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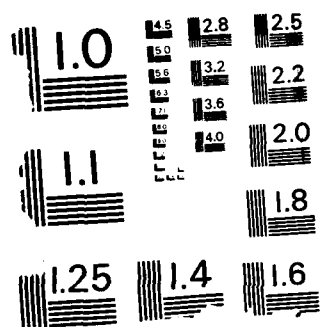
AFFORDABLE STRATEGIES TO IMPROVE INDUSTRIAL
RESPONSIVENESS APPROVED FINAL (U) ANALYTIC SCIENCES
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STRENGTH
RESPONSENESS

STRENGTH
RESPONSENESS
AND VOLUNTARY

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FEDERAL EMERGENCY MANAGEMENT AGENCY

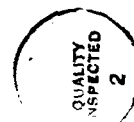
**AFFORDABLE STRATEGIES
TO IMPROVE
INDUSTRIAL RESPONSIVENESS**

**APPROVED FINAL BRIEFING
ON STANDBY AND VOLUNTARY
AGREEMENTS**

6 March, 1987



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THE ANALYTIC SCIENCES CORPORATION

AFFORDABLE STRATEGIES TO IMPROVE
INDUSTRIAL RESPONSIVENESS
APPROVED FINAL BRIEFING ON
STANDBY AND VOLUNTARY AGREEMENTS

6 March 1987

Prepared for:

FEDERAL EMERGENCY MANAGEMENT AGENCY
500 C Street, S.W.
Washington, D.C. 20472

Prepared under:

Contract No. EMW-84-C-1780

**AFFORDABLE STRATEGIES
TO IMPROVE INDUSTRIAL RESPONSIVENESS:
FINAL BRIEFING ON
STANDBY AND VOLUNTARY AGREEMENTS**

MARCH 1987

BRIEFING OUTLINE

This briefing presents the results of a two-year examination of possible applications of standby and voluntary agreements and policy issues associated with their wider use. This study effort was carried out by The Analytic Sciences Corporation (TASC) and was sponsored by the Federal Emergency Management Agency (FEMA) under contract No. EMW-84-C-1780. This slide shows the organization of this briefing. The briefing follows the format of the contract tasks.

BRIEFING OUTLINE

- PROJECT OVERVIEW
 - PURPOSE OF STUDY
 - DEFINITION OF STANDBY AND VOLUNTARY AGREEMENTS
 - ROLE IN ENHANCING INDUSTRIAL RESPONSIVENESS
- STANDBY AGREEMENTS
 - PURPOSE OF A STANDBY AGREEMENT
 - PAST AND CURRENT USES
 - PROCESS FOR ESTABLISHING
 - FINDINGS
- VOLUNTARY AGREEMENTS
 - OVERVIEW: PURPOSE AND PROGRAM ACTIVITIES
 - LEGISLATIVE HISTORY
 - PROCESS FOR ESTABLISHING
 - FINDINGS
- POSSIBLE APPLICATIONS
- CONCLUSIONS AND RECOMMENDATION

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PROJECT OVERVIEW

PURPOSE OF STUDY

The purpose of this study was to determine whether and how standby and voluntary agreements could be used more effectively to improve industrial responsiveness. This was accomplished by:

