 levels. The Executive Order encouraged participation in demand side management, shared savings agreements, and incentives and rebates offered by utility companies.

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24 October 1992 Energy Policy Act (P.L. 102-486) requires inspectors general to identify agency compliance activities that meet Federal energy efficiency requirements and assess the accuracy and reliability of energy consumption and cost figures reported to the Secretary of Energy.

21 April 1993 Executive Order 12844 (Federal Use of Alternative Fuel Vehicles) directs Federal agencies to acquire AFVs in numbers exceeding by 50 percent the requirements set forth in the Energy Policy Act of 1992.

> Executive Order 12845 (Acquisition of Energy Efficient Computer Equipment) directs Federal agencies to acquire computer equipment that meets EPA Energy Star requirements for energy efficiency.

8 March 1994 Executive Order 12902 (Energy Efficiency and Water Conservation) directs Federal agencies to implement programs to reduce energy consumption in Federal buildings by 30 percent from 1985 levels by the year 2005.



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EXHIBIT B

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REPORT OF AUDIT

FINANCIAL AND MANAGERIAL CONTROLS OVER IN-Q-TEL, INC.

Central Intelligence Agency Office of Inspector General Audit Staff



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REPORT OF AUDIT

FINANCIAL AND MANAGERIAL CONTROLS OVER IN-Q-TEL, INC.

EXECUTIVE SUMMARY

Objectives	This audit evaluated the financial and managerial controls over In-Q-Tel, Inc., a nonprofit corporation established in accordance with Section 501 (c)(3) of the Internal Revenue Code and incorporated in the State of Delaware. Specific objectives of the audit were to determine whether: (1) In-Q-Tel management has designed and implemented effective financial and managerial controls over In-Q-Tel operations; and (2) Agency management has appropriate insight into In-Q-Tel operations.
Background	In-Q-Tel, Inc. was organized to foster the use of new and emerging technologies in solving some of the most pressing information technology problems facing the Central Intelligence Agency. In-Q-Tel and the Agency negotiated a five-year Charter Agreement that describes the broad framework for the parties' relationship and establishes general policies and specific terms and conditions that apply to the contemporaneously executed contract between the parties. The Charter Agreement and contract were signed on 28 July 1999.

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The In-Q-Tel Interface Center (QIC) in the Directorate of Science and Technology is the link between the Agency and In-Q-Tel. QIC's mission is to ensure the development, transition, and acceptance of unique, value-added, information technology solutions that meet the Agency's needs.

Results in Brief

Overall, we found that In-O-Tel management, under the direction of its President and Chief Executive Officer, Gilman Louie, and its Board of Trustees has designed and implemented effective financial and managerial controls over In-Q-Tel operations and is positioning In-Q-Tel to deliver multiple state-of-the-art information technology solutions in response to the Agency's most critical information technology requirements-the Agency's "problem set." In-Q-Tel's accounting system is well designed and operating effectively to provide management with accurate and reliable financial and accounting data. Cash and investment accounts reconcile with accounting records, and our review of other current asset accounts did not disclose any material errors or omissions.

In-Q-Tel management, however, needs to strengthen internal controls related to contracting and procurement activities, equipment management, and corporate security. Opportunities also exist to improve the effectiveness of In-Q-Tel's corporate ethics program.

We also found that QIC management and senior Directorate of Science and Technology managers have appropriate insight into In-Q-Tel operations and are effectively monitoring contract performance. QIC and In-Q-Tel personnel maintain a close and continuous working relationship. Although Agency

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Management	Comments on a draft of this report			
Comments and Our	were provided by the Executive Director, the			
Evaluation	Deputy Director for Science & Technology, the			
	Director of the QIC, and the President and Chief			
	Executive Officer of In-Q-Tel. These officials			
	generally agreed with the report findings and			
	recommendations, and in some instances have			
	already initiated action to implement the			
	recommendations. Comments submitted on the			
	draft were considered in the preparation of the			
	final report.			

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OBJECTIVES, SCOPE, AND METHODOLOGY

This audit evaluated the financial and managerial controls over In-Q-Tel, Inc., a nonprofit corporation established in accordance with Section 501 (c)(3) of the Internal Revenue Code and incorporated in the State of Delaware. Specific objectives of the audit were to determine whether:

- In-Q-Tel management has designed and implemented effective financial and managerial controls over In-Q-Tel operations.
- Agency management has appropriate insight into In-Q-Tel operations.

In conducting our audit, we reviewed the guidance provided to In-Q-Tel by its external legal counsel, the law firm of Arnold & Porter, regarding the formation of the corporation. Legal guidance addressed matters including the articles of incorporation, corporate charter and bylaws, maintenance of corporate minutes, tax returns, and the Charter Agreement and contract between In-Q-Tel and the Central Intelligence Agency (CIA). We also reviewed In-Q-Tel's corporate policies, procedures, accounting records, and managerial studies and reports prepared for In-Q-Tel by outside consultants.

Because In-Q-Tel is a new organization we placed no reliance on its internal controls and designed audit procedures to test their effectiveness. We reviewed In-Q-Tel's organizational structure, the assignment of authorities and responsibilities, and conducted tests of internal controls over the accounting system, including controls designed to ensure the accuracy, completeness, and proper authorization of financial transactions. We verified that an audit trail existed for financial transactions and tested internal controls over cash, investments, and equipment. We confirmed petty cash balances, examined bank reconciliations, and reviewed In-Q-Tel's analyses of budgetary forecasts and actual expenditures. We examined a randomly selected sample of accounts payable vouchers to determine whether expenditures were accurately computed, supported by adequate documentation, accurately recorded in the accounting records, and recognized in the correct accounting period. We also gained insight into In-Q-Tel's process for awarding and managing research and development (R&D) contracts by reviewing company policies, procedures, contracts, and contract negotiation documentation. We assessed In-Q-Tel's corporate policies on personal integrity, ethical values, and conflicts of interest.

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We visited two companies in which In-Q-Tel made equity investments—Media Snap, Inc., and Graviton, Inc.—to substantiate In-Q-Tel's investments and discuss with the respective companies' management the status of work being performed for In-Q-Tel. We also interviewed a senior executive of Oracle Corporation—a co-investor with In-Q-Tel in Media Snap, Inc.—to obtain his views on the risks and benefits of equity investing. We attended In-Q-Tel's December 2000 Board of Trustees' meeting and interviewed several board members to assess the extent of the board's involvement in guiding In-Q-Tel operations. In addition, we attended a meeting between In-Q-Tel's President and Chief Executive Officer (CEO) and technical experts from the investment banking firm Bear, Stearns & Co., Inc. to better understand how In-Q-Tel's CEO develops relationships with venture capitalists who may be in a position to provide information on companies that are developing technologies of interest to the Agency.

We examined the means by which Agency management maintains insight into In-Q-Tel operations, and we assessed the project screening process, contracting procedures, investment policies, financial controls, and the correlation between In-Q-Tel's projects and the Agency's problem set. We also reviewed the QIC's solution transfer and counterintelligence plans.

We did not perform a legal analysis of the Agency's authority to establish In-Q-Tel, nor did we perform a legal analysis of the provisions of the Charter Agreement and contract between In-Q-Tel and the Agency.

Our audit included tests of In-Q-Tel's accounting records from its inception in February 1999 through July 2000. We conducted our audit work at In-Q-Tel offices in Rosslyn, Virginia and Menlo Park, California, and with various components within the Agency. The audit was conducted from August 2000 through January 2001 and in accordance with generally accepted government auditing standards.

This audit was undertaken as part of the Office of Inspector General calendar year 2000 work plan. The audit also addresses a requirement included in the Classified Annex on Intelligence and Other Classified Activities accompanying the Defense Appropriation Bill for Fiscal Year 2001 submitted by the House of Representatives (H.R. 4576). That report directed the Director of Central Intelligence (DCI) to submit a report by 1 March 2001 that addresses:

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- 1. The legal authorities used to establish In-Q-Tel.
- 2. The plan for transferring tested and certified technology to the CIA.
- 3. The legal ramifications of ownership, licensing, and general use of intellectual property.
- 4. The management oversight provided by the CIA to ensure that federal laws, rules, and regulations are properly observed and practiced.

This audit responds to item number four. Responsibility for addressing items one through three resides with the Agency's Office of General Counsel (OGC) and the QIC. In addition, the Classified Annex to the Fiscal Year 2000 Intelligence Authorization Conference Report (H. Rept. 106-457) directed that a cost versus benefit assessment of In-Q-Tel be conducted by a group independent of In-Q-Tel and the CIA and that the assessment be delivered to Congress by March 2001. That assessment was undertaken by *Business Executives for National Security* and was not a part of this audit.

BACKGROUND

In-Q-Tel Role in the Director of Central Intelligence Strategic Direction

On 5 May 1998, the DCI announced his "Strategic Direction" for focusing Agency capabilities and resources on efficiently and effectively carrying out the Agency's mission. With regard to the field of information technology, the DCI stated:

Beginning with the critical field of information technology, we will pursue this approach through the creation of an external not-for-profit enterprise, designed to be electronically connected to leading researchers throughout the country. This new entity will speed our insertion of mature technologies, support rapid development of mission-critical applications, and enhance our ability to attract the skills and expertise vital to our success.

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In-Q-Tel, Incorporated

To implement the DCI's vision, the Agency provided for the establishment of In-Q-Tel, a private, non-stock issuing, nonprofit corporation.¹ In-Q-Tel's Certificate of Incorporation states that the organization will be operated exclusively for charitable, scientific, and educational purposes. On 19 June 2000, the In-Q-Tel Board of Trustees unanimously approved an irrevocable resolution that the corporate charter could not be changed to make In-Q-Tel a for-profit corporation without the prior written consent of the US Government. The resolution became effective 29 August 2000.

In-Q-Tel's mission is to exploit and develop new and emerging information technologies and pursue research and development activities in order to provide innovative solutions to the most difficult problems facing the Agency and Intelligence Community. In-Q-Tel and the Agency negotiated a five-year Charter Agreement that describes the broad framework for the parties' relationship and establishes the general policies and specific terms and conditions that apply to the contemporaneously executed contract between the parties. The Charter Agreement and contract were signed on 28 July 1999.

In-Q-Tel is staffed with 28 professional and administrative employees and eight business and technology consultants.³ Gilman Louie is President and CEO of In-Q-Tel. Prior to his employment at In-Q-Tel, Louie was Chief Creative Officer and General Manager of Hasbro Interactive's Games.com group. Louie is assisted by Ronald Brian Richard, the recently appointed Chief Operating Officer and Stephen Mendel, Executive Vice President of Commercialization and Investments, who directs In-Q-Tel's venture capital strategy and leads the west coast commercialization team. Other senior management positions include: Chief Financial Officer, Chief Strategic Officer, Human Resource Director, and General Counsel.

In-Q-Tel's personnel figures are as of December 2000.

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¹ In-Q-Tel was originally incorporated as PELEUS, Inc. on 17 February 1999. The corporate name was changed to In-Q-It in July 1999 and subsequently changed to In-Q-Tel in January 2000.

Prior to the award of the current contract, the Agency had provided via a separate contract with In-Q-Tel, dated 26 March 1999. The initial contract provided funding to conduct design and startup activities, including finalizing In-Q-Tel's business plan, acquiring interim office space, and hiring initial staff. The total value of the two contracts between the Agency and In-Q-Tel is

The In-Q-Tel Board of Trustees

In-Q-Tel's corporate bylaws provide for a Board of Trustees to oversee In-Q-Tel operations.⁴ Although required by the bylaws to meet semiannually, In-Q-Tel's trustees have met quarterly and formed executive, audit and ethics, finance, and human resource committees to carry out their responsibilities. The bylaws permit the CEO of In-Q-Tel to attend all board and committee meetings but do not allow him to vote on any board matters. The Board of Trustees' duties include but are not limited to reviewing In-Q-Tel's internal controls; compliance with laws, regulations, and corporate code of conduct; financial reports; and In-Q-Tel's personnel compensation plan. The Board is also responsible for reviewing reports prepared by external auditors and ensuring that audit recommendations are acted upon.

The In-Q-Tel Interface Center (QIC)

The In-Q-Tel Interface Center (QIC—pronounced "quick") is the link between the Agency and In-Q-Tel. According to its strategic planning document, QIC's vision is:

[T]o be the Agency's preferred investment vehicle for developing and delivering innovative information technology solutions that meet the Agency's critical needs and are generally commercially successful.

QIC's mission is to ensure the development, transition, and acceptance of unique, value-added, commercially viable information technology solutions that meet the Agency's needs. To be successful in its mission the QIC must:

- Execute a corporate approach to Agency problem set development and solution transfer management involving extensive communication and participation in the Agency's coordination and decision processes.
- Partner with [In-Q-Tel] in developing and monitoring [In-Q-Tel's] business plan, contractual requirements, project development progress, and other commitments.

Exhibit A identifies the members of In-Q-Tel's Board of Trustees as of December 2000.

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• Lead internal Agency prototype testing and facilitate deployment within the Agency with the assistance of [In-Q-Tel] and Agency partners and customers.⁵

The Agency's Authority to Contract With In-Q-Tel

(U//FOUO) The Agency's procurement authorities are contained in section 3 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. §403c), and the Federal Property and Administrative Services Act (41 U.S.C. §§251-260). Section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. §403j) provides extraordinary fiscal authorities that can be applied to supplement the Agency's other basic procurement authorities. Section 8 provides that, notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out the Agency's functions, and that sums made available to the Agency may be expended without regard to the provisions of laws and regulations relating to the expenditures of government funds.

The Charter Agreement Between In-Q-Tel and the Agency

The Charter Agreement specifies that In-Q-Tel's policies, practices, and procedures will have the objective of making the corporation:

- 1. Agile-to respond rapidly to Agency needs.
- Problem driven—to link its work to Agency program managers.
- 3. Solution focused—to improve the Agency's capabilities.
- 4. Team oriented—to bring diverse participation and synergy to projects.
- 5. Technology aware—to identify, leverage, and integrate existing products and solutions.
- 6. Output measured-to produce quantifiable results.
- 7. Innovative—to reach beyond the existing state-of-the-art in Information Technology.
- 8. Self-sustaining-to reduce its reliance on CIA funding.

QIC Strategic Plan document dated 17 December 1999.

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The Charter Agreement between In-Q-Tel and the Agency is intended to provide In-Q-Tel with sufficient flexibility to enter into business relationships on terms and conditions that are customary in the private sector information technology marketplace. In-Q-Tel management believed that an agreement that required adherence to the standard US Government contracting provisions included in the Federal Acquisition Regulation (FAR) and required the flow down of those provisions to subcontracts, would significantly hinder In-Q-Tel's ability to engage the emerging information technology firms that hold the greatest potential to offer solutions to the Agency's problem set. In-Q-Tel management was particularly concerned over the broad rights granted the US Government by FAR contract clauses dealing with intellectual property. In-Q-Tel believed that prospective subcontractors would balk at contract provisions that gave the US Government unlimited rights in intellectual property and urged that the FAR clauses regarding data and patent rights be modified to limit usage to "government purposes."⁶

In order to strike a balance in the Charter Agreement between granting In-Q-Tel maximum flexibility and preserving the intent of the FAR, the Agency's OGC undertook a review of the standard FAR contract clauses to identify the statutes underlying the clauses and determine whether authority existed to waive inclusion of the clauses in the Charter Agreement and subcontracts. OGC concluded that those FAR clauses that were strictly regulatory in nature could be waived or modified under authorities generally available to the heads of Federal departments and agencies or under the Agency's own internal regulations. Other FAR clauses based on the Federal Property and Administrative Services Act were waivable under the Agency's exemption contained at 40 U.S.C. §474. The OGC determined that two statutes underlying FAR contract clauses addressing affirmative action for workers with disabilities and disabled veterans and veterans of the Vietnam Era-The Rehabilitation Act of 1973, as amended (29 U.S.C. §793), and the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended (38 U.S.C. §4211 and §4212)—limited waiver authority to the Secretary of Labor. The OGC concluded that authority available to the DCI under section 8

Section III.G-1 of the Charter Agreement defines "government purpose" as: [A]ny activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes

include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display or disclose data for commercial purposes or to authorize others to do so.

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of the Central Intelligence Agency Act of 1949 (50 U.S.C. §403j) could be relied on to waive inclusion of the FAR clauses implementing these two statutes.

The Agency used a combination of its procurement and section 8 authorities to negotiate the Charter Agreement, which is similar to the "other transaction" procurement instruments employed by the Defense Advanced Research Projects Agency.⁷ Because the Charter Agreement and contract between the Agency and In-Q-Tel does not conform to a standard FAR based agreement, only those clauses specifically included in the Charter Agreement and contract apply. Section III.A, of the Charter Agreement, *Contract Interpretation*, specifically states:

The Corporation shall have only those obligations expressly stated or expressly incorporated by reference in this Contract. Requirements contained in other standard Government clauses, regulations, or circulars are not included or made a part hereof. To the extent that any such clauses, regulations or circulars would otherwise apply to this Contract, the CIA has taken the proper steps necessary to waive or deviate from their requirements pursuant to applicable statutes or regulations authorizing such waivers or deviations.

Exhibit B lists the statutes underlying FAR contract clauses that were included in the Charter Agreement between In-Q-Tel and the Agency and discusses whether and how FAR clauses were modified for inclusion in the Charter Agreement.

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⁷ i Section 845 of the National Defense Authorization Act for Fiscal Year 1994 provided the Defense Advanced Research Projects Agency (DARPA) temporary authority to enter into agreements for prototype projects using nonstandard contracting approaches referred to as "other transactions." Congress granted DARPA other transaction authority because of concern that Government-unique procurement requirements inhibited the Department of Defense's ability to take advantage of technological advances made by private sector firms and increased the costs of goods and services that DoD acquired.

Evolution of the Charter Agreement in Response to In-Q-Tel's Changing Business Practices

In-Q-Tel began operations in a small office in Washington, D.C. on 19 February 1999. The first Board of Trustees' meeting was held on 20 February, and Michael M. Crow, Executive Vice Provost of Columbia University, was selected as interim president. Crow's initial activities focused on establishing an administrative infrastructure for In-Q-Tel—acquiring office space, hiring staff, purchasing office equipment, and establishing a financial accounting system. Several of In-Q-Tel's initial contracts were awarded to large corporations that had a long association with the Agency and the US Government. The statements of work for the contracts generally required a survey of the information technology industry to identify leaders in state-of-the-art research and development. At the time, In-Q-Tel had a small professional staff, and individuals were required to assume multiple responsibilities.

With the appointment of Gilman Louie as CEO of In-Q-Tel in September 1999, In-Q-Tel management began to advance a new business practice that featured the use of equity investments rather than traditional subcontracts as a means to gain leverage with information technology firms and influence the development of technology that is both applicable to the Agency's problem set and commercially promising. The new approach allowed In-Q-Tel to leverage the equity capital contributed by other investors and, in so doing, increase the likelihood that In-Q-Tel's investment in a promising information technology firm would yield solutions for the Agency's problem set. In-Q-Tel management envisioned that in most cases an equity investment in a company would be accompanied by a separately negotiated and priced work program, which would be similar to a traditional subcontract.

When In-Q-Tel management began making equity investments in information technology firms, they approached the Agency for additional relief from the data rights provision included in the Charter Agreement. Although the language of the Charter Agreement was purposefully crafted for flexibility, In-Q-Tel management believed it did not provide sufficient flexibility for In-Q-Tel's new business practices. In-Q-Tel management stated that small start-up companies adamantly opposed the inclusion of government purpose rights in their contracts because it effectively foreclosed the entire US Government market to the companies'

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products.⁸ After several rounds of discussions between Agency and In-Q-Tel personnel, and further review by the Agency's OGC, Agency management agreed that in mixed funding scenarios, where deliverable items were not developed exclusively at US Government expense, a "special license" appropriate to the circumstances could be negotiated with subcontractors under existing terms of the Charter Agreement.⁹

In-Q-Tel management also argued that the flow-down of government purpose rights in patents was ill suited to equity investment business arrangements. In-Q-Tel management said they had experienced significant difficulty in negotiating an equity deal with a potential subcontractor that possessed promising technology for the protection of digital property, a technology applicable to the Agency's problem set. The subcontractor's management viewed the US Government-wide, nonexclusive, royalty-free license as too great an encumbrance on a patent because it diluted the value of the patent and the company's overall economic position with respect to the technology.

Agency management advised In-Q-Tel that unlike the data rights provision, the FAR patent rights provision included in the Charter Agreement had a statutory basis that provided the US Government an interest in inventions made under contracts, regardless of the sources of funds that contributed to the development of the invention.¹⁰ In-Q-Tel proposed to

The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

⁸ In commenting on a draft of this report, In-Q-Tcl's CEO stated that the flow-down of government purpose rights to equity investments is acceptable to subcontractors in situations where the US Government is the sole investor and there are no commercial or financial investors providing alternative sources of capital to the subcontractors. In most cases, In-Q-Tel is investing in companies along with commercial or financial investors, or In-Q-Tel anticipates that the companies will need to attract other investors in the near future.

⁹ Agency management believed that the FAR, Part 27 provided flexibility in negotiating licenses in mixed funding scenarios. For example, In-Q-Tel could negotiate "Agency purpose" rights that would grant license rights to the Central Intelligence Agency but not to the US Government at large.

¹⁰ The Bayh-Dole Act, 35 U.S.C. §§200-212, establishes the patent regime applicable to Federal contracts with non-profit organizations such as In-Q-Tel. The Bayh-Dole Act provision is implemented in the patent regulations in FAR Part 27 and in the contract clause at FAR 52.227-11. The standard patent clause for the allocation of principal rights at FAR 52.227 states:

address the matter by amending the Charter Agreement to exclude equity investments from the meaning of the term "subcontracts."

After several requests from In-Q-Tel to waive the inclusion of US Government patent rights provisions were approved by the Agency's Procurement Executive, Agency and In-Q-Tel management agreed to modify the Charter Agreement to exclude equity investments from the meaning of the term "subcontract," and to provide for the case-by-case waiver of all flowdown provisions included in the Charter Agreement from In-Q-Tel's subcontracts. The following language was added to the Charter Agreement:

[In-Q-Tel] shall ensure that its subcontracts include applicable flow-down provisions required by this Agreement or the parties' associated contracts. However, there may be circumstances in which a subcontractor objects to such a provision, and [In-Q-Tel] believes that awarding a subcontract that omits the provision in question would contribute materially to accomplishing the objectives of this Agreement. In such a case, [In-Q-Tel] shall:

- 1. advise the Agency;
- 2. provide the Agency with any information it may request in order to evaluate the issue; and
- refrain from awarding a subcontract that omits the flow-down provision in question unless it obtains the Agency's prior approval.

The parties agree that equity investments are not considered to be subcontracts for the purposes of this Agreement and that subcontract flow-down provisions are not applicable to equity investments.

¹¹ The Office of Inspector General did not assess whether section 8 can be used to waive the requirements of the Bayh-Dole Act.

[In-Q-Tel] shall consult with the Agency prior to entering into any equity investment agreement using funds that have been provided by the Agency and shall provide the Agency with sufficient insight into the proposed equity investment so as to allow the Agency to ascertain whether the equity investment will contribute materially to the accomplishment of the objectives of this Agreement.

As a result of the modifications to the Charter Agreement, In-Q-Tel equity investments do not convey any intellectual property rights to the Agency or the US Government. Rights obtained by the Agency under companion work programs separately negotiated and priced with companies in which In-Q-Tel has made an equity investment vary on a case-by-case basis, but usually consist of "Agency purpose license rights." The rest of the US Government will typically acquire no intellectual property rights as a result of an In-Q-Tel equity investment and companion work program and would have the option to purchase developed products on terms that are no less favorable than those available to other customers acquiring such license from the seller.

In-Q-Tel's Business Process

In-Q-Tel management has developed a sequential business process that allows In-Q-Tel management to match the Agency's problem set with emerging information technologies and track the development of information technology solutions, i.e., solutions to the Agency's problem set, through development and deployment. The process includes nine "Q" phases:

Qo-Agency Needs Definition/Problem Sct.

Q1-Portfolio Management.

Qr-Contracting.

Q3-Concept Definition and Demonstration.

Q.-Prototype and Testing.

Qp-QIC/In-Q-Tel Piloting.

Qb-End-User Piloting.

Qa-Deployment and Agency Acquisition.

Q5-Commercialization.

QIC is primarily responsible for Q_0 , Q_p , Q_b , and Q_d in-Q-Tel is primarily responsible for Q_1 - Q_5 .

Figure 1: The "Q" Process

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The process begins as the Agency develops a priority list of its most critical information technology requirements-the "problem set." The Agency problem set is defined, validated, arranged in order of priority, and submitted to In-Q-Tel in unclassified form annually. During portfolio management, In-Q-Tel surveys the commercial, industrial, and academic communities for technologies that may yield solutions to the Agency's problem set. At the same time, In-Q-Tel assesses and forecasts the potential for a commercial market for the technologies. During the contracting phase, In-Q-Tel matches companies and technologies with specific requirements identified in the Agency's problem set. In consultation with QIC personnel and expected Agency customers, In-Q-Tel awards contracts and makes equity investments in companies that are developing promising technologies. During the concept definition and demonstration phase, In-Q-Tel and its subcontractors and partners perform research and development, explore proof of concept prototypes, and assess the feasibility of a given approach or solution. Successful Q₃ efforts advance to prototype development and testing, where In-Q-Tel or its subcontractors and partners customize and enhance the features and capabilities of the deliverable based upon feedback from expected Agency customers. In-Q-Tel's development team and QIC personnel work closely with customers to integrate the solution into the customer's work process for pilot testing and evaluation. In-Q-Tel personnel drive the deployment of successful prototypes in the commercial market and assist QIC personnel in the deployment/Agency acquisition phase.

DETAILED COMMENTS

(U) Overall, In-Q-Tel Management Has Designed and Implemented Effective Financial and Managerial Controls

Overall, In-Q-Tel management has designed and implemented effective financial and managerial controls over In-Q-Tel operations. In-Q-Tel's accounting system is well designed and operating effectively to provide management with accurate and reliable accounting data. Cash and investment accounts reconcile with accounting records, and our review of other current asset accounts did not disclose any material errors or omissions. Expenses are generally adequately supported and properly recorded in In-Q-Tel's accounting records. In-Q-Tel's Chief Financial Officer keeps the CEO well informed of the status of In-Q-Tel's financial operations. We found, however, that In-Q-Tel management needs to strengthen internal controls related to contracting,

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equipment management, and corporate security. We also believe that opportunities exist to improve the effectiveness of In-Q-Tel's ethics program.

In-Q-Tel's Procurement Practices Should Be Strengthened

In-Q-Tel's contracting and purchasing personnel are not adequately evaluating vendors' proposed prices. In addition, contracting personnel have not in every instance adequately documented contracting activity. As a result, In-Q-Tel may be paying too much for goods and services and may not be able to substantiate a claim in the event of a contract dispute.

Vendor Quotes Should Be Subjected to Cost or Price Analysis

Sound procurement practice requires analysis of price or cost data to determine whether vendors' proposals are fair and reasonable. Price analysis is the process of evaluating the reasonableness of an offered price without examination and evaluation of the separate elements of cost and profit that make up the price. Price analysis typically includes comparing proposed prices with prices at which the same or similar items have previously been purchased or with prices quoted by other vendors. Cost analysis is a more extensive and intrusive process involving the examination of the offeror's actual or anticipated costs. Cost analysis requires the application of experience, knowledge, and judgment in the evaluation of cost data in order to project reasonable estimates of contract costs.

We tested In-Q-Tel's procedures for performing cost and price analysis and determining whether offered prices were fair and reasonable. We judgmentally selected contracts and purchase orders ranging in cost from for review. Despite an In-Q-Tel policy that requires at least one competitive price quote for all purchases and two quotes for purchases in excess of the files associated with of the procurement actions included no documentation to substantiate the reasonableness of the purchase prices.¹²

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 During October 2000, In-Q-Tel was in the process of revising its purchase order procedure to require three quotes for purchases over of the procurement actions reviewed were valued in excess of

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We also noted that there was no documentation that contract negotiations had resulted in any cost savings on In-Q-Tel's contracts. We compared vendors' proposed prices to the final negotiated prices on six of In-Q-Tel's contracts. We were limited in our review because only six of In-Q-Tel's 22 contract files included copies of the vendors' proposals. Contract negotiations on five of the six contracts resulted in a final contract price that was the same as the price proposed by the vendor. The contract price on the sixth contract was less than the proposed price, but the reduction in cost was the result of a change in the scope of the work to be performed on the contract.

In the early days of In-Q-Tel operations, the company was short-staffed and under pressure to utilize funds provided under its contract with the Agency. The weaknesses in In-Q-Tel's procurement practices noted during the audit can be largely attributed to these conditions. In-Q-Tel's CEO acknowledged the need to evaluate the reasonableness of amounts paid to vendors. In commenting on a draft of this report, In-Q-Tel's CEO stated that he has hired a new procurement/facilities manager, who is subject to direct oversight by the controller and chief financial officer. The controller is being cross-trained to handle procurement management functions when the procurement/facilities manager is absent.

Contract Files Should Contain a Complete Record of Significant Contracting Activity

In-Q-Tel's contract files do not fully document all significant contracting activities. For one of the contracts we reviewed, the contract file did not document the reason why In-Q-Tel did not take advantage discount offered by the vendor. The vendor submitted ofa proposals to In-Q-Tel in response to three separate requirements and offered In-Q-Tel a significant discount if In-Q-Tel awarded the vendor more than one contract. Although In-Q-Tel awarded the vendor two contracts, the negotiated contract prices did not reflect the offered discount. The contract files did not explain why the discount had not been taken or document what consideration was obtained in lieu of the discount. In-O-Tel management could not explain why the discount was not taken, because contract documentation was incomplete and the individual who negotiated the contract on behalf of In-Q-Tel was no longer an employee. During our audit, In-Q-Tel contacted the vendor regarding the discount. The vendor replied to In-Q-Tel management that the offered discount had been waived by In-Q-Tel's representative during contract negotiations. In-Q-Tel management concluded that they were unable

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to pursue the matter further because they did not have a documented record of the contract negotiations. This example underscores the importance of documenting all significant contracting activities and maintaining contract documentation in an organized filing system so that it is readily available for use in the event of a contract dispute.

In commenting on a draft of this report, In-Q-Tel's CEO stated that he believes, in general, In-Q-Tel has adequately evaluated vendors' proposed prices. He acknowledged that In-Q-Tel's files have not always contained documentation that would substantiate the reasonableness of purchase prices and comparisons of multiple price quotes. The CEO commented that In-Q-Tel had implemented and recently updated policies for purchasing commercially available products and services.

The CEO commented that with respect to project agreements In-Q-Tel follows its Outreach Policy,¹³ and In-Q-Tel's negotiating staff has always attempted to make sure that the prices for services and goods are reasonable. Given In-Q-Tel's mission to look for new, advanced information technology solutions, In-Q-Tel's project contracts are negotiated not on price, but on the uniqueness and quality of the solution. Although price is evaluated to make sure it is not excessive, the solution and work product rather than the negotiation of price are the key considerations. Nonetheless,

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¹³ In-Q-Tel's Outreach Policy sets forth the guiding principles that govern the selection of research and development sources. The policy states that In-Q-Tel's selection procedures will be shaped by three guiding principles: fairness, openness, and flexibility.

In-Q-Tel's representatives are charged with understanding the marketplace for comparable goods and services, customary prices, and factoring those matters into contract negotiations.

In-Q-Tel's CEO also commented that substantial contract negotiations are conducted orally prior to the preparation of contract documents and that the lack of documentation concerning negotiations does not necessarily mean that prices were not negotiated. The CEO agreed that adequate contract documentation is important, and additional staff in the legal and program management areas have been retained to ensure adequate documentation is in place. Additional legal staff have been hired for the Rosslyn, VA office to implement an improved filing system. In lieu of hiring additional legal staff for In-Q-Tel's Menlo Park, CA office, electronic copies of contract documentation will be made available by the Rosslyn, VA office.

With regard to the discount discussed above, In-Q-Tel's CEO commented that it is not uncommon for contract terms, including price, to be adjusted during contract negotiations. The CEO suggested that the discount was relinquished during negotiation of the scope of work and other contractual provisions. The CEO pointed out that the negotiated contract included a royalty provision in favor of In-Q-Tel and a provision giving In-Q-Tel rights to commercialize the relevant technology in certain circumstances—provisions that were not included in the contractor's proposal. The CEO agreed that this occurrence reinforced the need to maintain adequate documentation of contract negotiations, but disagreed with any implication that inadequate negotiations had "left on the table."

In-Q-Tel Needs to Improve Its Control Over Equipment

In-Q-Tel does not have effective administrative control of its equipment. In-Q-Tel management needs accurate equipment records to effectively manage and control computer hardware, software, and other computer-related equipment; office equipment such as shredders, copiers, and fax machines; video equipment; and portable equipment such as cell phones, pagers, and personal digital assistants. Without accurate accounting records, In-Q-Tel management cannot effectively plan for repair and replacement of equipment and maintain effective physical control. In addition, weak administrative controls place In-Q-Tel's equipment at greater risk of theft or

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misuse, and the inaccurate equipment records may impact the accuracy of In-Q-Tel's financial statements.¹⁴

We tested the accuracy of In-Q-Tel's equipment records by judgmentally selecting computers and other information technology equipment on hand at In-Q-Tel's facilities and determining if the equipment was on In-Q-Tel's equipment inventory records: We found 16 property items at In-Q-Tel's Rosslyn, Virginia office that had In-Q-Tel property tags attached but had not been recorded in the equipment inventory records. We discontinued our testing procedure at the Menlo Park, California office after identifying numerous items of equipment that had not been labeled or added to equipment inventory records. In-Q-Tel management told us that some of the untagged equipment was owned by employees and had been brought into the office for use until In-Q-Tel could purchase its own equipment. All In-Q-Tel equipment should be prominently tagged to identify it as In-Q-Tel property and to distinguish it from employees' personal property.

In-Q-Tel's Chief Financial Officer told us that he plans to transfer equipment inventory records from the current Microsoft Excel spreadsheet to a fixed asset system that will be integrated with In-Q-Tel's accounting system during the first half of calendar year 2001 to improve control of the equipment. In-Q-Tel management should also arrange for periodic physical inventories to be taken of its equipment to verify the accuracy of inventory records and improve accountability and control of equipment. In-Q-Tel's Security Plan requires that annual inventories of information technology equipment be conducted and specifies that all such equipment will be labeled with In-Q-Tel property tags and recorded in a configuration management system. The security plan states that an effective configuration management program is an essential component of a highassurance security environment.

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¹⁴ The scope of our audit included testing the effectiveness of managerial controls over equipment. We did not assess whether weak internal control over equipment had a material affect on In-Q-Tel's financial statements.

