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DEFENSE SYSTEMS MANAGEMENT COLLEGE  
FORT BELVOIR, VIRGINIA



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SUMMARY  
AND  
ASSESSMENT -

# ACQUISITION POLICY IMPLICATIONS:

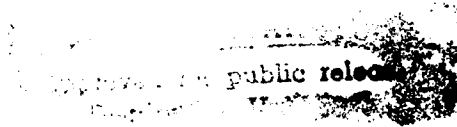
NATIONAL DEFENSE  
AUTHORIZATION ACT  
FOR  
FISCAL YEAR 1993  
AND  
DEPARTMENT OF DEFENSE  
APPROPRIATIONS ACT  
FOR  
FISCAL YEAR 1993

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*Summary and Assessment-*  
**Acquisition Policy Implications:**

**National Defense Authorization Act  
 for Fiscal Year 1993**

*and*

**Department of Defense Appropriations Act  
 for Fiscal Year 1993**

"It is customary in the democratic countries to deplore expenditure on armaments as conflicting with the requirements of the social services. There is a tendency to forget that the most important social service a government can do for its people is to keep them alive and free."

Sir John Cotesworth Slessor,  
 Marshal of the Royal Air Force,  
*Strategy for the West, 1954*



Statement A per telecon  
 Sylvia Nance DSMC/OS-PR  
 Fort Belvoir, VA 22060

NWW 11/24/93

C.B. Cochran  
 Defense Systems Management College  
 Acquisition Policy Department  
 January 1993

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## MEMORANDUM FOR DSMC FACULTY &amp; STUDENTS

**SUBJECT:** Acquisition Policy Implications, Defense Authorizations and Appropriations Acts for Fiscal Year 1993.

"The means of security can only be regulated by the means and danger of attack. They will, in fact, be ever determined by these rules and no other."

James Madison,  
*The Federalist Papers, No. 41, 1788*

**1. Overview:** The Department of Defense Appropriations Act for Fiscal Year 1993, Public Law 102-396, October 6, 1992 and the National Defense Authorizations Act for Fiscal Year 1993, Public Law 102-484, October 23, 1992 are the final major defense acts of the 102nd Congress. The Authorizations Act seems to support House Armed Services Committee Chairman Les Aspin's option C to the President's Base Force plan<sup>1</sup>.

The defense budget has been declining for eight consecutive years. The procurement budget has fallen (in FY 1993 constant dollars) from \$127 billion in FY 1985 to \$55 billion in FY 1993, a decline of nearly 57 percent. Strategic programs have shrunk from about 10 percent of the procurement budget to about 1 percent.

Active force structure end strength for FY 1993 was reduced 100,000 under the President's request to 1,766,500. For the guard and reserves 76,380 of the 115,997 reductions requested were restored, providing a FY 1993 end strength of 1,095,080. The statutory ceiling on military personnel stationed ashore in Europe has been reduced from 150,000 to 100,000 effective end FY 1996. The mix of U.S. forces in Europe would be approximately 60 percent Army, 30 percent Air Force, and 10 percent Navy.

The Authorization Act establishes a new chapter in Title 10, Chapter 148, "National Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion". This new chapter consolidates and streamlines laws governing defense technology and industrial base policy to reflect the challenges presented by the post-cold war environment and downsizing of the DoD.

Biennial budgeting. The FY 1993 budget was first submitted with the biennial FY 1992-1993 budget in February 1991. An amended FY 1993 budget was submitted in February of 1992. DoD has provided Congress with 2-year budgets starting in 1987 with the FY 1988/89 budget. As was the case in 1987, 1989 and 1991, there is still no movement by Congress toward biennial appropriations. The fourth 2-year defense budget, FY 1994/95, will be submitted by the Clinton administration in 1993 (probably March or April). In January 1993, the Bush administration provided Congress with historical data for previous budgets and alternatives for FY 1994.

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<sup>1</sup>"An Approach to Sizing American Conventional Forces for the Post-Soviet Era, Four Illustrative Options", Rep. Les Aspin, House Armed Services Committee, Feb. 25, 1992. Aspin proposed four alternatives to the Base Force, options A through D. Option C, his favorite, calls for nine active Army divisions instead of 12, two active Marine Corps divisions instead of 2.3, cuts Air Force from 15 active wings to 10, shrinks Navy from a 450-ship, 13-carrier force to 340-ship, 12-carrier fleet. Aspin proposes tripling number of fast sealift ships from 8 to 24. Option C, according to Aspin, provides a force structure capable of responding to two large regional contingencies (such as Desert Storm) and one smaller (such as Panama) simultaneously.