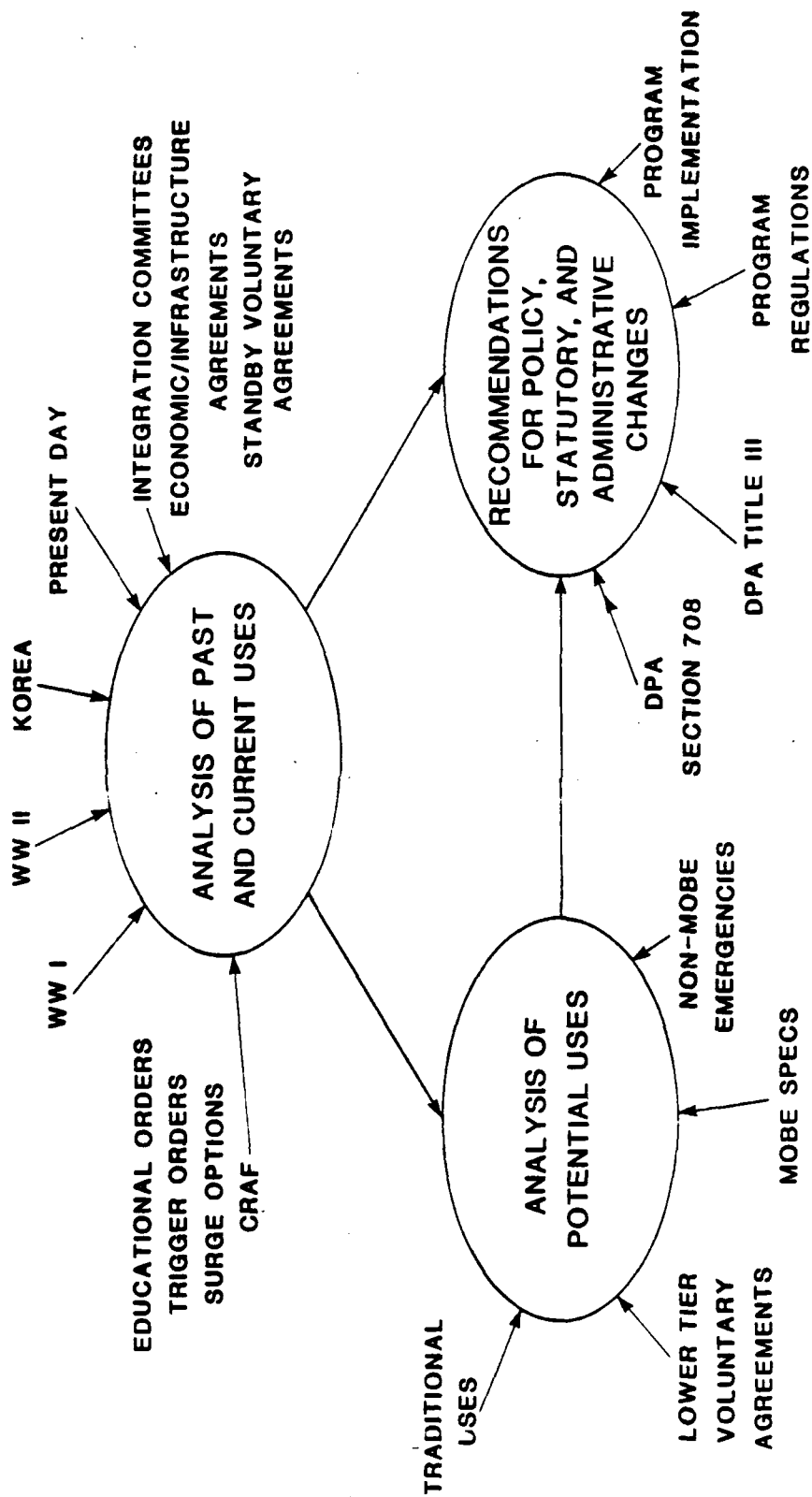
- Examining past and present uses of these two methods
- Considering possible ways they could improve responsiveness of 13 specific industrial and infrastructure sectors
- Analyzing policy and legal issues associated with their wider use.

This briefing summarizes a four-volume series of reports. The first three volumes review and analyze past, current, and potential uses of these agreements. Volume 1 focuses on standby agreements, examining six past and current standby agreement programs and presenting a model of how such agreements are established and activated. Volume 2 presents similar information on voluntary agreements. These two volumes provide definitive analyses of the issues surrounding these agreements -- their purposes; their possible uses; their creation, maintenance, and activation; and their benefits and costs. (JTS) ~~4~~

The third volume of this series contains preliminary analyses, or think pieces, on possible ways these agreements could be used in specific industries. The final volume is intended to stand alone, providing a general overview of the entire project. It presents findings from the three project phases together with general conclusions and recommendations.