In-Q-Tel Has Not Fully Implemented Its Security Plan and Policies

In-Q-Tel has developed a comprehensive set of security policies and has promulgated these policies in a formal *Security Policy, Plan* and Procedures Handbook. The Security Plan, which was completed on 18 April 2000, has as its stated purpose "to describe the process by which the security and safety of In-Q-Tel's information assets and company operations are ensured and to define responsibilities for executing the security plan." During interviews with In-Q-Tel personnel, we learned that several key security procedures included in the plan and handbook have not been implemented.

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Background Checks Need to Be Performed on Employees

In-Q-Tel has not performed background checks on any of its employees who do not have a US Government security clearance. The Security Plan states that personnel security is the first line of defense against security threats and personnel security starts with the screening of personnel prior to employment. In-Q-Tel's Policy on Personnel Security states "Prospective employees will undergo a due diligence BI [background investigation] that includes criminal and credit checks as well as verification of citizenship, employment history and education." Both the Security Plan and Policy on Personnel Security state that all prospective employees not already holding a US Government security clearance will undergo a pre-employment background check. In-Q-Tel should complete background checks on all current employees and obtain background checks on prospective employees to help ensure the safety of corporate information, facilities, and assets.

A Formal Security Education and Awareness Program Shouid Be Implemented

In-Q-Tel does not have a formal security education and awareness program in place for its employees. According to In-Q-Tel's Security Plan, it is a prerequisite of employment that individuals receive an initial security orientation briefing on security policies and procedures. We found that In-Q-Tel's initial security briefing consists of providing the employee a copy of the security policies and instructing the employee on the biometrics entry and office alarm systems. Further security training had been conducted at In-Q-Tel staff meetings and through occasional unclassified security briefings by Agency security personnel. The scheduling of In-Q-Tel staff meetings, however, has become irregular and In-Q-Tel's Security Director acknowledged a need for more formal and regular security training for staff personnel. A formal security education and awareness program would help to ensure that employees have been trained in In-Q-Tel's security policies, are aware of emerging security issues, and understand the importance of following good security practices.

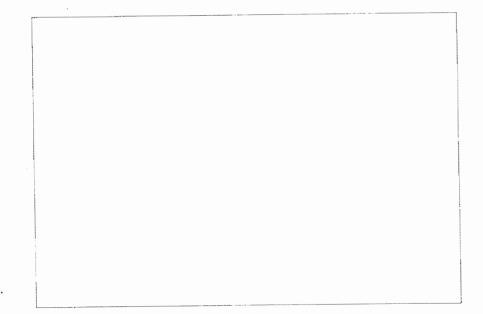
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Continuity of Operations Procedures Need to Be Strengthened

In-Q-Tel does not have adequate procedures in place to ensure continuity of operations. The Security Plan states that backup and continuity of operations procedures are required for all critical In-Q-Tel systems and networks. Although the network servers for both the Rosslyn and Menlo Park offices are backed-up nightly at the Rosslyn office, the backup tapes are stored at the Rosslyn office in a non-fireproof cabinet. Off-site secure storage of backup tapes is the preferred method of preventing the loss of data due to fire, flood, or other disasters.

The Security Plan also states that specific guidance for system administration personnel in dealing with emergency and contingency conditions will be documented in a Standard Operational Procedure (SOP) Manual. In-Q-Tel has not developed an SOP Manual to deal with disaster recovery. This leaves In-Q-Tel management with inadequate assurance that In-Q-Tel data and systems will be protected in the event of a disaster.



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In-Q-Tel's Ethics Program Can Be Improved

In-Q-Tel provides each employee a copy of the *Employee* Handbook which contains the Corporate Ethics Statement and a comprehensive list of Standards of Conduct. In-Q-Tel employees are not, however, provided formal ethics training. The Corporate Ethics Statement requires employees to subscribe to the highest ethical principles and to avoid conduct that would raise questions about In-Q-Tel's integrity or damage its reputation. It states that any violation of ethical principles is a serious matter that will result in appropriate corrective measures and/or disciplinary actions, up to and including dismissal. Each employee is required to sign a Receipt and Acknowledgment of Understanding statement acknowledging that the employee is responsible for reading the *Employee Handbook* and adhering to all of the policies and procedures contained therein.

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In addition to providing employees a handbook of ethics policies, many corporations provide their employees general ethics training and specific compliance training. Although we did not identify any ethics violations by In-Q-Tel employees, periodic ethics training would reinforce employees' understanding of In-Q-Tel's ethics policy, management's commitment to maintaining an ethical workplace, and the employees' ethical obligations.

In-Q-Tel Needs to Appoint a Corporate Ethics Officer

In-Q-Tel management has not appointed a Corporate Ethics Officer. In-Q-Tel's Conflict of Interest Policy For Employees states "Any questions concerning this Policy should be raised with the Ethics Officer designated by the Corporation's Chief Executive Officer." Ethics officers actively seek to address issues before they become serious problems. The Ethics Officer is responsible for receiving and evaluating facts concerning conflicts of interest or potential conflicts of interest and determining what measures should be taken to eliminate the conflict. The Ethics Officer is also responsible for monitoring and overseeing compliance with the Organizational Conflict of Interest Policy, Ethics Policies and Procedures, and coordinating periodic ethics training.

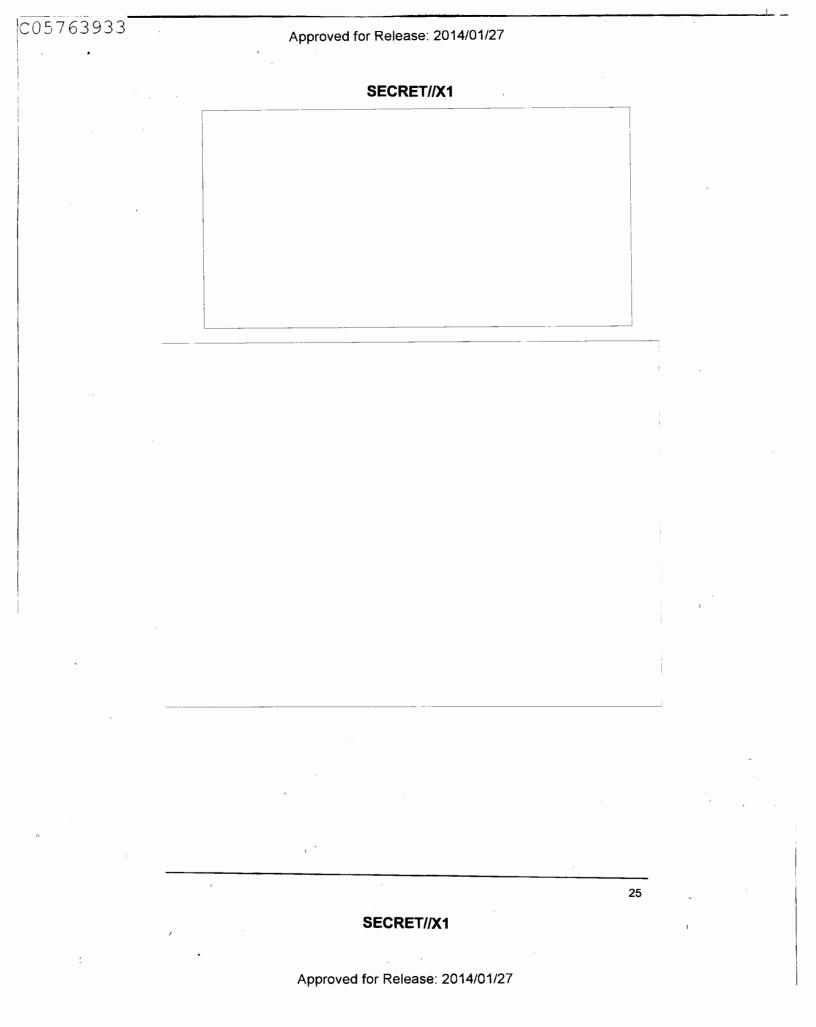
In-Q-Tel Should Establish a Means By Which Employees Can Report Suspected Illegal or Unethical Conduct

In-Q-Tel should implement a means by which employees can confidentially report suspected illegal or unethical conduct to a designated ethics officer, legal counsel, or the Audit and Ethics Committee of the Board of Trustees. In-Q-Tel has a Complaint Resolution Procedure that encourages employees to discuss problems with their immediate supervisor or the Chief Financial Officer. But employees fearing reprisal may be reluctant to use the Complaint Resolution Procedure. Both the government and the commercial sectors have encouraged the use of confidential hotlines for reporting instances of fraud, waste, and mismanagement in order to promote a proactive oversight and follow-up system.

Procedures should be

communicated to each employee on how to report suspected illegal or unethical conduct, who is responsible for receiving the reports, and how the reports will be acted on.

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Agency Management Has Established Appropriate Insight Into In-Q-Tel Operations, But Areas of Concern Remain

QIC management has appropriate insight into In-Q-Tel operations and is effectively monitoring contract performance. QIC and In-Q-Tel personnel maintain a close and continuous working relationship. Senior members of both organizations attend weekly Review Board meetings to discuss ongoing projects and new opportunities. In addition, QIC and In-Q-Tel staff hold quarterly Partnership Management Reviews (PMR) to formally assess progress under the contract and issues of common concern. At each PMR, QIC and senior Directorate of Science and Technology personnel are briefed on the status of In-Q-Tel projects, changes in In-Q-Tel's staff and organization, and the financial status of In-Q-Tel operations. The QIC staff, in turn, provides performance feedback to In-Q-Tel personnel and briefs them on the progress QIC has made in transferring In-Q-Tel-developed solutions into the Agency. QIC personnel also give In-Q-Tel personnel advice and guidanceon the future direction of In-Q-Tel's work. Although the QIC has effective insight into In-Q-Tel operations, the successful transfer of In-Q-Teldeveloped solutions into the Agency and the counterintelligence vulnerabilities inherent in the relationship between the Agency and In-Q-Tel are areas of concern that are critical to the long-term success of In-Q-Tel.

Successful Solution Transfer is Critical to the Success of In-Q-Tel

In our interviews with senior managers of In-Q-Tel and the QIC, and in discussions between In-Q-Tel Trustees at their December 2000 meeting, the transfer of In-Q-Tel-developed solutions into the Agency was cited as a significant area of concern. The Agency's contract with In-Q-Tel required the development and delivery of a solution transfer plan by 31 January 2000. The initial solution transfer plan focused on creating a generic process that could be used to transfer all In-Q-Tel solutions into the Agency. But discussions between QIC and In-Q-Tel personnel on solution transfer during the first half of calendar year 2000 remained largely on the theoretical level as In-Q-Tel's projects and business practices were still evolving and project deliverables were months away.

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In the second half of calendar year 2000, as In-Q-Tel projects and processes matured, a working group was formed to address solution transfer. The working group decided that because of the uniqueness of each In-Q-Tel project, a generic solution transfer process was not the answer. Instead, the working group developed a solution transfer plan template that outlines the factors that must be taken into account in every solution transfer, while providing the flexibility for each transfer to be accomplished in the manner befitting individual circumstances. Lessons learned from the transfer of In-Q-Tel's first information technology solution, the Presidential Intelligence Dissemination System (PIDS), proved valuable to the working group in identifying the factors that must be considered and dealt with in the solution transfer process. The working group has drafted a solution transfer framework paper to be used to communicate the solution transfer plan template to QIC and In-Q-Tel personnel.

While QIC and In-Q-Tel personnel were working on the mechanics of solution transfer, QIC management sought to address the Agency-wide cultural and procedural barriers that could impact solution transfer. QIC managers recognized that they would face the same impediments that other Agency components had experienced in integrating new information technologies within the Agency. In a briefing to the Agency's Executive Board in June 2000, QIC management stated that In-Q-Tel's success required the support and involvement of the Executive Board, mission managers, subject matter experts, and end-users at every phase of In-Q-Tel's business process. QIC management emphasized the need for cooperation from various Agency components in facilitating approvals and integrating In-Q-Teldeveloped solutions into the Agency. Of immediate concern were the barriers imposed on solution transfer by the Agency's complex information systems approval processes.¹⁵

At the urging of the DCI, the Executive Board took action to facilitate implementation of In-Q-Tel solutions. The board committed to designating "champions" and "drivers" from among Agency senior managers for each In-Q-Tel project. The champions and drivers will become the owners of In-Q-Tel projects and facilitate their integration into Agency processes by identifying hosts for pilot programs, evaluating budget implications, establishing a sense of component ownership, and ultimately introducing

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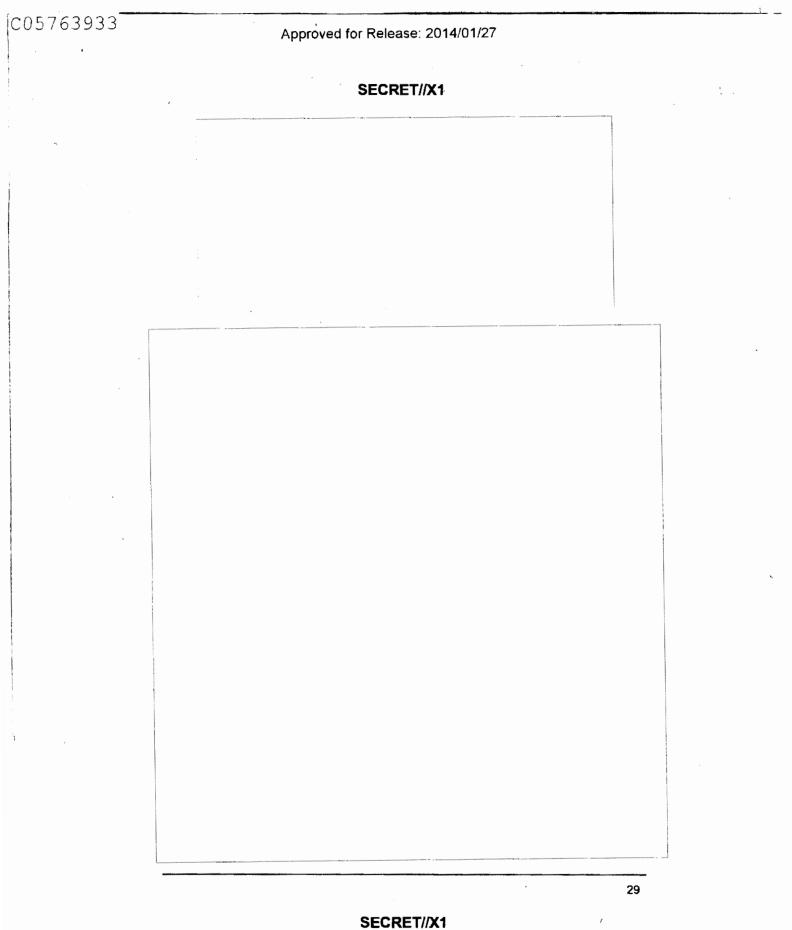
¹⁵ There are currently four corporate level, and at least component and office level information systems review boards in the Agency. Information obtained from the Agency's Office of Advanced Information Technology in the Directorate of Science and Technology shows that the current process to introduce new information technology into the Agency can require up to 447 days.

solutions to the Agency work environment. Also, in an effort to facilitate the timely review and approval of In-Q-Tel information technology solutions as well as other Agency technology initiatives, the Executive Board directed the Agency's Chief Information Officer (CIO) to examine the efficiency of the Agency's information services approval boards' processes. The Executive Director approved the Acting CIO's plan to streamline information services governance on 9 February 2001.

In-Q-Tel will ultimately be judged on the impact that its information technology solutions have on Agency operations. In-Q-Tel is scheduled to pilot the use of its next two solutions with Agency customers by the end of March 2001. Although actions have been taken to promote the successful transfer of In-Q-Tel-developed solutions into the Agency, much remains to be learned about the factors that will contribute to or inhibit solution transfer. In his 24 January 2001 statement to the Agency workforce, the DCI said:

In-Q-Tel has given us a window on innovation. And we have recognized the crucial mission-enabling role that information technology must play in any modern enterprise. The challenge we now face is to transfer the power of technical innovation to our day-to-day activities and to the very difficult intelligence problems that we face. ... I need each and every one of you to charge your workplace with enthusiasm—to look for ways to innovate—to break down boundaries that get in the way of our creativity—and to scrap processes that get in the way of our success.

As additional In-Q-Tel-developed solutions are integrated into Agency business practices, QIC and In-Q-Tel personnel will identify factors affecting solution transfer that are outside of QIC's authority to control. We strongly believe that the long-term success of In-Q-Tel must be taken on as a corporate responsibility, and we believe that the Director of the QIC should regularly brief the Agency's Executive Director on the solution transfer aspects of the program. These briefings should include a discussion of the extent to which designated champions and drivers are effectively carrying out their responsibilities, the factors that have been barriers to solution transfer, and the Director of the QIC's recommendations to promote the integration of solutions into Agency business practices. Senior Agency management should be informed of the substance of the briefings and of actions needed to promote the solution transfer process.



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Exhibit A

(U) IN-Q-TEL BOARD OF TRUSTEES

(U) The In-Q-Tel Board of Trustees includes individuals with backgrounds in industry, government, academia, and the venture capital arena.¹ As of December 2000, the Board included the following individuals:

Norman R. Augustine, former Chairman and CEO of Lockheed Martin Corp.

Lee A. Ault III, In-Q-Tel Chairman; former Chairman and CEO of Telecredit, Inc.

John Seely Brown, Chief Scientist of Xerox Corporation and Director of its Palo Alto Research Center.

Michael M. Crow, In-Q-Tel Vice Chairman; Executive Vice Provost of Columbia University.

Stephen Friedman, Senior Principal of Marsh & McLennan Capital, Inc.; Limited Partner and former Chairman of Goldman, Sachs & Co.; member of the President's Foreign Intelligence Advisory Board.

Paul G. Kaminski, President and Chief Executive Officer of Technovation, Inc.; Senior Partner in Global Technology Partners; former Under Secretary of Defense for Acquisition and Technology.

Jeong Kim, President of Carrier Networks, Data Networking Systems Group, Lucent Technologies Corporation; founder of Yurie Systems, Inc.

Alex J. Mandl, Chairman and CEO of Teligent.

John N. McMahon, consultant to Lockheed Martin Corporation; former Deputy Director of Central Intelligence.

William J. Perry, Professor at Stanford University and former Secretary of Defense.

¹ (U) The information included in this exhibit was provided by the In-Q-Tel Interface Center (QIC).

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Exhibit **B**

(U) PROCUREMENT-RELATED STATUTES INCORPORATED INTO THE CHARTER AGREEMENT BETWEEN THE AGENCY AND IN-Q-TEL

(U//FOUO) The Charter Agreement between In-Q-Tel and the Agency includes the following statutory coverage:

- Anti-Kickback Act (41 U.S.C. §§51-58): FAR provisions were tailored for In-Q-Tel and incorporated by reference for subcontractors.
- Bayh-Dole Act (35 U.S.C. §200 et seq): FAR provisions were tailored for In-Q-Tel and subcontractors.
- Byrd Amendment [31 U.S.C. §1352(b)(2)]: FAR provisions were tailored for In-Q-Tel and incorporated by reference for subcontractors.
- Central Intelligence Agency Act of 1949, §13, Unauthorized Use of Agency Name, Seal and Initial(50 U.S.C. §403m): Provision incorporated into Charter Agreement and flowed down to subcontractors.
- Civil Rights Act of 1964, as amended: FAR US Government property provisions were tailored for In-Q-Tel and its subcontractors, but are subject to Civil Rights Legislation.
- Clean Air Act (42 U.S.C. §7401 et seq): FAR provisions were tailored for In-Q-Tel and waived for subcontractors.
- Clean Water Act (33 U.S.C. §1251 et seq): FAR provisions were tailored for In-Q-Tel and waived for subcontractors.
- Contract Disputes Act of 1978 (41 U.S.C. §§601-613): FAR provisions were tailored for In-Q-Tel and waived for subcontractors.
- Drug-Free Workplace Act of 1988 (41 U.S.C. §701 et seq): FAR provisions were tailored for In-Q-Tel and inapplicable to subcontractors when commercial items are procured.

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- Export Laws: Included by reference.
- Export Administration Act of 1979 (50 U.S.C. §§2401-2420): Applicable to In-Q-Tel and flowed down to subcontractors.
- International Emergency Economic Powers Act (50 U.S.C. §§1701-1706): Applicable to In-Q-Tel and flowed down to subcontractors.
- Arms Export Control Act (22 U.S.C. §2778 et seq): Applicable to In-Q-Tel and flowed down to subcontractors.
- Federal Acquisition Streamlining Act, provisions on uniform debarment and suspension (P.L. 103-355): FAR provisions tailored for In-Q-Tel.
- Federal Property and Administrative Services Act, provision on covenant against contingent fees (41 U.S.C. §254a): FAR provisions were tailored for In-Q-Tel and waived for subcontractors.
- Office of Federal Procurement Policy Act, provisions on cancellation, rescission and recovery of funds for illegal or improper activity and price or fee adjustment for illegal or improper activity (41 U.S.C. §423): FAR provisions were tailored for In-Q-Tel and waived for subcontractors.
- Prompt Payment Act (31 U.S.C. §§3901-3906): FAR provisions were tailored for In-Q-Tel.
- Rehabilitation Act of 1973, as amended (29 U.S.C. §793): FAR provisions were tailored for In-Q-Tel and waived for subcontractors using authority contained in section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. §403j).

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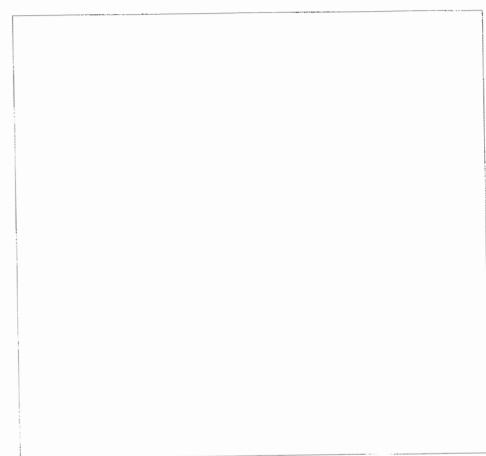
- Trade Secrets Act (18 U.S.C. §1905): Applicable to In-Q-Tel.
- Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended (38 U.S.C. §§4211-4212): FAR provisions were tailored for In-Q-Tel and waived for subcontractors using authority contained in section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. §403j).

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Exhibit C

(U) LIST OF RECOMMENDATIONS



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Exhibit D

(U) AUDIT TEAM MEMBERS

(U//FOUO) This audit report was prepared by the Office of Inspector General, Audit Staff.

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CENTRAL INTELLIGENCE AGENCY

Office of Inspector General



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REPORT OF AUDIT

Follow-up Audit of the Agency's Credit and Charge Card Programs

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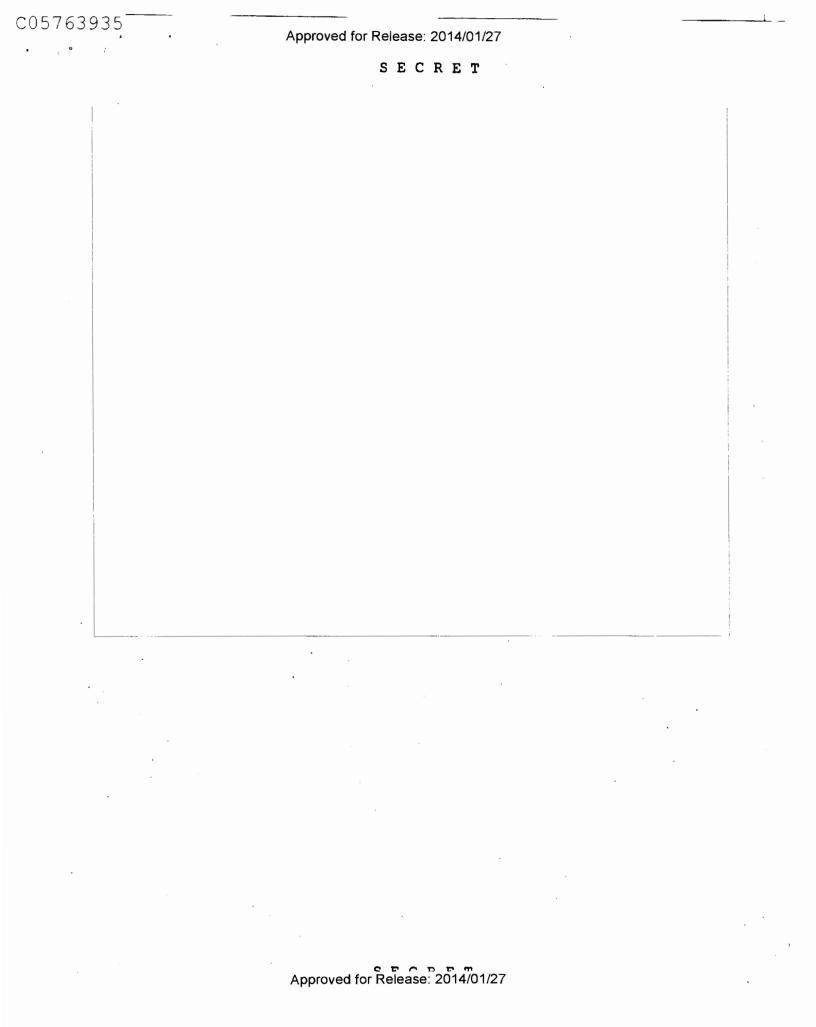


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REPORT OF AUDIT

Follow-up Audit of the Agency's Credit and Charge Card Programs

SUMMARY

Despite the fact that improvements have been made to the Agency's credit and charge card programs since our last audit in 1995, we found several continuing problems that require attention.

The Travel Card Program is designed to reduce the amount of time spent by budget and finance personnel in processing and monitoring travel advance balances. Other benefits of the program include

and access to government discount rates. However, these benefits have not been fully realized, because the travel card program is not mandatory for all Agency travelers. At the same time, we were unable to determine why the Agency has not appropriately limited issuance of travel cards to employees who are most likely to travel or otherwise incur expenses as part of their official duties.

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OBJECTIVES, SCOPE, AND METHODOLOGY

We reviewed laws and regulations pertaining to the use of credit and charge cards, including the Federal Travel Regulations and

We gathered information

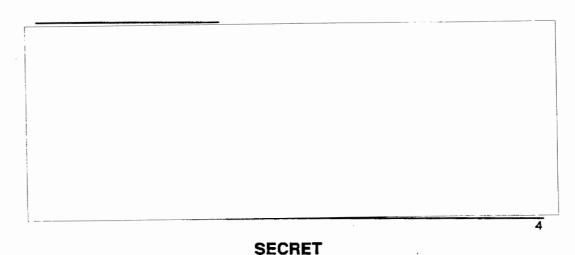
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regarding the numbers of credit and charge cards issued, the procedures followed by the program administrators, and the internal controls in place for each of the programs. We collected and reviewed nonregulatory publications concerning the administration of credit and charge card programs, such as Employee Bulletins and program handbooks. Transactions and reports examined during the audit were related to fiscal year 1997 and 1998 activity.

To compare the Agency's travel card program with other government agency programs, we obtained briefings from representatives from the Department of State and the National Security Agency.

To determine if the usage of travel cards was appropriate and in compliance with regulations, we reviewed three months² of travel card activity using monthly activity reports provided to the Agency by American Express. We also examined procedures employed by ______ to ensure that all cardholders are current Agency employees.

Our audit was performed from April 1998 through February 1999 and was conducted in accordance with generally accepted government auditing standards.



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BACKGROUND

Each of the Agency-sponsored credit and charge card programs is managed by a different office under different policies and procedures, as discussed below.

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DETAILED COMMENTS

Controls Over Issue and Use of Travel Cards Should Be Strengthened

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Since 1983, the General Services Administration has contracted for the issuance and maintenance of travel cards for federal employees to cover their transportation, hotel, and other allowable travel and transportation expenses incurred during official travel. The GSA contract implements federal travel regulation requirements for agencies and travelers to "take all reasonable steps to minimize the cash burden on both the agency and the traveler."

The Agency began participating in the GSA travel card program in 1987.⁸ Agency management approved the use of the travel card to achieve the following benefits:

- Access to government discount rates.
- Improvement of cash management practices.
- Reduction of travel processing workload.

Before October 1998, federal agencies had the option to participate in GSA's government travel card program. However, the Travel and Transportation Reform Act of 1998,⁹ requires that federal employees (with some specified exceptions) use the travel card for all payments of expenses of official government travel.

Benefits of full traveler participation in the travel card program can be substantial, such as receiving government rates, tax exemptions, and rebates based on the amount of travel card activity. Other agencies have already realized benefits from their mandatory travel card programs.

⁹ Public Law 105-264, 19 October 1998. The law requires agency compliance within 270 days after enactment.

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Increased Travel Card Monitoring and Enforcement Is Necessary

is not effectively monitoring employee use of travel cards, and as a result, misuse of the card is going undetected. Authorized use of the travel card is limited to payment for travel expenses as stated on the traveler's internal travel order or as incurred while in official travel status for the Agency.

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Agency controls over proper usage of the travel card are intended to ensure that the Agency's relationship with the government travel card contractor remains strong and that government resources are not misused. is responsible for monitoring and taking appropriate action against card abusers and should take the necessary steps to ensure that this responsibility is fully carried out.

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The Office of Finance and Logistics Needs to Establish a Quality Assurance Program for the Financial Certification Process

The Office of Finance and Logistics (OFL) is responsible for the certification of Agency financial transactions. This certification stipulates that the Agency is in compliance with federal and Agency laws and regulations and that the transactions were approved by the proper authority. Throughout this audit, we found that the quality of the certification process is not up to required standards. OFL needs to ensure that its financial certification programs are of the highest quality in order to adequately protect the Agency.

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In exercising these responsibilities, certifying officers are guided by Agency regulations, as well as operational and program approvals. All approved claims for payment, accountings, and requests for advances must be certified prior to payment or recordation, as evidence that they are in accordance with Agency regulations or applicable laws dealing with the expenditure of Agency funds.

Certifying officers are not responsible for documenting basic transaction information, but they are responsible for ensuring that all required information needed to fully document Agency transactions is present. Certifying officers are ultimately accountable for the transaction and for ensuring the integrity of the Agency's financial records, a responsibility that should not be taken lightly.

The problems we found were not confined to one component; they exist Agency-wide. We believe that the Office of Finance and Logistics needs to develop and implement a program of quality assurance for financial certifications.

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Exhibit

List of Recommendations

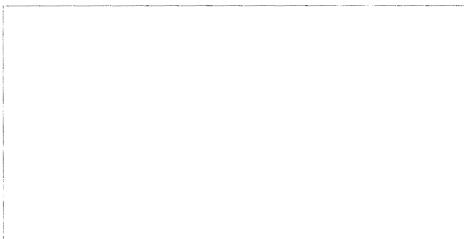


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REPORT OF AUDIT

Financial Reporting of Environmental and Disposal Liabilities, Other Liabilities, and Commitments and Contingencies

Central Intelligence Agency Office of Inspector General Audit Staff

> 23 June 2004 DATE ISSUED



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Report of Audit

Financial Reporting of Environmental and Disposal Liabilities, Other Liabilities, and Commitments and Contingencies

<u>SUMMARY</u>

The objectives of this audit were to determine whether:

- The fiscal year (FY) 2002 financial statements of the Central Intelligence Agency fairly present environmental and disposal liabilities, other liabilities, and commitments and contingencies, in accordance with generally accepted accounting principles.
- The internal controls related to reporting environmental and disposal liabilities, other liabilities, and commitments and contingencies are adequate to detect or prevent errors or misstatements that have a material effect on the financial statements.
- The Agency complies with laws and regulations that have an effect on the financial statement presentation of environmental and disposal liabilities, other liabilities, and commitments and contingencies.

The internal controls related to reporting commitments and contingencies are not adequate to detect or prevent errors or misstatements that have a material effect on the financial statements. The Office of General Counsel (OGC) does not have a process for accumulating and reporting information for litigation and

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potential litigation. Moreover, a mechanism does not exist for OGC and the Office of the Chief Financial Officer (CFO) to share information regarding legal matters or to document how that information is considered when preparing the financial statements.

The Agency is not in compliance with Office of Management and Budget (OMB) Circular A-127, *Financial Management Systems*, with regard to maintaining an integrated financial management system. Specifically, the Agency has not reconciled amounts in the general ledger with the amounts contained in subsidiary systems for obligation and expense data and differences totaling millions of dollars exist.

BACKGROUND

The Accountability of Tax Dollars Act of 2002 requires that CIA prepare and submit audited financial statements to OMB and Congress in accordance with Federal financial accounting and reporting standards established by the Federal Accounting Standards Advisory Board (FASAB) and OMB. The FASAB was established in 1990 by the Director, OMB; the Secretary of the Treasury; and the Comptroller General to recommend accounting principles, standards, and concepts for the Federal Government. In October 1999, the American Institute of Certified Public Accountants formally recognized the FASAB as the standard-setting body for generally accepted accounting principles for Federal entities. FY 2004 will be the first year the CIA prepares and submits audited financial statements.

Guidance related to the financial reporting of environmental and disposal liabilities, other liabilities, and commitments and contingencies is contained in OMB Bulletins and Statements of Federal Financial Accounting Standards (SFFAS). OMB Bulletin No. 01-09, Form and Content of Agency Financial Statements, defines a liability as a probable future outflow or other sacrifice of resources as a result of past transactions or events.¹ SFFAS No. 5, Accounting for Liabilities of the Federal Government, describes the general principles governing the recognition of a liability. In addition, SFFAS No. 5 requires that government entities report cleanup costs from Federal operations known to result in hazardous waste, which the Federal Government is required, by Federal, state, and/or local statutes to clean up. SFFAS No. 12, Recognition of Contingent Liabilities from Litigation, requires the recognition and disclosure of contingent liabilities when an existing condition, situation, or set of circumstances could result in a possible loss to an entity. OMB Bulletin No. 01-02, Audit Requirements for Federal Financial Statements, sets forth guidance on the preparation of legal representation letters and provides a format for the presentation

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Financial statements shall recognize probable and measurable future outflows or other sacrifices of resources arising from (1) past exchange transactions, (2) government-related events, (3) government-acknowledged events, or (4) nonexchange transactions that, according to current law and applicable policy, are unpaid amounts due as of the reporting date.

of management's schedule of information contained in legal responses for financial reporting purposes (Exhibit D). Additional guidance for reporting environmental liabilities is provided in the Accounting and Auditing Policy Committee's Technical Release No. 2, Determining Probable and Reasonably Estimatable for Environmental Liabilities in the Federal Government.

AUDIT RESULTS AND RECOMMENDATIONS

Environmental and Disposal Liabilities, Other Liabilities, and Commitments and Contingencies Are Not Fairly Presented on the Agency's Financial Statements

> Accounting Operations Did Not Provide Sufficient Guidance to Derive an Accurate Amount to Report for Environmental and Disposal Liabilities

The Agency's balance sheet, specifically the line item *Environmental* and Disposal Liabilities reported at majority of the overstatement resulted from incorrectly including the normal operating and compliance costs of administering the environmental cleanup program.² The remaining related to incorrectly including the highest cost estimate for an environmental remediation project rather than the lowest estimate as required by SFFAS No. 12.