## 2. National Defense Authorization Act for Fiscal Year 1993:

### *Highlights, Acquisition Policy*

**a. Pilot Programs (Section 811).** Section 809, National Defense Authorization Act for FY 1991 (P.L. 101-510) provided for nomination of six "pilot programs" intended to demonstrate means to increase the efficiency and effectiveness of the acquisition process by waiving or limiting certain statutory requirements. Authorization for pilot programs has been extended to September 30, 1995, and eligibility has been expanded to include non-major defense acquisition programs.

Pilot programs were a Defense Management Report (DMR) initiative. Legislative relief was requested from Congress to authorize the SECDEF to waive any provision of law for up to six acquisition programs. Congress balked at this request. However, the SECDEF was granted the opportunity to select six major defense acquisition programs as pilot programs (with congressional approval), and to justify to the Congress which laws would be waived. The SECDEF has designated the following as pilot programs: Close Range Unmanned Aerial Vehicle (CRUAV), Joint Primary Aircraft Training System (JPATS), and the Strategic Sealift program, all pending congressional approval. Pilot programs must also be designated Defense Enterprise Programs.<sup>2</sup>

**b. Defense Acquisition Workforce Improvement Act<sup>3</sup> (Section 812).** DAWIA has been amended as follows:

(1) The minimum three year assignment period for deputy PM's of ACAT I programs may be waived if the individual is assigned to a critical acquisition position after completing duties as a deputy PM.

(2) DoD is authorized until October 1, 1997 to determine that individuals who meet certain "fulfillment standards" have satisfied the requirement to attend mandatory courses, to include PMC. The standards must be developed by January 23, 1993. The Defense Acquisition University is leading the effort for the USD(A).

(3) Experience requirements for deputy PM's of ACAT I programs have been changed from eight years to six years, two of which must have been performed in a program office or similar organization. Deputy PM's of significant non-major programs now must have a minimum of four years experience instead of six. DoD 5000-52M defines significant non-major programs as major systems, or ACAT II programs. ACAT II programs have a threshold (constant FY 1980 dollars) of \$75 million RDT&E or \$300 million procurement.

(4) Education. The current provision that education is mandatory in specified business management disciplines has been modified to require the SECDEF to prescribe "equivalent training" to ensure proficiency in those same disciplines.

(5) Scholarship recipients may be offered a position in the excepted service, and after two years appointed to a position in the competitive service notwithstanding current civil service rules. Of course, OPM has been authorized to prescribe other requirements.

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<sup>2</sup>10 U.S.C. 2436

<sup>3</sup>Chapter 87, Title 10 U.S.C. & Title XII, P.L. 101-510, November 5, 1990.

**c. Major Defense Acquisition Programs (Section 817).**

(1) Minimum amount criteria has been raised from \$200 million RDT&E or \$1 billion in procurement (FY 80 constant dollars), to \$300 million RDT&E or \$1.8 billion in procurement (FY 90 constant dollars). Further, the SECDEF may adjust these amounts (and the base year) based on DoD escalation rates. Adjustments would be effective after both Armed Services Committees are notified.

(2) Selected Acquisition Reports (SAR). Definition of 'major contract' has been changed to, "...with respect to a major defense acquisition program, means each of the six largest prime, associate, or government furnished equipment contracts under the program that is in excess of \$40 million".

SECDEF may waive requirement for SAR submission for a fiscal year if, 1) program has not entered engineering and manufacturing development; 2) a reasonable cost estimate has not been established for the program; and 3) the system configuration is not well defined. Written notification of each waiver must be submitted to the Armed Services Committees NLT 60 days prior to President's budget submittal to Congress.

SAR Definitions. Production information for ACAT I programs has been modified to account for current realities. In most cases, reporting of production rates is no longer required for each fiscal year through the end of production. Definitions have been modified to cover only one or two budget years of production. This change also applies to cost and quantity variance.

Unit Cost Reports (UCR). Time frame for submission of required quarterly reports has been extended from 7 working days after the end of a quarter requiring a UCR, to 30 calendar days. The percentage (5%, 15%, 25% as appropriate) thresholds for increases to current procurement unit costs or program acquisition unit costs, that may result in a report requirement have been changed from "more than", to "at least", slightly tightening the requirement.

**d. Contractor Participation in Operational Test and Evaluation (Section 819).**

A contractor that has participated in the development, production, or testing of a system solely as a representative of the Federal Government is not subject to the limitations on establishment of criteria for data collection, performance assessment, or evaluation activities for OT&E.