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PURPOSE OF STUDY



PRIVATE SECTOR APPROACH TO IMPROVE INDUSTRIAL RESPONSIVENESS

A standby agreement is a contractual commitment by a private firm concerning specific goods and services to satisfy increased needs during an emergency. It can be used for a variety of purposes, including:

- Accelerated and increased production of defense items
- Conversion of commercial capacity to defense production
- Application of commercial resources in a military role
- Earlier production of items needed to support industrial expansion.

A voluntary agreement is an association of companies granted antitrust relief under Section 708 of the Defense Production Act to engage in activities in support of national security needs. It can be used to:

- Help increase production of defense items
- Convert nondefense producers to defense production
- Alleviate bottlenecks
- Allocate scarce resources
- Improve production scheduling.

More generally, both of these methods represent broad processes for increasing the involvement of the private sector in improving industrial preparedness. The standby agreement involves a targeted process of pre-emergency planning with industry to identify emergency problems and ways to resolve them. The voluntary agreement represents a mutual agreement by industry and Government that a serious national security problem exists and a commitment by these parties to work together to resolve this problem.

Other activities, such as advisory committees to provide policy advice to Federal agencies, would also be important parts of this strategy.

PRIVATE-SECTOR APPROACH TO IMPROVE INDUSTRIAL RESPONSIVENESS

PURPOSE:

INCREASED USE OF PRIVATE-SECTOR MANAGEMENT AND
PLANNING CAPABILITIES TO ENHANCE INDUSTRIAL
RESPONSIVENESS TO EMERGENCY NEEDS, BY MEANS OF:

- STANDBY AGREEMENT:

CONTRACTUAL AGREEMENT BY PRIVATE FIRM TO PROVIDE
SPECIFIC GOODS OR SERVICES TO HELP SATISFY INCREASED
EMERGENCY REQUIREMENTS

- VOLUNTARY AGREEMENT:

ASSOCIATION OF COMPANIES GRANTED ANTITRUST RELIEF UNDER DPA
SECTION 708 TO ENGAGE IN DEFENSE-SUPPORTING ACTIVITIES THAT
WOULD OTHERWISE RISK ANTITRUST PROSECUTION

- OTHER METHODS:

INDUSTRY ADVISORY COMMITTEES, LABOR-MANAGEMENT COMMITTEES,
MACHINE TOOL PANELS, ETC.

REASONS FOR NEW APPROACH

There are a number of reasons why it is timely to consider revival of the voluntary/standby agreement approach. First, voluntary and standby agreements represent an affordable way to improve industrial preparedness for a wide range of emergencies. Especially in a period of constrained defense budgets, preparedness funding is limited in comparison to the large number of emergency situations that might confront the United States. Voluntary and standby agreements could improve our capability to respond not just during mobilization, but in the early warning period prior to a crisis or during a limited surge in production. They could also improve our ability to solve defense preparedness problems that do not involve conflict, such as natural disasters, loss of foreign sources, or peacetime bottlenecks and disruptions.

National policies have also recently placed increasing emphasis on the importance of the private sector in improving our national security emergency preparedness. This new policy, first promulgated in National Security Decision Directive No. 47, was implemented partially in recognition of the increased effectiveness of using private sector expertise and resources to meet emergency requirements.

Changes in political policies and the structure of our economy also suggest the need for new approaches to maintaining preparedness. These changes include:

- A decline in Federal regulation of industry, which until recently provided a substantial capability for the Federal government to coordinate the activities of some key infrastructure sectors
- Rejection by many policymakers and planners of the utility of direct economic controls as a basis for emergency economic stabilization, which suggests that voluntary private sector economic coordination programs may have more value in future emergencies
- Changes in the market environment, including the decline of many essential industries, which may increase the importance of private sector programs that can help improve the health and effectiveness of industries that are essential to our national security.