The US Standard General Ledger (USSGL) defines the estimated cleanup cost liability, which should be recorded in a separate general ledger account 2995, as the projection of future cleanup costs associated with removing, containing, and/or disposing of (1) hazardous waste from property, or (2) material and/or property consisting of hazardous waste at permanent or temporary closure or shutdown of the associated property, plant, and equipment. Normal operating and compliance costs do not directly relate to removing, containing, and/or disposing of hazardous materials, and should not be included in the estimated cleanup cost liability.

At the end of each fiscal year, the Agency's Office of Finance requests information related to environmental remediation projects from the Agency's Office of Medical Services (OMS), Office of Finance,

provides OMS with the previous year's response and requests that the intormation be updated for the current fiscal year. The requested information includes the estimated time and cost to complete various projects and the dollar amount spent on

²Office of Medical Services' environmental health and safety responsibilities include ensuring site compliance with Federal, state, and local environmental laws, and monitoring the work environment of employees.

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projects during the current fiscal year. However, because is not familiar with Federal financial reporting standards and receives no further guidance from Environmental Safety Group included inappropriate cost estimates in its submissions.

For FY 2002,	estimated the normal or	
period costs of administering its cleanup period	rogram to be	
Included in the	estimate were costs for training, internal	
operating costs of the group, updating regu	lations and other publications, preparing	
permit applications and permit renewals, preparing surveys, and supporting other		
compliance activities. These projected cos		
submission	of its estimated cleanup cost liability to	

According to SFFAS No. 12, Recognition of Contingent Liabilities from Litigation, an estimated liability may be a specific amount or range of amounts. If one amount within the range is a better estimate than any other amount within the range, that amount should be recognized as the liability. If no amount within the range is a better estimate than any other, the minimum amount in the range is recognized, and the range and a description of the nature of the contingency should be disclosed. Based on SFFAS No. 12, the Agency should have reported the minimum amount of as the estimated remediation cost and made the appropriate disclosures.

During our review, we identified a technical inaccuracy in the disclosures; note 10 (Exhibit B, page 3) incorrectly reports the amount of money paid for environmental remediation and compliance. The note states,

for environmental remediation and compliance for FY 2002." However, only and the remaining represented unliquidated obligations to be expensed in the future.

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We brought these concerns to	management's attention during the
audit and officials from	took corrective action. For the
FY 2003 financial statements,	provided details and
explanations in a memorandum to requesting informa	
on environmental and remediation projects. Sp	pecifically,
defined "cleanup costs" for financial statement	
normal operational and compliance costs should	
explained the reporting of an estimated amoun	
We believe that the action taken during the aud	
environmental and disposal liability is properly	reported in the future.

A Separate General Ledger Account for Environmental and Disposal Liabilities Has Not Been Established in the Agency Financial Management System

The Agency's accounting system is not in full compliance with the US Standard General Ledger. General ledger account 2995, *Estimated Cleanup Cost Liability*, has not been established in AFMS, the Agency's official accounting system. Instead, manually adjusts the accounting records to reflect the environmental and disposal liability at the end of the fiscal year.³ The amount of the adjustment is based on the response from Environmental Safety Group to

year-end data request. The manual adjustment is not recorded in AFMS.

According to OMB Circular A-127, *Financial Management Systems*, financial events should be recorded at the transaction level in an agency's accounting system and adhere to the requirements of the USSGL. Financial management systems should be used to facilitate the preparation of financial statements in accordance with Federal accounting and reporting standards. The Joint Financial Management Improvement Program⁴ (JFMIP) publication (JFMIP-SR-01-02), *Core Financial System Requirements*, states that an agency's core financial system must provide complete, reliable, consistent, timely and useful financial management information on operations. JFMIP also calls for automating the preparation of consolidated financial statements in accordance with OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*. As a result, an agency's accounting system should be able to generate financial statements.

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³ When the trial balance is adjusted to incorporate environmental and disposal liability. general ledger account 2995 is created outside of AFMS and referred to as

The JFMIP is a joint and cooperative undertaking of the US Department of the Treasury, the General Accounting Office, the Office of Management and Budget, and the Office of Personnel Management, working in cooperation with each other and other agencies to improve financial management practices in government. The Program was given statutory authorization in the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 65, as amended).

General ledger account 2995, along with an appropriate accounting model, should be established in AFMS to maintain an automated record of the balance for the estimated cost associated with environmental and disposal remediation. Implementing an accounting model would allow for systematic recording of and adjustment to the liability balance. When a new environmental cleanup site is discovered, the liability—the estimated future cost to cleanup the site—should be recorded in general ledger account 2995, and, when expenditures are made to remedy a damaged site, the liability should be reduced. The transactions would be captured in AFMS, eliminating the need for ________ to request information on cleanup costs and manually adjust the accounting records at the end of the year.

In commenting on a draft of this report, the Director of Finance stated that general ledger account 2995, *Estimated Cleanup Cost Liability*, was established in AFMS on 1 October 2003. The appropriate USSGL accounting model is being established with one required new transaction code

Accrual accounting requires adjusting entries at the end of each accounting period to record any revenues that have been earned, but not recorded, and to record any expenses for which the benefits from the expenditures have been received, even though cash payment is made in another accounting period. SFFAS No. 7, Accounting for Revenue and Other Financing Sources, further explains that "Accrual accounting recognizes the financial effects of transactions and events when they occur, whether or not cash changes hands at that time." Accrual-basis accounting often provides better

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information than cash-basis accounting for evaluating performance. Accrual-basis accounting can provide more information for planning and control of operations and could provide an understanding of a reporting entity's net position and cost of operations.

We reviewed the financial statements of the Department of Labor, which administers the workers' compensation claims for most Federal workers. The Department of Labor accrues the liability for its own employees using historical benefit payment patterns related to a specific period of time. Department of Labor's workers' compensation liability includes the amount of expected payments for death, disability, medical, and miscellaneous costs for approved compensation cases, as well as an amount for claims incurred but not reported.

Office of Finance officials have recently started to implement accrual accounting. However, Finance officials did not propose to accrue workers' compensation because they believe d the amount was not material. Workers' Compensation Division has the information necessary to accrue the amount. Historical benefit payment patterns for workers' compensation claims for dating back to 1990 are readily available. Office of Finance officials should take the opportunity to avoid a potential situation in which the omission of workers' compensation liability combined with other possible errors creates a material misrepresentation on the financial statements. Reporting this liability on the financial

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statement will provide accurate and meaningful information to the financial statement reader.

In commenting on a draft of this report, the Director of Finance stated that will work closely with Human Resources to ensure that the applicable accruals for claims relating to the benefits outlined under the Federal Employees Compensation Act are recorded in accordance with the guidance issued by the Department of the Treasury. This includes both the medical reimbursements and compensation rolls, (i.e., lost income, disability, and death benefits). Written guidance will be provided to Human Resources in the annual financial statement data call.

The Agency's Reporting of Commitments and Contingencies Is Not Reliable

We were not able to obtain assurances that commitments and contingencies are fairly reported on the Agency financial statements. The Agency did not report any legal or administrative matters on the FY 2002 statements. Due to weaknesses in the internal controls over accumulating, reporting, and considering legal and administrative matters when preparing the financial statements, we could not confirm the accuracy or completeness of potential liabilities related to legal actions. In addition, the Agency does not maintain an integrated financial management system as required by OMB Circular A-127, *Financial Management Systems*. Amounts in the general ledger representing contract obligations and expenses have not been reconciled with the data contained in subsidiary systems, and differences totaling millions of dollars exist.

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Internal Controls Have Not Been Established to Ensure Liabilities Relating to Legal or Administrative Actions Are Incorporated in the Financial Statements

The Agency does not have processes in place to ensure that liabilities relating to administrative proceedings, legal actions, and claims brought by or against it are included on the financial statements. The Office of General Counsel does not have a process for accumulating and reporting information for all litigation; OGC personnel were unable to provide a listing of litigation or potential litigation—formal and administrative—as of 30 September 2002. Moreover, a mechanism does not exist for OGC and the Office of the Chief Financial Officer to share information regarding legal matters or to document how that information is considered when preparing the financial statements. Because information regarding legal and administrative actions was not available, we were unable to determine if the line item, *Commitments and Contingencies*, was accurately reported on the FY 2002 financial statements.

To accurately report commitments and contingencies and provide an audit trail, agencies should prepare legal representation letters and management schedules that detail legal actions. At the request of an agency's management (usually the CFO), the organization's legal counsel would provide a letter to the auditors describing pending or threatened litigation and unasserted claims and assessments.⁷ Legal counsel is required to report pending or threatened litigation for outcomes that are probable, reasonably possible, or remote and that exceed an agreedto amount. Legal counsel is also required to report unasserted claims and assessments for outcomes that are probable or reasonably possible and that exceed an agreed-to amount. To satisfy management's responsibility under SFFAS No. 5, Accounting for Liabilities of the Federal Government, as amended, related to contingent liabilities arising from litigation, and to facilitate the annual financial statements audits, the CFO must prepare a schedule to document how the information contained in the legal counsel's response was considered in preparing the financial statements.8 The format used for management's schedule is provided in OMB Bulletin No. 01-02, Audit Requirements for Federal Financial Statements, Appendix H-3, which we have included as Exhibit D of this report.

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Legal counsels shall consider the guidance contained in the American Bar Association's Statement of Policy Regarding Lawyer's Responses to Auditors' Request for Information (December 1975) in preparing the response. (Appendix H-2 of OMB Bulletin No. 01-02, Audit Requirements for Federal Financial Statements, contains an illustrative response letter from legal counsel to the auditors.)

⁸ For financial statement reporting purposes, cases with probable loss contingencies should be reported on the face of the financial statements for pending or threatened litigation. Cases with reasonably possible loss contingencies will be reported in note disclosures for pending or threatened litigation and unasserted claims and assessments.

FY 2004 is the first year that the Agency's financial statements will be annually audited; a legal representation letter and management schedule will be required each year. OGC must establish a process to accumulate a listing of litigation or potential litigation—formal and administrative—so that the cases can be assessed to determine whether the related liabilities should be reported on the financial statements. OGC attorneys have taken the initiative to review the reporting requirements for legal matters and instructed OGC senior personnel, in a Lotus Note dated 27 August 2003, to capture contingent liabilities Agency-wide as of 30 September 2003.

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The Agency Is Not in Compliance With OMB Circular A-127 With Regard to Maintaining an Integrated Financial Management System

The Agency has not reconciled contract obligation and expense information contained in the general ledger with subsidiary system data. OMB Circular A-127, *Financial Management Systems*, requires that Federal agencies maintain a single, integrated financial management system.

To properly report commitments and contingencies, OMB Bulletin No. 01-09 requires disclosure of (1) an estimate of obligations related to canceled appropriations for which the reporting entity has a contractual commitment for payment, and (2) the amounts for contractual arrangements, which may require future financial obligations.

The disclosed amount was based on a report prepared by the Office of Chief Financial Officer, Office of Business Systems. The report provides the total amounts obligated and expensed in the subsidiary systems and in AFMS for Agency contracts with outstanding balances. The amounts reported in do not match the amounts reported in AFMS; the chart on the following page shows the differences as of 20 August 2003.

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		The data in	does not reconc	ile with	AFMS because prior year
obl	igation and e	xpense data c	annot be adjusted after	-	closes at the end of each
fisc	al year. The	balances rep	orted for prior fiscal ye	ars rem	ain the same even though
con	tracts are be	ing settled and	d closed. Therefore, th	e	reported as a
pot	ential conting	gent liability	for unsettled contracts	in	is overstated.

Federal systems requirements call for a single, integrated financial management system. Reconciliations between systems that interface must be performed to ensure data accuracy. The differences between the general ledger and subsidiary systems must be researched and resolved, particularly with the CFO's plan to upgrade AFMS and convert the data to a new core financial system in FY 2006. Until there is an integrated system in which the general ledger accounts agree with the subsidiary accounts, the CFO must ensure that note disclosures contain sufficient information for the reader of the financial statements to understand the integrity and limitations of the data being presented.

The Director of Finance noted that there will always be differences between the data in in AFMS, particularly for cancelled regular appropriations for which open obligations remaining in AFMS are reversed/deleted during the fiscal year closeout process but are appropriately left open in until final contract settlement.

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Until the Agency has implemented an integrated acquisition system, differences will continue to occur for reasons such as timing differences obligations pending release to AFMS, obligations in a rejected status in AFMS, and discount amounts not reduced from obligations as they are in AFMS.

In accordance with OMB Bulletin No. 01-09, auditors are required to report whether the reporting entity's financial management systems substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the US Standard General Ledger at the transaction level. The CIA's financial management system is not in substantial compliance with Federal financial management systems requirements. Material differences exist between the Agency's official accounting system and subsidiary contract management systems because they have not been reconciled.

the Director of Finance stated that the FY 2003 financial statements disclosed that the contingent liability for outstanding unsettled contracts is derived from contract management subsidiary systems and that neither obligations nor expense data in these subsidiary systems reconciles with AFMS. Future financial statements will be appropriately annotated, as required.

Other Matters

We identified several general ledger accounts in which transactions were being recorded that did not meet the descriptions reported in the AFMS chart of accounts or lacked certain internal controls. We do not believe that the significance of these issues warrants a formal recommendation; however, we believe that it is our responsibility to bring the issues to management's attention.

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According to a 1995 OGC opinion based on Public Law 103-329, recycling proceeds used to purchase environmentally beneficial products, such as those described in Executive Order 12873 (e.g., recycled paper, retread tires, "Energy Star" computers, re-refined lubricating oil, and products to support water and energy conservation programs, etc.), are no-year funds. The AFMS chart of accounts should be revised to state that general ledger account includes recycling proceeds that are no-year funds.

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At the time of our au	dit,
was performing a detailed review of the	
account. Upon completion of the review, the account description i	n the
chart of accounts should be revised, if appropriate, to properly refl	
the financial activity being recorded in general ledger account	
the maneral activity being recorded in general ledger account	na concet all case la
A significant amount of the activity in the general	ledger
account relates to the Central Employees Activity Fund (CEAF).12	U
The CEAF Board of Directors is responsible for approving the exp	enditure
of CEAF funds for the benefit and morale of Agency employees at	d their
dependents in accordance with	ni men

The CEAF was established in 1968 from excess net profits of current and former self-sustaining employee service or recreational activities and is composed of non-appropriated funding.

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Exhibit A

Objectives, Scope, and Methodology

The objectives of this audit were to determine whether:

- The financial statements of the CIA fairly present environmental and disposal liabilities, other liabilities, and commitments and contingencies, in accordance with generally accepted accounting principles.
- The internal controls related to reporting environmental and disposal liabilities, other liabilities, and commitments and contingencies are adequate to detect or prevent errors or misstatements that have a material effect on the financial statements.
- The Agency complies with laws and regulations that have an effect on the financial statement presentation of environmental and disposal liabilities, other liabilities, and commitments and contingencies.

To obtain an understanding of the types of transactions recorded in the general ledger accounts, we judgmentally selected a sample of transactions recorded during FY 2002 from each account based on several factors, such as whether the transactions were unique, recurring, or high in dollar amount. We reviewed vouchers and supporting documentation to determine whether each transaction was properly authorized, approved, certified, and supported. We assessed the Agency's definition and use of the general ledger accounts to determine whether the accounts met the requirements of the US Standard General Ledger prescribed by the Department of the Treasury.

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We obtained and reviewed documentation maintained by Finance to support the preparation of the line items: *Environmental and Disposal Liabilities, Commitments and Contingencies,* and *Other* liabilities and related disclosures for the FY 2002 financial statements. We compared the amounts presented on Finance's adjusted trial balance with amounts reported on the financial statements to ensure all account balances were included in the appropriate line items.

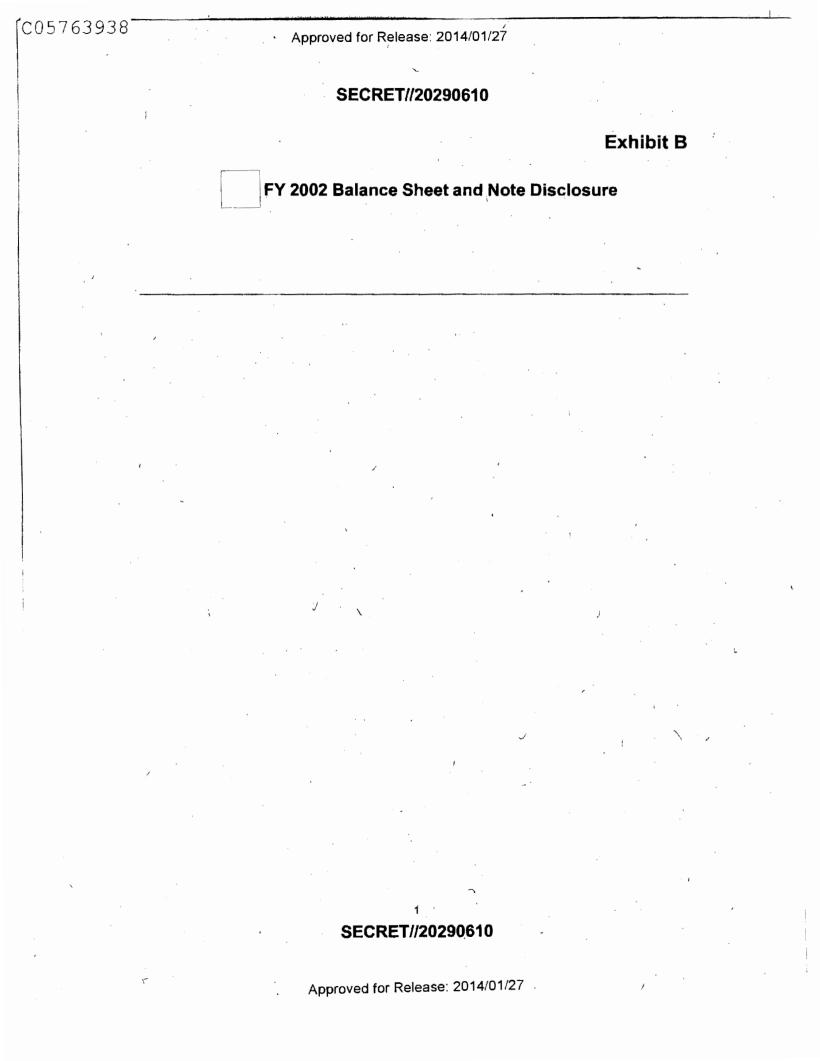
To identify the Federal requirements for financial statements, we reviewed Office of Management and Budget (OMB) Bulletin No. 01-09, Form and Content of Agency Financial Statements; Statement of Federal Financial Accounting Standard (SFFAS) No. 5, Accounting for Liabilities of the Federal Government; SFFAS No. 6, Accounting for Property, Plant, and Equipment; SFFAS No. 7, Accounting for Revenue and Other Financing Sources; SFFAS No. 12, Recognition of Contingent Liabilities from Litigation; Statements of Federal Financial Accounting Concepts; the US Standard General Ledger; OMB Circular No. A-127, Financial Management Systems; and the Joint Financial Management Improvement Program's publication, Core Financial System Requirements. We reviewed Agency regulations and policies to obtain information on internal controls and requirements for processing and reporting liabilities.

We interviewed officials from the Office of the Chief Financial Officer, including Office of Finance, Office of Business Systems, and Office of the Procurement Executive. In addition, we interviewed officials from Office of General Counsel; Office of Human Resources, Pay and Benefits, Workers' Compensation Division; and Office of Medical Services, Environmental Safety Group.

We reviewed prior CIA Office of Inspector General audit reports to identify any conditions that have been previously reported related to Agency liabilities. We also reviewed relevant reports issued by the General Accounting Office and other Federal agencies.

We conducted our audit from February 2003 to September 2003. Our audit was performed in accordance with generally accepted government auditing standards. Comments on a draft of this report were received from the Director of Finance and the General Counsel and were considered in the preparation of this report.

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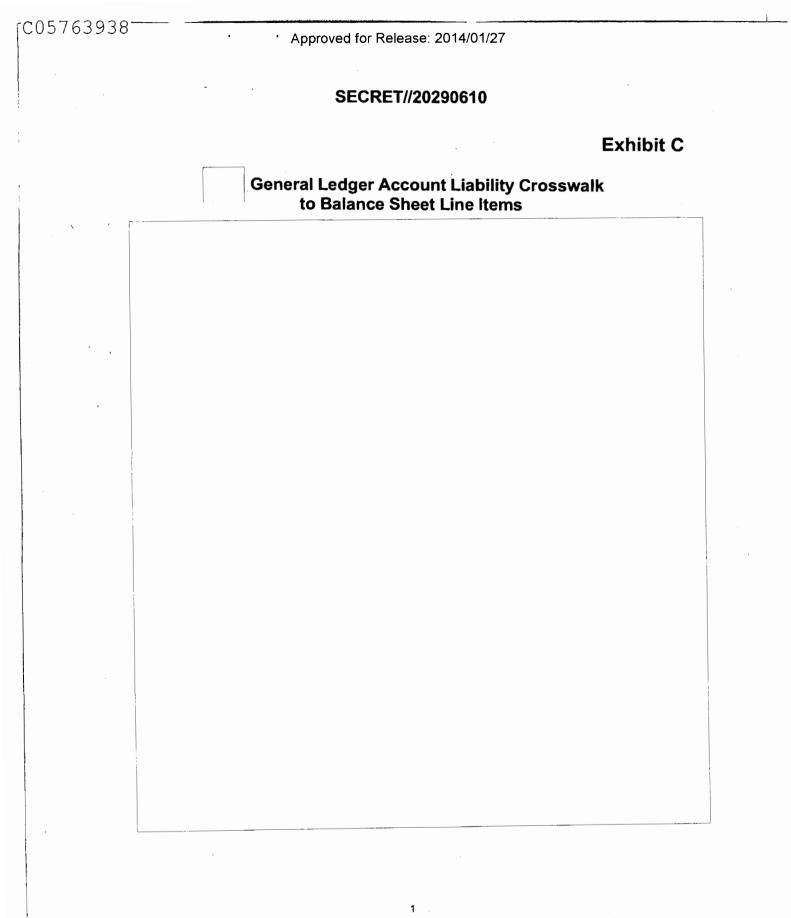
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Exhibit D

OMB Bulletin No. 01-02, Appendix H-3, Format for Management's Schedule of Information Contained in Legal Responses for Financial Reporting Purposes

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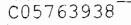


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Exhibit E

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List of Recommendations

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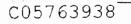
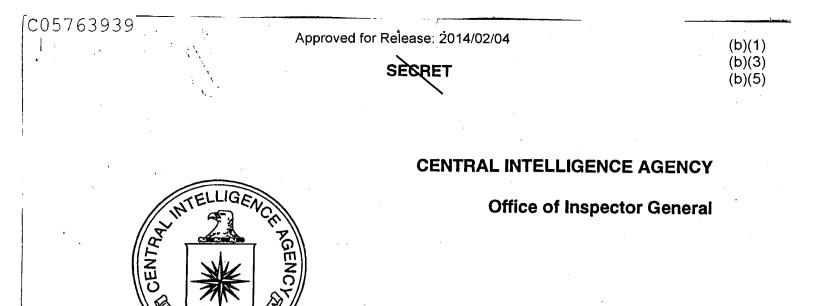


Exhibit F



This audit report was prepared by the Audit Staff, Office of Inspector General.

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REPORT OF AUDIT

Hazardous Materials and Waste Management

WARNING NOTICE INTELLIGENCE SOURCES OR METHODS INVOLVED

🕱 5 OCT 1994

DATE ISSUED

Approved for Release: 2014/02/04

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REPORT OF AUDIT

Hazardous Materials and Waste Management

SUMMARY

In the two years since the establishment of the Environmental Management Program (EMP), the Agency has made significant progress in identifying environmental deficiencies and strengthening its infrastructure for managing compliance with environmental laws and regulations. Initial environmental surveys of all domestic facilities have been completed, and work has begun to address the most serious environmental deficiencies. The of the Office of Medical Services has

established information resources to provide guidance on environmental regulation and has strengthened the network of environmental compliance officers assigned to Agency components. Development and retention of

staff of environmental professionals and ensuring that personnel are trained to perform their duties in a safe and environmentally responsible manner remain matters that require continuing management attention.

Funds appropriated in fiscal year 1994 for the Agency's new initiative on environmental compliance have been closely controlled by Environmental projects funded under the new initiative are approved by based on established priorities.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of the audit were to examine the implementation of the Agency's Environmental Management Plan, to determine whether adequate financial and personnel resources have been made available, and to establish whether appropriate action has been taken to address environmental deficiencies at Agency facilities. This review was intended to be a followup

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to our 1992 audit of *Hazardous Materials and Waste Management* and was not a detailed environmental compliance audit.

We interviewed staff members responsible for administering the EMP and component environmental compliance officers responsible for implementing the EMP. We interviewed the Agency's environmental counsel and discussed appropriation related issues with Office of Comptroller personnel.

We reviewed Agency components' requests for funding to undertake environmental projects and examined documentation supporting the expenditure of environmental funds. Our work was conducted from June to August 1994 and was performed in accordance with generally accepted government auditing standards.

BACKGROUND

Our initial audit of Agency practices regarding the handling of hazardous materials and waste was conducted in 1992. In the report on that audit, we expressed our intention to schedule periodic reviews of the progress made in implementing the EMP and in bringing the Agency into compliance with environmental protection laws.

Each of the major environmental protection statutes provides that the law applies to Federal facilities in the same manner and to the same extent as to private facilities. The Federal Facilities Compliance Act (FFCA), effective 7 October 1992, is intended to further compel Federal agencies to accede to the same environmental standards as the private sector. The FFCA waives sovereign immunity as a defense for violations of Federal, State, and local hazardous waste laws and allows the Environmental Protection Agency and State regulatory agencies to assess civil penalties against Federal facilities. Since enactment of the FFCA, Agency facilities have received fines for violations of hazardous waste laws.

The Agency is addressing a broad range of environmental requirements including upgrading underground storage tanks and investigating and remediating soil and groundwater contamination. The Agency is also establishing the infrastructure required to comply with administrative requirements to maintain inventory records on hazardous substances and document generation and disposal of hazardous waste.





DETAILED COMMENTS

Significant Progress Has Been Made In Implementing the EMP

In the two years since our initial examination of hazardous materials and waste management, the Agency has made significant progress in implementing its EMP. Responsibilities for implementation of the EMP were established by

Although some environmental projects are progressing more slowly than anticipated and the full extent of cleanup work has yet to be determined, the Agency has made significant progress in identifying environmental deficiencies and in strengthening its infrastructure for managing compliance with environmental laws and regulations.

Our prior audit report suggested the following areas of the Agency's EMP be given careful attention during program development and implementation:

- Management commitment to identification of environmental deficiencies at all Agency facilities and the successful implementation of the EMP;
- Staffing with persons having the knowledge and experience to provide guidance to components on environmental compliance and remediation projects;
- Appropriate staffing to successfully implement the EMP, particularly at the component level;
- Effective training programs to help ensure that Agency employees perform their duties in an environmentally responsible manner; and
- Adequate control over funds allotted for environmental remediation to assure efficient and effective use.

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Although these remain areas of concern, progress in each of the areas indicates an increased awareness on the part of Agency management of the significance of environmental laws and regulations and the resource commitment needed to achieve and maintain compliance.

Initial Step In Identifying Environmental Deficiencies Has Been Completed

All of the Agency's domestic facilities have had initial environmental surveys conducted by commercial contractors specializing in this area. An environmental survey identifies actual and potential environmental problems and is the first step in demonstrating a proactive position with regard to compliance. Although the potentially serious problems at Agency facilities have been identified, many sites identified in initial environmental surveys are currently undergoing more detailed study and testing, and the full extent of remediation work has not been determined. Significant environmental problems may take years to correct because of the time involved in determining the extent of the problem, formulating and obtaining the concurrence of Federal and State regulators on a remediation plan, and carrying out remediation work.

has completed initial environmental surveys of

were limited in scope to requirements imposed by the Resource Conservation and Recovery Act, which covers handling of hazardous wastes and new requirements for underground storage tanks. In June 1994 initiated annual compliance surveys of the Agency's domestic facilities. These surveys are intended to measure progress in addressing problems identified in the initial environmental surveys.

Environmental Expertise Is Being Developed In-House

In implementing the Agency's EMP, ______ is responsible for conducting annual compliance inspections, providing technical advice to Agency managers concerning the elimination of hazardous conditions, monitoring and providing technical support to remediation projects, and reviewing the actions taken to correct environmental deficiencies. The ______ is supported by a full-time environmental counsel assigned from the Office of General Counsel. A new staff employee with an educational background in

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environmental science and prior work experience in preparing environmental impact statements supports Headquarters operations while managing the environmental program. However, overall strategy in developing the expertise required to meet its responsibilities has been to retrain existing staff personnel with backgrounds in occupational safety and health and logistical operations. Agency requirements for technical expertise in environmental remediation work have largely been satisfied through private contractors or through support provided by

assigned to are rotational assignments from the Office of Logistics. The advantages of this arrangement are the involvement of persons who are knowledgeable in Agency operations and the forging of closer relations with the Office of Logistics, which has a significant role in implementing the EMP at Headquarters area facilities. However, rotational assignments bring the potential disadvantage of requiring a periodic rebuilding of expertise when current rotational personnel are replaced by individuals having no previous background or experience in environmental compliance.

As reported in our prior audit, the National Security Agency developed its environmental expertise by hiring directly a staff of environmental and industrial engineers including individuals with experience in managing environmental remediation projects. _______strategy in developing its environmental staff is in contrast to that followed by NSA, and it is too early in the implementation of the EMP to evaluate the success of this approach. We suggest that the development and retention of qualified staff be given careful consideration during the _______annual reviews of the EMP's effectiveness.

Most Facilities Have Full-Time Environmental Compliance Officers

Although the professional backgrounds of the incumbents vary, most Agency facilities now employ full-time environmental compliance officers. Environmental compliance officers are the component-level personnel responsible for implementing the EMP.

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Environmental Guidance Has Been

Developed

has developed several mechanisms to provide Agency components with guidance and updates on environmental laws and regulations. information on legal decisions concerning environmental cases, and reminders on regulatory deadlines for compliance. monthly meetings of environmental compliance officers provide a forum for to provide guidance on new laws and regulations and to discuss common problems and solutions. The meetings are also an effective means of updating bn the status of environmental projects at Agency facilities. Transcripts of the meetings are distributed to facility managers and environmental compliance also produces a monthly newsletter that discusses regulatory officers. requirements, facility problems and solutions, and includes a calendar of regulatory deadlines.

has developed the capability to provide Federal and State regulations to Agency facilities via an electronic bulletin board network. maintains current information through a subscription service that provides regularly updated regulations. provides its environmental compliance officers with the computer hardware needed to access the bulletin board and also has provided computer software for managing hazardous materials and waste.

Rotations of Agency personnel make it difficult to ensure that all employees receive the training required to perform their duties in a safe and environmentally responsible manner. Several environmental compliance officers indicated that they were in the process of reviewing training records and, although training sessions were provided regularly, could not say with certainty that all personnel had been trained. Training requirements are being addressed in ______ annual environmental compliance surveys of Agency facilities.

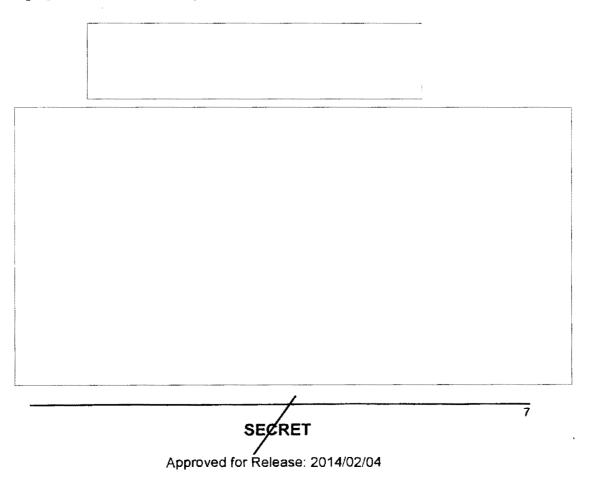


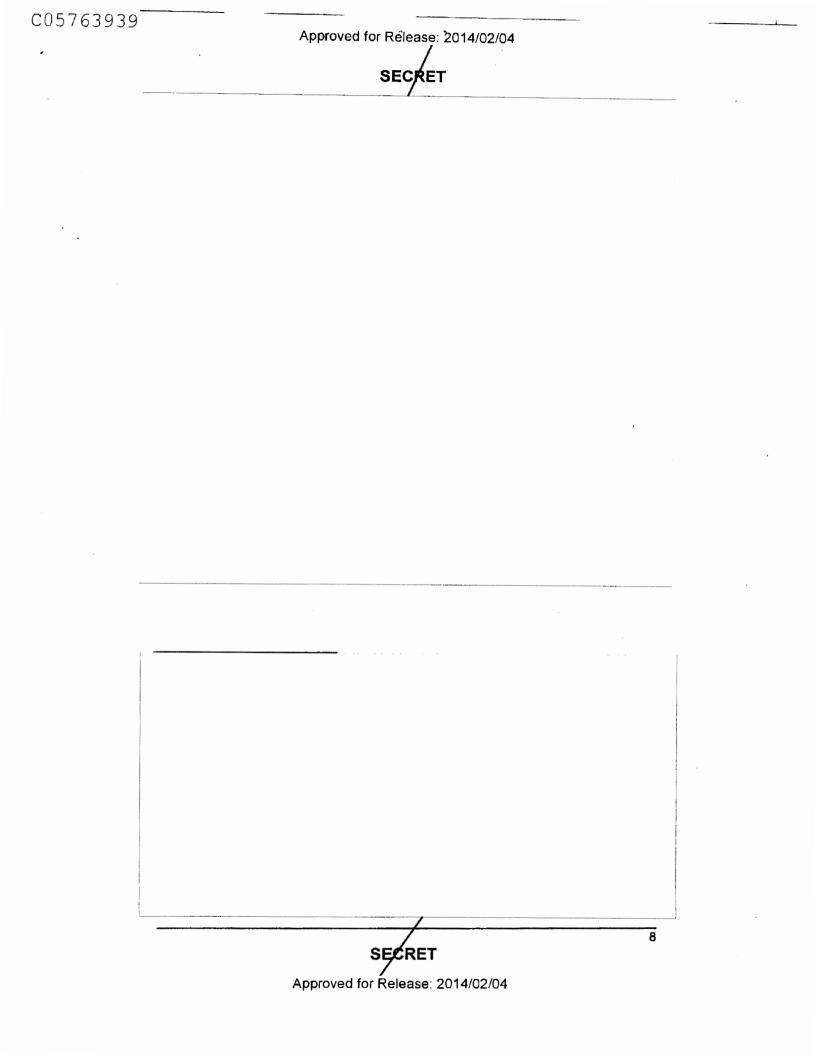


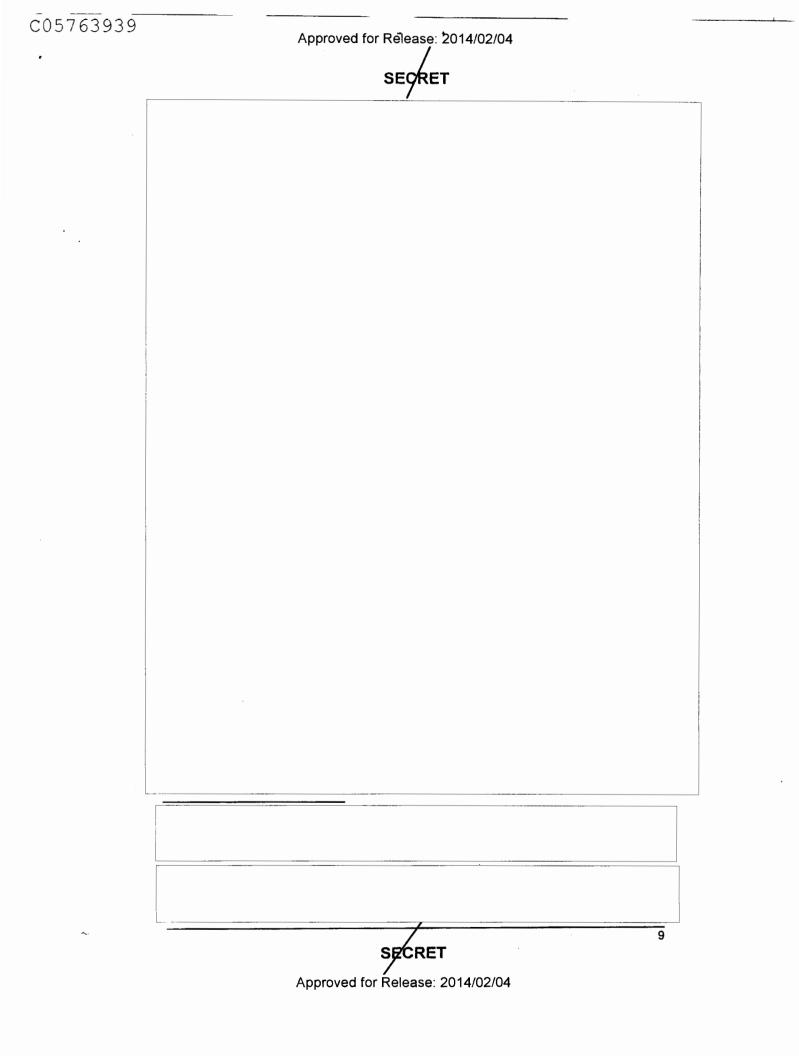
Control Of Funds Appropriated For Environmental Remediation

Funding for the new initiative to bring the Agency into compliance with environmental laws and regulations began in fiscal year 1994 with allotted to has allocated these funds based on a ranking of the most significant environmental problems identified through the initial environmental surveys. approves each project funded under the new initiative and requires periodic reporting from recipients on the status of funds provided.