**e. Joint Service Acquisition Programs (Section 820).** SECDEF must prescribe regulations concerning the termination or substantial reduction by participants in joint service programs. At a minimum, the JROC must review the proposed termination or reduction, and there must be a provision authorizing the USD(A) to require a military department approved for termination or substantial reduction to continue to provide some or all funding necessary for the program to be continued in an effective manner.

The current policy is that if a component withdraws from a joint program it will reallocate its current year and budget year funds for that joint program by the amount the lead component costs increase as a result of the termination, to the remaining participating components<sup>4</sup>. The new policy requires funding beyond the budget year.

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<sup>4</sup>DoDI 5000.2, Part 12-B.3.d(3).

**f. Competitive Prototyping (Section 821).** Effective Jan. 23, 1993, before development (demonstration and validation phase) begins, the acquisition strategy for major defense acquisition programs (ACAT I), to include major systems and/or major subsystems to be acquired under the ACAT I program, must provide for competitive prototyping. Requires that a minimum of two contractors, using the same combat performance requirements, be tested in a comparative side-by-side developmental test. A written justification to waive this requirement may be submitted to the USD(A) explaining why competitive prototyping is not practicable. Development may not proceed until 30 days have elapsed after submission of the waiver.

Competitive prototyping was previously established by the FY 1987 Authorization Act. In 1988 the conferees agreed that 3 years would be sufficient time for DoD to publish regulatory guidance, so the FY 1989 Authorization Act provided for expiration of the requirement in Sept. 1991, which it did. DoD published guidance in DoDI 5000.2, Feb. 23, 1991, still indicating the Sept. 1991 expiration. In mid-1992, the USD(A) sent a memo to the Service Acquisition Executives indicating that competitive prototyping was still a requirement unless an alternative strategy was approved by the milestone decision authority. Apparently, this was not good enough for Congress.

**Other Competition/Sources.** 10 U.S.C. 2438 now pertains to Competitive Prototyping. Old section 2438, "Major Programs: Competitive Alternative Sources", is now section 2439. This section requires the acquisition strategy and the contract for an ACAT I program or a major subsystem of an ACAT I program, to reflect the option to use competitive sources throughout the period from beginning of engineering and manufacturing development (EMD) through the end of procurement, when it is practicable to do so. This determination is made by the program manager in the Competitive Alternative Sources Analysis attachment<sup>5</sup> to the Acquisition Strategy Report annex to the Integrated Program Summary for milestones II and III. A "major subsystem" means a subsystem of the ACAT I program that has an amount required for RDT&E or procurement of 10 percent or more than the ACAT I dollar threshold.

**g. Foreign Investment in the United States (Sections 835 through 838).** Restrictions have been placed on the purchase of U.S. defense contractors by entities controlled by foreign governments, award of certain DoD and DoE contracts to companies owned by an entity controlled by a foreign government, and the Defense Production Act has been amended to tighten requirements for investigations into mergers, acquisitions, and takeovers that could affect the national security of the United States. The Secretaries of Defense and Energy must also collect and maintain a data base on all contractors with their departments which are controlled by foreign persons.

The conferees were concerned that determinations made under section 721 of the Defense Production Act (DPA) as to the impact on national security of contractual arrangements with companies owned by foreign entities were not receiving enough Presidential attention. Of over 700 cases since 1988 only nine have gone to the President, and in only one case has the President decided to take action and report to Congress. DPA amendments now call for additional mandatory investigations and reporting to Congress of determinations. Of primary concern are transactions to countries that support terrorism; countries involved with missile proliferation, or proliferation of chemical and biological weapons; countries on the nuclear non-

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<sup>5</sup>DoD 5000-2M, Part 4.D.2. Also, this reference expands the requirement to ACAT II, III and IV programs, but does not define major subsystems for these categories.

proliferation special country list; and the potential effects of the transaction on U.S. international technological leadership in areas affecting national security.

**h. Acquisition Fellowship Program (Section 841).** The SECDEF may designate up to 25 employees of DoD as acquisition fellows. These fellows will be paid to engage in research or teaching for a 2-year period in a field related to federal government acquisition policy. The research or teaching may be conducted within the DAU structure, other federal professional education institutions, or a nonprofit institution of higher education. To be eligible an employee must complete at least 2 years of federal service in DoD, and must be serving in an acquisition position in DoD that involves the performance of duties likely to result in legal restrictions after leaving government.

