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AGREEMENT NEEDED ON DOD GUIDELINES FOR EXEMPTING CERTAIN ADP EG--ETC(U)
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BY THE COMPTROLLER GENERAL

Report To The Chairman

Committee on Government Operations

House Of Representatives

OF THE UNITED STATES

Agreement Needed on DOD Guidelines For Exempting Certain ADP Equipment And Service Procurements From The Brooks Act

The 1982 DOD Authorization Act exempted certain DOD ADP equipment and service procurements from the Brooks Act. To protect the Government's interests, DOD should obtain formal agreement from OMB and GSA on the guidelines for exempting such procurements. Further, OMB should monitor DOD's implementation of the guidelines.

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MARCH 17, 1982



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-203533

The Honorable Jack Brooks
Chairman, Committee on Government
Operations
House of Representatives



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Dear Mr. Chairman:

In your letter of November 12, 1981, you submitted additional questions resulting from the October 21, 1981, hearings on the Paperwork Reduction Act of 1980 (Public Law 96-511). You requested that GAO provide a complete and comprehensive list of activities within the Department of Defense (DOD) that would remain covered by the Paperwork Act and the Brooks Act (Public Law 89-306) in view of the language exempting certain procurements of automatic data processing (ADP) equipment and services which is contained in the fiscal year 1982 DOD Authorization Act (Public Law 97-86). In discussions with your representatives, it was agreed that we would provide a generalized list of "routine administrative and business applications" with specific DOD automated systems identified as examples of these applications. We are also providing some comments about the language in the Authorization Act and DOD's implementing guidelines. In addition, we are making recommendations to the Secretary of Defense and the Director of the Office of Management and Budget (OMB) on the development and implementation of the guidelines.

In preparing our response, we reviewed the legislative histories of Public Laws 89-306, 96-511, and 97-86. We also reviewed the military departments' and Defense agencies' initial proposals for exempting ADP procurements in connection with Public Law 97-86. We discussed these proposals, DOD's guidelines for implementing Public Law 97-86, and related issues with appropriate DOD and OMB officials. We did not, however, obtain comments on this report from OMB or DOD.

DOD Authorization Act

Section 908 of the 1982 DOD Authorization Act (10 U.S.C. 2315) modifies the coverage of Section 111 of the Federal Property and Administrative Services Act of 1949--the Brooks Act (40 U.S.C. 759)--by exempting certain DOD procurements of ADP equipment and services. In addition to a general exemption concerning equipment and services "critical to direct fulfillment of military or intelligence missions" discussed below, the Authorization Act

specifically exempts from the requirements of Public Law 89-306 DOD's procurement of ADP equipment or services if the function, operation, or use of the equipment or services involves: (1) intelligence activities, (2) cryptologic activities related to national security, (3) the command and control of military forces, and (4) equipment that is an integral part of a weapon or weapons system. —>

ADP equipment and services used in conjunction with intelligence activities, cryptologic activities, or serving as an integral part of a weapon or weapons system should not be difficult to identify. Those applications actually used in the command and control of military forces may be more difficult to identify. "Command and control" generally relates to the management of strategic and tactical forces for conventional warfare and nuclear engagements.

To the extent that systems designated command and control are applied to the task of deploying strategic and tactical military forces, such systems are clearly exempt. An example would be the combining of intelligence information with status of forces information in the Navy's Tactical Flag Command Center and the Command and Control System. On the other hand, systems described as command and control but which actually handle predominantly routine applications should remain subject to the Brooks Act requirements. An example of the latter would be the Military Airlift Command's World Wide Military Command and Control System upgrade for an improved passenger reservation and manifesting system. We believe that further analysis is needed to identify those command and control applications which should be exempt and those which are relatively routine and should be included under the Brooks Act.

A general exemption from Public Law 89-306 requirements is provided in section 2315(a)(5) for procurement of ADP equipment and services which are "critical to the direct fulfillment of military or intelligence missions." The broad exemption is limited, however, by section 2315(b) which excludes from the exemption ADP equipment or services to be used for routine administrative and business applications. Therefore, as we interpret this provision, if the proposed use of the equipment or services is for a routine administrative or business application, the procurement is subject to the requirements of Public Law 89-306. This is true even if an ADP procurement is related to the fulfillment of military and intelligence missions. The DOD Authorization Act defines routine administrative and business applications as including payroll, finance, logistics, and personnel management applications but does not specifically limit the applications to those examples.