None of the environmental compliance officers contacted during this review indicated a lack of necessary funding to undertake remediation projects. However, the Agency is discovering that environmental remediation projects have a very long timeline from the survey phase through remediation and followup testing and monitoring. The time required to complete these projects is further extended by requirements to obtain the concurrence of Federal and State regulators on remediation plans. The resultant delays have, in some instances, made it difficult for Agency managers to obligate funds earmarked for their facilities' environmental projects within the fiscal year.







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26 July 2002

MEMORANDUM FOR THE RECORD

SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA (2002-0013-AS)

1. We have reviewed the Audit Staff's system of quality control in effect for the calendar year ending 31 December 2001. Our review was intended to satisfy the Audit Staff's Audit Manual requirement that an internal quality control be conducted once every three years. Internal quality control reviews are part of the Audit Staff's quality assurance program, which is required by the Government Auditing Standards and guidelines established by the President's Council on Integrity and Efficiency (PCIE).

2. Our review was designed to evaluate the effectiveness of the Audit Staff's policies and procedures and to determine whether the audit work met applicable standards. We conducted our review in conformity with the standards and guidelines established by the PCIE. Our review was not designed to disclose all weaknesses in the quality assurance program or all instances of noncompliance with applicable standards and guidelines because we relied on selective testing. We judgmentally selected nine audits for review from the 31 audits that were reported as completed in the Inspector General's semiannual reports to the Director of Central Intelligence for the periods ending 30 June 2001 and 31 December 2001. The nine audits selected are listed at Attachment A.

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SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA

3. The Audit Staff's work generally meets applicable audit standards. We did not identify any instances where there was cause to question the Audit Staff's conclusions for the reviewed audits. Audit Staff personnel, however, do not always follow the internal policies and procedures prescribed in the Audit Manual and Audit Staff Notices for conducting and supervising audit assignments, preparing audit workpapers, and completing other administrative requirements related to audit assignments. Although Audit Staff personnel receive sufficient training to satisfy professional requirements, the administrative recordkeeping of training needs to be strengthened. In addition, the Audit Manual and several of the Audit Staff Notices need to be revised and updated.

Audit Staff Policies and Procedures

4. During the period reviewed, Audit Staff personnel did not always adhere to the policies and procedures prescribed in the Audit Staff's Audit Manual and Audit Staff Notices for conducting and supervising audits, preparing audit workpapers, and completing other administrative requirements related to audit assignments.

Conducting Audits

5. In the nine audits we examined, seven audits did not have evidence of a kickoff meeting with the Assistant Inspector General for Audit (AIG/A) and the Deputy Assistant Inspector General for Audit (DAIG/A) at the start of the audit. The *Audit Manual* states that such a meeting will be held to ensure that everyone is clear about what is expected. Without such a meeting, the views and expectations of the AIG/A, DAIG/A, division chief, auditor-in-charge (AIC), and other audit team members are not obtained. Not holding kickoff meetings could result in pertinent work not being performed and/or unnecessary work being performed.

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SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA

6. Of the nine audits reviewed, we found eight audits had not issued their draft audit report within 40 working days of the report conference. These audits exceeded the 40-day standard by a range of 23 to 60 days. In some cases, the Audit Report Routing Sheet identified reasons for the delay, such as the division chief reviewing other audit reports. In addition, we found that three audits had not completed the verification phase within the standard 10 to 12 weeks as mentioned in the Audit Manual. These three audits had completed the verification phase within 20 weeks. When audits are not completed and draft audit reports are not issued within the prescribed timelines, the Audit Staff cannot provide useful and timely information and recommendations to Agency management.

Audit Workpapers

7. In the nine audits we examined, we found a number of technical aspects of workpaper preparation that were not consistently performed. Specifically, we found that:

- Draft reports were inadequately cross-referenced to the supporting workpapers in six audits. We found instances where report statements (facts and figures) were not referenced to the correct workpaper, were not found in the referenced workpaper, or were not referenced to workpapers.
- The final report was not included in the workpapers for five audits. We noted that the final report had content changes and additions from the draft report, and these should have been referenced.
- Numerous workpapers were missing purpose, source, scope, conclusion, and/or security classification for all nine audits.
- Bound workpaper binders were not affixed with security classification blocks for three audits.
- The standard indexing scheme was not used in six audits.





SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA

8. In four audits, we found that the workpapers had not adequately documented the sampling methodology used to select and test sample items and identify the population amount. The standards state that a sampling applications should be disclosed in the audit report if it supports a significant audit finding; however, we believe that the disclosure would not have benefited the reader if disclosed. But the methodology should have been documented in the workpapers.

Supervision

9. In all nine audits we reviewed, we found workpapers that did not have evidence of supervisory review and workpapers that were initialed by the AIC or their supervisors but no date was recorded. In one audit, we found that workpapers were reviewed two months after the final report was issued, and no point sheets were used to document supervisory review. The Audit Manual states that supervisory review is the first and most important step in a quality assurance program and is a continuing process on all audit assignments. It is the most effective way to ensure audit quality in every phase of the audit, from planning to issuance of the final report. Without adequate supervision, potential findings may not be identified, and there is no assurance that the audit complied with Government Auditing Standards.

10. Supervisors and AICs should take the lead to ensure that policies and procedures in the Audit Manual are followed and ensure that auditors perform their work in compliance with the requirements. Over the past year, the Audit Staff has been testing an electronic workpaper package, We believe that the current pilot version of can identify steps not completed, such as supervisory review of workpapers. However, many of the requirements, such as holding a kickoff meeting with AIG/A and DAIG/A, need to be Thus, AICs and supervisors incorporated into still have to know the policies and procedures that need to be performed. Audit Staff management has not made a decision on whether an electronic workpaper package will be implemented.



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SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA

Individual Audit Quality Control Review

11. In our review of nine audits, we found that one audit had not had an individual audit quality control review performed prior to issuance of the final report, and one audit had not completed the review prior to issuance of the final report. We also questioned the thoroughness of the individual audit quality control review for one audit, because only half of the draft audit report was referenced. Also, another two audits had not addressed all the comments identified in the internal quality control review. The Audit Manual states that the quality control review should be conducted prior to the issuance of the final audit report, and that the key element of the individual audit quality control review is an independent verification of the workpaper references supporting the audit report. Without an individual audit quality control review, Audit Staff management has no assurance that the auditors are complying with generally accepted Government Auditing Standards and on the accuracy of the report. We believe that the individual audit quality control (PCIE) checklist used to conduct the review is helpful, but focusing on the factual accuracy of the report, based on the working papers, is the most important aspect of the individual audit quality control review.

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SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA

12. The AIG/A and DIAG/A stated that the individual audit quality control reviews are very important. Over the past several months, they have taken action to ensure that the checklist is in the final report package, and that an audit report is not issued until the review has been completed.

Administrative Items

13. In all nine audits, there was no Audit Data Sheet in the audit report folder or workpapers. According to DAIG/A, the Audit Data Sheet is no longer required; the necessary data is input in the Audit Staff's follow-up system, which can generate the Audit Data Sheet if necessary.

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SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA

14. In six audits, we found that no lessons-learned memorandums had been prepared. According to DAIG/A, in February 2002, Audit Staff management decided to no longer require lessons-learned memorandum for each audit. They believe that recurring audits benefit more from lessons-learned memorandums and there are only marginally benefits to other audits.



Continuing Education and Training

15. The Audit Staff strives to ensure that the auditors obtain sufficient continuing professional education (CPE) to comply with the Government Auditing Standards and the Audit Staff policy. The standards require that every two years, each auditor is responsible for completing at least 80 CPE hours of training, which contributes to the auditor's professional proficiency. At least 24 of the 80 CPE hours should be directly related to the government environment and to government auditing.

16. We examined the training records for auditors assigned to the Audit Staff during FY 2000 and FY 2001.¹ Generally, annual training plans had been prepared for each Audit Staff personnel, and auditors met the CPE requirements. Only one auditor did not meet the 24 CPE hours governmentrelated requirement. This auditor has since retired from the Agency.

¹ We did not verify the CPE hours for auditors that had been on the Audit Staff for less than one year, and administrative support personnel.

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SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA

Training Administration

17. We found that during the FY 2000 and FY 2001 training time period, or 79 percent, had records in the training database that were not always accurate. We identified a number of administrative inconsistencies in documenting and maintaining individual training records. For example:

- An individual's CPE hours were granted and recorded in the training database, but no completion of evidence (certification) was found in the individual's personnel folder. A majority of such instances related to Agency or dedicated training courses provided to the Audit Staff.
- Incorrect CPE hours were recorded in the training database. The CPE hours recorded in the training database were not the same as reported on the certificate.
- Auditors attending the same internal course did not always receive the same CPE hours.

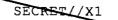
18. The Audit Staff's administrative officer maintains the Audit Staff Training Database, which records and tracks the CPE hours for each auditor. Auditors are responsible for providing the administrative officer with a copy of their completion certificate for external courses, and for certifying their attendance at internal courses when a certificate is not provided.

19. Accurate training records are important to ensure that the auditors meet their CPE requirements and for planning future training.

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SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA

Audit Staff Audit Manual and Notices

20. The Audit Manual and Audit Staff Notices need to be updated and revised to reflect current policies and procedures. These changes are needed to ensure that Audit Staff personnel have the most accurate reference guidance to use when performing their audit assignments. Accurate and comprehensive reference guidance helps to ensure that the auditors will perform their assignments in accordance with Government Auditing Standards and the Audit Staff's internal policies and procedures. The needed revisions are discussed in detail at Attachments C and D.

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SUBJECT: Results of the Internal Quality Control Review of the Audit Staff, Office of Inspector General, CIA

Auditor-in-Charge Audit Staff, Office of Inspector General

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Attachments

Distibution:

Orig - AIG/Audit

- 1 DAIG/Audit
- 1 IG/AS/Chrono File
- 1 IG/AS/Report File

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	Attachment A
	List of Audits Selected for Review
	1. Administration of Personnel Overtime Compensation
	2. Agency Debt Collection Process
	3.
	4. Contracting with Independent Contractors
	5.
	6. Fiscal Year 2001 Financial Statements of the Central Services Working Capital Fund
	7.
	8.
	9. Vendor Payment Processes



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Attachment B

Auditor-in-Charge (AIC) Checklist

Starting Audit:

- ✓ Announcement memo; obtain audit number.
- ✓ Schedule kickoff meetings with Assistant Inspector General for Audit (AIG/A) and the Deputy Assistant Inspector General for Audit (DAIG/A).
- ✓ Schedule entrance meetings.
- Prepare audit plan and program; have supervisor approve.
- ✓ Complete Independence Checklist.

During Audit:

- ✓ Maintain milestones in follow-up system.
- ✓ Monthly meetings with front office.
- ✓ Ensure team completes monthly time sheets.
- ✓ Periodically review workpapers.

Draft Report:

- ✓ Hold report conference with AIG/A and DAIG/A; include Production Manager.
- Ensure workpapers are reviewed before draft report is issued.
- ✓ Prepare Audit Report Routing Sheet and provide with draft audit report.
- Arrange for individual audit quality control (PCIE) review.
- Prepare distribution list (other than the standard officials) for draft report; provide to Production Manager.

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Final Report:

- Turn in:
 - Report with comments incorporated, methodology updated; Remove "DRAFT" from report cover and other sections.
 - ✓ Audit Report Routing Sheet.
 - Transmittal memos.
 - ✓ Individual audit quality control (PCIE) review and followup (ultimately retained in workpapers).
 - ✓ Audit Assignment Appraisals.
- File all comments on draft report in report folder (including those received by Lotus Note). Production Staff receives all correspondence and will file in report folder.
- Audit Information Follow-up System:
 - ✓ Update milestones.
 - ✓ Enter recommendations with status, due dates for follow-up.

Follow-up Actions:

- Enter 60-day response in system; change status of recommendations.
- Check status of recommendations monthly, enter follow-up actions in system.
- When closing recommendation, enter follow-up action and closing date.
- When responses received, prepare memo or Lotus Note to advise status of recommendations (cc C/Policy and Plans/OIG).
- When all recommendations of audit closed, send closeout memo.

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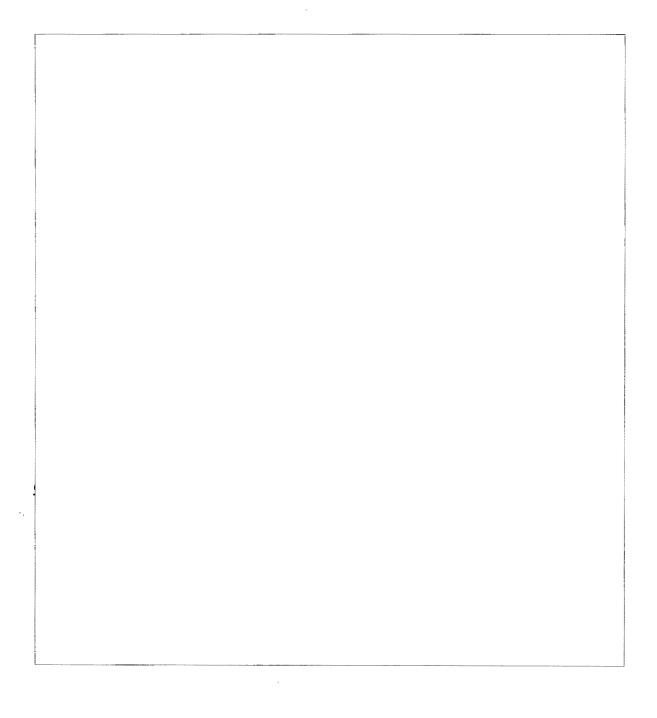
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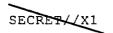


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Attachment D

Revisions to Audit Staff Notices

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CENTRAL INTELLIGENCE AGENCY

Office of Inspector General

REPORT OF AUDIT

MECHANISMS FOR ADJUDICATING, DOCUMENTING, AND REPORTING DISCIPLINARY ACTIONS



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REPORT OF AUDIT

Mechanisms for Adjudicating, Documenting, and Reporting Disciplinary Actions

SUMMARY

Cases of alleged misconduct by Agency employees are subject to adjudication by a disjointed array of boards and panels that lack clearly delineated jurisdictions and operating standards.¹ Procedures do not always guarantee compliance with recommended disciplinary actions, and policy and practice for retaining information on such actions is contradictory and unclear. Guidelines for the provision of disciplinary information to appropriate Agency officials are inadequate.

The Agency needs an integrated, comprehensive, and demonstrably equitable disciplinary system. Employees should understand both the adjudicative process and how disciplinary information will be used in personnel decisions.

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As noted later in this report, all of these boards and panels are advisory to management, which retains the authority and responsibility for imposing disciplinary action. For the purpose of this report, adjudication means the process of examining cases of alleged employee misconduct and recommending disciplinary action to management.

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OBJECTIVES, SCOPE, AND METHODOLOGY

This audit was undertaken at the request of the DCI. The objectives of our review were to examine the operation of Agency boards and panels that adjudicate cases of alleged employee misconduct and to determine:

- Whether the responsibilities and processes of these entities are clearly delineated and understood.
- Whether disciplinary actions recommended by adjudication boards and panels are being implemented by Agency components.
- Whether the Agency maintains a retrievable permanent record of formal disciplinary actions.
- Whether information about disciplinary actions is effectively provided to Agency officials in appropriate circumstances.

The types of disciplinary actions that may be imposed by Agency management are prescribed in ______ and include: admonition, withholding a regular within-grade step increase, letter of warning, letter of reprimand, disciplinary probation, enforced leave, relief from duty, suspension, reduction in grade, and termination of employment. Our review included an examination of all disciplinary boards and panels and focused on disciplinary actions that require approval, coordination, or notification of officials outside of an employee's component. Our review did not include recommendations made by the Clinical Review Board of the Office of Medical Services (OMS), or actions taken against Agency employees by external criminal justice authorities.

We interviewed representatives from each board or panel that adjudicates cases resulting in disciplinary action to gain an understanding of the operations of these entities. We also interviewed the Executive Director and each of the deputy directors (or a senior representative) to obtain their understanding of the recordkeeping and reporting of information on disciplinary actions. Many of the concerns expressed by the Executive Director in our interview parallel the findings discussed in this report.

We reviewed Agency regulatory publications, DCI directives, and other internal policy issuances dealing with authority, jurisdiction, and procedures of boards and panels, rules of employee conduct, responsibilities

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for enforcing standards of conduct, the range of disciplinary measures, and procedures for enforcing employee discipline. These policy issuances are listed in Exhibit A. We also reviewed reports of previous Inspector General examinations of the Agency's disciplinary process and procedures for handling problem employees.²

Based on information obtained from Agency data bases, we reviewed a sample of cases that were adjudicated by the various boards and panels during the period January 1994 through June 1996. We did not attempt to independently adjudicate any cases, but instead relied on information in case summaries and from officials familiar with the cases to determine whether they were adjudicated by the most appropriate board or panel. We attempted to confirm that recommended disciplinary actions were actually carried out. Additionally, we examined whether board or panel decisions and recommendations were properly recorded for future retrieval, but we did not attempt to assess the overall completeness and accuracy of data bases used to record disciplinary actions.

Our work was conducted during the period April through September 1996 and was performed in accordance with generally accepted government auditing standards. Comments on the draft report were obtained from appropriate officials and considered in the preparation of the final report.

BACKGROUND

Various Agency boards and panels exist to advise management on employee suitability, performance, security, and counterintelligence issues and to adjudicate cases of alleged employee misconduct. Some of these bodies are narrowly focused at the component/directorate level, while others have Agency-wide jurisdiction. Authorities and procedures for these boards and panels are defined in a number of policy issuances. Board and panel compositions range from collections of subject area experts in specialized fields such as counterintelligence, medical, legal, and security to memberships limited to personnel from a single component. Exhibit B

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DETAILED COMMENTS

Jurisdiction and Operation of Disciplinary Boards and Panels Need To Be Clearly Delineated

The emergence of component/directorate-level accountability boards and the involvement of the PAC Assessments Board in disciplinary recommendations have given rise to jurisdictional confusion among Agency entities that adjudicate cases of alleged employee misconduct. Boards and panels have unilaterally defined their jurisdiction, which is often a matter of which board or panel gets the case first. In certain instances ad hoc assemblages have been convened to adjudicate particular cases. This lack of clarity regarding jurisdiction, as well as dissimilarities in the composition of boards and panels, different levels of experience among members, and varying degrees of adherence to formal procedures leave the Agency's disciplinary process vulnerable to challenge based on the contention that cases can be directed to a particular adjudicating body in order to influence the outcome. The sporadic employment of component and directorate-level accountability boards, moreover, calls into question whether all employees are being treated equitably in the adjudication of disciplinary cases.

Agency employees deserve fair and impartial treatment regardless of how disciplinary cases arise or whether their component or directorate operates its own accountability board. The Agency should comprehensively delineate in regulation the roles, jurisdictions, and interrelations of all boards and panels that adjudicate cases of alleged employee misconduct. This regulation should provide general guidance on when the nature or seriousness of an incident requires adjudication above the component or directorate level. It should also establish basic principles for the operation of component/directorate-level and Agency-wide boards and panels. Employees and managers should understand which board or panel has jurisdiction in a given case and what basic principles are followed in ensuring an evenhanded disciplinary process throughout the Agency.

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Guidelines Are Needed To Help Determine When Cases Should Be Adjudicated by an Agency-wide Board or Panel

In addition to adjudicating cases of individual nonfeasance or malfeasance, component/directorate-level boards examine whether flawed operational procedures or policies were factors in the incidents under review. Although these boards focus on cases that involve primarily performance issues, many of the cases include security and suitability concerns. For example, of the examined by the DO accountability boards since their establishment, cases involved security or suitability concerns as well as performance issues.

Component/directorate-level boards acknowledge that instances of fraud, waste, and abuse should be referred to the Office of Inspector General, and that cases where misconduct is sufficiently grievous that termination of employment appears to be a possible outcome should be referred to OPS/SAS for adjudication by a PEB or ERP.³ Many cases that are first examined by component/directorate-level boards are referred to OPS/SAS or the OIG. The policy issuances for component/directorate-level boards, however, provide little guidance on when cases brought before these boards involve a subject area or reach a level of seriousness where they are appropriately referred to an Agency-wide adjudicating body. Similarly, Agency regulations on the PEB and ERP do not prescribe that cases involving certain issues or those meeting particular threshold levels of seriousness be referred to OPS/SAS.

Component/directorate-level accountability boards should not reserve the authority to adjudicate cases involving issues that would be better handled by security, medical, or counterintelligence professionals, or serious cases that would be referred to an Agency-wide board in the absence of a component/directorate-level body. We noted a case where the component/directorate-level board recommended termination of employment, but a PEB subsequently convened to examine the same case determined that a reprimand and suspension were the appropriate actions. To help ensure equitable treatment of employees throughout Agency

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[U]se OP[S]'s Special Activities Staff as an Agency-wide vehicle for recommending consistent actions on cases involving staff officers who have been subjected to investigations by the Office of Inspector General.⁴

However, recent high-profile cases investigated by the OIG, such as the reviews, were not referred by Agency management to the PEB for recommendations for disciplinary action, but instead were put before the DO Senior Accountability Board (SAB) or, in one instance, an ad hoc board of senior managers. The DCI Board of Review has been proposed to eliminate questions regarding jurisdiction in these types of cases and to address a perceived gap in the Agency's adjudication mechanisms. The Board of Review would be a senior-level board appropriate for recommending disciplinary and remedial actions in cases that concern "significant failures involving fundamental CIA missions or responsibilities."⁵

As in the case of jurisdictional uncertainty between component/directorate-level and Agency-wide boards and panels, confusion about jurisdiction among the Agency-wide bodies and the use of ad hoc entities leaves the Agency's disciplinary process vulnerable to challenges based on a contention that all employees' cases are not afforded fair and evenhanded treatment. Whether or not the DCI Board of Review is established, an Agency regulation should comprehensively prescribe the jurisdictions and interrelations of Agency-wide disciplinary boards and panels. Only in the most unusual and compelling circumstances should cases be handled outside of the processes established in this regulation.

> Agency Regulations Should Establish Basic Principles for the Operation of Component/Directoratelevel and Agency-wide Boards and Panels

The Agency-wide boards and panels administered by OPS/SAS are longstanding; they have been the subject of several OIG examinations, and their operating procedures have been refined and standardized.

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⁴ Memorandum to the deputy directors from the Executive Director, July 1994 (ER 94-8197).

However, some salient procedures that have evolved in conducting PEBs and ERPs have not been formally adopted.⁶ Basic principles, along the lines of the standards developed by the OPS/SAS boards and panels, should be promulgated in an Agency regulation to ensure regular application by OPS/SAS, to provide guidance for the operation of other Agency-wide and component/directorate-level boards and panels that adjudicate cases of alleged employee misconduct, and to fully inform Agency employees of the disciplinary process. Agency employees should be assured that they will receive equitable treatment regardless of how disciplinary issues arise or whether they are the subjects of component/directorate-level or Agencywide board adjudication.

(U) Board and Panel Composition

The 1994 OIG inspection report on the PEB and ERP process strongly suggested that designated board and panel members attend sessions themselves rather than delegate their responsibility. This would help to develop experience in the adjudication process and promote consistency in decisions. Managerial requirements across the Agency may be sufficiently diverse as to make it inadvisable to specifically prescribe the membership for component/directorate-level boards and panels. In order to avoid any implication of unfairness in the disciplinary process, however, an Agency regulation should require that membership of all boards and panels that adjudicate cases of alleged employee misconduct be tied to incumbency in positions specified in advance rather than left to the choice of management when the board or panel is convened.

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⁶ Following the 1994 OIG inspection of the PEB and ERP, the Executive Director approved revisions to Agency regulations to enhance the fairness and equity of the PEB and ERP process. Procedures for advising the employee of the issues under examination, obtaining comments from the employee for board consideration, providing a written statement to the employee of the board's decision, and obtaining concurrence in the recommendation from the head of the employee's career service, as well as revised procedures for appealing recommendations for disciplinary action, are outlined in a memorandum to the

but have not been added to Agency regulations.

With regard to appeal of a termination decision by posttrial period employees, the memorandum is at variance with The memorandum asserts that a PEB recommendation for termination may first be appealed to the Executive Director and a second appeal made to the DCI. prescribes that such appeals may be made to the DCI.

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Communications With the Employee

Basic principles for the operation of boards and panels that adjudicate cases of alleged employee misconduct should provide for:

- Advising the employee of the issues under examination.
- Soliciting comments from the employee for board consideration.
- Providing a written statement to the employee of the board's decision.

These procedures are applied in the operation of OPS/SAS boards and panels but are not described in Agency regulations on the PEB and ERP. Directorate and component-level boards generally provide for these communications but differ in how they are accomplished. For example, employees under review by DO accountability boards are notified and afforded an opportunity to respond to issues in writing after component management determines that disciplinary action may be appropriate but prior to any final decision or action. The Security Protective Service/PSG (SPS) Incident Review Panel permits employees under review to address the panel either in person or in writing. Either of these procedures is acceptable, and each board or panel should have flexibility in adhering to communication principles as long as the employee is advised of the specific issues under examination and provided the opportunity to participate in the process.

Use of Precedent Cases in Recommending Disciplinary Actions

As a result of a 1994 OIG inspection report recommendation, OPS/SAS now routinely provides PEB and ERP members information on the disposition of previous cases similar to the one under review. This action is taken in order to promote consistency in recommending disciplinary action. Similarly, the SPS Incident Review Panel searches its data base of case information to provide its panel members information on precedent cases. The PAC Assessments Board has the capability to search its data base of previous cases during board deliberations to identify precedent cases.

But consideration of precedent cases in determining appropriate disciplinary actions does not appear to be routinely employed in

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deliberations by the DO accountability boards. The DO SAB has as one of its responsibilities to:

[R]eview, evaluate, and recommend to component management and/or the DDO ways to improve equity, consistency, and transparency of disciplinary actions.

The DO's component accountability boards are required to report to the SAB on a quarterly basis the issues dealt with and recommendations made. The reports are not always timely or complete, however, and the SAB has not aggressively pursued information on unresolved component-level cases. Consequently, the SAB has not analyzed component-level cases to ensure equitable treatment across the directorate or developed guidance for component-level boards in recommending disciplinary actions. Component/directorate-level boards and panels should have available and apply in their deliberations their own set of precedent cases.

Appealing Disciplinary Actions

Agency regulations provide an appeal process for all cases involving termination of employment.⁷ In addition, employees who receive letters of reprimand as a result of recommendations by the PEB or ERP may request reconsideration of the decision by the Director of Personnel Security (D/OPS).⁸ Policy statements for component/directorate-level boards and panels do not discuss an appeal process. Officials interviewed during the audit commented that the advisory nature of component/directorate-level boards made an appeal process unnecessary. These officials maintained that employees can discuss board recommendations directly with the manager to whom they are made.

In fact, all boards and panels involved in adjudicating cases of alleged employee misconduct, including those administered by OPS/SAS, are advisory to management. In the interest of fully informing employees, Agency regulations should prescribe whether and how disciplinary actions

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resulting from recommendations by component/directorate-level and Agency-wide boards and panels may be reconsidered and/or appealed.⁹

Both component/directorate-level and Agency-wide boards and panels have a role in the disciplinary process. But the Agency needs to define those roles and address in a regulation when the nature or seriousness of a disciplinary case indicates that it should be examined by an Agencywide board or panel and which Agency-wide body will have jurisdiction in a given case. In addition, basic principles, set forth in a regulation, should be reflected in the procedures employed by both component/directorate-level and Agency-wide boards and panels that adjudicate cases of alleged employee misconduct.

In commenting on the draft report, OPS argued against an overly rigid regulation that would establish standard operating procedures for all boards and panels that adjudicate cases of alleged employee misconduct. We agree. Each board or panel should be able to satisfy a set of basic principles through the establishment of procedures tailored to effectively carry out the board or panel's mission.

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By reconsider, we mean the reexamination of a decision to impose disciplinary action by the management authority that made the decision. An appeal is the independent review by a higher authority of a decision to impose disciplinary action.

OPS and the Office of General Counsel also expressed concern that the application of principles for the operation of disciplinary boards and panels to the PAC Assessments Board would have a negative effect on its capacity for timely intervention in cases of emerging security and counterintelligence problems. We agree that a decision to revoke a security clearance or to implement security risk management measures like aperiodic reinvestigations, code-of-conduct briefings, and risk management agreements is not disciplinary action and is outside the Agency's disciplinary process. To the extent that the PAC Assessments Board continues to recommend disciplinary actions, however, basic principles applicable to other boards and panels involved in disciplinary actions should apply to that process.

Obtaining and Documenting Compliance With Recommended Disciplinary Actions

Procedures requiring deputy directors who disagree with PEB or ERP recommendations for disciplinary actions to respond to the D/OPS with a proposed alternative have increased compliance with recommendations and promoted equitable handling of disciplinary cases that come before the OPS/SAS boards and panels.¹⁰ We noted no problems with OPS/SAS obtaining management's agreement with recommendations from PEBs and ERPs. The results of PEB and ERP deliberations are recorded in OPS/SAS records along with documentation of compliance with recommended actions. But weaknesses in monitoring and documenting compliance with recommendations, similar to weaknesses that formerly existed in the operation of OPS/SAS boards and panels, exist with the PAC Assessments Board and with component/directorate-level bodies.

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PAC Assessments Board

Our review of cases adjudicated by the PAC Assessments Board revealed instances where its disciplinary recommendations were not recorded as assigned action items. In these instances Board recommendations may not be monitored because the monitoring officers may be unaware of them. We were unable to verify that several recommendations for letters of reprimand, not recorded as action items, had been complied with. The PAC should review its procedures to ensure that Board recommendations for disciplinary action are Because Board decisions often properly captured include multiple recommendations having various assignees and completion dates, assigned actions should be captured as individual line items for proper followup. In comments on the draft report, Deputy Chief, OPS advised us that some PAC Assessments Board recommendations were not properly recorded because of internal confusion over the definition of an action item. but that after we brought this to the attention of the monitors it was quickly corrected.

The PAC should also establish standards and procedures for closing disciplinary recommendations and resolving instances where management does not agree with PAC Assessments Board recommendations. In some instances recommendations were annotated as

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based on management's agreement to carry out the disciplinary action rather than on documentary evidence that the recommended action had, in fact, been taken. Other recommendations were cleared after management's imposition of a less punitive disciplinary action than was recommended by the Board. In some instances the imposition of less punitive disciplinary action appears to have been a unilateral decision by component management. In other cases, having failed to secure agreement with the Board's recommendation, the PAC's directorate representative negotiated a less punitive action with component management. Because the PAC lacks formal procedures to address these situations, it is not clear that the directorate representative can waive Board recommendations, whether the case must be brought back before the Board, or whether the Chief, PAC or the Director of Personnel Security (D/OPS) will make the final determination.

In comments on the draft report, OPS emphasized that the PAC Assessments Board seeks to establish a partnership with management in addressing security and suitability concerns. In those cases where management has persuaded the Board that a course of action other than the Board's recommendation was appropriate, the Board has generally considered the matter appropriately resolved. In an instance where management fundamentally disagreed with a PAC Assessments Board recommendation, the C/PAC referred the case to the D/OPS for resolution. All of the boards and panels that adjudicate cases of alleged employee misconduct are advisory to management, and it is appropriate for management to negotiate or reject PAC Assessments Board recommendations for disciplinary actions. As in the operation of the OPS/SAS boards and panels, however, a formal process should be in place for resolving instances where management does not agree with Board recommendations so that the method for handling such cases is clear to all concerned.