### *Highlights, Organization and Management.*

**a. Roles and Missions (Sections 901, 902, and 903).**

(1) Additional guidance is provided relative to the CJCS roles and missions study due every three years to the SECDEF IAW Section 153.b., Title 10, U.S. Code. The first study was due in late 1992; however, release has been delayed to provide the incoming administration an opportunity to provide input. Additional congressional guidance is as follows:

Reassess roles and missions assigned to each of the Armed Forces under the Key West agreement of 1947 to eliminate/reduce duplications and consolidate/streamline organizations/activities. Assess changes in CONUS and O-CONUS OPTEMPO based on new threat environment. Assess changes in readiness status of time phased force deployment plan (TPFDP) units. (I would guess this refers to the D+30 CONUS based active and reserve units earmarked for CINC war plans). Assess transfer of functions from active to reserve forces.

(2) An assessment of tactical aircraft modernization plans must be prepared in light of the roles and missions study above. The assessment must consider continued procurement of current aircraft, upgrades to current aircraft, and procurement of new design aircraft such as the F/A-18 E/F, the A-X, the EA-X, and the F-22. The assessment must consider the views of the OSD Cost Analysis Improvement Group (CAIG) on the tactical aviation programs covered by the assessment.

(3) Sense of Congress on Cooperation Between Army and Marine Corps. The Army and Marine Corps should intensify efforts to eliminate unnecessary duplication, improve interservice cooperation and to specialize in specific functional areas. CJCS should examine whether the Army should provide the Marine Corps with heavy armor and fire support for mid and high intensity combat, or the Marine Corps should be equipped with armor and heavy artillery and other weapons for mid and high intensity combat independent of the other military services. CJCS should consider Army MLRS and tank battalions to support Marine amphibious forces afloat, equipping maritime prepositioning ships with MLRS and M1 tanks to be manned by Army units in support of Marine forces, transferring management of all prepositioning shipping to Marine Corps, and evaluate logistics, training, and operational implications of each action.

**b. Vice Chairman of the Joint Chiefs of Staff (Section 911).** Title 10 has been amended to make the VCJCS a full member of the JCS with the same rights as the Service Chiefs, including the right to provide advice in disagreement with the Chairman

to the President, National Security Council, or the Secretary of Defense. With full JCS status, the VCJCS role as Chairman of the JROC should be enhanced.

**c. Defense Advanced Research Projects Agency (Section 4621).** The conference agreement expresses the sense of Congress that DARPA's charter be revised to emphasize the agency's role in the integration of the military and civilian technology bases. They also recommend the name be changed back to Advanced Research Projects Agency (ARPA) to emphasize this role. If changes are not made to achieve these objectives, the conferees agree that legislation will be required in the next Congress.

*Highlights, Selected Programs.*

**a. V-22 Osprey.** No more than 50% of the FY 93 V-22 appropriation (\$755 million) may be obligated until the Commandant of the Marine Corps submits to Congress a report as to the causes of the July 20, 1992 crash.

**b. A/F-X Aircraft (formerly A-X).** SECDEF has been directed to restructure the acquisition strategy to provide for "development, demonstration, and validation of at least two prototypes for each of the two most promising proposals received from concept exploration". The Navy has expressed the concern that competitive prototyping could add over \$1 billion to development costs.

**c. Missile Defense Programs.**

(1) Theater Missile Defense Initiative (TMDI) (Section 231). All theater and tactical missile defense activities formerly associated with the Theater Missile Defense (TMD) program element of the Strategic Defense Initiative Organization (SDIO) are to be transferred to TMDI. The program, project, and activity details must be provided to Congress with the FY 1994 budget proposal.

(2) Revision of Missile Defense Act (MDA) of 1991 (Section 234). Specific dates in the MDA as goals for achieving deployment of advanced TMD systems and the initial anti-ballistic missile (ABM) system have been eliminated. The conferees direct the SECDEF to develop advanced TMD and initial ABM deployments "consistent with sound acquisition procedures and in accordance with a low-to-moderate technical risk and low-to-moderate concurrency program". The SDIO plan to field prototypes for the THAAD system by 1996 was endorsed. IOC for the initial ABM site of the limited defense system and advanced TMD systems now appears to be around year 2002.

(3) SECDEF is directed to transfer management and budget responsibility for all far-term follow-on technologies currently under SDIO to DARPA or the military departments, unless a certification is made to Congress that transfer of particular technologies would not be in the national interest. Far-term technologies are defined as those not likely to be incorporated into a weapon system within 10 to 15 years.