REASONS FOR NEW APPROACH

- RANGE OF NATIONAL SECURITY PROBLEM AREAS
- LIMITED FUNDING TO PREPARE FOR EMERGENCIES
- NATIONAL POLICY EMPHASIZING PRIVATE SECTOR ROLE
- INCREASED EFFICIENCY FROM USING EXISTING PRIVATE SECTOR EXPERTISE
- DECLINE OF FEDERAL REGULATORY ACTIVITY
- CONFLICT OVER DIRECT ECONOMIC CONTROLS
- CHANGING MARKET ENVIRONMENT

ENHANCING INDUSTRIAL RESPONSIVENESS

This slide presents a graphic depiction of the variety of ways that voluntary and standby agreements can improve industrial responsiveness in an emergency. It shows a simplified representation of a traditional D-to-P curve, showing declining consumption over time, the portion of requirements satisfied by on-hand stocks, and a gradually increasing production rate (which shows a temporary "blip" as partially completed items are accelerated, followed by a lapse in production until new components are delivered for final assembly. This represents the current conception of production surge responsiveness without surge investments, as presented in recent DoD studies such as the JCS Precision Guided Munitions (PGM) study.)

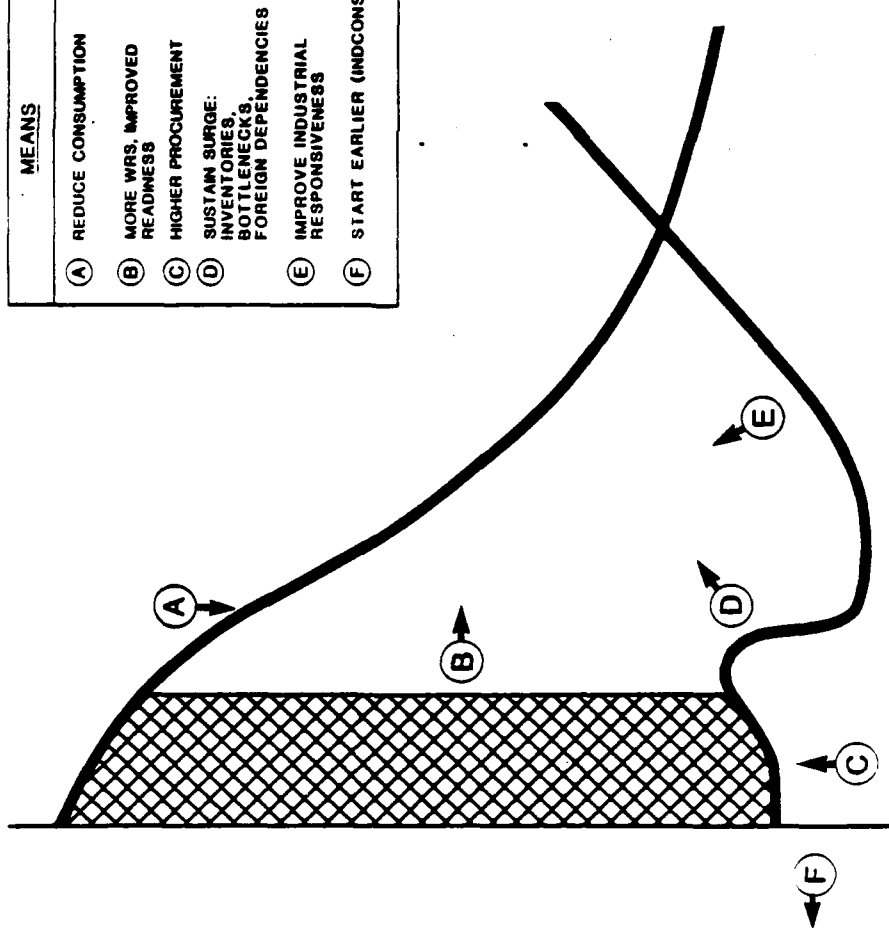
The slide suggests the different general approaches to solve D-to-P deficits:

- Reducing consumption, either by changing the nature of the threat or by altering force structure or force posture (Alternative A)
- Increasing pre-conflict readiness or war reserve stockpiles (Alternative B)
- Increasing peacetime production rates (Alternative C)
- Providing means to sustain surge production increases through component inventories or avoidance of production bottlenecks, foreign dependencies, and similar problems (Alternative D)
- Providing a more effective and timely industrial response (Alternative E)
- Activating industry sooner, so that the production buildup occurs (in whole or in part) prior to the onset of hostilities (Alternative F).