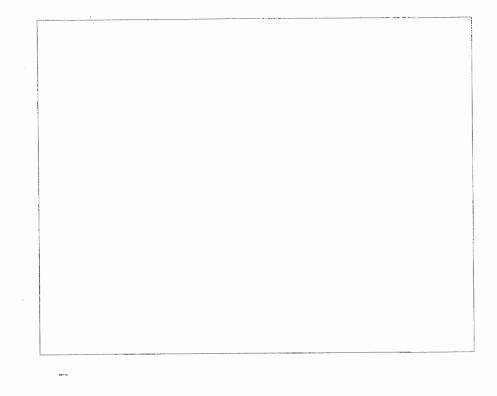
We found that case information ______ could be edited or annotated without attribution. There were instances where the monitors could not tell us who had recorded a completion date for Board recommendations or made annotations that recommendations had been satisfactorily completed. In comments on the draft report, DC/OPS advised us that it is no longer possible for to be annotated without attribution.

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DO Accountability Boards

There are weaknesses in documentation concerning the disposition of DO accountability board cases. Case files for many of the early cases adjudicated by the SAB contain only sketchy information and, in some instances, are insufficient to document how cases were resolved. SAB records reflected some cases as remaining open long after they had been resolved.

In other instances, SAB records reflected management's disagreement with component boards' recommendations but did not indicate how cases were ultimately resolved. The DO component-level boards and the SAB should strengthen their operating procedures to ensure that case dispositions are clearly documented. This is important both from the standpoint of instilling managerial accountability and for ensuring fair treatment of employees who come under DO board scrutiny.



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Standards Are Needed for Recording Information Concerning Disciplinary Actions

DPS/SAS is established by regulations as "the Agency focal point for tracking cases of employees with problems and maintaining centralized records of such cases."¹² OPS/SAS maintains a permanent record of more serious disciplinary actions such as letters of reprimand, suspensions, downgrades, and involuntary terminations. But OPS/SAS is not advised of all disciplinary actions, and Agency regulations are in conflict regarding the level of disciplinary action required to be reported to OPS/SAS.

OPS/SAS Is Not Advised of All Disciplinary Actions

states that:

It is also Agency policy that SAS/OP[S] be kept advised of developing and/or potential cases of employees with problems and be notified of any disciplinary actions taken at the component level, except admonitions (that is, oral warnings).

Line managers, supervisors, and component personnel officers will: Report and provide all relevant information on any case of an employee with a problem involving performance and/or suitability to SAS/OP[S], along with a report of the actions taken to resolve the problem.

suggests that all disciplinary cases regardless of the actions taken should be reported to OPS/SAS. This, however, does not agree with Conduct and Discipline, which states that Operating Officials

must:

Special Activities Staff, Office of Personnel [Security].

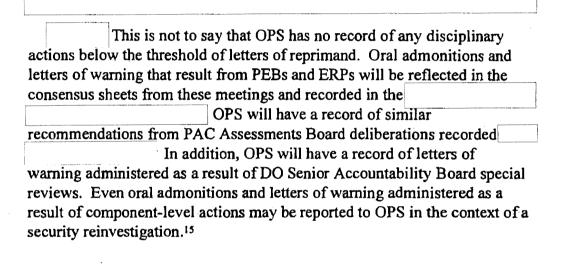
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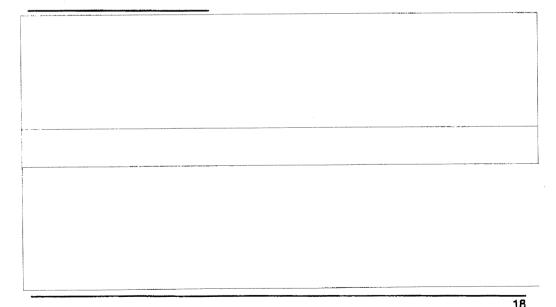
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Advise Chief, Special Activities Staff, Office of Personnel [Security] (SAS/OP[S]), of all disciplinary actions, except admonitions and letters of warning.¹³

Agency managers generally regard oral admonitions and letters of warning as internal disciplinary actions that are not made known outside of the component. Component/directorate-level accountability boards appear to believe that letters of reprimand are the threshold level of disciplinary actions that must be reported out of the component, and they do not regularly inform OPS/SAS of cases that result in disciplinary actions below this threshold.





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The Agency needs to clearly articulate in a regulation its policies concerning disciplinary actions that are to be recorded in a central repository. To eliminate confusion regarding disciplinary actions that must be reported to OPS/SAS, this regulation should require that information concerning <u>all</u> disciplinary actions that are <u>administered in writing</u>, including letters of reprimand, letters of warning, and other written disciplinary actions such as letters in lieu of letters of reprimand, be reported to OPS/SAS for inclusion in a central data base. It should be made clear that all these writings are disciplinary actions in and of themselves, whether or not they also contain punitive measures such as suspensions or disbarment from promotions or awards.

A requirement that all disciplinary actions administered in writing be submitted to OPS/SAS for inclusion in a central data base should not be construed as applicable to memoranda for the record prepared by managers to document oral admonitions. The disposition of such memoranda should be left to the discretion of component management in accordance with current Agency policy. Similarly, employees' written acknowledgments that they have received code-of-conduct briefings or other nonpunitive remedial or cautionary briefings are not appropriate for inclusion in a central data base of disciplinary actions.

Standards Are Needed for Providing Information on Disciplinary Actions

Standards are also needed for providing information concerning disciplinary actions to management for use in making personnel decisions. Agency managers are increasingly requesting sensitive personnel information, including information on disciplinary actions. Such inquiries

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or name checks are usually made to OPS/SAS, which has historically been the focal point for obtaining this information, and the increased number of requests are taxing OPS resources. Requests for information concerning disciplinary actions are also sometimes made to the PAC directorate representatives, other components within OPS, and other Agency offices that hold such information.

An Agency regulation should prescribe the specific circumstances in which information on disciplinary actions may be requested by and made available to Agency officials and what that information should include.

Requests for Name Check

Agency regulations currently require that name checks be performed:

- To determine the fitness of individuals for promotion to and within the Senior Intelligence Service (SIS) and appointments to SIS positions that require consideration by the Senior Personnel Review Board and approval by the DCI or DDCI.¹⁶
- Before individuals are accepted into the Employee Spouse Program.¹⁷

Although not required by regulations, name checks are also routinely performed for:

Senior Intelligence Service.

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In addition, Agency managers increasingly are making ad hoc requests for name check information before making routine personnel decisions such as promotions within the General Schedule. Chief, OPS/SAS told us that he receives as many as ______name check requests per week. The resources devoted to responding to name check requests is reason enough to define the circumstances that justify their use. The more compelling reason to do so, however, is to ensure appropriate and consistent use of this information across the Agency.

Responses to Name Check Requests

The Agency cannot hope to control the use of sensitive personnel information unless procedures for responding to name checks are clear, understood, and strictly enforced. Moreover, Agency managers with a legitimate need to know cannot be assured that they are obtaining complete and accurate information in the absence of established procedures for responding to name check requests.

Currently, OPS/SAS is the focal point for conducting name checks required by regulations on candidates for SIS promotions and senior personnel appointments considered by the Senior Personnel Review Board. The C/OPS/SAS refers to these as "comprehensive" name checks. OPS/SAS compiles information on nominees from its own records and from five other components that contribute name check information and provides the results in a memorandum to the Executive Director and the deputy director concerned.¹⁸

In the case of other personnel actions for which name checks are routinely performed, the OPS/SAS response, usually sent via Lotus Notes, is limited to information held by OPS/SAS. The other Agency components that hold sensitive personnel information respond individually if a request is made directly to them. It is crucial that Agency managers clearly understand the difference between these limited OPS/SAS name

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checks and the "comprehensive" name checks with regard to the scope of adverse information reported by OPS/SAS.

Completeness of Name Check

Agency regulations should establish objective standards governing the content of information on disciplinary actions that is to be provided to Agency managers for consideration in making personnel decisions. OPS/SAS procedures provide for routine advisement of information concerning disciplinary actions only in instances where the provisions of an active letter of reprimand would impact on the personnel decision under consideration, e.g., where an individual under consideration for a promotion that would be effective in 1996 was the recipient of a 1995 letter of reprimand precluding any promotions for two years. In cases where OPS/SAS has record of letters of reprimand whose period of effectiveness has expired, or OPS/SAS has record of other adverse information, or other components holding adverse information have reported to OPS/SAS in the context of a "comprehensive" name check, OPS/SAS determines what information it thinks is relevant to the personnel decision under consideration and, therefore, should be reported to management.

Senior Agency management should determine the circumstances under which information on disciplinary actions is to be considered in deliberations or decisions by Agency officials. In those circumstances all disciplinary actions recorded in OPS/SAS records should be reported. While providing full disclosure concerning disciplinary actions, OPS/SAS should also provide whatever background and context it believes would be helpful in evaluating the misconduct that gave rise to the disciplinary actions involved. An Agency regulation should make it clear to employees that a permanent record of disciplinary actions that have been administered in writing is maintained in OPS/SAS. Employees should further be informed that information concerning letters of reprimand whose active period has expired and other prior disciplinary actions administered in

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writing, as well as active letters of reprimand, will be provided to Agency management in response to authorized name check requests.¹⁹

OPS is currently developing a policy recommendation on screening employees prior to the approval of promotions, awards, or assignments to certain positions.

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EXHIBIT A

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EXHIBIT B

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EXHIBIT C

Details on Agency-wide Boards and Panels

Personnel Evaluation Board and Employee Review Panel

The PEB and ERP are administered by OPS Special Activities Staff (OPS/SAS). The PEB and ERP have historically been the Agency's primary mechanisms for addressing issues of alleged employee misconduct. Established in 1952, the PEB focuses on issues of performance and suitability involving employees who are beyond their trial period.

The PEB is chaired by the Director of Personnel Security; the ERP is chaired by the Chief of OPS/SAS. Both have representation from the Offices of Human Resources Management, Medical Services, Personnel Security, Counterintelligence Center, General Counsel, Equal Employment Opportunity, Inspector General, and the employee's component.

The PEB and the ERP may also function as the Temporary Reassignment Panel (TRP). The TRP advises Agency managers on the temporary reassignment of individuals who are the subject of counterintelligence, security, or Inspector General investigations involving substantial allegations of wrongdoing.

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The PAC was created in October 1994 for the purpose of making personnel assessments that relate to and serve the Agency's personnel security mission and counterintelligence posture. It has not been established in Agency regulations, but has articulated its mission as follows:

[P]lans, directs, and monitors relevant personnel security investigations; analyzes the results of these investigations; and, as appropriate, develops risk management strategies in partnership with Agency managers for handling individual employee issues.²⁰

The PAC Assessments Board's primary responsibility has been to make decisions concerning whether security clearances will be granted or retained. The PAC includes senior representatives from the four directorates and the DCI area who facilitate the passage of security and suitability information between components and OPS. The directorate representatives to the PAC work with Agency managers in handling individuals exhibiting behaviors that could affect their suitability for continued employment.

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Congressional Budget Justification FY 1996-1997.

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EXHIBIT D

Details on Component/Directorate-level Boards and Panels

The DO Senior Accountability Board (SAB) and component accountability boards were designed to assist DO management in effective oversight, coordination, and response to personnel issues across the directorate. These boards were created as a result of the Ames case and in response to a June 1994 memo from the DCI to the DDO directing the creation of an accountability process. The DO boards are explained in dated 1 April 1996.

The DO SAB monitors the handling of personnel and disciplinary issues that have directorate-wide implications. It is responsible for developing fair and consistent processes for dealing with issues of employee accountability and discipline.

The use and composition of DO component accountability boards vary. Some DO division chiefs do not make use of component-level boards. Representation on those that are used varies from division managers only to managers and nonmanagement personnel. Since their creation, the DO accountability boards have adjudicated cases.

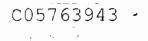
The Office of Technical Service Accountability Board was established in January 1995 and was modeled after the DO's accountability process. This board is explained in OTS Notice 10-82. The Board is composed entirely of OTS managers. The Board has adjudicated two cases since its inception.

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EXHIBIT E

List of Recommendations

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CENTRAL INTELLIGENCE AGENCY

Office of Inspector General Audit Staff

SPECIAL ASSESSMENT

Allegations Regarding the Handling of Information Concerning the Possible Exposure of United States Armed Forces to Chemical Weapons During the Persian Gulf War

2 2 JAN 1998

DATE ISSUED

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SPECIAL ASSESSMENT

Allegations Regarding the Handling of Information Concerning the Possible Exposure of United States Armed Forces to Chemical Weapons During the Persian Gulf War

SUMMARY

In the fall of 1996, former Agency employees

made allegations regarding the Agency's handling of information concerning the possible exposure of US armed forces to chemical weapons during the Persian Gulf War. The alleged: that the Agency hid evidence of the exposure of US forces to chemical weapons; that Agency officials sought to hinder the inquiry into this exposure; that Agency employees sought to avoid reviewing honestly evidence the

presented on the issue; and that the careers were destroyed because of their insistence on pursuing their inquiry.

The allegation that the Agency hid information related to Gulf War illnesses was based on three specific concerns: that the Agency may not have released all relevant documents to the public; that Agency managers had directed the removal of documents from an Internet website on Gulf War illnesses run by the Department of Defense (DoD); and that the Agency had not provided with documents he had requested under the Freedom of Information Act (FOIA).

We found no evidence of improper withholding of Gulf War illnesses information from the public, but the Agency's search for relevant material and the review of that material for declassification and release have been less than optimal. Efforts to identify relevant documents and review them for release are ongoing. Senior Agency management needs to ensure that the resources and attention devoted to these efforts are commensurate with the commitments the Agency has made.

Senior Agency management was not trying to hide evidence related to Gulf War illnesses when it requested the removal of documents from the Internet. The impetus for that decision was concern regarding the disclosure of classified information contained in the documents.

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We found no irregularities in the handling of FOIA request for documents related to his inquiry into the exposure of US armed forces to chemical weapons during the Persian Gulf War. But the Agency could have done a better job coordinating the FOIA process with other release efforts, keeping informed, and following through on its promise of conditional expedited processing.

Agency officials ultimately did limit the inquiry and excluded the from the Agency's analytic review of the Gulf War illnesses issue because of concerns about the conduct of their inquiry and their objectivity. Agency officials could have made a greater effort to keep the informed of the process and progress of the Agency's analytic review, but they had no legal obligation to do so.

Agency analysts seriously considered available evidence related to Gulf War illnesses, including material presented by the When analysts developed convincing evidence that was contrary to DoD's statements regarding chemical weapons exposure, Agency officials showed no reluctance to question DoD's position. Although the Agency was not aggressively inquisitive about troop logs and eyewitness accounts, analysts did not exclude this type of material from their review; it was used to supplement information available in the Agency's holdings. But by early 1996, when it was concluded that US troops may have been exposed to chemical agents as a result of demolition activities after the war at the Khamisiyah ammunition storage depot in Iraq, Agency managers should have made an effort to apply additional resources to the analytic review.

The evidence does not support the ______allegation that the Agency destroyed their careers because of their insistence on pursuing an inquiry into Gulf War illnesses issues. _______was given appropriate consideration for positions he sought in the Directorate of Intelligence. We found no evidence that security investigations were conducted to harass or retaliate against _______We determined that _______was appropriately considered for promotion. We found no evidence that the _______Gulf War illnesses inquiry was ever a factor in promotion decisions regarding

BACKGROUND

DCI Request for Assessment

This report responds to a 31 October 1996 reques from former Director of Central Intelligence (DCI) John Deutch that we assess the accuracy of allegations by former Agency employees

concerning the CIA's handling of information about the possible exposure of United States armed forces to chemical weapons during the Persian Gulf War. Specifically, the allegations were:

- That the Agency has hidden, and continues to hide, evidence of the exposure of United States armed forces to chemical weapons during the Persian Gulf War.
- That Agency officials sought to hinder the inquiry about the exposure of United States armed forces to chemical weapons during the Persian Gulf War.
- That Agency employees sought to avoid reviewing honestly the evidence the uncovered concerning the exposure of United States armed forces to chemical weapons during the Persian Gulf War.
- That the _____ careers with the Agency were effectively destroyed because of their insistence on pursuing an inquiry about the exposure of United States armed forces to chemical weapons during the Persian Gulf War.

Clarify Their

Allegations

During meetings with members of the assessment team in November and December 1996, amplified and clarified their allegations.² Regarding the hiding of information, stated his belief that the Agency had withheld information on the known or suspected locations of chemical weapons in the Kuwait Theater of Operations. He told us that he had not had access to all Agency files, but he

² Following our meetings with them, the were given an opportunity to review our interview notes and to provide additional comments or clarifications regarding their allegations.

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believed that documents existed that were relevant and had not been released.

further asserted that DCI John Deutch and Executive Director Nora Slatkin directed the removal of documents from the GulfLINK website³ to hide evidence of the presence of chemical weapons in Kuwait. The documents were originally posted to the site by DIA as part of its effort to declassify DoD's intelligence records relevant to Gulf War illnesses. contended that removal of the documents was illegal because, under Executive Order 12958, declassified documents cannot be reclassified.⁴

emphasized that his main concern regarding the hiding of information was that the Agency had not provided him with documents that he had requested under the FOIA. noted that he had made his request for these documents in October 1994, and he contended that the Agency was trying to hide the information they contained.

The alleged that Agency managers hindered their inquiry into exposure of US armed forces to chemical weapons during the Gulf War and ultimately told to stop his activities in this area. In addition, the asserted that they both were excluded from the Agency's analytic review of information related to Gulf War illnesses. The

said that they received no information in return for the information they provided to the Agency for use in its review even though managers in the Office of Scientific and Weapons Research (OSWR) had promised to keep them informed of the progress of that review.

alleged that, in conducting a review of Gulf War illnesses information, Agency officials were reluctant to confront DoD about its position that there was no evidence of chemical weapons use or exposure. contended that because DoD was the Agency's primary customer, Agency analysts had no incentive to argue with DoD's conclusions. He also contended that the Agency refused to review troop

⁴ Executive Order 12958, *Classified National Security Information*, effective 14 October 1995, defines declassification as "the authorized change in the status of information from classified information to unclassified information." The order further states that "Information may not be reclassified after it has been declassified and released to the public under proper authority."

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³ GulfLINK is the official World-Wide Web Information Service administered by DoD's Office of the Special Assistant for Gulf War Illnesses in cooperation with the Defense Technical Information Center (DTIC). The purpose of the site is to provide declassified documents and other information related to Gulf War illnesses. CIA forwards relevant declassified documents to DTIC for release on GulfLINK.

logs or interview veterans, thus excluding an important category of evidence from its review. In view, Agency managers demonstrated a lack of commitment to getting answers for veterans by devoting insufficient resources to the review of Gulf War illnesses information.

alleged that CIA managers retaliated against him for pursuing an inquiry into causes of Gulf War illnesses and, thereby, destroyed his career with the Agency. He maintained that the retaliation took two forms: he was denied positions within the Directorate of Intelligence (DI) for which he was well qualified, and he was subjected to illegal and inappropriate security procedures. alleged that CIA managers retaliated against her by repeatedly denying her a promotion. She considered herself to be both eligible for and deserving of the promotion.

Assistance to Presidential Tasking

In the midst of our assessment, the President, on 26 February 1997, tasked the chairperson of the Presidential Advisory Committee on Gulf War Veterans' Illnesses to address two questions about the Iraqi ammunition storage depot at Khamisiyah:

- When was there sufficient evidence to conclude that chemical munitions were present at Khamisiyah and that US armed forces conducting demolition activities there may have been exposed to chemical warfare agents?
- Once there was sufficient evidence to conclude that chemical munitions were present at Khamisiyah and that US armed forces conducting demolition activities there may have been exposed to chemical warfare agents, what actions were taken to investigate and were those actions sufficient?

As a result of the President's direction to the Advisory Committee to take full account of evidence disclosed by our assessment, we specifically focused attention on the Agency's handling of information related to Khamisiyah in order to contribute to resolution of the President's questions. This report contains references to the Khamisiyah issue, but our conclusions regarding events related to Khamisiyah are contained in a separate assessment.

SCOPE AND METHODOLOGY

Our assessment focused on the allegations as identified by the DCI and clarified by the . We did not attempt to determine the extent to which United States armed forces may have been exposed to chemical weapons during the Persian Gulf War. We did not evaluate the quality of the Agency's analysis regarding chemical weapons use or exposure during the war, but we did review the handling of information related to Khamisiyah to address the President's concerns regarding that storage site.

We interviewed former CIA analysts to obtain detailed information about their allegations. We also interviewed Acting Director of Central Intelligence (ADCI) George Tenet and Executive Director Nora Slatkin regarding their roles in the handling of information related to the Gulf War. We met with former DCI John Deutch and former ADCI William Studeman to discuss their actions related to the allegations. We interviewed members of the staff of the Presidential Advisory Committee on Gulf War Veterans' Illnesses and the National Security Council concerning their interactions with Agency officials on Gulf War illnesses issues.

The provided a list of recommended interview subjects, and we interviewed all eighteen individuals on that list. In total, we interviewed over 175 current and former Agency employees, including individuals involved in the declassification and release of information, intelligence analysts, component hiring managers, security and personnel officers, promotion panel members, and former supervisors of the

We reviewed Executive Order 12958, *Classified National Security Information*, and predecessor Executive Order 12356, the Freedom of Information Act, and other statutes, directives, and Agency regulations regarding declassification and release of information. We examined DoD and Agency guidance regarding the identification and release of relevant information to the public on GulfLINK. We studied Agency regulations and procedures in the areas of security, personnel assignments, performance appraisals, and promotion panels.

In response to our request for relevant information, Agency components provided over 6,000 documents, and we reviewed them all. In addition, we examined information provided by to Agency personnel concerning the possible exposure of United States armed forces to chemical

weapons. We reviewed statements regarding Gulf War illnesses issues made by Agency officials to the Presidential Advisory Committee on Gulf War Veterans' Illnesses, Congressional committees, and the media.

We obtained access to the MORI (Management of Officially Released Information) system, which stores documents related to Gulf War illnesses that have been reviewed for release. From that system, we selected a random sample of CIA documents released to the public on GulfLINK to review decisions regarding release or redaction of information contained in the documents.⁵ A second sample was selected from relevant documents that were not released to GulfLINK due to concerns about sources and methods. We sought to determine whether decisions not to release those documents were appropriate.⁶

In order to review the ______allegation regarding damage to their careers, we studied statistics obtained from Human Resource Management on career progression. We also examined security and personnel files and documentation related to promotion panel proceedings. We analyzed information contained in those files and documents to evaluate decisions made regarding assignments and promotions.

Comments on a draft of this report were obtained from appropriate officials and from the and were considered in the preparation of the final report. In their comments, the raised a number of issues that were outside the scope of our assessment.

⁵ As of 21 April 1997, 681 documents were released by CIA on GulfLINK. We selected a random sample of 90 of these documents for review.

⁶ As of 21 April 1997, 2,635 documents determined to be relevant to the Gulf War illnesses issue were not released due to concerns regarding sources and methods. We eliminated 1,570 of those documents from our review because they were either originated by other agencies, Foreign Broadcast Information Service documents denied for copyright reasons (documents were not released, but a bibliography including citations was released), or duplicates. From the remaining 1,065 denied documents, we selected a random sample of 106 documents for review.

DETAILED COMMENTS

Allegation: The Agency has hidden, and continues to hide, evidence of the exposure of United States armed forces to chemical weapons during the Persian Gulf War.

The Agency's efforts to identify, declassify, and release information relevant to Gulf War illnesses have been extensive, and we found no evidence of improper withholding of information from the public. But some potentially relevant documents may have remained undiscovered in the 1995 search, and not all potentially relevant documents that were surfaced in that search process were provided to the original task force charged with making determinations on relevancy, declassification, and release. The decisions made by that task force were not adequately documented, and we were unable to determine whether they were appropriate. Efforts to identify relevant documents and review them for release are ongoing. Senior Agency management needs to ensure that the resources and attention devoted to these efforts are commensurate with the commitments the Agency has made.

We found no indication that senior Agency management was trying to hide evidence related to Gulf War illnesses when it requested the removal of documents from the GulfLINK website. We found no irregularities in the handling of FOIA request, but the Agency could have done a better job coordinating the FOIA process with other release efforts, keeping informed, and following through on its promise of conditional expedited processing.

Agency Efforts to Locate and Release Information Relevant to Gulf War Illnesses Issues

In April 1995, then Deputy Secretary of Defense John Deutch requested that the DCI search for, identify, and review for declassification all intelligence records related to possible causes of Gulf War veterans' illnesses. An Agency focal point officer was designated, and, in May 1995, he initiated an Agency-wide search for relevant documents. Agency components provided approximately 45,000 potentially relevant documents in response to this tasking. We undertook a review of the Agency's efforts to locate, declassify, and release relevant documents in order to determine if

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those efforts were appropriately carried out. We also looked for evidence that Agency officials might be hiding pertinent information from the public. (A timeline showing the key events related to CIA Gulf War illnesses efforts is at Exhibit C.)

Locating Potentially Relevant Documents

In reviewing the methodology employed in 1995 to locate potentially relevant documents throughout the Agency, we found that established search criteria were not consistently followed by all components. Although it appears that a serious effort was made, we believe that the search was less than optimal and that not all potentially relevant documents were identified.

DIA established guidelines that were provided to Agency components for conducting searches for documents related to Gulf War illnesses. The guidelines defined relevant information as that which reported on the storage, deployment, or use of chemical, biological, or radiological weapons during the war. In addition, any reports concerning outbreaks among military forces or civilian populations during the war of disease, epidemics, or widespread illnesses that may have resulted from infection or environmental causes were considered to be relevant. DIA also developed a 17-page keyword list to be used for conducting electronic searches for relevant information. That keyword list was provided to Agency directorates for their use in performing searches of electronic databases.

To the extent possible, we reviewed the criteria used by Agency components to search major electronic databases. We sought to determine whether the Agency's search conformed to the keyword list provided by DIA.⁷ We identified several discrepancies, including deviations from the keyword list and the inclusion of country limitations.

Components deviated from the keyword list in conducting their electronic searches by omitting or adding terms, changing combinations of words, or misspelling terms. Some responsible individuals, acting on the basis of what they knew about the information held by their components and the types of responses they would get to different terms, deliberately deviated from the keyword list in an effort to facilitate the search. Although these initiatives were well intended, the result is that the Agency cannot

⁷ The primary databases searched electronically were large systems in the National Photographic Interpretation Center (NPIC), the DO, and the DI, and various Foreign Broadcast Information Service systems. Documentation of the specific criteria used for NPIC's system and three other small systems in the DI had not been retained, so we were unable to review those search efforts.

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demonstrate that a complete search was carried out in 1995.⁸ Valid changes in the search terms should have been coordinated among CIA components to ensure a consistent search of keywords across the Agency.

Country names were used as search criteria in conjunction with the keywords to eliminate nonrelevant responses (such as information on chemical weapons in other parts of the world). The Directorate of Intelligence (DI) included 21 countries in its search, the Directorate of Operations (DO) included 16 countries, and the Directorate of Science and Technology limited its search to 14 countries. At least one significant document pertaining to the Khamisiyah ammunition storage depot was not identified during the initial search because it originated in a country that was not included in the search criteria. Although we understand the rationale for trying to eliminate nonrelevant responses, country limitations should have been carefully considered and consistently applied across the directorates.

We were unable to ascertain the extent to which office files⁹ were searched for relevant documents during 1995, but these files do not appear to have been adequately reviewed. The adequacy of office file searches depends upon how thoroughly individuals review the files in their possession, and the results of office searches generally are not documented. In fact, we found inadequacies in the office file searches even when the results were documented. For example, in April 1996, the Near East Division reported to the DO's information review officer that no relevant documents were identified during its office file search. When that division was tasked in April 1997 to review its office files again, 88 documents were identified that were within the time frame of the initial search. We also noted that the document regarding Khamisiyah mentioned above was ultimately found in the files of several offices as a result of searches by analysts looking for information on Khamisiyah in 1996, indicating that those files were not adequately searched in 1995.

We also learned that in the Directorate of Administration and the DCI area only selected offices were tasked to review their files. Officials conducting the directorates' searches believed that the offices omitted from the tasking were unlikely to have relevant documents. This selective approach may have been logical, but it was not consistent with

⁸ In at least one instance, the customization of the search criteria may have improved the quality of the search. In the DO, some potentially relevant documents apparently were identified that might not have been if the DIA keyword list had been strictly adhered to.

⁹ Office files include hardcopy files and any files maintained on systems unique to an office.

representations subsequently made about the search by senior Agency officials, who called it an "extensive review of all of the Agency's holdings."¹⁰

Difficulties in Locating Potentially Relevant Documents Are Not Unusual

The differences we noted in the way the directorates conducted their searches for Gulf War illnesses information are not unique to that search effort. CIA information is managed in a decentralized fashion, with each directorate controlling its own information. Directorate designees, in most cases information management officers (IMOs), are responsible for conducting searches for directorate information relevant to any declassification and release program, including special efforts such as the release of information related to Gulf War illnesses. In addition, each deputy director has appointed an information review officer (IRO) to exercise substantive judgments on the extent to which documents controlled by the directorate can be declassified and released.

The Agency's Focal Point Officer for Persian Gulf War Veterans' Illnesses worked with the directorates' IROs to develop search criteria and collect the results of the searches from designated IMOs. Although the focal point officer did not have authority over the IROs or the IMOs, the focal point officer should have reviewed the directorates' search methodologies to ensure completeness and consistency. The three individuals who served as focal point officer during 1995 and 1996 were not experienced in information management practices; they relied on the IMOs to carry out thorough searches of the directorates' information.¹¹

¹⁰ In commenting on a draft of this report, the Director of Information Management stated that efficient management of resources dictates that the Agency search only those offices and systems that could reasonably be expected to contain the types of records that are the subject of the search. Limitations of this kind are efficient and acceptable for certain routine search efforts. Searches conducted under the FOIA and Privacy Act, for example, are subject to the provisions of those acts, which do not generally require the Agency to search all records. But the Agency should not represent special searches as encompassing all Agency records when some offices do not participate.

¹¹ Several Office of Inspector General reports have discussed problems with the Agency's information management and retrieval efforts. Our December 1996 special assessment report, *Information Declassification and Release Efforts*, recommended the consolidation of declassification and release programs under one manager. In October 1997, the Agency established an Office of Information Management. One of the functions of the new office will be to address the problems experienced with special search efforts such as the Gulf War illnesses search. A small, dedicated team is planned to provide expertise and direct support to focal point officers for future search efforts.

Determining Relevancy

In the fall of 1995, the Agency established the Persian Gulf War Veterans' Illnesses Task Force in the DI to screen the documents provided by the components for relevancy and to review them for declassification and release. Approximately 12 individuals from various components participated in this effort between late 1995 and March 1996, when the task force increased to 20 individuals. The task force was formally disbanded in June 1996 after having provided 520 documents to DoD for release on GulfLINK. Appropriate steps were taken by task force members to ensure that the potentially relevant documents provided to them were properly reviewed for relevancy, but not all potentially relevant documents were obtained by the task force.

The Deputy Director for Intelligence (DDI) reported that, upon completion of electronic and office searches, Agency components provided approximately 45,000 potentially relevant documents to the task force. Members of the task force manually screened these documents and sorted them into three categories: applicable, generally applicable, and not applicable. Approximately 3,000 documents were found to be applicable, meaning that they were relevant to the Gulf War illnesses issue. The remaining 42,000 documents were considered to be generally applicable, addressing aspects of the war such as Iraqi military readiness or command structure, or not applicable.¹²

The task force developed criteria for determining the relevancy of documents. Such criteria must necessarily be general and will not provide clear guidance for making decisions about individual documents, but we were told that task force members frequently discussed relevancy questions and that they attempted to make consistent decisions. We found no indication that the task force concealed information from public disclosure by making improper decisions regarding the relevancy of the documents it reviewed.

But the task force did not have the opportunity to review all documents identified as potentially relevant by Agency components. Some offices used their own criteria to screen the documents located through their keyword searches for relevancy before turning them over to the task force. For example, the Office of Research and Development (ORD) identified

¹² The numbers of documents cited in this paragraph were reported by the DDI to the Executive Director on 12 June 1996. We attempted to verify these numbers but were unable to do so because the task force did not maintain documentation to support the numbers reported.

685 potentially relevant documents through keyword and office searches; none of those documents were provided to the task force because ORD personnel concluded, based on a review of the titles, that the documents were not relevant to the Gulf War illnesses issue.¹³ We believe that all determinations regarding relevancy for documents that met the search criteria should have been made by task force members.

In addition, keyword searches of three small DI systems resulted in lists of approximately 3,000 documents. Task force members reviewed the lists and omitted approximately 1,000 documents from their review based upon the titles indicated. We believe that all of these documents should have been obtained by the task force for full review.

Review of Documents for Declassification and Release

Once relevant documents were identified by the original task force, task force members reviewed them to determine whether the documents could be declassified and released to the public on the GulfLINK website. Broad declassification and release guidelines were established by Agency officials and approved by the Agency Release Panel.¹⁴ Essentially the guidelines stated that as much information as possible should be released, consistent with the DCI's authority to protect sources and methods and other privileged information. Task force teams reviewed documents for declassification; decisions were then ratified by directorate IROs or their representatives.

We selected samples of documents that had been "denied in full" by the original task force, meaning that no part of the documents could be released, and documents from which selected information was redacted prior to release on GulfLINK, to review the appropriateness of decisions to withhold

¹³ ORD performed an electronic search of archived documents, as well as a search of office files. The list of documents meeting the search criteria was reviewed for relevancy by ORD personnel familiar with the material, and no documents were deemed relevant to the Gulf War. We reviewed the list of documents identified and found that, because the search could not be limited to specific dates due to system limitations, at least 500 of the documents do not meet the time frame specified for the search for Gulf War illnesses documents. Based upon the titles alone, many of the approximately 185 documents meeting the search criteria do not appear to be relevant to Gulf War illnesses. We reviewed 33 documents that we believed, based upon their titles, might be relevant; none of them were.

¹⁴ The Agency Release Panel advises senior managers on information release issues and makes final Agency decisions on appeals under FOIA, the Privacy Act, and the Executive Orders. The panel is composed of the Director of Information Management, the directorate IROs, chiefs of each of the declassification and release programs, and representatives of the Publications Review Board, Office of General Counsel, Office of Congressional Affairs, and the Public Affairs Staff.

information. Because documentation of declassification and redaction decisions was incomplete, we were unable to determine whether all such decisions were appropriate.

Decisions Regarding Withholding of Information Were Not Properly Documented

We reviewed a sample of 106 documents that had been denied in full and found that 66 of those documents were appropriately denied. The remaining 40 documents were denied because they contained information from imagery; we were unable to determine whether those decisions were appropriate.

Although imagery-derived information generally is not released by the Agency, steps were taken to release some information in order to be proactive in declassifying Gulf War illnesses documents. Task force members told us that the information in the denied documents could be found in other documents that had been released, particularly in imagery highlight cables that contained summaries of the information. But we found no records related to these denied documents providing references to precisely where the information they contained appeared in another document that had been released. As a result, we could not make judgments about the decisions to withhold these documents.