**d. Armored Vehicles (Sections 111 and 114).** No FY 1991, 1992 or 1993 procurement funds may be used to initiate or implement closure of any portion of the tank industrial base. The Arms Export Control Act has been amended to allow funds received from tank and fighting vehicles FMS to be used for upgrading of tanks and fighting vehicles for fielding to the Army. The conferees recommended and authorized procurement of additional MLRS launchers, and to initiate a program to upgrade early models of the M-2 (Bradley) fighting vehicle, to help preserve the M-2 production base.



e. **Live-Fire Survivability Testing of C-17 Aircraft** (Section 132). The C-17 transport aircraft is a "covered system" for survivability testing under 10 U.S.C. 2366. The USD(A) has authority to waive live-fire test requirements prior to Milestone II. Congress has indicated that a waiver may still be granted even though the program is past Milestone II. Even if the USD(A) certifies to Congress that live-fire testing would be unreasonably expensive or impractical, an alternative test program must be structured to test components and subsystems that could affect the survivability of the C-17 system.

### *Financial Matters*

a. **Future Years Mission Budget** (Section 1002). DoD must submit to Congress concurrent with the President's budget, a future years mission budget. The future years mission budget must be consistent with the Future Years Defense Program (FYDP). Appropriate mission categories include offensive and defensive strategic forces, heavy land forces, ground-based tactical air forces, mobility forces, power projection forces, sea control forces, special operations forces, and intelligence activities. The allocation of each type of forces to the unified and specified commands should be included.

b. **Transition Authority Regarding Closing Appropriation Accounts** (Section 1004). Provides for satisfying legitimate charges to contracts for which accounts have expired, but not yet closed<sup>6</sup>, by charging to current appropriations. Total amount charged to a current appropriation may not exceed one percent of the total appropriation of the current account or of the expired account. SECDEF must certify to Congress that limitations on spending and obligating funds are being complied with, and that violations are being reported to the President and the Congress.

c. **Merged, or "M" Accounts** (Section 1003). Prior to reobligating any sum in an "M" account, the SECDEF must identify and cancel with the Treasury an equal sum from such account. Reobligation proposals greater than \$10 million require notice to Congress and a 30 day wait.

d. **National Defense Sealift Fund** (Section 1024). All funds appropriated to DoD after FY 1993 for research, development, construction, maintenance, lease, charter, and operations of national defense sealift vessels; installation and maintenance of defense features on privately owned and operated vessels; and receipts from disposition of national defense sealift vessels, are to be deposited in this fund. No more than five vessels built in foreign ship yards may be purchased with these funds. A DoD sealift vessel is any ship owned, operated, controlled or chartered by DoD that is a fast sealift ship, a maritime prepositioning ship, an afloat prepositioning ship, an aviation maintenance ship, or a hospital ship.

### *Highlights, Contracting/Procurement Matters*

a. **Minority Subcontracting Goals** (Section 801). The 5 percent goal for subcontracting with small disadvantaged businesses is extended through FY 2000.

b. **Compliance With Subcontracting Plans** (Section 803). SECDEF must publish regulations to ensure defense contractors are complying with subcontracting plan requirements. The subcontracting plan must be a factor in evaluating proposals. This

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<sup>6</sup>Fixed appropriations are closed 5-years after the period of availability for obligation ends. (31 U.S.C. 1552)

step is to ensure the FY 1991 decline of 5.3 percent in subcontract awards by DoD prime contractors to small and disadvantaged businesses does not become a trend.

**c. SBA Certificate of Competency (Section 804).** Currently, when a contracting officer determines a small business is "nonresponsible", the matter is automatically referred to the SBA for review. This section changes this process by requiring the contracting officer to notify the small business of the determination. The business then has 14 days to notify the contracting officer in writing of their desire for the SBA to make a determination. The contracting officer will then forward the request to the SBA. If the small business concern does not respond to the contracting officer's notification within 14 days, the contracting officer may proceed with contract award. Applies to solicitations issued 120 days after enactment. Terminates on Sept. 30, 1995.

**d. Pilot Mentor Protege Program (Section 807).** Authorizes additional funding (\$55 million) for this program. Requires the SECDEF to publish policy relating to the program in the DFARS. Amends the Small Business Act to clearly place the program outside of the control and/or oversight of the SBA.

The pilot mentor protege program was established by the FY 1991 Authorization Act (P.L. 101-510) to provide incentives for major DoD contractors to enter into mentor-protege agreements with small disadvantaged businesses (SDB) to provide developmental assistance. A DoD interim rule (Oct. 15, 1992 Federal Register) indicates that costs incurred may be reimbursed to the mentor through a separate contract with DoD, through a line item in a DoD contract, or as indirect expenses. For unreimbursed development costs, mentors will receive credit in lieu of subcontract awards toward SDB goals.