In summary, we believe the DOD Authorization Act exempts ADP procurements used directly in carrying out military or intelligence missions. ADP procurements for use in routine business applications, however, even though related to a military or intelligence function, would not be exempt. For example, an ADP procurement to be used for routine financial management purposes, even though procured by a Defense agency whose primary mission is intelligence gathering, would not be exempt from Public Law 89-306.

Paperwork Reduction Act exemptions

As you know, the Paperwork Reduction Act (44 U.S.C.A. 3501 - 3520) was enacted to improve the management of all Federal information resources, including the policies and practices involved in acquiring and using ADP equipment and services. The Paperwork Reduction Act did not, however, change in any way the coverage of the Brooks Act. Section 3518(d) specifically states:

"(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget."

Thus, the Brooks Act coverage was not affected by the Paperwork Act. Therefore, DOD procurements of ADP equipment and services are changed only by the exemptions provided in the DOD Authorization Act, as discussed above.

Interpretations of exemptions by DOD

By memorandum dated September 14, 1981, the Under Secretary of Defense (Research and Engineering); Assistant Secretary of Defense (Comptroller); and Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) requested that the military departments and Defense agencies review their existing applications of automated information systems and uses of computers to identify those which, in the agencies' judgment, would be exempt from the provisions of Public Law 89-306. The criteria and rationale applied by the agencies were to be documented and interim lists prepared of the systems proposed for the exempt and nonexempt categories.

Our analysis of the criteria used by the military departments and agencies in making their proposals for systems exemptions indicates differences of opinion and a certain amount of

confusion over how to interpret the provisions of the DOD Authorization Act. For example, the Departments of the Army and the Navy applied criteria exempting systems which tie closely to mobilization and deployment of operational forces and to combat readiness. On the other hand, the Department of the Air Force applied criteria to exclude ADP resources used in its mission support applications. The Defense Logistics Agency established criteria to exempt systems that are necessary for the effective employment or sustainability of military operations. However, three DOD agencies--the Advanced Research Projects Agency, Defense Nuclear Agency, and the National Security Agency--all having highly technical and sensitive applications of computer equipment and services, indicated that they would continue to follow existing procedures in acquiring their ADP equipment and services (see app. III).

On February 1, 1982, after review of the proposals for exemptions by the military departments and Defense agencies, the Deputy Secretary of Defense issued interim guidelines for applying the exemptions in the DOD Authorization Act. We reviewed these guidelines and, with some exceptions, believe they accurately reflect the intent of the law, as we understand it. The guidelines emphasize the need to achieve maximum practicable competition, whether the procurement is made under the Brooks Act or exempt from it. They also emphasize that assigning a small "exempt" application to an otherwise "nonexempt" system to rationalize that the entire system should be exempt will not be acceptable.

We are, however, concerned that, with respect to command and control systems, the DOD guidelines provide a broad exemption for:

"ADPE and ADP services to be used in:

--DoD Component elements which are a part of or in direct support of the WWMCCS (World-wide Military Command and Control System).* * *"

As noted above, we believe those elements of WWMCCS used primarily for routine administrative and business functions should remain subject to Public Law 89-306.

We are also concerned that the guidelines for determining exempt systems in the category labeled "critical to the direct fulfillment of military or intelligence missions" appear to be very broad and, perhaps, subject to abuse. Within this category, the guidelines provide for exempting systems used in:

- Mapping, charting, and geodesy.
- Airlift, sealift, and port facilities.
- Military communications.

We believe the guidance for these areas should be described in more precise terms to conform with the law as numerous administrative and business functions are associated with such activities.

A further concern is the guidelines' provision for resolving questions of whether particular procurements are exempt from the Brooks Act. The DOD guidelines provide that, in cases where there is some question of applicability of the Brooks Act, the determination is to be made by the Under Secretary of Defense (Research and Engineering) in coordination with the Assistant Secretary of Defense (Comptroller).

The Under Secretary of Defense (Research and Engineering) has directed his staff to form a "working group of senior military or civilian executives representing the Military Departments, appropriate Defense Agencies, and OSD Principals" to develop revised DOD-wide criteria for acquiring ADP equipment and services under the Authorization Act. This action should be completed by July 31, 1982.

We believe that DOD should obtain formal agreement from OMB and the General Services Administration (GSA) on the DOD guidelines. Both the Brooks Act and the Paperwork Reduction Act require OMB to play a strong policymaking and oversight role with respect to the acquisition and use of ADP equipment. OMB is to exercise "fiscal and policy control" over ADP acquisitions under the Brooks Act and is to develop and implement "policies, principles, standards, and guidelines for automatic data processing and telecommunications functions and activities of the Federal Government" under the Paperwork Act. Of course, under the Budget and Accounting Act of 1921, OMB has broad fiscal, budgetary, and policy responsibilities which continue to be relevant, without regard to the exemptions for specific ADP procurements provided by the DOD Authorization Act.