We reviewed 86 documents out of the 681 that had been released with some material redacted to determine whether the redacted material was appropriately withheld. We found inconsistencies in the handling of 24 of these documents. For example, we found names of weapons storage sites redacted in some documents and not others. Certain information redacted from several documents appeared to be relevant to the Gulf War illnesses issue, but these redactions did not significantly impair the utility of the released versions of the documents. Rationale behind redaction decisions were not indicated, so we were unable to determine why specific information had been withheld.

Ensuring consistency in declassification decisions is particularly difficult with only broad guidelines to follow and numerous individuals, most with little experience in declassification procedures, making decisions. Preservation of the rationale behind each decision would have been helpful to us in reviewing the decisions, as well as to other task force members conducting declassification reviews.

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Release Practices Result in Questions Concerning Certain Documents Not Released Until 1997

In February 1997, CIA released previously undisclosed documents regarding US troop demolitions of chemical weapons at the Khamisiyah ammunition storage depot. In addition, DoD officials stated in a press conference that CIA had other classified documents indicating that the Agency had warned the military of the presence of chemical weapons at Khamisiyah before troops conducted demolitions at that site; these documents were subsequently released by CIA in April 1997. The Presidential Advisory Committee expressed concern that it had not seen these documents and that the documents had not been released on GulfLINK despite previous statements by Agency officials that all relevant information had been identified, shared with the Advisory Committee, and released.

We were unable to determine whether the documents relating to Khamisiyah that were released in February and April 1997 had previously been provided to the Presidential Advisory Committee or its staff. Agency officials told us that all relevant documents had been made available to the committee, but Agency personnel did not maintain records of specific documents shown to or discussed with the committee staff.¹⁵ We are aware that Agency personnel held numerous discussions with the committee staff regarding Khamisiyah, but we could not determine what details were discussed.

The Agency official primarily responsible for the declassification and release effort during 1996 told us that the five documents released in February and April 1997 had not been released earlier because they did not add any new information to the already publicized conclusion reached by Agency personnel that US troops may have been exposed to chemical agents at Khamisiyah and because there were sources and methods concerns about the documents' contents. It is true that the documents did not provide information about a new exposure incident or other possible cause of Gulf War illnesses, but the documents did provide new insight into when the Agency had certain information regarding the presence of chemical weapons

¹⁵ One exception was a collection of 315 documents gathered by and provided by the Agency to the staff of the Presidential Advisory Committee in October 1995. A list of those documents was prepared and maintained. The documents released in 1997 were not part of that collection.

at the Khamisiyah site and the possible exposure of US forces to chemical agents there.¹⁶

Officers involved with Gulf War illnesses-related declassification decisions prior to March 1997 told us that they focused on the release of *information* rather than documents. They viewed their role as facilitating the release of information that added to the body of public knowledge, and they believed that once information was released in one document it did not have to be released again in another. They told us that this methodology aided in their efforts to protect intelligence sources and methods. Because these officers had sources and methods concerns about the five documents relating to Khamisiyah and did not believe that the documents added any new information to that which had already been made public, they did not press for the release of those documents in 1996.

But public statements made by senior Agency officials may have led outsiders to believe that the Agency had been engaged in a comprehensive effort to release all relevant documents, to the extent they could be declassified. During a 1 November 1996 press conference, for example, Executive Director Slatkin stated, "The CIA is committed to making all the information we possibly can known to the public." The strong reactions by the Presidential Advisory Committee and the media in February 1997, when it became evident that not all Agency documents related to Khamisiyah had previously been released, reflected an expectation that the Agency had committed to do more than release selected information that it believed might contribute something new to public knowledge about Gulf War illnesses.

¹⁶ A number of individuals involved in the declassification and release effort, including the chief of the task force in 1996, had substantive analytical responsibilities related to Iraqi chemical weapons during and after the 1991 Persian Gulf War. Those individuals were assigned to work with the task force because of their expertise regarding the information being reviewed for declassification. As discussed later in this report, Agency managers were careful to ensure objectivity when they selected an individual to perform analysis of Gulf War illnesses information, but they did not guard as carefully against the potential for conflict of interest when they assigned individuals to review such information for release. Those task force members who had had substantive analytical responsibilities related to Iraqi chemical weapons could be perceived to be reluctant to release information that should have been surfaced before. Substantive experts must be involved in any declassification and release effort, as they are best able to judge the implications of a release on sources and methods, but individuals who could be perceived to have a potential conflict of interest because of prior personal involvement with an issue should not have final decision authority over such an effort.

Efforts to Identify and Release Additional Relevant Documents Are Ongoing

In a public statement released on 26 February 1997, ADCI Tenet said "We will continue to provide the American public with as many declassified documents as possible. I intend to do everything in my power to ensure the maximum amount of information is released." The following day, the ADCI appointed a Special Assistant for Persian Gulf War Illnesses Issues and directed him to establish a new task force to provide intelligence support to US Government efforts on Gulf War illnesses issues. Responsibilities of this task force included:

- Managing ongoing declassification efforts.
- Monitoring the passage of related classified CIA documents to the DoD and others.
- Supporting ongoing modeling efforts.
- Providing analyses of relevant information.
- Acting as a focal point for Agency communication on Gulf War illnesses issues.

In carrying out its responsibility to manage ongoing declassification efforts, the task force directed Agency components to conduct new searches for potentially relevant documents employing broader search terms and time periods than previously used.¹⁷ Components have identified more than 1.5 million documents as a result of the new electronic and office searches. But the task force does not plan to review each of these documents to determine which are relevant and process those documents for declassification and release.

One of the reasons the new task force broadened the search criteria was to create a larger net to capture documents for use by DoD in its case studies of Gulf War illnesses issues. All of the documents are being made available to DoD. Any documents that DoD wants to use in an unclassified study will be reviewed by CIA for release.

Another reason the task force broadened the search criteria was to assist in its own effort to identify additional documents pertinent to veterans' illnesses. Task force members told us that they are currently conducting analyses of biological, chemical, radiological, and environmental factors

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¹⁷ The task force did not intend to replicate the original search effort; components were told that they did not have to repeat keyword searches of time frames previously searched.

that could help explain the illnesses and that these efforts will generate document search criteria. These criteria will be applied against the 1.5 million documents to identify those that contain information pertinent to illnesses issues.

The Special Assistant for Persian Gulf War Illnesses Issues advised us that pertinent documents identified through this process will be reviewed for release, and, as necessary, analytical papers will be prepared by the task force to place released documents into an understandable context. The Special Assistant indicates that the current task force operates under a policy of releasing pertinent information and documents without regard to whether such material adds something new to what is already publicly known. He maintains that as a result of the task force's efforts all documents held by the Agency relevant to the Gulf War illnesses issue ultimately will be identified and reviewed for possible release. Because these efforts are ongoing, we are unable to determine whether the current task force will, in fact, identify all relevant documents.

The current task force has made public documents related to the release of chemical warfare agents at Khamisiyah. The task force also has published studies on the demolition activities at Khamisiyah, the potential release of chemical warfare agents during the bombing of the Ukhaydir ammunition storage depot, and intelligence related to 17 sites the military suspected might have contained chemical or biological weapons during the war. In addition, the Special Assistant has testified before the Presidential Advisory Committee on Gulf War Veterans' Illnesses and interested Congressional committees on those studies and the results of modeling efforts. The task force expects this approach to maximize the release of information in a manner most useful to veterans and others interested in Gulf War illnesses issues. In the meantime, senior Agency managers need to review current efforts to ensure that they are consistent with the Agency's intent and commitment.

Particular care needs to be taken to maintain task force resources that are consonant with the DCI's commitment to "do everything in my power to ensure the maximum amount of information is released." By October 1997, the size of the task force had decreased from members to and it appeared that some of the remaining members might be sent back to their home components to continue their analysis and document review on a part-time basis.

Removal and Subsequent Restoration of GulfLINK Documents

On 17 January 1996, a member of the Agency's Persian Gulf War Veterans' Illnesses Task Force performing a search of intelligence documents that had been released by DoD on the GulfLINK website beginning in July 1995 discovered some documents containing information that CIA considered to be classified. Members of the task force conducted limited searches and found other documents containing classified information, including information which had not been referred to the appropriate authorities for release authorization before being posted on the website by DoD.

The Agency's Focal Point Officer for Persian Gulf War Veterans' Illnesses formally notified the Agency Release Panel of the existence of classified information on the GulfLINK website on 25 January 1996. Panel members met to discuss the situation and recommended notification of senior Agency officials, the Office of General Counsel (OGC), DIA's Focal Point Officer for Gulf War Illnesses, and the Information Security Oversight Office of a possible unauthorized disclosure of classified information. On 7 February 1996, OGC filed a report of an unauthorized disclosure with the Department of Justice (DoJ).¹⁸

CIA and DIA managers met several times to discuss the documents released by DoD on GulfLINK and concluded that officials from the two agencies should jointly review the documents to determine what steps should be taken.¹⁹ Public interest in the documents and concern among Agency employees about the disclosure of classified information caused then DDCI Tenet to request that DoD officials remove the documents from GulfLINK until the review could be accomplished. The documents were removed on 7 February 1996. The documents were reviewed, and over the next several months they were returned to GulfLINK, with the last group reposted in November 1996.

¹⁸ This report was subsequently withdrawn on 14 February 1996 when OGC concluded that the matter should have been referred to DIA instead of DoJ in accordance with a 1995 agreement regarding such reporting.

¹⁹ Actions by DIA leading to the release of documents on GulfLINK are outside the scope of this assessment. Certain details related to the release of information on GulfLINK remain classified and cannot be discussed in this unclassified report.

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Basis for Actions Taken Regarding GulfLINK Documents

CIA officials believed that documents had been released on GulfLINK without proper authority primarily because documents containing CIA information had never been referred to CIA for declassification review. Executive Order 12356 (predecessor to Executive Order 12958), in effect when the documents were first released on the GulfLINK website, states that when considering information for declassification agencies should "coordinate their review of classified information with other agencies that have a direct interest in the subject matter." The order further states that "classified information originating in one agency may not be disseminated outside any other agency to which it has been made available without the consent of the originating agency." Absent CIA review and consent, CIA officials believed DIA did not have authority to disseminate documents containing CIA-originated information.

The unauthorized release of information does not automatically affect the classification of that information. Both Executive Orders 12356 and 12958 explicitly state that classified information shall not be declassified automatically as a result of any unauthorized disclosure. Agency officials viewed the release of classified information on GulfLINK as an unauthorized disclosure, because they did not believe DIA had authorization to declassify information contained in the documents.

The evidence regarding these events strongly indicates that the DCI, DDCI, and Executive Director were not familiar with the information contained in the documents released on GulfLINK and sought their removal from the website after learning that Agency officers had serious concerns regarding classified information contained in the documents.²⁰ In November 1996, when it became apparent that documents that had not been returned to GulfLINK would be posted to the Internet by other parties and that distribution of the documents could no longer be limited, the DCI, with the concurrence of the DDCI and the Executive Director, formally approved the recommendation of the Deputy Director for Intelligence to restore those documents to the GulfLINK website.

²⁰ An interagency GulfLINK Damage Assessment Team, formed in July 1996 at the direction of the CIA's Executive Director to evaluate possible damage to sources and methods, concluded that the CIA information that had been released on GulfLINK without proper authorization compromised intelligence sources and methods.

The DCI has a statutory responsibility for the protection of intelligence sources and methods from unauthorized disclosure.²¹ Agency officials believed that classified information had been released to the public without proper authorization, and they acted out of concern for the DCI's statutory responsibility by seeking the removal of the documents from GulfLINK. Actions of Agency officials throughout this episode were consistent with their professed motivation to protect intelligence sources and methods. We found no indication of any effort to hide evidence of the presence of chemical weapons in Kuwait, as alleged by or to hide any other evidence related to Gulf War illnesses.²²

> Documents Requested by Under FOIA

submitted a request for 59 specific documents on 25 October 1994. The Agency's Information, Privacy, and Classification Review Division (IPCRD)²³ replied on 18 November 1994 advising

that the Agency had accepted his request, but that due to the high volume of requests received, the Agency could not meet the ten business day substantive response time required by the FOIA. All FOIA requesters are told that they may consider the Agency's inability to comply with the ten day response requirement to be a denial of their request and that they may appeal to the appropriate Agency board. Alternatively, they may permit the Agency to continue processing their request as quickly as possible. ______ chose to permit the Agency to continue processing his request.

²¹ National Security Act of 1947, as amended, section 103(c)(5) (50 USC 403-3(c)(5)).

²² allegation that removing documents from the GulfLINK website and withholding them from further public release after that removal was "illegal" is beyond the scope of this special assessment because it does not bear directly on the central issue of whether the Agency was attempting to hide information. Furthermore, because the documents in question were reposted to the GulfLINK website, as authorized by the DCI, from a practical standpoint the question is moot. Nevertheless, based on case law under the Freedom of Information Act, it would appear that the ability of a federal agency to withhold from further release to the public classified or other documents that have been disclosed by federal officials, however mistakenly, is not unlimited. See <u>Kimberlin v. Department of Justice</u>, 921 F. Supp. 835 (D.D.C. 1996) (Sporkin, J.); Fitzgibbon v. CIA, 911 F.2d 755, 765-66 (D.C. Cir. 1990); <u>Afshar v. Department of State</u>, 702 F.2d 1125, 1129-31 (D.C. Cir. 1983).

²³ IPCRD, a division of the Office of Information Technology, processed requests for information releases under the FOIA, the Privacy Act, and the mandatory provisions of Executive Order 12958. Effective October 1997, IPCRD became the Public Information Review Division in the newly formed Office of Information Management.

Processing of FOIA Request

The Agency's FOIA review process is handled in a decentralized manner. The directorates controlling the information requested are responsible for locating relevant documents and making determinations regarding what information may be released. After IPCRD responded to

his request was distributed to the three relevant Agency directorates so that their information review officers (IROs) could locate the specific documents he had requested and make determinations regarding their release. request went into each directorate's queue to be handled on a first-in, first-out basis.

On 2 February 1995, cited health and humanitarian concerns in a request for expedited processing of the documents. On 13 February 1995, IPCRD denied the request, stating that expedited processing is granted only in rare cases with demonstrated exceptional urgency and/or extraordinary need.24 unsuccessfully appealed this decision to the Agency Release Panel. Because the Agency was beginning to review documents related to Gulf War illnesses for declassification at this time in response to a request from then Deputy Secretary of Defense Deutch, was advised in May 1995 that his request for expedited processing was conditionally granted, i.e., if any of the specific documents he had requested were declassified by the Agency in the context of the Gulf War document review, they would be made available to him.

In June and July 1996, the Agency released to GulfLINK redacted versions of five of the 59 documents requested by _______as part of the Agency's general search and review effort. The remaining 54 documents that _______had requested were not released due to sources and methods concerns. In November 1996, Executive Director Slatkin directed individuals who had been members of the declassification task force to review the documents requested by _______using more lenient standards than FOIA criteria or the standards that had been used by the task force, and in November and December 1996 these 54 documents were released to GulfLINK with some classified material redacted.

Ultimately, received information from the documents faster than he would have without the publicity surrounding the Gulf War

²⁴ The denial of request for expedited processing does not appear to be unusual. IPCRD does not maintain statistics on such requests, but IPCRD managers told us that approximately six requests for expedited processing have been approved in the last 20 years.

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illnesses issue, but the Agency did not perform as well as it could have in handling his FOIA request. The conditional expedited processing promised was not carried out. Prior to November 1996, the IROs to continued to handle request through normal channels, and the document screening task force was not asked to report their actions on the particular documents he had requested. The task force forwarded all documents it determined to be releasable to IPCRD for a quality assurance review and final release to DoD for posting on GulfLINK, but IPCRD took no action to determine if any of the documents requested by were among those to be released or to determine what actions had been taken by the task force regarding the 59 documents. In November 1996, IPCRD officials were aware that the documents had been released on GulfLINK, but they did not correspond with to provide him with the documents he had requested or advise him that they could be found on GulfLINK.

In December 1996, _______attorney told IPCRD that all 59 documents could not be located on GulfLINK and noted that the Agency had never provided ______with actual copies of any of the documents. IPCRD responded in January 1997 with a list of GulfLINK index numbers to assist _______in locating the documents and stated that it would be "quicker and less costly" for him to obtain the documents from GulfLINK than for IPCRD to forward copies.

In commenting on a draft of this report, the Information and Privacy Coordinator of IPCRD stated that it would have been desirable if IPCRD had written in November 1996 and informed him that electronic versions of the documents were on GulfLINK and that FOIA versions would be forthcoming soon,²⁵ but resources were stretched thin and IPCRD's efforts were directed to ensuring that approved FOIA versions were produced for and that attention was given to other FOIA requests. While we are sympathetic to the resource concerns expressed, we note that IPCRD's January 1997 letter to attorney did not mention that FOIA versions of the documents would be forthcoming, and FOIA versions were not provided to until December 1997.

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²⁵ The FOIA has strict requirements including format preservation and annotation of all redactions with exemption codes. The documents released by the task force and posted to GulfLINK do not meet these requirements, as redacted areas have been compressed and redactions generally are not annotated with exemption codes.

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There is no indication that the Agency was attempting to hide documents from or to delay the response to his request,²⁶ but the request could have been handled more effectively. IPCRD should have taken steps to learn what actions the task force had taken regarding the documents requested by Once IPCRD did become aware that documents had been released on the GulfLINK website, hard copies of those documents should have been provided to him.

Information Received by in Response to FOIA Request

ultimately received more of the information contained in the documents he requested than he would have obtained under normal FOIA criteria. Agency managers chose to make discretionary releases of information due to the publicity surrounding his allegations, as well as to the desire of Agency management to be more proactive in the release of information related to Gulf War illnesses.

The 59 documents requested by were examined initially by the IROs of the three concerned directorates using standard FOIA review criteria. The directorates' responses to IPCRD indicated that two documents could be released with some information redacted, one was still being reviewed, and 56 could not be released in whole or part due to concerns regarding sources and methods.

In view of then DCI Deutch's commitment to openness and the public interest in documents related to Gulf War illnesses issues, however, the documents had requested under the FOIA were reviewed using different criteria with different results, i.e., more information was released than would have been the case under FOIA criteria. As indicated above, redacted versions of all 59 documents were ultimately released on the GulfLINK site. appealed the continued classification of some material in the documents, and, in December 1997, the Agency Release Panel affirmed the determination of the responsible IROs that the material must remain classified.

²⁶ The time required to process FOIA request was not unusual. The Agency receives over 6,000 requests for information under the FOIA, Privacy Act, and Executive Order 12958 each year, and IPCRD reported a backlog of approximately 5,000 cases in December 1996. Out of those 5,000 cases, 1,700 (34 percent) originated prior to 1995, with nine cases dating back to 1989. The time required to process a request varies depending upon the number of documents requested, the complexity of the documents, and the number of offices that must review the documents.

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Allegation: Agency officials sought to hinder the inquiry about the exposure of United States armed forces to chemical weapons during the Persian Gulf War.

Agency officials ultimately did limit inquiry, because he made what appeared to be an official request to another organization for information that he wanted for his inquiry, and his managers became concerned about what other actions he might take. The were excluded from the Agency's analytic review of Gulf War illnesses information because OSWR managers did not believe that the could be objective about the subject. Agency officials could have made a greater effort to keep the informed of the process and progress of the Agency's analytic review, but they had no legal obligation to do so.

Conduct of Inquiry

In May 1994, began a rotational assignment with the Office of Scientific and Weapons Research in the Directorate of Intelligence.²⁷ In late June 1994, he informed his supervisor in OSWR of his interest in _______ the connection between chemical and biological weapons and the illnesses reported by Gulf War veterans, and he noted that he was performing research into related intelligence information.

In July 1994, supervisor sought advice from the DI's legal counsel about how to handle interest in the Gulf War illnesses issue, because the issue was outside the scope of official duties. Based on the advice he received from the counsel, the supervisor told to put together the information he had and prepare to make his case to appropriate Agency officials.

On 21 July 1994, gave his supervisor a one-page report on his research, along with copies of a report that believed constituted evidence that the Iraqis had used chemical weapons during the war contends that his supervisor was not concerned about the implications of this material, but that he was concerned instead about whether interest in the

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²⁷ In late 1995, OSWR was renamed the Office of Weapons, Technology, and Proliferation. In 1997, it merged with another office to become the Office of Transnational Issues.

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issue and the time he was devoting to researching it were interfering with his work for OSWR.

told us that when he presented his evidence to his supervisor in July 1994, he asked the supervisor to pass it along to others in OSWR. and his supervisor apparently had different expectations about what would happen next. believed that the supervisor was going to pass the material to others in OSWR and that someone would get back to to discuss it. The supervisor believed that was going to report back with more information at a later date. As a result, the two did not discuss the issue again for several months.

Between July 1994 and February 1995, was able to conduct his inquiry using Agency systems and information outside of normal business hours. supervisor in OSWR told us that although he did not authorize to search Agency records to conduct his research, he did not specifically instruct to stop.²⁸ The extent to which searched Agency databases for information cannot be determined, but as of October 1995 he had collected at least 315 documents from the databases. Most of these documents came from one DI system, to which he had unrestricted access.

Limitation of Inquiry

In February 1995, sent a message to the Deputy DCI Representative at the US Central Command (CENTCOM), asking for portions of the Nuclear, Biological, and Chemical log maintained by CENTCOM during the Persian Gulf War. He indicated that he wanted "our analysts to have the best possible information," and he did not mention his personal interest in the logs. One of his duties in OSWR was to perform but the subject matter of this request was outside of

his area of responsibility.

As a result of this request to CENTCOM, was instructed in early March 1995 to cease any active collection efforts. We were unable to determine specifically what limits this instruction placed on inquiry. Some officials interviewed recalled that "active

²⁸ In fact, a number of individuals interviewed during our assessment expressed concern that had been allowed too much access to information that was not related to his job. Some believed that supervisors had exercised poor judgment in allowing him to conduct his inquiry using classified documents and systems.

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was using Agency resources to pursue a line of research beyond his assigned duties, with the acquiescence of his managers. But when he sent a request that appeared to be official to an outside organization, seeking documents that he wanted for his personal effort, managers became concerned about what additional actions

he might take to further his inquiry. The decision to instruct him to cease collection activities resulted from those concerns.

Opportunities to Present Results of Inquiry

was provided with numerous opportunities to present the results of his inquiry. Despite the fact that OSWR officials who heard his briefings did not find his analytical conclusions on Iraqi use of chemical weapons and chemical fallout from Coalition bombing convincing, they arranged for him to present the information to other offices and outside organizations.

OSWR managers focused attention on		research in
December 1994,		
		 '

At that time, managers listened to the briefing he had prepared, provided him with guidance on how to better organize the material, and arranged for him to brief others within OSWR.

During January and February 1995, immediate supervisors, the Director, OSWR, and the National Intelligence Officer for General Purpose Forces on his research and findings. He also

stated his belief that US forces were exposed to Iraqi chemical and possibly biological warfare agents during the Persian Gulf War, either through fallout from Coalition bombing or attacks by the Iraqis. He also stated that officials from DoD and the Department of Veterans Affairs were covering up the effects of this exposure.

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presented his briefing to personnel from OSWR's Nuclear, Biological, and Chemical Division, and later he briefed those same individuals along with a manager from the National Photographic Interpretation Center (NPIC)³⁰ and a branch chief from the Office of Near Eastern and South Asian Analysis. In March 1995, he briefed the Director, Nonproliferation Center.

In October 1995, arranged to brief two members of the staff of the Presidential Advisory Committee on Gulf War Veterans' Illnesses. The Agency Focal Point Officer for Persian Gulf War Veterans' Illnesses insisted on attending the briefing, because it was to take place in an Agency conference room and official Agency material would be discussed. perceived this insistence as an attempt to limit the discussion and intimidate him, but he did brief the two staffers, and the documentary material collected by was subsequently made available to them 31. We believe that the Agency official's attendance at this briefing was

them.³¹ We believe that the Agency official's attendance at this briefing was appropriate, given that the briefing was held in an Agency facility, official Agency material was discussed, and the subject matter dealt with the focal point officer's duties.³²

In November 1995, DoD's Persian Gulf War Veterans' Illnesses Investigation Team asked for______to brief them on his conclusions. The focal point officer asked ______if he would share his information with DoD, but he refused. He argued that DoD already had his information and that it would have been inappropriate for him to state his position to DoD's investigation team, because DoD was the subject of the Presidential Advisory Committee's inquiry.³³

Involvement of

believes that she was hindered by Agency officials in her attempts to participate in the Gulf War illnesses inquiry conducted by

³²accompanied the two staff members to lunch on the day of the briefing. The focal point officer did not join the group. The had at least a brief opportunity for private discussion with the staff members during the lunch break.

assigned to OSWR had provided copies of briefing charts to DoD officials.

³⁰ NPIC became part of the National Imagery and Mapping Agency in October 1996.

³¹ In commenting on a draft of this report, the stated that the DI's legal counsel demanded to be present at many of their briefings, including the briefing to the staff members of the Presidential Advisory Committee, and that they viewed the involvement of a representative of the Office of General Counsel as an attempt at intimidation. The counsel told us that he attended meetings at the behest of OSWR managers in order to advise them regarding this unusual situation and that his involvement was not intended to intimidate the

We do not believe that Agency managers hindered participation. In fact, the evidence indicates that they tried to accommodate her interest in her husband's inquiry was working as an imagery analyst at NPIC during the time was performing his inquiry. supervisors permitted her to take time away from her job to attend several of the briefings given by

claims that she was denied access to an electronic database in an attempt to limit her access to information. The database's system is funded and controlled by the DI; only a limited number of NPIC analysts had access to it because of system constraints. supervisor told us that he had provided access to someone from each of the teams in his branch. He was unaware that felt that she had been intentionally excluded. He told us that once she raised the issue with him, he obtained access to the system for her.

Exclusion from the Agency's Analytic Effort

In March 1995, the Agency initiated a review of its information regarding Iraqi use of chemical weapons during the Persian Gulf War, primarily as a result of the material presented by (The review is discussed in more detail beginning on page 34.) claim that they were excluded from that review, despite the fact that they had considerable knowledge on the subject and had already collected pertinent information.

The Objectivity

The assertion that they were excluded from the Agency's analytic review is correct. Managers in OSWR wanted someone who had not been previously involved with analysis regarding Iraqi use of chemical weapons to perform a review of the information. The lead analyst selected for the review was known to be a thorough researcher, had some knowledge of Iraqi chemical weapons, but had not been involved in that area during the

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Persian Gulf War. OSWR managers believed that he would be objective and willing to question previous analysis.³⁴

Agency officials did not believe that the could be objective about the subject. They told us that during discussions after

briefings he was not willing to consider alternative ideas related to the material he presented. OSWR managers thought that

was so immersed in his analytical conclusions that he could not see other points of view. Given that the review was intended to be a fresh look at the Agency's information, the selection of a lead analyst with no preconceived notions about chemical weapons use or exposure during the Persian Gulf War was appropriate. In contrast, the ______ were known to have a strongly held position on the issue.

The Were Not Kept Informed About the Status of the Review

The assert that they received no information in return for the information they provided to the Agency for use in its review. They also believe that OSWR managers had promised to keep them informed of the progress of that review.

The evidence indicates that the were not kept informed about the status of the Agency's efforts regarding Gulf War illness. The were briefed on the initiation of the analytic review in April 1995 and on the Agency's search for relevant documents to be reviewed for declassification and release in May and October 1995. We did not find evidence of any other meetings to inform them about the progress of the Agency's efforts.

We were unable to determine what, if anything, was promised to the regarding keeping them informed about the Agency's review. We believe that OSWR managers did intend to provide some updates to the

³⁴ In commenting on a draft of this report, the contended that several OSWR managers had a clear analytical conflict of interest because they were involved in preparing and/or approving post-Gulf War analyses that found no evidence of chemical incidents. The further asserted that the selection of an allegedly unbiased analyst was meaningless because it is managers who decide what will or will not be published. We agree that there were individuals in the OSWR management chain who participated in previous analyses related to the Gulf War, but we found no evidence that any of these individuals interfered with the analysis of Agency information related to Gulf War illnesses that began in 1995. In fact, these managers approved the publication of the Agency's analysis regarding the possible exposure of US troops to chemical agents at Khamisiyah.

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as evidenced by the three meetings discussed above, but we could not ascertain why additional meetings were not held.

Although OSWR managers had no legal obligation to do so, they could have kept the informed and could have engaged in discussions with them concerning the information found in the Agency's holdings. The might have developed a better appreciation for the efforts the Agency was undertaking had they been better informed of the progress of the analytic effort.

Allegation: Agency employees sought to avoid reviewing honestly the evidence the uncovered concerning the exposure of United States armed forces to chemical weapons during the Persian Gulf War.

We found that Agency analysts did seriously consider available evidence related to Gulf War illnesses. When analysts developed convincing evidence that was contrary to DoD's statements regarding chemical weapons exposure, Agency managers showed no reluctance to question DoD's position. Although the Agency was not aggressively inquisitive about troop logs and eyewitness accounts, analysts did not exclude this type of material from their review; it was used to supplement information available in the Agency's holdings.

But Agency managers should have made an effort to apply additional resources to the analytic effort to complete the review on a timely basis. Agency analysts have carefully considered material presented by the

and have performed a systematic review of relevant Agency holdings, but after nearly three years of effort they are still working to complete their evaluation.

Review of the Evidence

The allege that the Agency refused to consider their evidence. We found that the material presented by the to analysts from OSWR and other components was seriously reviewed and did, at a minimum, cause the Agency to launch a review of that material and all intelligence holdings.

The briefings presented by thein February 1995 coveredboth classified and unclassified material.provided copies of

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the briefing charts and 32 unclassified documents to OSWR officials, including reports by the

troop logs, letters, and other material. The briefings focused on five areas:

- Iraq's chemical weapons capabilities.
- Iraq's intent regarding the use of chemical weapons during the Persian Gulf War.
- Possible Iraqi use of chemical weapons during the war.
- Reports of chemical weapons detections and injuries incurred by US forces.
- An alleged DoD coverup of evidence of Iraq's use of chemical weapons.

We interviewed the lead analyst responsible for the Agency's analytical effort and other analysts who assisted with specific taskings, and we reviewed the steps taken in the review. All material presented by the

in February 1995 was carefully considered by the analysts. In addition to the primary analyst's efforts, other divisions and offices in the DI were tasked to review their information related to specific information cited in ________ briefing charts. One study reexamined indicators of Iraqi intent to use chemical or biological weapons and indications of forward deployment of such weapons. Other studies tried to correlate historical information on missile launches with troop testimony about specific events and examined the possibility that Iraqi combat aircraft had launched chemical weapons. NPIC analysts reviewed imagery reporting pertinent to the locations of chemical weapons during the war, paying particular attention to the sites identified by _______ in his briefing charts.³⁵

When briefed staff of the Presidential Advisory Committee on Gulf War Veterans' Illnesses in October 1995, he used the same briefing charts, with slight modifications, and covered the same five areas as in his February 1995 briefings to CIA officials. His supporting material in October 1995 was composed of 315 documents, including 237 classified at the Secret level and below and 78 classified Top Secret.³⁶

³⁵ The results of these studies were provided to the lead analyst for use in his review of the Agency's intelligence holdings related to Gulf War illnesses but were not officially published.

³⁶ Special arrangements were made to provide the documents classified up to Secret to the Presidential Advisory Committee. Committee staff members were told that the Top Secret documents were available for them to review if they so desired.

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Only 88 of the 315 documents (28 percent) were CIA-originated; the others were from various elements of DoD.

In a letter to ADCI George Tenet, dated 13 January 1997, the attorney discussed "300 documents that

determined were credible and which were presented to CIA officials during his internal briefings delivered in early 1995." Agency officials told us that they were unaware that had collected 315 documents until October 1995 when he made them available to the Presidential Advisory Committee's staff following his briefing to them.

We could not determine exactly when gave the 315 documents to Agency officials. The evidence indicates that Agency officials were surprised by the number of documents wanted to turn over to the Presidential Advisory Committee; they were expecting a much smaller number based upon the material they had seen earlier that year. The only collection of these documents we found was the one given to the Agency's Focal Point Officer for Persian Gulf War Veterans' Illnesses after briefing to the staff of the Presidential Advisory Committee in October 1995, but we cannot confirm that this was the only set of these documents provided to the Agency by

By October 1995, Agency analysts had conducted their own searches for information related to the review. 315 documents became part of the body of material still to be reviewed. We determined that material relating to Iragi use of chemical weapons, the primary area of disagreement between the and the Agency, was reviewed and considered by the analysts. We could not confirm that every document provided by the was reviewed by Agency analysts. but we reviewed the 315 documents and determined that the information presented-apart from that related to the alleged DoD coverup-was considered in the Agency's review. This conclusion is based on the fact that we found the lead analyst for the Agency's review to be familiar with all of the information contained in the documents.

In his January 1997 letter to ADCI Tenet, attorney further claimed that on 17 February 1995 gave Agency analysts specific documents "showing that US troops were potentially exposed to chemical agents at Khamisiyah." The lead analyst denies this, and we were unable to find any indication that provided such

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documents in February 1995.³⁷ The briefing charts used by at his February and October 1995 briefings and the recollections of those present at the briefings indicate that ______ concentrated on his theory that the Iraqis had used chemical weapons in the war and did not discuss possible exposure from postwar demolitions or make any mention of Khamisiyah.

The Agency's Analytic Review

The Agency initiated its review of intelligence holdings related to Gulf War illnesses in March 1995 in response to the charges and questions raised by the material they provided. The President's call that same month for a thorough study of Gulf War illnesses and growing Congressional interest also were factors in the decision to conduct a review, but the were mainly responsible for getting the Agency involved.

On 15 March 1995, then ADCI William Studeman approved a recommendation by the Director, OSWR to conduct a "thorough reexamination of the intelligence evidence" on the issue of Iraqi use of chemicals during the Persian Gulf War.³⁸ This review was to be done by a team of Agency analysts. In his memo to ADCI Studeman, the Director, OSWR stated that the issue was the responsibility of DoD but that the Agency should reexamine its relevant holdings.

Review of the Agency's Holdings

The allege that Agency analysts did not completely investigate evidence related to the possible exposure of US troops to chemical weapons during the Persian Gulf War. We reviewed the methodology used to perform the Agency's study, and we found that the lead analyst took a systematic, logical approach. He reviewed relevant intelligence holdings and obtained additional information from outside sources when necessary.

³⁷ collection of 315 documents included a DoD report discussing the presence of chemical weapons at Khamisiyah and Iraqi claims that the munitions were destroyed by Coalition forces. Agency personnel claim that these documents were not provided to them until after his briefing to the Presidential Advisory Committee in October 1995.

³⁸ The review quickly expanded beyond Iraqi use of chemical weapons to include other possible causes of Gulf War illnesses, e.g., exposure to fallout from Coalition bombings of chemical weapons storage areas. Although the material primarily concerned Iraqi chemical weapons and the memorandum to the ADCI discussed chemicals, information related to biological weapons also was considered during the Agency's review.