This program seems to be gathering steam as Northrup, General Dynamics, TRW, Raytheon, Hughes, GE and other major contractors come on board as mentors.

*Highlights, Defense Technology & Industrial Base, Reinvestment, & Conversion.*

**a. Congressional Defense Policy Concerning National Technology and Industrial Base, Reinvestment, and Conversion (Section 4211).** Establishes following policies for an industrial base capable of meeting national security objectives:

(1) Supplying and equipping force structure to achieve objectives set forth in the President's national security strategy report to Congress, policy guidance of the SECDEF, and the FYDP submitted to Congress.

(2) Sustaining production, maintenance, repair, and logistics for military operations.

(3) Maintaining advanced research and development activities to provide systems capable of ensuring technological superiority over adversaries.

(4) Reconstituting capability to develop and produce supplies and equipment in sufficient quantities to prepare for a war, national emergency, or mobilization prior to.

**b. Policy Objectives:**

(1) Promote economic growth in high-wage, high-tech industries.

(2) Reduce Federal budget deficit to free up capital for private investment and job creation.

(3) Exploit critical technologies with both civilian and military application to bolster the nation tech base.

(4) Retrain separated military, civilian, and defense industrial personnel.

(5) Assist State and local governments in support of reinvestment, conversion, adjustment, and diversification.

(6) Assist small businesses adversely affected by defense downsizing.

(7) To maximum extent practicable, rely on commercial technology and industrial base to meet national security needs.

(8) Reduce DoD reliance on technology and industrial base activities economically dependent on DoD.

(9) Reduce barriers to use of commercial products, processes and standards.

**c. National Defense Technology and Industrial Base Council (Section 4212).** Established to ensure effective cooperation among departments and agencies of the Federal Government. Consists of Secretary of Defense (chairman), Secretary of Energy, Secretary of Commerce, Secretary of Labor, and others determined by the President. The Council will, among other duties:

(1) Assist SECDEF in establishing a program for analysis of the national industrial and technological base.

(2) At least annually through 1997, and biennially thereafter, prepare a comprehensive assessment on the capability of the national technology and industrial base to attain national security objectives. First assessment due not later than Sept. 30, 1993.

(3) Prepare annually through 1997, and biennially thereafter, a multiyear plan for ensuring that policies and programs of the Defense, Energy, and other departments and agencies of the Federal Government are planned, coordinated, funded, and implemented in a manner to achieve national security objectives. Submitted to Congress in classified and unclassified form. First plan due not later than Dec. 1, 1993.

**d. Other related programs established and/or codified in Chapter 148 of Title 10:** Defense Dual-Use Critical Technology Partnerships, Commercial-military Integration Partnerships, Regional Technology Alliances Assistance Program, National Defense Manufacturing Technology Program, Defense Advanced Manufacturing Technology Partnerships, Manufacturing Extension Programs, Defense Dual-use Assistance Extension Program, Defense Procurement Technical Assistance Program.

A Federal Defense Laboratory Diversification Program is established to encourage technology transfer between labs and research centers of DoD and other Federal agencies, State and local governments, colleges and universities, and private persons, consistent with national security objectives. An Office of Technology Transition will be established within OSD to manage this effort.

A Military-Civilian Integration and Technology Advisory Board will be established to advise the National Defense Technology and Industrial Base Council on integration of commercial practices and technologies into defense industries, the efficient transfer of defense technologies to civilian industries, integration of civilian markets into dual-use technology development strategies, and on use of dual use critical technologies in carrying out defense reinvestment, diversification, and conversion.

### 3. Department of Defense Appropriations Act for Fiscal Year 1993.

"The Congress shall have the Power To... raise and support armies, but no appropriation of money to that use shall be for a longer term than two years."

Constitution of the United States, Article I, Section 8

"The legislature of the United States will be obligated by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter by a formal vote in the face of their constituents."

Alexander Hamilton,  
*The Federalist Papers, No. 26, 1788*

National defense appropriations for FY 1993 are about \$274 billion, \$7 billion under the President's request. Estimated outlays for FY 1993 are \$283.8 billion, with another \$7.25 billion in outlays from the Defense Cooperation Account/Gulf Regional Defense Fund (Desert Storm). An authorization and appropriations summary is attached.