The slide also suggests ways in which voluntary and standby agreements (VSA) can contribute to these objectives. Although there appears to be no simple solution to the sustainability problem for a major conflict, it is clear that VSA can contribute to sustainability improvements in a wide variety of ways.

ENHANCING INDUSTRIAL RESPONSIVENESS

MEANS	VSA CONTRIBUTIONS	VSA USES
(A) REDUCE CONSUMPTION	PREPARE FOR "LESSER" CRISES	STANDBY VAS
(B) MORE WRS, IMPROVED READINESS	INCREASE READINESS ON WARNING	CRAF, SURGE OPTIONS, TRIGGER ORDERS, TANKER VA
(C) HIGHER PROCUREMENT		
(D) SUSTAIN SURGE: INVENTORIES, BOTTLENECKS, FOREIGN DEPENDENCIES	IMPROVE CRISIS RESPONSIVENESS; PRIME PUMP	SURGE OPTIONS, E.O.S, T.O.S, INTEGRATION COMMITTEES, CHANGE SPECS
(E) IMPROVE INDUSTRIAL RESPONSIVENESS	COORDINATE INDUSTRIAL RESPONSIVENESS	ALL
(F) START EARLIER (INDCONS)	FACILITATE TIMELY RESPONSE	SURGE OPTIONS, T.O.S,



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STANDBY AGREEMENTS

STANDBY AGREEMENT BENEFITS

A standby agreement can eliminate or reduce Government contracting administrative lead time. The contracting process can require a period of months to identify potential contractors, develop solicitations, prepare and evaluate proposals, and negotiate a contract. A standby agreement can be activated in hours by a simple oral, electronic, or written communication from the Government authority to the contractor.

Planners have often seen administrative lead time reduction as the principal benefit of a standby agreement. However, as this slide suggests, this may represent only "the tip of the iceberg." For example, planning associated with a standby agreement can reduce or eliminate the time needed to identify emergency requirements. However, adequate planning is not inherent in a standby agreement program, so this potential saving of time may not be realized.

Enhanced (standby) capabilities created in conjunction with a standby agreement can reduce the time to provide improved responsiveness. These enhanced capabilities might be in the form of experience (reducing learning curve delays), planning (permitting more rapid action and elimination of potential bottlenecks), and standby equipment (permitting an immediate increase in operations).

The planning generally found in a standby agreement program can also serve as a means to orchestrate an emergency response and thereby reduce the inefficiencies that might otherwise result from ad hoc emergency actions.

Beyond providing a more rapid and effective response, a standby agreement can be a cost-effective alternative to some defense and preparedness expenditures. Commercial and industrial resources available through a standby agreement can obviate the need for comparable Government-owned resources. For example the Civil Reserve Air Fleet (CRAF) program allows the Government to rely on private sector air transport capability instead of purchasing more military airlift capability. By relying on commercial and industrial resources to meet part of its insurance need, the Government can reduce its peacetime investment cost.

Because they entail relatively little cost, standby agreements can also provide a more comprehensive and flexible response capability. They can provide limited enhancements of a wide range of capabilities, which is especially appropriate in peacetime when full preparations for all foreseeable emergencies or crises may not be affordable.

STANDBY AGREEMENT BENEFITS

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• ADMINISTRATIVE
LEAD TIMES

• TIME TO IDENTIFY
REQUIREMENTS

• CONVERSION AND EXPANSION TIMES

• COST-EFFECTIVE ALTERNATIVE TO
SOME EXPENDITURES

• MORE FLEXIBLE RESPONSE TO
PROBLEMS

• FOCUS FOR PREPAREDNESS PLANNING

EFFECTIVENESS OF PAST STANDBY AGREEMENTS

The quotations shown on this slide highlight the effectiveness of several past standby agreement programs, specifically the World War II-era educational order program and the machine tool pool order programs from World War II and the Korean conflict. These quotations suggest the potential value of a standby agreement program in a major defense emergency.