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The lead analyst assigned to the Gulf War illnesses review began his efforts by reviewing the material provided by in February 1995. He searched the DI's electronic holdings and identified over 14,000 documents for review. The analyst also conducted more focused searches for documents related to specific locations within Iraq. He searched hard copy files in the Nonproliferation Center and DIA, and he obtained significant relevant material from DoD elements. Once the Agency began its efforts in May 1995 to locate and declassify documents related to Gulf War illnesses, members of the declassification task force brought documents of particular interest to the lead analyst's attention.

To supplement his review of intelligence holdings, the Agency's lead analyst conducted discussions with numerous individuals and organizations. For example, he obtained information from NSA, DIA, and the US Army's National Ground Intelligence Center. He spoke with personnel from the Center for Disease Control and the US Air Force Medical Intelligence Center regarding medical issues. He also queried DoD personnel regarding chemical detection equipment and alarm devices.

The lead analyst had hoped to produce an extensive research paper covering the areas he reviewed. Once it was discovered that Khamisiyah was a potential chemical weapons exposure site, however, the Agency's effort focused on that finding, and other aspects of the review were not completed. An unclassified paper was published in August 1996, entitled *CIA Report on Intelligence Related to Gulf War Illnesses*, which discussed the findings as of that date. The paper concluded that Iraq had not used chemical or biological weapons during the war and that fallout from aerial bombings of chemical weapons storage facilities had not reached US troops in Saudi Arabia, but that nerve agent had been released during demolition activities by US troops at Khamisiyah, possibly exposing the troops to the agent. The analytic review of the Agency's Gulf War holdings continues, with both CIA and DoD personnel reviewing intelligence for possible connections to Gulf War illnesses.

Alleged Reluctance to Question DoD's Position

alleges that Agency officials were reluctant to confront DoD about its position that there was no evidence of chemical weapons use or exposure during the war. He contends that because DoD was the Agency's primary customer, Agency analysts had no incentive to argue with DoD's conclusions.

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Many of the Agency officials and analysts we interviewed during our assessment told us that it was their impression that wanted CIA to act as the DoD "Inspector General" and investigate DoD's actions.³⁹ Agency officials believed that this was not an appropriate role for CIA. Particularly at the start of the review, Agency officials had no reason to confront DoD about its conclusions that US troops had not been exposed to chemical weapons. The Agency and DoD had both concluded previously that Iraq had not used chemical weapons during the war and, therefore, believed that US troops had not been exposed to chemical agents.

During the course of the Agency's analytic review, DoD did not always respond expeditiously to CIA's requests for information or assistance. Agency managers were reluctant to push DoD for information and realized that they could not compel DoD to act. Agency analysts might have reached some conclusions sooner had they received assistance from DoD earlier in their review, but the lack of expeditious responses from DoD did not prevent them from moving forward.

Once the CIA's review progressed to the point where analysts developed convincing evidence that contradicted DoD's position, Agency officials showed no reluctance to challenge DoD with that evidence. When CIA analysts determined that the Khamisiyah ammunition storage depot was an area of concern, they quickly provided evidence to DoD's investigative team and repeatedly requested follow-up information. But DoD did not respond quickly to CIA's requests. In March 1996, when the Agency's lead analyst on Gulf War illnesses issues concluded that US troops may have been exposed to chemical agents at Khamisiyah, the Agency almost immediately reported this conclusion to DoD, the Presidential Advisory Committee, and the National Security Council. Evidence developed by CIA, coupled with the results of a May 1996 inspection of the site by the United Nations Special Commission, caused DoD to announce, in June 1996, that US troops had destroyed chemical weapons at Khamisiyah in March 1991.

³⁹ Agency officials advised in January 1995, that if he was serious about the charges he was making concerning DoD officials, he should report them through appropriate channels, such as DoD's Inspector General. He declined to do so, contending that DoD was incapable of investigating itself.

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Alleged Refusal to Review Troop Logs or Interview Veterans

The Director, OSWR did clearly state in his March 1995 recommendation to ADCI Studeman that the Agency would not conduct a detailed review or evaluation of "non-intelligence" sources such as operational troop logs or eyewitness accounts of US troops, but he did not exclude those categories of evidence from the review. The Director, OSWR's declaration that the Agency would not conduct a detailed review of troop logs or veterans' accounts was intended to clarify the scope of the Agency's review, emphasizing that CIA analysis would focus on reexamining the Agency's holdings.

The Director, OSWR's characterization of information such as troop logs and eyewitness accounts as "non-intelligence" information is controversial. Some Agency officials we interviewed told us that reviewing such information was not the Agency's job and that CIA analysts lacked the requisite expertise for such analysis. Other officials told us that the Agency cannot claim to do all-source analysis if it excludes any relevant information.

Exclusion of relevant information from analysis because it was not the product of a traditional clandestine collection methodology or otherwise originated by an intelligence organization would violate the premise of all-source analysis, which by definition includes any relevant information. We believe it was a mistake to characterize troop logs and eyewitness accounts of US troops as "non-intelligence." Despite this designation, however, the material was not excluded, and the characterization did not impact on the Agency's review of relevant information.

The Agency's review focused on surveying CIA's holdings to determine what, if any, relevant information was available and what that information indicated about chemical weapons in the Gulf War. This was a significant undertaking in itself. This approach, utilizing the Agency's information and expertise as a base, was a practical way to begin the analysis of a large body of information on a complicated subject. Agency managers believed that DoD should conduct the initial review of its own operational logs and obtain information from military personnel.

From the outset, Agency analysts used eyewitness accounts to help focus their review. Once Khamisiyah was identified as a site to focus on, the lead analyst widened his range of sources. He gained access to selected troop logs and participated in some interviews with veterans. These sources

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helped to fill in gaps in available information and clarify analytical conclusions.

Application of Resources to the Analytic Effort

We believe that OSWR managers should have made an effort to place additional resources and greater emphasis on the analytic review of intelligence holdings, particularly given the President's expressed interest in pursuing the causes of Gulf War illnesses and the issues raised by the material presented by the

The team of analysts proposed by the Director of OSWR in March 1995 to conduct a thorough examination of intelligence related to Gulf War illnesses never materialized. There were a limited number of chemical warfare analysts available, and a number of ongoing issues demanded their attention. Under these circumstances, the decision to assign one analyst to perform the review of intelligence related to Gulf War illnesses with ad hoc support from other components was perhaps not an unreasonable way to begin.

But the review did not receive adequate management attention or support. From March through December 1995, the lead analyst worked on the review. Other Agency components provided assistance to the analyst when tasked, but this assistance was not a priority for the other components and was not always easy to obtain. A number of studies were requested from other components by the lead analyst in May 1995. The results of some of those studies were not provided until October 1995, and one study was not completed until February 1996.

In the fall of 1995, an analyst providing ad hoc support to the lead analyst on the issue of fallout from Coalition bombing determined that Khamisiyah was a possible chemical weapons storage site and that it may have been destroyed by Coalition forces. In December 1995, OSWR managers instructed the lead analyst to work full-time on the Gulf War illnesses issue. Throughout 1996, approximately individuals provided

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limited support to the analytic effort, in the form of responses to specific taskings or assistance with reports and modeling.⁴⁰

After evidence surfaced that Khamisiyah was a possible chemical weapons storage site, and particularly after the lead analyst concluded in March 1996 that US troops may have been exposed to chemical agents there, OSWR managers should have made an effort to dedicate additional resources to the review. From December 1995 through March 1997, the Agency's analytic effort focused primarily on Khamisiyah, and the lead analyst's time was consumed with issues relating to the events at that site. This came at the expense of his ability to complete his review of all intelligence holdings with possible relevance to Gulf War illnesses.

As many as individuals worked full-time reviewing documents related to the Gulf War illnesses issue for declassification and release during 1996, while continued the analytic review with limited support from other analysts.⁴¹ Only in March 1997, two years after the start of the review, did ADCI Tenet create a Persian Gulf War Illnesses Task Force, including an interagency team of up to analysts to research possible causes of the illnesses.

In commenting on a draft of this report, the Director, Office of Transnational Issues contended that we had not sufficiently taken into account other priorities and the trade-offs that must be made in utilizing limited analytical resources. He pointed out that CIA has devoted significant chemical warfare (CW) analytic expertise to the Gulf War illnesses issue and that work on other CW-related issues has slowed as a result. We understand and appreciate these concerns, but we nevertheless believe that steps could have been taken to provide research and analytical reinforcements to the Gulf War illnesses review without depleting the Agency's limited core of CW expertise.

⁴⁰ The lead analyst estimates that approximately CIA employees and contractors assisted with the analytic effort. The time spent by most of these individuals on the analysis varied

The contractor working on modeling worked approximately on the effort. Numerous other individuals provided assistance with graphics, interface with outside organizations, editing, and searching for information.

⁴¹ DCI Deutch and Executive Director Slatkin expressed interest in ensuring that sufficient resources were applied to the declassification and release effort, but we found no indication that they specifically expressed concern about the resources applied to the analytic effort.

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Allegation: The careers with the Agency were effectively destroyed because of their insistence on pursuing an inquiry about the exposure of United States armed forces to chemical weapons during the Persian Gulf War.

alleges that CIA managers retaliated against him for pursuing an inquiry into causes of Gulf War illnesses. Specifically, he believes that the retaliation took two forms: he was denied positions within the Directorate of Intelligence (DI) for which he was well qualified, and he was subjected to illegal and inappropriate security procedures.

alleges that CIA managers retaliated against her by repeatedly denying her a promotion. We found no evidence to support any of these allegations.

Details regarding our findings concerning this allegation are not presented here because the object to the release of personal information about their careers.

CONCLUSION

We found no evidence of improper withholding of Gulf War illnesses information from the public in connection with the Agency's efforts to declassify and release relevant documents, the removal and subsequent restoration of GulfLINK documents, or the processing of

FOIA request, but the search for relevant documents and review of material for release have been less than optimal. Senior Agency management needs to ensure that the resources and attention devoted to ongoing efforts to identify relevant documents and review them for release are commensurate with the commitments the Agency has made.

Agency managers ultimately limited the inquiry into Gulf War illnesses issues because of concerns about how their inquiry was being conducted. The Agency has seriously considered available evidence related to Gulf War illnesses, but Agency managers did not initially apply sufficient resources to the Agency's analytic effort. We found no evidence that the Agency destroyed the careers because of their inquiry into Gulf War illnesses.

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Exhibit A

Glossary

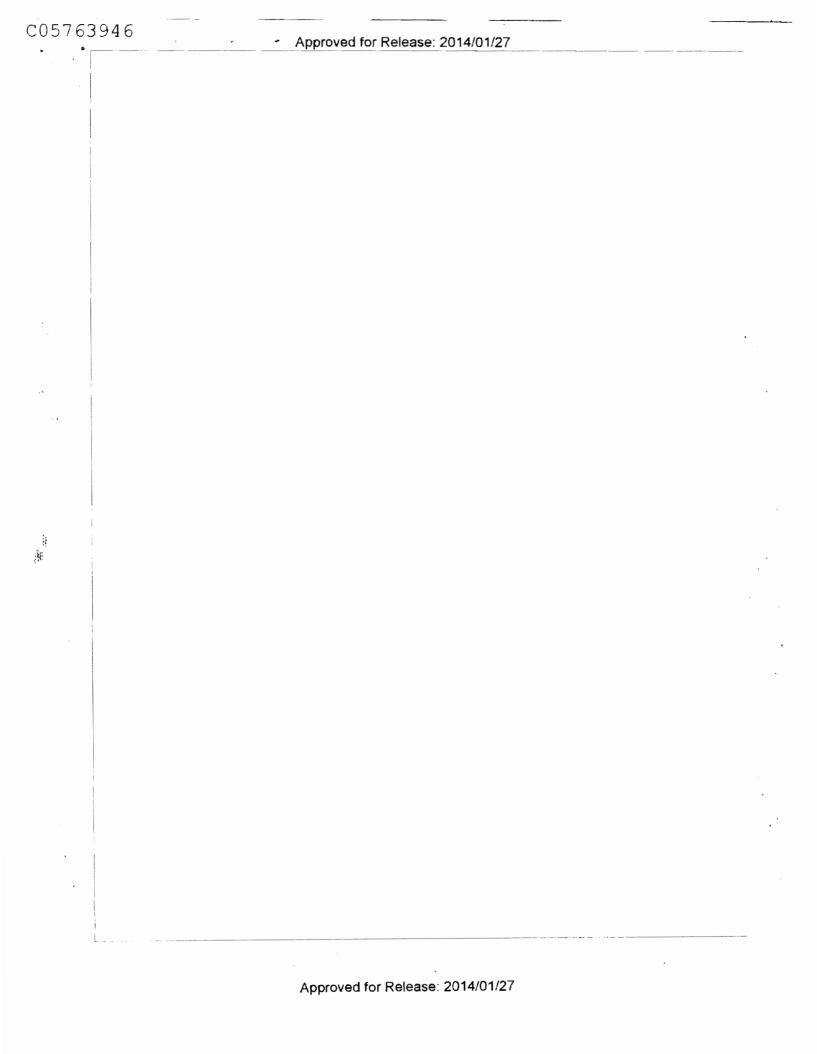
ADCI	Acting Director of Central Intelligence
CENTCOM	US Central Command
DA	Directorate of Administration
DCI	Director of Central Intelligence
DDCI	Deputy Director of Central Intelligence
DDI	Deputy Director for Intelligence
DepSecDef	Deputy Secretary of Defense
DI	Directorate of Intelligence
DO	Directorate of Operations
DoD	Department of Defense
DoJ	Department of Justice
DS&T	Directorate of Science & Technology
DTIC	Defense Technical Information Center
ExDir	Executive Director
FOIA	Freedom of Information Act
GWI	Gulf War Illnesses
HPSCI	House Permanent Select Committee on Intelligence
IMO	Information Management Officer
IPCRD	Information, Privacy, and Classification Review Division
IRO	Information Review Officer
MORI	Management of Officially Released Information
NPIC	National Photographic Interpretation Center
NSC	National Security Council
OGC	Office of General Counsel
ORD	Office of Research and Development
OSWR	Office of Scientific and Weapons Research
PAC	Presidential Advisory Committee on Gulf War Veterans' Illnesses
PGIT	Persian Gulf War Veterans' Illnesses Investigation Team (DoD)
PGWITF	Persian Gulf War Illnesses Task Force (CIA)
PGWVITF	Persian Gulf War Veterans' Illnesses Task Force (CIA)
SecDef	Secretary of Defense
SSCI	Senate Select Committee on Intelligence

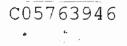
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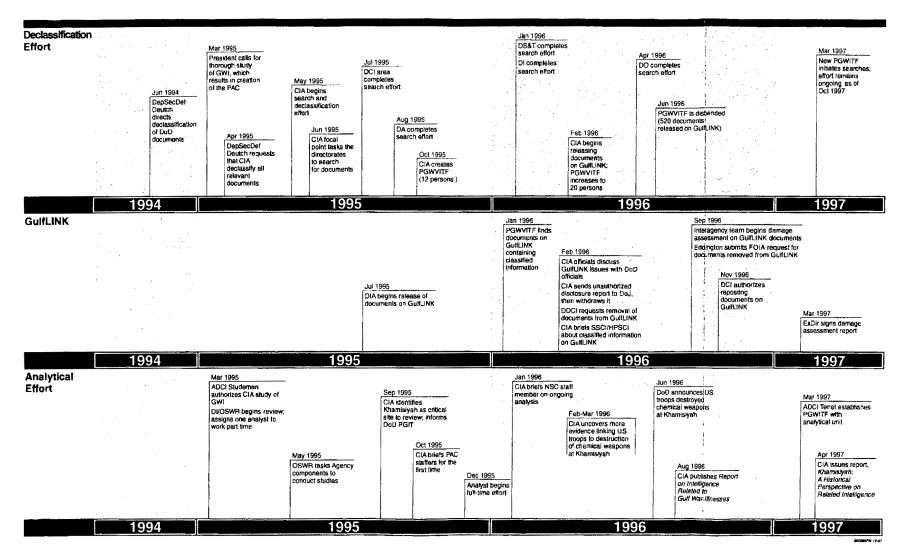


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Key Events Related to CIA Gulf War Illnesses Efforts



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CENTRAL INTELLIGENCE AGENCY

Office of Inspector General Audit Staff (b)(1) (b)(3)

CENTRAL INTELLIGENCH REPORT

SPECIAL ASSESSMENT

(U) Information Declassification and Release Efforts

NFC 9 1996

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(U) Special Assessment (U) Information Declassification and Release Efforts

(U) SUMMARY

(ATSQ) As currently configured, the Agency's declassification and release efforts lack the cohesion and focus necessary to effectively comply with applicable disclosure law and policy or to provide assurance that intelligence sources and methods are adequately protected.

(ANQ) Lack of centralized management with authority to establish standards applicable to all declassification and release efforts, to reallocate resources as priorities change, and to oversee the development of a rational infrastructure has resulted in inconsistent declassification and release policies and inefficient use of limited resources. Declassification and release authorities are not clearly assigned and limited to those who need them. The Agency lacks a functional centralized data base of released information. Costs of declassification and release efforts cannot be accurately determined. Automated systems under development for declassification and release purposes are suffering cost overruns, may be redundant, and may not meet user needs.

(ANO) The administration of declassification and release efforts should be brought together under a single manager invested with authority commensurate with this responsibility. This official should control resources, establish consistent policies across declassification and release programs, and ensure consonance of release decisions. This official should also undertake a complete review of current automated systems development efforts with the goal of ensuring that the Agency's investment in technology will yield coherent declassification decisions and a working central repository of released materials.

(ANO) Senior Agency management needs to ensure that the authority to declassify and release Agency information is appropriately delineated and assigned. Senior management also needs to evaluate policies implemented in the 25-year automatic declassification program that have substantially increased the program's cost, jeopardized its ability to meet the requirements of Executive Order 12958, and could expose the Agency to criticism.

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(U) OBJECTIVES, SCOPE, AND METHODOLOGY

(U) This special assessment was undertaken at the request of the Executive Director. The objectives of the assessment were to review the organization and operation of the Agency's information declassification and release efforts to determine whether:

- These efforts are organized to operate efficiently and effectively.
- Results can be reasonably measured.
- Consistent standards have been established and applied.
- There are procedures to adequately protect sources and methods.
- Released material is properly coordinated and controlled.

(U) We reviewed portions of the National Security Act of 1947 (50 U.S.C. 401) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a) relating to the responsibility of the Director of Central Intelligence (DCI) to protect intelligence sources and methods. We examined Executive orders that require the review of classified information for potential declassification and release, with special emphasis on Executive Order 12958, *Classified National Security Information*. Statutes that require the release of information by CIA were also reviewed, as were two recent statutes that define the role of the Chief Information Officer for other US Government agencies.¹

(U) We examined the Agency's Congressional Budget Justifications for fiscal years 1994 through 1997, and the relevant parts of the Intelligence Authorization Acts for fiscal years 1995, 1996, and 1997. We also reviewed relevant requirements of Federal regulations.

(U) We compared CIA regulations to the requirements of disclosure statutes, Executive orders, and applicable Federal regulations. We identified the authorities provided to the managers of the Agency's declassification and release programs in CIA regulations. We also reviewed DCI Directives and Directorate of Operations (DO) Instructions in all relevant areas.

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¹ (U) Paperwork Reduction Act of 1995, Pub L. No. 104-13, 109 Stat. 163 (1995) (codified at 44 U.S.C. § 3501 et seq. (West Supp. 1996)); Information Technology Management Reform Act of 1996, Pub L. No. 104-106, 110 Stat. 679 (1996)

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(AIDQ) We reviewed recommendations made by the Inspector General in inspection reports on the Publications Review Board, the Agency's regulatory system, the Office of Information Technology (OIT), and recordkeeping in the DO. We examined a 1992 report by a CIA task force appointed by the Executive Director to review CIA's information release programs for consistency with the DCI's openness policy, and a 1993 report on information management and security issues by the Joint Security Commission convened by the Secretary of Defense and the DCI. In addition, we reviewed publications of the Records Declassification Program (RDP) of OIT and minutes of the various Agency panels that work on declassification and release issues.² Finally, we reviewed the September 1996 report of the Information Management Projects Task Force. A bibliography is at Exhibit A.

(U) We interviewed managers of the declassification and release programs, senior managers responsible for collecting, maintaining, and protecting Agency information, and other responsible officials. The estimated costs of declassification and release efforts shown in the exhibit to this report were provided to us by management or were drawn from the Agency's accounting system with no further verification by us.

(U) We visited each of the declassification and release program offices to gain an understanding of their organization, standards, procedures, and controls. Also, we reviewed the automatic data processing systems in use or being developed in each office. To compare the Agency's programs with similar efforts in other US Government agencies, we visited and were briefed on the programs of the US Air Force, the US Department of State, and the US Army's Gulf War Declassification Project. We visited the National Archives and Records Administration's declassification office to gain an understanding of its requirements for the acceptance of CIA's material. Finally, we interviewed the Director of the Information Security Oversight Office, who, in consultation with the Assistant to the President for

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² (Atteo) A number of panels and boards advise the Agency and the Intelligence Community on various aspects of declassification and release. Of the CIA panels, we reviewed the available minutes from the meetings of the Historical Records Policy Board, the Agency Release Panel, the Agency Information and Records Management Panel, and the Classification Management Review Group. We also obtained information on Intelligence Community panels, including the Community Historical Review Advisory Committee, Intelligence Community Declassification Program Managers' Council, and the Interagency Security Classification Appeals Panel. In addition, we read the weekly reports from 11 July 1995 through 4 November 1996 of *Information Release News*, a publication distributed by the Information, Privacy, and Classification Review Division of OIT.

National Security Affairs and the Director of the Office of Management and Budget, directs and reviews the declassification efforts mandated by Executive Order 12958.

(U) As requested by the Executive Director, our assessment focused on the Agency's declassification and release programs. We did not examine the entire information management structure, and we did not attempt to address the full range of issues involved in the information management field. The Director of Information Management's Information Management Business Process Reengineering study is exploring this area more fully.

(U) Our assessment was conducted from June through October 1996. Comments on a draft report were obtained from appropriate officials and were considered in the preparation of this final report.

(U) BACKGROUND

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(ANO) Declassification is defined by Executive Order 12958 as "the authorized change in the status of information from classified information to unclassified information." In the absence of a formal definition in statute, Executive order, or regulation we have interpreted release authority to mean the authority exercised by a properly designated official to provide Agency information to a recipient outside the Agency. Released information may be classified, in which case the recipient must be properly authorized to receive it, or the released information may be unclassified (either because it never was classified or because it has been declassified) and placed in the public domain. For purposes of this report, we use the terms release and release authority to refer to the transfer of unclassified material into the public domain. Thus, the Agency's information declassification and release efforts are intended to accomplish two distinct functions: the declassification of information and the release of unclassified information.³

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³ (ADO) In commenting on the draft of our report, the Associate General Counsel at the DI noted that "The declassification of information should not be seen to permit automatic release of the information. Unclassified information could include information protected from release under the Privacy Act or some other statute, as well as information protected by, for example, the deliberative process privilege."

(U) The Declassification and Release Programs

(AIOO) CIA efforts toward records declassification and the attendant release of information to the public result from the mandates of statute, Executive order, ad hoc requirements on special topics, and litigation.⁴ Several declassification efforts undertaken in response to matters of high Executive branch interest have been conducted by special temporary groups, but our focus was on the three ongoing centers of effort related to information declassification and release:

- The Information, Privacy, and Classification Review Division (IPCRD) of OIT in the Directorate of Administration supports Office of General Counsel litigation and processes requests for information releases from private citizens and various nongovernment organizations made under the Freedom of Information Act (FOIA), the Privacy Act, and the mandatory provisions of Executive Order 12958.5
- The Historical Review Group of the Center for the Study of Intelligence in the DCI area addresses the declassification and release of collections of records of high historical interest such as those involving the Kennedy assassination, those requested by the Department of State for its Foreign Relations of the United States

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⁴ (U) Other programs within the CIA are concerned with Agency information that becomes available to the public. The Public Affairs Staff has regulatory authority to release unclassified information. The Publications Review Board reviews the nonofficial writings of current and former Agency employees to ensure that they comply with their secrecy agreements.

⁵ (U) Executive Order 12958 includes three declassification programs—automatic, systematic, and mandatory. The automatic program provides for automatic declassification of information after 25 years unless an agency takes action to keep the information classified. Material may be exempted under this program, but it then becomes subject to declassification in the other two programs. The systematic declassification program requires the ongoing review of historically valuable records exempted under the automatic program. Selection is to be based on researcher interest, likelihood of declassification, and recommendations from an advisory council established under the Executive order. Finally, the mandatory program requires review of records requested with sufficient specificity to enable an agency to locate them with a reasonable amount of effort, if the records are not exempt from search under the CIA Information Act, or have not been reviewed in the past two years.

⁽U) The CIA Information Act (Pub L. No. 98-477, October 15, 1984) amended the National Security Act of 1947 by adding title VII, Protection of Operational Files of the Central Intelligence Agency (50 U.S.C. 431). It exempts certain operational files of the CIA from the provisions of the Freedom of Information Act that require search, review, publication, or disclosure.

Historical Series (FRUS), and those subject to the systematic review requirements of Executive Order 12958.

• The Records Declassification Program (RDP) of OIT is responsible for satisfying the requirements of Executive Order 12958 for automatic declassification of records 25 years old or older.

(U) For purposes of this report, we refer to these programs as declassification and release programs.

(U) Control of Information

(AIOO) Within the CIA, information has traditionally belonged to the directorate that produces it, and the concerned Deputy Director must agree to its declassification and release. Each directorate has an information management program headed by an information management officer. These information management programs are organized in hierarchical structures that parallel the directorate organizations. The information management programs are responsible for conducting searches for directorate information relevant to any ongoing declassification and release program. The conduct of searches is the most visible aspect of the support provided to the declassification and release programs by information management officers. They also provide other support, such as the maintenance of records that make information retrieval possible.

(ANO) Working with the information management programs are the information review officers. Each Deputy Director has appointed a single information review officer to control the declassification and release of directorate information. The information review officer is an experienced career officer of the directorate who provides substantive review of information being considered for declassification and subsequent release.

(ATUO) The declassification and release programs rely on the information management officers to locate relevant documents and on the information review officers to exercise substantive judgment on the extent to which documents can be declassified and released. Managers of the declassification programs sometimes disagree with information review officers' decisions and appeal them to the Agency Release Panel. If either

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side is dissatisfied with the Agency Release Panel's decision, a further appeal can be made to the Historical Records Policy Board.⁶

(U) DCI Guidance on Openness

(U) Guidance on Agency policy regarding openness to the public is available in two DCI policy statements. In February 1992, DCI Robert Gates established a policy of greater CIA openness "to make CIA and the intelligence process more visible to the American public." The DCI directed the Intelligence Community to fulfill the letter and spirit of the laws requiring disclosure, and the policy initiative was to include more liberal guidelines for the declassification of material 30 years old. As a start, DCI Gates and his successor, James Woolsey, named a total of 11 covert actions that would be declassified; two of these are now in process. The Agency has been subject to criticism with regard to the pace of implementation of this commitment.

(U) Following the issuance of Executive Order 12958, DCI John Deutch signed a policy statement on declassification to guide the Intelligence Community's implementation of the Order. This policy has four requirements: (1) declassification of historical collections; (2) development of programs to declassify publicly valuable collections as identified by the Center for the Study of Intelligence and an advisory council; (3) use of risk management approaches to declassification;⁷ and (4) creation of a Community council. See Exhibit B.

(U) Taken together, these two policy statements appear to especially encourage the application of an openness approach to the systematic declassification of historical material by the Center for the Study of Intelligence.

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⁶ (AHOQ) The Agency Release Panel is composed of the Director of Information Management (chair), the information review officers, chiefs of each of the declassification and release programs, and representatives of the Publications Review Board, Office of General Counsel, Office of Congressional Affairs, and the Public Affairs Staff. The Historical Records Policy Board is composed of the Executive Director; the Deputy Directors; the General Counsel; the Director of Congressional Affairs; the Director of Public Affairs; the Director, Center for the Study of Intelligence; and the Associate Deputy Director for Administration for Information Services.

⁷ (U) The DCI directed the Intelligence Community to incorporate risk management approaches into its declassification programs, including the use of bulk declassification and sampling techniques that avoid the need for page-by-page review.

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(U) DETAILED COMMENTS

(ATBQ) Declassification and Release Efforts Lack Necessary Cohesion and Focus

(AIDQ) There is an inherent tension between the mandates that call for declassification and release of CIA records and the DCI's statutory responsibility for the protection of intelligence sources and methods from unauthorized disclosure. Reconciling these imperatives would be a challenge under the best of circumstances. As currently configured, however, the Agency's declassification and release efforts are not well positioned either to meet the requirements of applicable mandates for information declassification and release or to adequately safeguard sources and methods. Declassification authority has been given to many Agency officials who do not need it, and authority to release information outside the Agency has not been granted to some managers in the declassification and release programs who do need it. Failure to develop a common repository of released material raises serious questions about needless duplication of effort and the protection of sources and methods from inadvertent disclosure. The absence of a single official with authority to establish standards applicable to all declassification and release efforts, to reallocate resources among the three ongoing efforts as priorities change, and to manage the development of a supporting infrastructure free of unnecessary duplication and waste has resulted in inconsistent declassification and release policies and the inefficient use of limited resources.

(ÀNQ) Declassification and Release Authorities Are Not Clearly Assigned or Limited to Those Who Need Them

(AHUQ) To operate effectively, the declassification and release programs need both the authority to declassify information and the authority to release unclassified information. Except for those powers explicitly granted by the DCI to the Center for the Study of Intelligence,⁸ the declassification and release programs do not have the clearly defined authorities needed to accomplish their missions. Declassification authority

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⁸ (ATOQ) CIA Historical Review Program, which was signed by the DCI, gives the Director, Center for the Study of Intelligence custody, control, declassification, and release authority for records selected for review.

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has been granted to some who do not need it, and release authority has not been explicitly granted to all who do need it.

(AHUO) Under Executive Order 12958 individuals with original classification authority automatically have declassification authority with respect to information they originally classified, as do their successors in function, or the supervisor of either. In addition, the Executive order permits the agency head or the senior agency official administering the Order to delegate declassification authority. On 13 October 1995, the Deputy Director for Administration (DDA), as the senior CIA official administering the Order, delegated broad declassification authority (i.e., authority to declassify any classified information) to 393 individuals and positions. We were told that the number of declassifiers listed in this delegation is greatly reduced from those designated under predecessor Executive Order 12356. Even so, we do not believe that the list is limited to those officials who need broad declassification authority. Nearly half of the positions specified in the list already had original classification authority and thus had declassification authority with respect to information they originally classified.9

(AIVQ) Delegations of release authority may be made by the DCI for all CIA information or by the Deputy Directors for the information of their respective directorates. Other than the DCI's grant of authority to the Center for the Study of Intelligence, few explicit delegations of release authority have been made to individuals or positions in regulation or written delegation. The Deputy Director for Operations has delegated release authority to his information review officer. The Deputy Director for Science and Technology has delegated "denial authority" to her information review officer. The other two Deputy Directors told us that the delegation of

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⁹ (ANO) The decision memorandum to the DDA explaining the need for delegation of broad declassification authority to the 393 individuals and positions noted that broader authority was needed to permit flexibility as the new Executive order was implemented. We agree that certain officials in the declassification and release programs need broad authority, but we see the delegation of such authority to others as being unnecessarily expansive.

⁽ADQ) We do not understand why so many original declassifiers able to declassify their own work also need the authority to declassify the work of other offices. Moreover, some positions on the list do not appear to need any declassification authority to perform their work. For example, it is unclear why the Director of Public Affairs, who by regulation can release unclassified material to the public, needs declassification authority that extends to information classified by other offices. Combination of declassification and release authority in the same individual should be limited to instances in which it is absolutely necessary.

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release authority to their information review officer was implied in the appointment to the position.

(AT&Q) The Agency Release Panel and the Historical Records Policy Board have authority to make final release decisions in the case of appeals.¹⁰ In addition, the Director of Public Affairs has specific regulatory authority to release unclassified information to the public, and the Director of Information Technology and the Information and Privacy Coordinator of IPCRD may have implied authority to release information by virtue of being assigned responsibility in regulation to respond to FOIA, Privacy Act, and Executive order requests. Release authority granted in regulation to the Associate Deputy Director for Administration/Information Services and the Director of Information Management, and interpreted by them to be applicable to all Agency information, is in fact limited to Directorate of Administration (DA) information because the regulation was signed by the DDA who does not have Agency-wide release authority.¹¹

(ANQ) Clearly delineated and assigned declassification and release authorities are needed to enable the declassification and release programs to function efficiently and effectively. Moreover, failure to ensure that these authorities are appropriately and unambiguously delegated jeopardizes the DCI's ability to fulfill his statutory responsibility for the protection of intelligence sources and methods. For example, the Special Investigations Branch of the Office of Personnel Security told us that its investigations of unauthorized disclosures of intelligence information were sometimes complicated by uncertainty about release authorities; the Branch is not always able to readily determine when an ostensible leak is in fact an unauthorized disclosure.

¹⁰(ANQ) According to *Historical Records Policy Board*, the Agency Release Panel, "functioning as a committee or through individual members, will make final Agency decisions on appeals of initial denial decisions" under FOIA, Privacy Act, and Executive order mandatory review. Any member of the Agency Release Panel who disagrees with the proposed decision made by the Agency Release Panel may cause the appeal to be referred to the Historical Records Policy Board, which "renders final Agency decisions on issues of releasing Agency information."

¹¹ (ATOQ) We found no specific delegation of Agency-wide release authority to the DDA. The DDA is designated as the senior Agency official responsible for administering Executive Order 12958, but the Order is silent on the subject of release.

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(ATBQ) The Agency Does Not Have a Central Record of Released Information

(ANQ) Previously released Agency information cannot be identified from a central location or data base. Anyone needing to know what has been released on a particular topic, or if a particular document has been released in whole or in part, must go to the various declassification and release programs and directorate information review officers for assistance. Those charged with performing declassification and release functions cannot readily determine with certainty what decisions are being made by others with similar responsibilities and the potential exists for multiple reviews of the same information.

(ANIQ) Until about 1994, information released in response to FOIA and Privacy Act requests was entered in a microfiche collection known as ORIS (Officially Released Information System) maintained by IPCRD. The use of ORIS for new releases was stopped in 1994 in anticipation of the development of a computer-based system. Since then, volumes of material released through IPCRD have accumulated in paper form and, together with the information contained in the moribund ORIS, have constituted the most reliable record of released material in the Agency.¹² Although information review officers in the directorates have each devised their own methods to track information releases in their respective areas of responsibility, they rely on IPCRD to maintain and review previously released material when processing new FOIA and Privacy Act requests.

(ANQ) The Historical Review Group in the Center for the Study of Intelligence has several data bases to identify documents released through the systematic review program, but it does not consider any of these data bases to be complete. When the Records Declassification Program's automatic declassification effort is operating, redacted documents will be stored in the Image Workflow Automation System (IWAS).