#### *Highlights, Acquisition Policy.*

**a. Operations and Maintenance (O&M) 0-1 Display.** The O&M account for FY 1994 will be submitted consistent with 0-1 categories proposed by the Senate. DoD may shift funds between 0-1 categories, and revise/consolidate FY 1993 categories prior to submission of the FY 1994 budget. However, the FY 1994 budget will also display any new 0-1 allocations for FY 1993, with an explanation of any adjustment to an 0-1 category in excess of 10% of the allocation in the conference report. 0-1 format is similar to the R-1 and P-1 formats now provided with budget justification material.

**b. Training and Education.** Funding for training of the acquisition workforce under the Defense Acquisition University was reduced by about 12%. DAU funding is an activity in the Army O&M budget.

**c. Interim Contractor Support.** Cost must be specifically identified in any future budget submissions. Conferees agreed to a DoD proposal to transfer interim contractor support costs from O&M to procurement.

**d. Science and Technology (S&T) Advanced Technology Demonstrations.** The Senate expressed concern that DoD's expansion of S&T demonstrations in the seven "thrust" areas were, "too costly, too concurrent, unaffordable in the expected budget environment, duplicative of other projects, and premature until other programs upon which they are based come to fruition". Although not rejecting goals and objectives of the demonstrations, the conferees agreed with Senate reductions to military departments' ATD efforts in the global surveillance and communications, precision strike, and air defense and superiority thrust areas. Reductions are to provide DoD an opportunity to restructure the programs into more "fiscally-sustainable, prudently-paced" efforts.

**e. New Program Starts/Reprogramming Requirements.** The Senate report clearly imposes stringent requirements to prevent new starts from being initiated without congressional approval, or through below threshold reprogramming. "below threshold reprogrammings may only be used to address minor, fact-of-life financial changes or unforeseen programmatic occurrences within the existing scope of a project or subproject; they may not be used to expand the scope of any project or subproject, especially with respect to developing new technologies, or expanded capabilities, not specifically within the existing statement of work for the project or subproject."

In FY 1991 572 reprogramming actions were implemented by DoD totaling about \$4.8 billion. Of those, 13 totaling about \$3.3 billion required congressional approval.

**f. Ground Combat Identification.** The Army was directed to take the lead for ground combat identification. The conferees also directed the Army to develop ground IFF systems for the Marine Corps, and the Marine Corps was directed to assign a senior officer to the Army program office to ensure Marine Corps' interests are represented.

**g. Special Access Programs.** No FY 1993 appropriation may be used to initiate a special access program without 30 day prior notification to the defense committees of Congress.

**h. Computer Aided Logistics System (CALs).** No FY 1993 appropriation may be expended for development or procurement of any CALs system unless the ASD for Production and Logistics provides specific approval for such system in writing to the defense committees of Congress at least 30 days prior to contract solicitation.

**i. Fixed-Price Type Contracts for Development.** Continues the requirement that the USD(A) must provide a waiver for any fixed-price type contract in excess of \$10 million for development of a major system or subsystem. Further, prior to granting a waiver, the USD(A) must notify the defense committees of Congress of his intention and an explanation of the reasons for the determination.

#### *Highlights, Selected Programs.*

**a. M1 Tank Program.** Denied DoD request to rescind \$225 million in FY 1992 procurement funds for M-1 to M-1A2 tank upgrade, and added an additional \$161 million for FY 1993. In addition, \$197 million from the sale of tanks from the Army inventory in FY 1991 and FY 1992 are to be used for the M-1 upgrade program.

**b. B-1B Bomber.** Directed the Air Force to conduct studies to determine which systems can meet the B-1B's ECM requirements without undue risk or cost. Results of the studies will be presented to the Institute for Defense Analysis (IDA) for an independent assessment and for a briefing to the defense committees of Congress. After the IDA review the Air Force is directed to conduct competition and down select.

**c. B-2 Bomber.** Provided \$2.7 billion to fund the last four aircraft, procurement of spares and parts, and payment of all termination costs. A total of 20 deployable B-2 aircraft plus one test aircraft ends the B-2 procurement program.

**d. C-17 Aircraft.** Directed the Air Force to submit an acquisition plan with the FY 1994 budget based on a future annual production rate of no more than 12 aircraft per year. No investment in productivity improvement or other initiatives may be made which

assume a production rate above 12 per year. Provided funding for six aircraft in FY 1993, and FY 1993 advance procurement funding for an additional eight in FY 1994.

**e. F-16 Tactical Aircraft.** Funded 24 additional aircraft in FY 1993. Rejected administration proposal to terminate purchases of F-16's with this final buy and provided advance procurement funds to support an additional 24 aircraft in FY 1994. The Air Force had maintained that foreign sales would keep the line open, however, the House noted that international sales of the F-4 stopped within one year of the last purchase by the U.S. The Senate did not agree with the House; however, conference report funding supports the House position without explanation.