Furthermore, under the Brooks Act, GSA remains responsible for the acquisition and use of ADP equipment by Federal agencies other than DOD and for the DOD ADP equipment and services used in administrative and business applications. Consequently, DOD should work with OMB and GSA to get an agreement on the boundary between the newly-exempted DOD systems under the Authorization Act and those DOD systems still subject to

the Brooks Act requirements. OMB and GSA should also be consulted in resolving questions of whether particular acquisitions are exempt from the Brooks Act.

Mutual agreement on the guidelines and on the resolution of specific questions is necessary to protect the interests of the Government. Such agreement would permit the Government to present a consistent position (as opposed to differing views which could be used against each other) in case of a challenge in court. Agreement would tend to minimize the potential for DOD's ADP procurements being challenged and halted on the basis that the procurements were not being made in accordance with law. Interruptions of this nature would hamper DOD in successfully fulfilling its military and intelligence missions.

Accordingly, we believe that OMB and GSA should participate in clarifying the DOD guidelines for determining exemptions under the DOD Authorization Act and agree to such guidelines. We also believe it is appropriate for OMB to monitor and oversee DOD's decisions on which individual ADP acquisitions are exempt and which are not.

We recommend that the Secretary of Defense:

- Obtain formal agreement from OMB and GSA on the guidelines for determining which proposed DOD ADP equipment and service procurements are exempt under the 1982 DOD Authorization Act and those which remain subject to the Brooks Act.

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The DOD Authorization Act brings new complexities to an already complex process for ADP acquisitions. It changes significantly the roles of--and relationships between--DOD, GSA, the military departments, and other Defense agencies involved in the acquisition process. Careful implementation of DOD's guidelines for procurement of ADP equipment and services will be needed to ensure that such resources are obtained economically, efficiently, and effectively, and that the Government's interests are adequately protected. As noted above, OMB has Government-wide oversight responsibilities for the acquisition of ADP resources. We believe it is imperative that OMB monitor DOD's implementation of its guidelines for procuring ADP equipment and services under the DOD Authorization Act.

We recommend that the Director of OMB:

- Monitor and oversee DOD's implementation of the guidelines in conjunction with OMB's budget review and the related review of all agencies' 5-year ADP acquisition plans and the Five-Year Defense Plan. OMB, with the

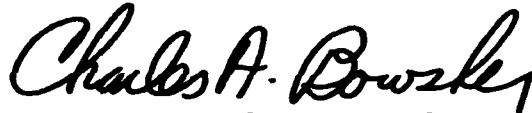
advice and assistance of GSA, also should monitor implementation of the guidelines through its triennial reviews under the Paperwork Reduction Act.

Appendix I provides a list of finance (including payroll), logistics, and personnel management functions. This list does not necessarily identify all such functions, but we believe it establishes a useful framework for identifying "routine administrative and business applications." Appendix II lists a number of Defense ADP systems within the broad functional classifications which we believe are subject to Public Law 89-306.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of the report. At that time we will send copies to interested parties and make copies available to others upon request.

We hope you will find this information useful and we will be happy to discuss it further with you or your staff if you wish.

Sincerely yours,

A handwritten signature in cursive script, reading "Charles A. Bowser".

Comptroller General
of the United States

ADMINISTRATIVE AND BUSINESS FUNCTIONS
COVERED BY PUBLIC LAW 89-306

GAO believes that ADP procurements for performing the types of Department of Defense functions listed below remain subject to the Brooks Act, Public Law 89-306. The lists do not purport to identify all such functions but provide a framework for identifying those ADP procurements not exempted by the 1982 DOD Authorization Act, Public Law 97-86.