(AINQ) The Management of Released Information system (MORI) has been in development for several years but is not yet fully operational. The system was developed as a central data base to be used by all

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¹² (AHJQ) The Chief of Management Services Group of OIT agreed in comments on our draft report that IPCRD had halted its ORIS microfiche efforts in anticipation of the development of a computer-based system as a central repository of released Agency information, but noted that IPCRD continued its efforts of document collection and indexing. We were told by officials familiar with the computer-based system currently in development that the documents previously recorded in ORIS have now been input and indexed in the computer-based system.

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declassification and release programs, but it may not meet the needs of all the programs when it is completed. IPCRD has started to use MORI, and the Historical Review Group will pass documents to IPCRD for scanning into MORI when it becomes fully operational. RDP is not currently planning to use MORI for the automatic declassification program. Systems development concerns are discussed in detail in a later section of this report.

(AIUO) Once information is released, it becomes officially acknowledged and the Agency can no longer deny access to that information. Under the current arrangement of declassification and release programs, the possibility exists for one declassification and release program to deny access to information that has previously been released by another. Frequent requesters of Agency information are aware of what information has been released, and such an inconsistency could reflect poorly on the Agency's credibility.

(A100) Standard Procedures Applicable to All Declassification and Release Efforts Have Not Been Established

(Attoo) Each declassification and release program establishes its own guidelines and standards for reviewing documents. The programs are subject to different requirements that cause variation in how documents are reviewed, but to the maximum feasible extent, the Agency should have consistent standards for declassifying and releasing documents. Under the current decentralized arrangement, a single document could be subject to several reviews using different guidelines, resulting in releases of different information from the same document.

(AIUO) Because the Agency does not have an official declassification guide for use in all programs, the User Guide for Original Classification Authorities in CIA Under Executive Order 12958, effective 14 October 1995, is being used as a declassification guide by some Agency personnel.

(AHQ) To assist reviewers in the automatic declassification program, RDP assembled its own declassification guide. The guide contains general descriptions of information that should or should not be declassified under the Executive order. It also contains guidance on other requirements that reviewers need to know, such as Department of Energy-restricted data and FOIA and Privacy Act considerations. Other offices and individuals involved with redacting—primarily IPCRD, the Historical Review Group, and directorate information review officers—have reviewed RDP's

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declassification guide and agree that it provides good general guidelines. They use it as background information, but essentially rely on their own more specific guidelines.

(AHUQ) We recognize the need to develop guidelines relevant to the project at hand, such as the specific guidance developed for review of Persian Gulf War veterans' illnesses or Kennedy assassination documents. Because there is no central authority over declassification, however, there is little coordination or oversight of these guidelines. In our discussions with responsible officials from the various programs, we discovered that reviewers frequently learn through hallway discussions how different programs are handling similar documents. It is fortunate that many reviewers are located in the same building and can share conversations, but this is not an effective way to ensure the consistent application of declassification standards.

(AtVQ) Costs of Declassification and Release Efforts Cannot Be Accurately Determined

(ANIO) We asked managers of the declassification and release programs and of related information systems projects to provide the total resources utilized by declassification and release efforts, including special searches. Program managers were unable to provide resource information beyond estimates that do not include large portions of the overall costs. No one could provide costs for special searches except for an estimate of \$1.2 million spent in fiscal year 1996.¹³

(S) Clearly, the Agency is spending a significant amount each year on declassification and release programs. Estimates provided to us by Agency managers indicate that these programs and the special searches together spent in fiscal years 1995 and 1996 respectively. These estimates do not include costs for nondedicated personnel who perform searches and review documents within the directorates; such costs could not be estimated. Additional details regarding funds and personnel devoted to declassification and release efforts can be found in Exhibit C.

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¹³ (U) We were unable to determine which special searches were included in this amount, and we did not verify any of the amounts provided by management.

(AIBO) Various factors contribute to the difficulty encountered in determining the costs of declassification and release. The declassification programs are dispersed, with two major programs in the DA, one in the DCI area, and much of the document searches and reviews done in the directorates by personnel who perform other duties as well. The costs associated with the directorate search and review process cannot be accumulated because the Agency's financial system does not gather all program costs or track personnel time attributed to a program. In addition, managers have not established unique program numbers within the system to collect and summarize the different declassification costs that can be identified.

(AHJQ) Automated Systems for Declassification and Release Are Costly and Do Not Meet User Needs

(ANQ) Systems development efforts for the declassification and release programs have been characterized by poor system performance, cost overruns, scheduling delays, and possible duplication of effort. The systems do not meet user needs.

(ANUQ) We focused on the two main declassification and release systems, Management of Released Information and the Image Workflow Automation System. Users of both systems require similar capabilities: document scanning, redaction, workflow (managing taskings sent to other components), and a data base of released materials. Neither of the two systems meets these needs completely.

(AHJQ) MORI Has Not Met Original Goals, But New Capabilities Have Been Planned

(ATUO) MORI was created primarily as a central repository of all released Agency information,¹⁴ but system requirements have been expanded to include redaction and workflow capabilities. MORI was to include all previously released documents by the end of fiscal year 1995, but it contains only a portion of IPCRD's previously released material.

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¹⁴ (ANQ) In fiscal year 1994, OIT created a new budget initiative to build MORI to be the Agency's centralized repository. The repository is intended to store multiple categories of data including releases under FOIA and the Privacy Act, FRUS, DCI speeches, historical reviews, and Congressional inquiries.

(ANQ) Despite system problems and a failure to meet the goals set for MORI to function as a central repository, OIT accepted the Gulf War Illness Task Force as a new user of MORI in December 1995. This was at a time when the system was experiencing problems such as freezing work stations, slow printing, and inconsistent searches. In March 1996, OIT activated a commercial redaction capability that was already available in software being used for MORI, although this particular software application was never intended to be used. The Task Force found that the capability was too labor intensive, and redaction blocks sometimes slipped, causing the wrong lines to be redacted. The commercial redaction capability was dropped from the system, and OIT now plans to build its own redaction module in fiscal year 1997.

(ANUO) Given the volume of requests for information received by the Agency, the ability to track requests and component responses is very important, especially to IPCRD and to the directorate information review officers. OIT has plans to add a workflow capability to MORI, but because that has not yet happened, the directorates are creating their own tracking capabilities.¹⁵ It would be more efficient to have one tracking data base that could be used by all concerned parties to monitor the movement of requests through the review process.

(G) In addition to not meeting user needs, MORI has been subject to scheduling delays and cost overruns. The initial cost estimate for the system was_______ to be spent during fiscal years 1994 through 1999. The current projected costs for those years are_______ with an additional requested for the years 2000 through 2002. Although the total cost of _______ includes added capabilities to meet new requirements, it is more than _______ the original estimated cost. In the meantime, after two years of effort, the declassification and release programs still do not have the central repository originally designed as part of MORI.

(ANQ) RDP Will Develop Another System To Meet Similar Requirements

(S) IWAS is intended to serve as a production system to facilitate redaction and workflow in the automatic declassification program. An

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¹⁵ (AIUO) The DA and Directorate of Science and Technology have developed tracking capabilities within Lotus Notes. The Directorate of Intelligence has asked the Office of Information Resources to assist its information review officer and substantive analysts in evaluating how they can use automation more efficiently.

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independent team of systems experts from within the Agency evaluated whether or not RDP should use MORI and recommended that RDP acquire its own system. RDP has critical needs for redaction and workflow capabilities not currently provided by MORI. The Director of Information Technology, on 25 June 1996, granted approval for RDP to issue a request for proposal for procurement of IWAS, which will cost an estimated

. (AIUO) RDP has developed a prototype of IWAS that meets about half of the stated requirements, but it has not yet released a request for proposal to potential contractors. Because of funding limitations discussed later in this report, RDP cannot purchase the necessary hardware and software licenses to test the system. The ability of IWAS to meet the needs of RDP is uncertain at this point.

(AIDQ) Decisions Must Be Made Regarding the Future of Declassification and Release Systems

(AUQ) The Agency is spending valuable resources on two different systems to perform essentially the same tasks. Each serves a slightly different purpose and user population, but in the end, both will provide the same functionality. In addition, some capabilities of the declassification and release systems are duplicated elsewhere in the Agency, particularly scanning.

(ATUO) User complaints about MORI and the decision by RDP to develop its own system prompted the Associate Deputy Director for Administration for Information Services to request a study of information management systems. The Information Management Projects Task Force was established in May 1996, and completed its work in September. In its report, the Task Force recommends a more systematic and uniform approach to information management across the Agency.¹⁶

(AIUO) The status of the two systems currently being developed for declassification and release purposes should be reviewed to determine

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¹⁶ (AUQ) The Task Force recommended the development of an integrated Agency-wide information management architecture to be called the Agency Corporate Memory Environment or ACME that would allow the electronic management of all records. Other recommendations include:(1) building an infrastructure for decisionmaking and program execution on information management issues and (2) creating an electronic environment that would begin immediately with the implementation of an electronic correspondence management system.

whether these systems will ultimately meet the Agency's needs and whether two separate systems should continue in development.

> (AIUO) Standardized Training Is Not Available to All Involved in Declassification and Release

(AIUO) The Agency does not provide a comprehensive training program for personnel responsible for declassifying and releasing Agency information. Currently, each of the declassification and release programs provides different training for its reviewers. Although some programspecific training is necessary within each program, combining training courses and providing cross-training of reviewers from different programs would result in better use of training resources and more consistency in the review process.¹⁷

(AIUO) The Agency should have a unified training program for all reviewers in the requirements of the different programs. Reviewers should have a thorough background in all aspects of declassification and release to ensure that they fully understand the ramifications of their decisions. Crosstraining of reviewers from different programs would enhance consistency in information release and would provide the flexibility to move resources among the programs as necessary. In addition, a unified training program would eliminate redundancies in the current programs and result in more efficient use of resources.

(AIUO) Strong Management Is Needed

(AIUO) Centralized management is needed to provide consistency in declassification and release policy, direction to the three programs, and effective use of limited resources. It is crucial that the individual selected

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¹⁷(AHO). The directorates' information review officers identified a number of training courses available to Agency personnel covering declassification and release issues. Among the courses cited were: the Disclosure Course from OIT University, a three-day Agency history and organization course, FOIA for Attorneys and Access Professionals by the Department of Justice, Introduction to FOIA and Privacy Act by DOJ, courses by the American Society of Access Professionals, interagency seminars, and tutorials given by the information review officers. IPCRD administers and utilizes the OIT University Disclosure Course along with others cited to train its personnel. RDP developed a seven-day course for new reviewers in the automatic declassification program; RDP employees do not attend the other courses. Historical Review Group managers provide on-the-job training to the reviewers performing systematic declassification.

for this task be invested with authority commensurate with the heavy responsibility involved and have the support of senior Agency management to act decisively.

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(AIUO) In June 1992, the Executive Director convened a Task Force on Procedures for the Public Release of Information Under FOIA, Privacy Act, and Other Programs. The Task Force recommended that an Information Release Policy Staff be established, incorporating IPCRD, the Publications Review Board staff,¹⁸ and the Historical Review Group of the Center for the Study of Intelligence under one director. (The automatic declassification program was not in existence at that time.) The Task Force found that there was a need for someone to establish priorities, allocate resources, oversee search and review efforts, and ensure coordination and consistency of release decisions.

(AIUO) The recommendations of the Task Force were only partially implemented. The Director of Information Management position was created to oversee the various release programs, but the Director of Information Management was given no line authority over the programs and no staff or budget to carry out his responsibilities. Along with IPCRD, the Publications Review Board staff was assigned to OIT, but the Historical Review Group remained in the Center for the Study of Intelligence.¹⁹

(AIUO) Had the recommendations of the Task Force been fully implemented in 1992, the Agency declassification and release programs would be more efficient and effective today. The addition of the automatic declassification program to the list of release programs makes centralized management of the programs even more critical.

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¹⁸ (AIUO) At the time of the Task Force's review, the Publications Review Board staff was located in the Office of Public and Agency Information. The Publications Review Board does not release official information; it approves publication of authors' information.

¹⁹ (AIUO) The Director, Center for the Study of Intelligence dissented from the recommendation, as cited in the Task Force report. Although he agreed that coordination between the programs was important, he believed that centralizing the functions under one administrator would create the public impression that the Agency was retreating from the DCI's commitment to release volumes of historical material. He also expressed concerns that under a centralized organization resources would be diverted from Historical Review Group to the other two programs. Task Force members did not agree with these assertions and responded in the report that all Agency release programs are expected to operate under the same openness principles and placing all programs under one administrator would be more efficient and ensure consistency. DCI Gates made the decision to leave the Historical Review Group in the Center.

(AIUO) <u>Recommendation #1 (For the Executive</u> <u>Director)</u>: Ensure that declassification and release authorities are appropriately assigned so that those who need them have them and those who do not need them do not have them.

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(AHQ) <u>Recommendation #2 (For the Executive</u> <u>Director</u>): Consolidate declassification and release programs under one manager with sufficient authority to:

(a) Develop a repository of officially released information that can be shared by all declassification and release programs.

(b) Ensure consistency of declassification and release standards and training.

(c) Control resources utilized in declassification and release efforts.

(AIUO) <u>Recommendation #3 (For the Executive</u> <u>Director</u>): Direct the new manager of declassification and release programs to review the status of programrelated automated systems to determine whether the systems will meet current and future needs and whether they are being developed in an efficient manner.

(AIUO) Several officials who commented on our draft report felt that sufficient attention had not been devoted to three issues: directorate control

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of information, the need for improvements in overall Agency information management activities, and resources for declassification and release efforts.

(AIUO) We recognize that the issue of ultimate control of Agency information, as reflected in the relationship between directorate information review officers and the declassification and release programs, is not addressed in our recommendations. Some officials involved in the declassification and release programs argue that directorate control of information exercised through information review officers located in the directorates will continue to impede implementation of openness precepts and impair efficient operation of the programs no matter what other reforms are made. At the same time, the Deputy Directors vigorously assert that it is essential for the directorates to retain ultimate control of their information because personnel in the programs lack sufficient substantive background to make informed judgments on what can be declassified and released. More autonomous decisionmaking authority would increase the efficiency of the declassification and release programs; whether this can be accomplished without unacceptable risk to sources and methods was outside the scope of our assessment. It is an issue that eventually will have to be faced by senior Agency management.

(AIUO) The Director of Information Management felt our report should have focused more broadly on the "front end" of the information management process, to include records creation, classification, and maintenance. We cannot quarrel with the proposition that the success of declassification and release efforts are directly related to appropriate records being created, properly classified, and filed in recordkeeping systems where they can be efficiently and effectively retrieved. But these areas of information management were beyond our tasking and it would not have been appropriate for us to make recommendations about them.

(ALUO) There is some concern that resources allocated to declassification and release efforts are insufficient. But two deputy directors told us that they were devoting as much to these areas as they could afford. In fact, they maintained that dealing with declassification and release matters had begun to adversely affect primary directorate missions. We made no resource-related recommendations because we were unable to accurately determine the current level of resources involved. Any decision to increase resources devoted to declassification and release should result from a complete review of the Agency's actual investment in these efforts.

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(AIUO) The Automatic Declassification Program Poses Challenges That Must Be Addressed by Senior Management

(AIUO) The Agency is unlikely to meet deadlines established in the automatic declassification program mandated for 25-year old records by Executive Order 12958. The decision to redact documents appears to have been well intentioned, but it has had significant resource implications. The decision to treat the review and release of material that has never been classified as part of the declassification effort could be viewed as a less than good faith effort to comply with the Executive order. Senior Agency management attention needs to be focused on the automatic declassification program.

(U) Executive Order 12958 Established Short Deadlines for Automatic Declassification

(U) Section 3.4 of Executive Order 12958 states that all classified information contained in records that are more than 25 years old and have been determined to have permanent historical value shall be automatically declassified five years from the date of the Order whether or not the records have been reviewed. Agencies were required to submit plans for compliance with the automatic declassification provisions, to include a requirement that each agency declassify at least 15 percent of its records affected by Section 3.4 no later than one year from the effective date of the Order (i.e., by 14 October 1996), with similar commitments for subsequent years.

(AIUO) The five-year deadline established by the Executive order poses a daunting challenge for the Agency. Although some individuals both inside and outside the Agency that we spoke with believe that the Order will have to be amended to provide additional time for automatic declassification, it is impossible to predict what will happen and risky to assume that additional time will be granted. If the automatic declassification requirements of the Executive order are not addressed, whoever is DCI on 17 April 2000 will have to determine whether releasing unreviewed documents pursuant to the Executive order is consistent with the DCI's statutory responsibility for the protection of intelligence sources and methods from unauthorized disclosure.

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(AIUO) Line-by-Line Review and Redaction Is Costly and Time-Consuming

Agency records were surveyed during May and June 1995, and 146.6 million pages were estimated to be classified permanent records over 25 years old.²⁰ A file series exemption request has been submitted to the President for 106.6 million pages of these records in accordance with the provisions of Section 3.4 of Executive Order 12958.²¹ If the exemption request is approved in total, an estimated 40 million pages remain subject to automatic declassification. Line-by-line review of this volume of records is costly and time-consuming.

(AHO) Before the Executive order was signed, a determination was made that classified information should be redacted from documents that were not included in an exempted file series so that substantial numbers of documents could be released in accordance with the spirit of the Order. The Executive order does not require that agencies perform such redaction; but the implementing regulations issued by the Information Security Oversight Office encourage redaction of information specifically exempted from automatic declassification, especially if this information is a small portion of the document.

(C) The decision to redact has had a significant impact on the amount of money and time required to comply with the automatic declassification requirements of the Executive order. Reviewing documents on a pass/fail basis for entire documents²² can be done more quickly and creates less of an administrative burden than reviewing line-by-line for redaction. The Agency's plan for the automatic declassification program provides for a declassification "factory" incorporating extensive automation to convert

²² (U) For purposes of this report, the term pass/fail refers to a review and decisionmaking process for automatic declassification in which documents are either declassified in whole or not declassified at all depending on whether the document contains information specified in Executive Order 12958 as exempt from automatic declassification.

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²⁰ (AUO) Agency reports of survey results cite the amount of CIA records estimated to be affected by Section 3.4 of Executive Order 12958 as 165.9 million pages. Included in this estimate are 19.3 million pages of material that, for the most part, are unclassified and should not be included in any count of classified records. See Exhibit D for a more detailed account of the records estimation process.

²¹ (AIUO) The Executive order provides that agency heads may exempt from automatic declassification specific information falling within nine categories. The order permits agency heads to request exemption from automatic declassification for any entire file series of records that almost invariably contain information from one or more of the exemption categories.

documents into computer images. The plan is for these images to be reviewed line-by-line and redacted on line. Infrastructure costs for RDP were initially estimated to be which includes a facility and automation hardware and software. Some of these costs, as well as some personnel costs, would not be incurred under a pass/fail review process.

(C) The initial cost estimate of 23 for the first five years of the program utilized production standards for reviewers that appear to be overly optimistic. RDP estimated that 100 reviewers would work at an average rate of 1.5 minutes per page while working 50 productive work weeks per year. During our review we visited the US Army's Gulf War Declassification Project, an automated factory similar to that planned by RDP.²⁴ Experience at this facility indicates that reviewers work at an average rate of one page every three minutes.

(C) In producing cost estimates for various declassification programs, other Intelligence Community agencies have similarly assumed that reviewers can complete an average of one page every three minutes and work 47 productive work weeks per year. If the actual experience of the Army's automated factory had been applied to the Agency's declassification factory, RDP would have increased its initial estimates to 213 full-time reviewers, costing at least

<u>(AIUO)</u> Establishment of the declassification factory infrastructure has consumed valuable time and resources that RDP might have immediately devoted to a manual pass/fail review process. During fiscal years 1995 and 1996, RDP developed a prototype automated system and planned the declassification process. But the factory is not yet operating, and no documents have been processed using the automated system. RDP

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²⁴ (U) Unlike the RDP, the US Army's Gulf War Declassification Project is not associated with the automatic declassification provisions of Executive Order 12958. It is an effort of the US Army Center of Military History and its initial task is to respond to requirements of the President's Advisory Committee on Gulf War Veterans' Illnesses.

 25 (AUO) In commenting on our draft report, the Chief, Management Services Group of OIT, representing RDP, said that the estimate of 1.5 minutes per page remains valid because it was based on an average across 40 million pages. According to RDP, 40 percent to 50 percent of the pages to be redacted will require three minutes per page to process, but less time will need to be spent on duplicates, documents referred to other agencies, and documents released-in-full or denied-in-full. We are not convinced that a 1.5 minutes per page rate can be sustained.

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reviewers have manually redacted approximately 14,000 pages of classified documents while awaiting completion of the system.

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(AHUO) The five-year deadline is now only three and a half years away. RDP will need to review over 45,000 pages per day to meet that deadline. Using RDP estimates of time required to perform review and redaction, the factory, not yet operational, will now need to hire 143 full-time reviewers instead of the original 100. Calculations based upon other agencies' estimates indicate that RDP may need as many as 304 full-time reviewers to complete the work in three and a half years. RDP will not know the actual amounts of reviewers and funding needed until the factory is in operation and accumulates some production data.

(AIUO) Several other agencies (including the Department of State, the Air Force, and the National Archives and Records Administration) are performing manual pass/fail reviews of documents subject to automatic declassification. Representatives of each of these agencies told us that they are on schedule to meet the five-year deadline for declassification. Documents held by these agencies are somewhat easier to review than CIA documents, because they do not contain sensitive sources and methods that may need continued protection. The Department of State, for example, has been able to release, in full, 97 percent of the documents reviewed in its automatic declassification program.

(AIUO) The Director of Information Management contends that if RDP conducts pass/fail reviews of entire documents instead of performing lineby-line reviews to redact classified information, the Agency might spend considerable time and effort reviewing 40 million pages and in the end release very little. In his view, if the Agency does not release a substantial number of documents, it will be subject to criticism for failure to comply with the spirit of the Executive order and the DCI's openness policy. We believe that if a pass/fail approach is chosen, the likelihood of a greatly reduced output from the automatic program would have to be publicly acknowledged at the time the decision is made.

(AIUO) Senior Agency management must clearly understand and accept the implications of redacting documents in the automatic declassification program. Performing redaction exceeds the requirements of the Executive order but will permit the Agency to release more documents. But the redaction process takes time and will use resources that might be redirected to other declassification and release programs. The Agency's prospects for meeting the five-year deadline for automatic declassification are

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diminishing, in part because of the decision to redact classified information from documents instead of performing pass/fail reviews of entire documents.

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(AlUO) Congressional Funding Restrictions Have Slowed Progress of Automatic Declassification Program

(C) Funding restrictions placed on the automatic program by Congress have frustrated RDP's efforts to get the declassification factory operating quickly and will seriously affect the outcome of the program. The fiscal year 1995 Intelligence Authorization Act limited spending for the automatic program to _______. RDP spent that amount to plan the declassification factory and develop infrastructure requirements. In fiscal year 1996, RDP spent

The Agency submitted a reprogramming request for an additional in 1996, but the reprogramming was not approved by the House Permanent Select Committee on Intelligence. Without these funds, RDP has been unable to hire independent contractors as reviewers or distribute a Request for Proposal to potential contractors for procurement of equipment.

(AIUO) For fiscal year 1997, the Agency requested and Congress approved funding of for the automatic program. But we were informed that the DDA has placed of this amount on a list of low priority budget items that could be cut to pay for higher priority programs. He has reserved of the appropriated amount to shut the program down.

(AIUO) The Agency is not planning to ask for funds for automatic declassification beyond fiscal year 1997, despite the fact that the program must run at full capacity through the year 2000 and at a reduced capacity thereafter to meet the mandates of the Executive order. We were advised that the Executive Committee had decided not to fund the program due to other priorities.²⁷

(AIUO) The Director of the Information Security Oversight Office at the National Archives, who is responsible for implementing and overseeing compliance with the Executive order, is generally aware of funding problems related to implementation of the automatic declassification provisions, but he believes that agencies can make considerable progress

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²⁷ (U) Section 5.6 of Executive Order 12958 provides that heads of agencies shall, "...(a) demonstrate personal commitment and commit senior management to the successful implementation of the program established under this order; (b) commit necessary resources to the effective implementation of the program established under this order;"

with funds that have been provided. He noted that it would be important for agencies to be able to show that they had made an effort to comply within the limits of the funding available to them.

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(AIUO) Agency Policy on Automatic Declassification Should Be Reexamined

(U) The automatic declassification requirements of the Executive order pose difficult challenges for the Agency, with serious consequences for noncompliance. The Agency undoubtedly will be vulnerable to criticism for failure to adhere to the Executive order. But the most significant consequence is that the Executive order calls for all documents subject to automatic declassification that have not been reviewed as of 17 April 2000 to be automatically declassified at that time.

(AIUQ) Concerned officials appear to have attempted to comply with the spirit of the Executive order and the DCI's openness policy in making decisions regarding the automatic declassification program. Given the high cost of the program as currently structured and the fact that the Agency is unlikely to meet the deadlines of the Executive order, senior management needs to determine how the Agency will proceed.

> (AIUO) <u>Recommendation #4 (For the Executive</u> <u>Director</u>):

> (a) Review the automatic declassification program to determine whether the Agency should continue attempting to redact classified information from documents subject to review, or should refocus its efforts on a pass/fail review.

(b) Instruct appropriate officials to identify, seek, and protect funding levels commensurate with whichever program direction is chosen.

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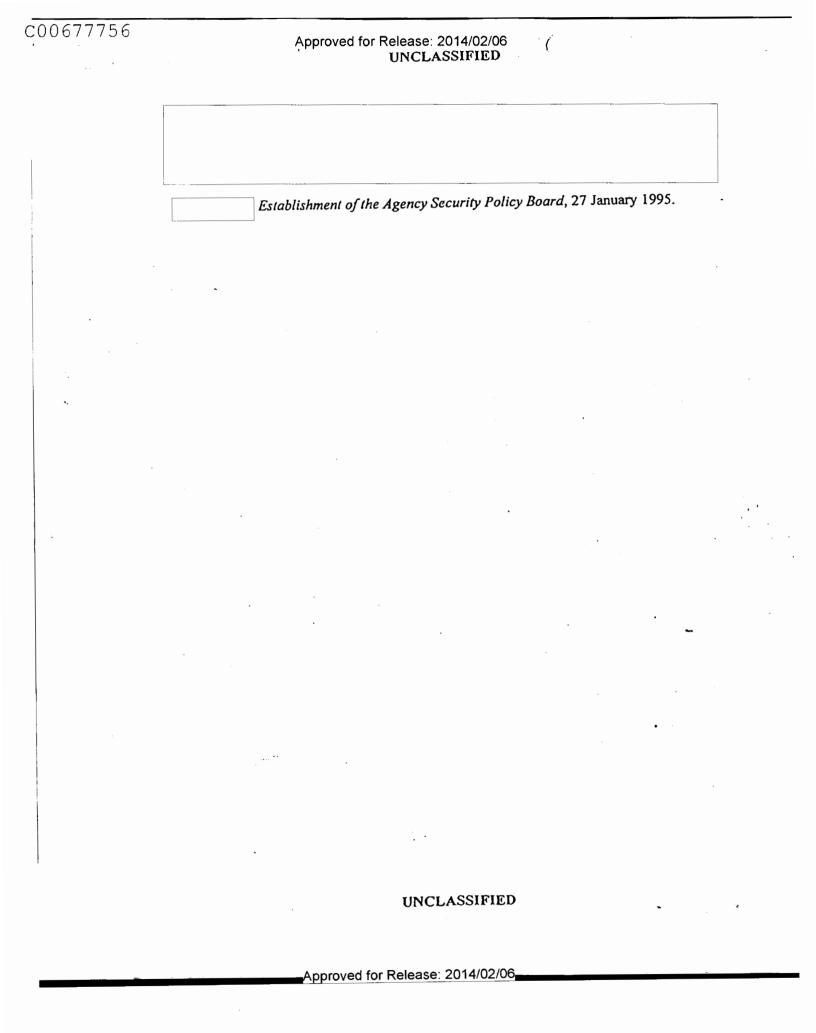


Exhibit B

Director of Central Intelligence Declassification Policy Under Executive Order 12958

Executive Order 12958 gives the Intelligence Community (IC) a major opportunity to reform its approach to classification management, providing banefits to the public by way of an increased flow of information, and to the Government, through the use of risk management approaches to the protection of secrets. A major pillar of the new Order is the Automatic Declassification program under Sec. 3.4. This will require the Community to declassify all information contained in records that are more than 25 years old and have been determined by the National Archives and Records Administration to have permanent historical value, unless determined to be exempt. These records consist of millions of pages of information. I believe we owe it to the public to handle this program in a cost-effective way that benefits the public.

Accordingly, I have adopted the following policies to guide the IC's implementation of this program:

First, I want the Community to emphasize the declassification of historical collections of the highest value to the public and academic community. To that end, I am assigning CIA's Center for the Study of Intelligence (CSI) a Community role to coordinate the development of a Community-wide list of topics of historical and scholarly interest to guide both the automatic declassification and the systematic declassification programs of your agencies consistent with the deadlines in the EO. The Executive Director for Intelligence Community Affairs should work with CSI and the Community to develop a Director of Central Intelligence Directive which establishes a Community Historical Review Advisory Committee with. representatives from each IC component to work with CSI on the development of this program. I intend to convane an IC/EXCOM annually to review these topics with you and ensure they are properly funded.

Second, each IC component should have a robust program to declassify these publicly valuable collections as identified by CSI and the Community Historical Review Advisory Committee. Each IC component should identify a representative and provide CSI with a preliminary list of topics for consideration by the Committee by 29 December 1995.

Third, I want the Community to incorporate risk management approaches into your declassification programs. To this end, each IC agency should develop plans on how you intend to implement such approaches,

EXHIBIT B

including the use of bulk declassification and sampling techniques that avoid the need for page-by-page review. I understand each agency's holdings are different, and the protection of sources and methods and liaison equities must be considered. Nonetheless, you should strive for a cost-effective approach consistent with the sensitivity of your information.

Fourth, I am creating an Intelligence Community Declassification Program Managers Council, with a representative from each IC component, under the guidance of the Executive Director for Intelligence Community Affairs. This Council shall coordinate the declassification activities of the IC, including plans for automation of the declassification program, the need for interoperability of systems, new risk management approaches, and other areas of inquiry that can make these programs more cost effective." The Security Policy Board staff and the Information Systems Secretariat should send representatives to meatings of the Council. The Council shall provide me with an annual report of its activities and achievements on the first day of July of each year of the program. Identify your representative to the Executive Director for Intelligence Community Affairs by 29 December 1995.

John Deutch

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(ATNO) ESTIMATED COSTS OF DECLASSIFICATION AND RELEASE EFFORTS

(ANUO) Because the managers of the declassification and release programs cannot accumulate the actual costs of their programs, these charts are a mixture of actual and estimated costs. In addition to the three programs, we have included costs for the information review officers, their staffs, and special searches. The Director of Information Management estimated that special searches cost _______ in fiscal year 1996. Special search costs are dispersed throughout the financial system and cannot be accurately documented. We were also unable to determine which special searches are included in this amount. None of the amounts were verified by us.

(U) <u>Chart 1</u>

(C) <u>Chart 1</u> shows the total estimated cost of the three declassification programs for fiscal year 1995 and fiscal year 1996 was approximately

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and ______ respectively. Included are the costs for Information, Privacy, and Classification Review Division (IPCRD), information review officers and their staffs who handle IPCRD taskings, Historical Review Group (HRG), Records Declassification Program (RDP), and special searches.

(6) IPCRD expended approximately in fiscal year 1995 and again in fiscal year 1996. In addition, the information review officers and their staffs incurred an estimated in fiscal year 1995 and in fiscal year 1996 to search and review documents for FOIA, Privacy Act, and mandatory requests. These estimates do not include nondedicated personnel who search and review documents in the directorates. Those costs could not be estimated.

(6) We were told that HRG's costs are between 60 and 70 percent of the costs charged to the budget of the Center for the Study of Intelligence. We used 65 percent to estimate resources spent for HRG, which are in fiscal year 1995 and in fiscal year 1996. These figures do not include hidden costs such as personnel within the directorates who review the documents before their release.

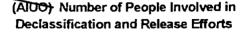
(G) RDP handles the automatic declassification portion of the Executive order. Although not operating at full strength, RDP expended for both nonpersonal and personal services in fiscal year 1995 and in fiscal year 1996, respectively. Personal services were approximately for each of the years. RDP's costs include for a building lease in fiscal year 1996 and an estimate of personnel costs for both years.

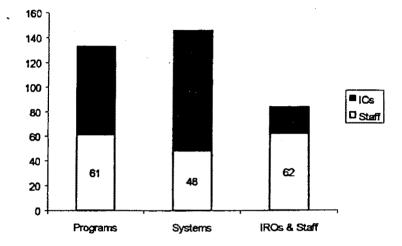
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(U) Chart 2

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(ATSO) Chart 2 shows the distribution of the 363 people dedicated to the declassification and release programs as reported to us by program managers as of August 1996. These people are dispersed throughout the different programs, system development projects, and the staffs of the information review officers. Approximately half are independent contractors (ICs). This staffing level does not include nondedicated personnel located in the directorates who actually search and review documents for release.

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(U) RECORDS ESTIMATION PROCESS

(ATSO) Representatives from each of the directorates and the DCI area conducted a survey of CIA records that were. 25 years old and older at the Agency Archives and Records Center, Headquarters, and other locations in May and June 1995. The purpose was to estimate the number of records subject to Section 3.4 of the Executive order and to determine the composition of the records. The survey teams used statistical sampling techniques and extrapolated the composition of the sampled boxes to the total estimated population. At the conclusion of the survey, the teams estimated that there were 165.9 million page equivalents of permanent records that would subject to automatic declassification.

(ATSO) Included in that total were 19.3 million pages of material that the Records Declassification Program (RDP) believed could be processed using bulk declassification methods.

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Exhibit F

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List of Recommendations

(ADQ) <u>Recommendation #1 (For the Executive</u> <u>Director</u>): Ensure that declassification and release authorities are appropriately assigned so that those who need them have them and those who do not need them do not have them.

(ADO) <u>Recommendation #2 (For the Executive</u> <u>Director</u>): Consolidate declassification and release programs under one manager with sufficient authority to:

(a) Develop a repository of officially released information that can be shared by all declassification and release programs.

(b) Ensure consistency of declassification and release standards and training.

(c) Control resources utilized in declassification and release efforts.

(AlUO) <u>Recommendation #3 (For the Executive</u> <u>Director</u>): Direct the new manager of declassification and release programs to review the status of programrelated automated systems to determine whether the systems will meet current and future needs and whether they are being developed in an efficient manner.

(AIDO) <u>Recommendation #4 (For the Executive</u> <u>Director</u>):

(a) Review the automatic declassification program to determine whether the Agency should continue attempting to redact classified information from documents subject to review, or should refocus its efforts on a pass/fail review.

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(b) Instruct appropriate officials to identify, seek, and protect funding levels commensurate with whichever program direction is chosen.

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