**f. Ships.** Seven ships were approved for construction. Four DDG-51 Aegis destroyers, one LSD-1 amphibious cargo variant dock landing ship, and two MHC-51 coastal minehunters. In addition, funding was provided to initiate a contract for one LHD-1 amphibious assault ship and the Navy was requested to ask for the additional funds required in the FY 1994 budget.

**g. SSN-21 Seawolf Submarine.** The Senate report indicates they are waiting to receive results of the DoD study on the shipbuilding industrial base. If DoD determines that further protection of the submarine industrial base is needed, there are sufficient funds available for advance procurement of additional submarine construction programs. The committee anticipates FY 1994 budget request for additional submarine production, or other actions to protect the industrial base. It was noted that as there are a number of components for the third submarine under contract now it may be more cost effective to complete production instead of termination.

**h. Strategic Defense Initiative/Theater Missile Defense Initiative.** \$3.8 billion was appropriated for SDI/TMDI programs, \$1.4 billion less than the President requested.

**i. National Guard and Reserve Procurement.** President's budget did not request any procurement funds for the National Guard or Reserves. However, authorizations amounted to \$636 million and \$1.567 billion was appropriated.

"This country has come to feel the same when Congress is in session as we do when the baby gets hold of a hammer. It's just a question of how much damage he can do with it before we can take it away from him."

Will Rogers,  
*The Autobiography of Will Rogers, 1949.*



C.B. Cochran  
Professor, Acquisition Policy  
Department

attachment

**Authorizations and Appropriations Account Summary For FY93**  
(new budget authority, \$ billion)

	<u>Amended FY93 Budget</u>	<u>Authorized</u>	<u>Appropriated</u>
Procurement	53.890	52.557	55.376
Research & Development	38.812	39.613	38.235
Operations & Maintenance <sup>1</sup>	86.471	84.154	69.413
Environmental Restoration	(1.513)	(1.513)	(1.200)
Drug Interdiction	(1.263)	(1.263)	1.141
Defense Health Program	(9.507)	(9.159)	9.243
Management/Revolving Funds	-.912	-2.059	1.124
Family Housing	4.004	3.948	3.804
Military Construction	6.195	4.441	4.585
Military Pay	77.080	76.311	76.275
Trust Funds/Other Receipts	-.902	-.792	n.a.
Defense Conversion <sup>2</sup>	n.a.	n.a.	.472
Chem Agent Destruction	.526	.515	.519
National Def Sealift Fund <sup>3</sup>	3.076	2.488	.613
Undistributed Reductions	n.a.	n.a.	-.300
<b>Total DoD Military (051)</b>	<b>268.240</b>	<b>261.178</b>	<b>260.500</b>
Atomic Energy Defense <sup>4</sup>	12.131	11.935	12.118
Other <sup>5</sup>	1.212	1.218	1.600
<b>Total National Defense (050)</b>	<b>281.584</b>	<b>274.332</b>	<b>274.218</b>
Desert Storm, new auth	n.a.	.088	.600
<b>Estimated Outlays</b>	<b>1992</b>	<b>1993 Request</b>	<b>1993 Enacted</b>
DoD Military	286.9	273.6	270.6
Atomic Energy Defense	10.6	11.9	11.7
Other	.8	1.0	1.5
<b>Total National Defense</b>	<b>298.3</b>	<b>286.5</b>	<b>283.8</b>
Desert Storm	3.3	5.5	7.2

(numbers in parens are not additive)  
numbers may not add due to rounding

<sup>1</sup> Drug Interdiction and Defense Health Program were submitted as elements of the O&M account. Appropriations act treated both as a separate line. Does not reflect transfers from Defense Business Operations Fund (DBOF) into military depts O&M accounts of \$3.454 billion.

<sup>2</sup>Title VIII only. All told, \$1.767B was appropriated throughout the military pay, procurement, O&M, RDT&E and Defense Reinvestment for Economic Growth (Title VIII) appropriations.

<sup>3</sup>An additional \$1.875B was transferred into this fund from prior year appropriations for Shipbuilding and Conversion, providing a FY 93 total of \$2.488B "available until expended".

<sup>4</sup>Includes \$4.6B for weapons activities, \$34M for new production reactors, \$4.8B for environmental restoration and waste management, \$1.6B for materials production, \$807M for naval reactors, \$521M for other national security programs, and \$100M for nuclear waste disposal.

<sup>5</sup>Includes intelligence community staff, CIA retirement fund, FEMA, and support to Coast Guard.