EFFECTIVENESS OF PAST STANDBY AGREEMENTS

"THE TRAINING OF INDUSTRY FOR MUNITIONS PRODUCTION IS THE KEYSTONE OF INDUSTRIAL PREPAREDNESS, AND FUNDS MADE AVAILABLE FOR EDUCATIONAL ORDERS STRIKE DIRECTLY AT THE PRINCIPAL CAUSE OF DELAY IN MUNITIONS PRODUCTION."

COL. H.K. RUTHERFORD, DIRECTOR PLANNING BRANCH,
ASSISTANT SECRETARY OF WAR, 1941

"EXPERIENCE GAINED DURING WORLD WAR II MAKES IT ESSENTIAL THAT THE WAR AND NAVY DEPARTMENTS HAVE THE POWERS INHERENT IN THIS PROVISION... THROUGH THE USE OF EDUCATIONAL ORDERS THE SERVICES CAN CONSTANTLY DEVELOP THE INDUSTRIAL FACILITIES AND PRODUCTION KNOW-HOW NECESSARY TO KEEP ABREAST OF THE INDUSTRIAL REQUIREMENTS ARISING OUT OF THE DISCOVERY AND APPLICATION OF NEW WEAPONS."

HOUSE REPORT ON ARMED SERVICES PROCUREMENT ACT,
1947

"BASED ON PAST EXPERIENCE, THE PLACING OF SUCH CONTRACTS IN THE HANDS OF [MACHINE TOOL] BUILDERS IN THE ADVANCE OF AN EMERGENCY FOR WHICH TOOLS MIGHT BE NEEDED COULD SAVE MORE THAN A YEAR IN STARTING A MACHINE TOOL PROGRAM."

DEPARTMENT OF COMMERCE, 1956

WA85-3728

PAST AND CURRENT USES

SIX STANDBY AGREEMENT PROGRAMS

The contract required us to analyze the effectiveness of six past or present standby agreement programs. This slide lists the six programs that were examined in Volume 1 of the four-volume series of reports prepared under this contract. The following six slides address these programs.

SIX STANDBY AGREEMENT PROGRAMS

- EDUCATIONAL ORDERS
- PLAN BULLDOZER
- MACHINE TOOL POOL ORDERS
- MACHINE TOOL TRIGGER ORDERS
- CIVIL RESERVE AIR FLEET
- SURGE OPTION CLAUSE

EDUCATIONAL ORDERS

Educational orders were used during the rearmament period prior to U.S. involvement in World War II to help prepare nondefense manufacturers for conversion to defense production. Educational orders provided funding to make necessary facility improvements and produce a minimum quantity of "practice" articles.

Educational orders generally did not provide explicit production options, so they therefore did not meet the strict definition of standby agreements. Nevertheless, they did provide for a more effective conversion when production orders were placed.

In the immediate aftermath of World War II, educational orders were recognized as a principal tool in maintaining preparedness for future mobilizations. However, with time, awareness of this preparedness method dissipated and it is not currently addressed in preparedness plans. However, the principal elements of an educational order program exist in DoD's Industrial Preparedness Planning program, which provides for maintaining lists of planned producers and identifying obstacles to their rapid conversion to defense production. A present-day educational order program would involve facility capacity surveys, identification of bottlenecks, augmentation of existing facilities, and production of a minimum quantity necessary to demonstrate production capabilities and obtain necessary qualifications and approvals from Government authorities.

While educational orders might be a relatively expensive option in peacetime, they could be an effective means to prepare for production increases during a period of rising superpower tensions or a surge in production. Educational orders might be used in concert with other VSA techniques, including surge option clauses (which could convert contracts from educational quantities to production quantities) and voluntary agreements (which would allow other existing producers to exchange production data with the new producers to accelerate the training). Educational orders could also be used before an emergency to produce and test modified products or production processes that could be used to save time or conserve resources in an emergency.