GENERAL FINANCIAL FUNCTIONS

--Accounting Systems

- cost accounting
- general ledger
- cash
- accounts receivable and inventories
- property, plant, and equipment
- income
- expenses
- accounts payable

--Internal Auditing

--Financial Reporting

--Debt Management

--Cash Management

--Statistics

--Credit Management

--Loans, Receivables, and Payables

--Payroll

--Real Estate Buying, Selling, Leasing

--Contract Administration

--Investment Management

GENERAL PERSONNEL FUNCTIONS

- Recruiting
- Staffing
- Training
- Placement
- Counseling
- Evaluating
- Position Classification
- Competitive Selection
- Productivity Measurement
- Career Development
- Personnel Security
- Labor/Management Relations

GENERAL LOGISTICS FUNCTIONS

LOGISTICAL OPERATIONS - Concerned with managing the movement and storage of materials and finished products

- Physical Distribution Management - Movement of the product to customers
- Traffic Administration
 - Freight Classification
 - Freight Rates
 - Equipment Scheduling
 - Documentation
 - Bills of lading
 - Freight Bills

APPENDIX I

APPENDIX I

Tracing and Expediting

Auditing

Claims Administration

--Traffic Research

Transport Services Research

Logistics Systems Research

--Materials Management - Procurement and movement of raw material, parts, and merchandise to manufacturing/assembly plants, warehouses, or retail stores.

--Obtaining the best price

--Projecting availability of supplies

--Quality maintenance

--Selection of sources

--Quality control program

--Research and development assistance

--Better ways to meet specifications

--New product developments

--Internal inventory transfer

--Utilization and maintenance of equipment

LOGISTICAL COORDINATION - Concerned with establishing requirements and specifications which integrate overall logistical operations. Its function is to assure that all movement and storage is completed effectively and efficiently.

--Product-Market Forecasting

--Forecasting demand for products geographically, by function, etc.

APPENDIX I

APPENDIX I

- Order Processing
 - Communication of customer order, purchase order, product transfer request
 - Communicating to units affected by the order
- Operational Planning
 - Economic order quantity computation
 - Safety stock
 - Reorder control
- Material Requirements Planning
 - Material procurement
 - Product scheduling
- Product Procurement

ADMINISTRATIVE AND BUSINESS ADP APPLICATIONS
COVERED BY PUBLIC LAW 89-306

Listed below are examples of Department of Defense ADP systems which GAO believes remain subject to the Brooks Act, Public Law 89-306.

FINANCIAL SYSTEM APPLICATIONS

<u>System/Use</u>	<u>Department/Agency</u>
1. General Accounting and Finance System This system accounts for all monies appropriated by the Congress for specific Air Force programs and provides for fund control for financial managers.	Air Force
2. Joint Uniform Military Pay Systems These systems, prescribed by DOD for all military services, provide for centralized accounting for pay and leave for military personnel.	Air Force Army Navy
3. Standard Army Civilian Payroll System (STARCIPS) This system provides pay and leave accounting and payroll services for Army civilian employees.	Army
4. Navy Procurement Accounting and Reporting System This system records, accumulates, and reports the fiscal status of the various procurement appropriations available to the Navy.	Navy

APPENDIX II

APPENDIX II

<u>System/Use</u>	<u>Department/Agency</u>
5. Standard Finance System (STANFINS)	Army
This system provides for standardized, automated reporting of financial transactions and major operating requirements of installation finance and accounting divisions.	

PERSONNEL SYSTEM APPLICATIONS

1. Advanced Personnel Data System (APDS)	Air Force
APDS provides information to managers at all levels of command for the accomplishment of a wide range of essential personnel actions, such as recruiting, education and training, assignments, promotions, career counseling, separations, and retirements.	
2. Manpower and Personnel Management Information System (MAPMIS)	Navy
This system provides military personnel resource accounting for active duty and reserve Navy components.	
3. Navy Automated Civilian Management Information System (NACMIS)	Navy
This is a centralized system for maintaining personnel information on all civilian Navy employees.	
4. Division Level Data Entry Device (DLDED)	Army
Computer systems are used to support personnel administration, supply, and maintenance functions at the division and lower levels.	
5. ADP Support for Air Training Command	Air Force
ADP resources are used in support of various training missions. Computer Assisted Instruction is employed and students' progress is followed by an automated system.	

LOGISTICS SYSTEM APPLICATIONS

<u>System/Use</u>	<u>Department/Agency</u>
1. Air Force Logistics Command Wholesale Logistics Support Systems	Air Force
These systems provide visibility and control over a wide variety of Air Force logistics operations, such as stock control and distribution, item management, equipment item requirements, economic order projections, procurement, distribution, etc.	
2. Commodity Command Standard System and SPEEDEX	Army
These are related commodity and depot level wholesale systems for materiel management, maintenance, and resupply.	
3. Uniform Automated Data Processing System for Inventory Control Points (UADPS-ICP)	Navy
This system supports inventory decisions to control asset locations and to purchase, repair, or dispose of items managed by the two Navy Inventory Control Points, the Aviation Supply Office, and the Ships Parts Control Center.	
4. Base Level Data Automation Program (Phase IV)	Air Force
These systems provide computer support for over 100 Air Force bases and stations around the world. Functions involved include base supply, personnel, payroll, accounting and finance, engineering, and maintenance.	
5. Uniform Automated Data Processing System for Stock Points (UADPS-SP)	Navy
This is an inventory/financial management system for a wide range of logistics support functions, such as financial inventory control, stores accounting, shipment and delivery data, purchase, budgeting, etc.	



DEFENSE ADVANCED RESEARCH PROJECTS AGENCY

1400 WILSON BOULEVARD
ARLINGTON VIRGINIA 22209

OCT 8 1981

MEMORANDUM FOR THE UNDER SECRETARY OF DEFENSE (RESEARCH AND ENGINEERING)
ASSISTANT SECRETARY OF DEFENSE (COMPTROLLER)
ASSISTANT SECRETARY OF DEFENSE (MANPOWER, RESERVE
AFFAIRS AND LOGISTICS)

SUBJECT: Automatic Data Processing Exempt From P.L. 89-306

OSD/DARPA neither has, nor plans to acquire systems that will be exempt
from P.L. 89-306.

Original signed by
Ray E. Chapman

RAY E. CHAPMAN
Director
Program Management

DEFENSE NUCLEAR AGENCY
WASHINGTON, D.C. 20305

OCT 21 1981

COMP-1

MEMORANDUM FOR: Office of the Secretary of Defense

ATTENTION: Comptroller

SUBJECT: Acquisition of Automatic Data Processing
Equipment (ADPE)

1. Reference Office of the Secretary of Defense (Comptroller) memorandum of 14 September 1981, subject as above.
2. The Defense Nuclear Agency has reviewed the existing application of automated information system and defense system uses of computer to identify those that would be exempt from the provisions of P.L. 89-306 and have determined that currently none of the systems fall within this category. Therefore, a negative report is submitted as required by the above referenced memorandum.

FOR THE DIRECTOR:

BRICE E. ROBERTSON
Chief, Data Automation
Policy & Systems Division



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755

Serial: N1101
16 October 1981

MEMORANDUM FOR THE UNDER SECRETARY OF DEFENSE (Research & Engineering)
ASSISTANT SECRETARY OF DEFENSE (Comptroller)
ASSISTANT SECRETARY OF DEFENSE (Manpower, Reserve
Affairs and Logistics)

SUBJECT: Acquisition of Automatic Data Processing Equipment (ADPE)

1. This memorandum is provided in response to your memorandum, of 14 September 1981, in which you indicate that guidance would be issued shortly after 1 October 1981 on the acquisition of automatic data processing equipment subject to the exclusion from the "Brooks Act" contained in the FY 1982 Department of Defense Authorization Bill. The categories to be excluded from the provisions of the Brooks Act include any automatic data processing equipment or services if the function, operation or use involves intelligence activities, or cryptologic activities related to the national security. Cryptologic activities related to the national security include signals intelligence and communications security activities.

2. The National Security Agency has been provided delegations of authority from the General Services Administration and the Secretary of Defense for the procurement of ADPE involving cryptologic activities. In addition, the NSA has a long-standing delegation of authority from the Secretary of Defense concerning the procurement of cryptologic equipment including ADPE. Last year significant protections in the form of exclusions for intelligence and cryptologic activities were also incorporated in the Paperwork Reduction Act of 1980.

3. The procedures developed by NSA for implementation of these delegations of authority and exemptions are long standing and have withstood periodic review by GAO, GSA, and DoD. We welcome the exclusions contained in the Defense Authorization Bill and DoD efforts to improve the DoD acquisition process. However, those efforts should not result in burdening cryptologic procurements with additional paperwork and oversight.

4. Thus, we believe that the present cryptologic exceptions and procedures must be retained. We propose to retain those procedures and to participate with you as observers in the development of DoD procedures concerning other DoD acquisitions. This participation

Serial: N1101

may assist us in identifying improvement in our existing system that would help achieve better effectiveness and efficiency. However, we strongly believe that, because of the uniqueness and sensitivity of our missions, and the long history of maintaining a separate system, we must continue to do so in the future.

5. All NSA/CSS ADP systems are currently covered under the existing delegations of authority and we expect to extend the exclusion contained in the FY 1982 Defense Authorization Act to all such systems.



LINCOLN D. FAURER
Lieutenant General, USAF
Director, NSA/Chief, CSS

(009718)