EDUCATIONAL ORDERS

- USED BEFORE WWII TO PREPARE NON-DEFENSE MANUFACTURERS FOR CONVERSION
- CRITICAL PART OF POSTWAR PREPAREDNESS PLANNING
- ESSENTIAL ELEMENTS OF AN EDUCATIONAL ORDER PROGRAM EXIST TODAY
- WOULD TRAIN, FACILITIZE, AND QUALIFY PLANNED PRODUCERS OR NEW DESIGNS
- POTENTIALLY IMPORTANT EARLY IN "WARNING" PERIOD OR CRISIS
- POSSIBLE APPLICATIONS WITH SURGE OPTION CLAUSE AND/OR VOLUNTARY AGREEMENTS

PLAN BULLDOZER

Plan Bulldozer involves a standby agreement between State and local government units and participating chapters of the Associated General Contractors (AGC) concerning disaster relief work by construction contractors. Because contractors are not contractually committed by this agreement to provide services, Plan Bulldozer does not fit a strict definition of "standby agreement."

● In some areas, notably among the California earthquake planning community, Plan Bulldozer is regarded as an important element of the emergency planning system. In other areas, ad hoc contractor responses have been considered adequate in recent disasters and the program is not very active.

Private sector initiatives (such as Plan Bulldozer) to improve emergency responsiveness are an attractive addition to government-sponsored efforts, but by definition, the Government has somewhat less control over these initiatives. Elements of Plan Bulldozer hold potential for improving the mobilization responsiveness of the construction industry, if combined with a standby agreement mechanism geared to mobilization. These positive elements of the existing program include private initiative, emergency planning, resource assessment, and coordination.

Use of a standby contract that can be triggered in an emergency can address the stated concern of emergency planners that Plan Bulldozer participants might not be relieved of their private contractual obligations in an emergency. Exercising a standby agreement would allow the Federal agency sponsor to apply defense priorities to the participants, which would protect them from claims by their private clients. As mentioned later in this briefing, voluntary agreements of construction contractors might also help coordinate construction industry response during a mobilization.

PLAN BULLDOZER

- VOLUNTARY DISASTER RELIEF PROGRAM INITIATED BY INDUSTRY
- AGREEMENT BETWEEN STATE OR LOCAL GOVERNMENT UNITS AND PARTICIPATING AGC CHAPTERS
- NOT "STANDBY AGREEMENT" IN STRICT SENSE
- HAS PROVEN INEFFECTIVE OR UNNECESSARY IN SOME AREAS
- PROGRAM GEARED TO MOBILIZATION PURPOSES COULD BE EFFECTIVE
- PRIVATE INITIATIVE IS ATTRACTIVE, BUT NOT UNDER GOVERNMENT CONTROL (BY DEFINITION)
- CONCERN ABOUT CONTRACTOR AVAILABILITY COULD BE SOLVED BY FORMAL STANDBY AGREEMENT

MACHINE TOOL POOL ORDER PROGRAM

Pool orders were one of several methods to increase production of needed machine tools, one of the key production bottlenecks during the early stages of World War II. Pool orders were not "standby agreements" in the strict sense of the term, but they were intended to provide needed machine tools on a standby basis in anticipation of actual requirements. The intent of the program was to provide financial assurance to machine tool producers so that they could begin to produce vital tools before actual orders had been placed. The program also helped assure that tools were provided first to the highest priority users.

Machine tool production increased six-fold between 1939 and 1942, the peak of machine tool production in World War II. A large portion of new machine tool orders were placed under the pool order program. It is believed to have been instrumental in increasing machine tool production, although it is impossible to separate the impact of pool orders from other machine tool programs.

The ultimate cost of machine tool pool orders to the Government was extremely small relative to the size and duration of this program. Of the \$1.945 billion advanced under this program, only \$2 million worth of machine tools were ultimately unsold.

MACHINE TOOL POOL ORDER PROGRAM

- NOT "STANDBY AGREEMENT," BUT PROVIDED NEEDED TOOLS ON A STANDBY BASIS
- ONE OF SEVERAL PROGRAMS TO STIMULATE TOOL PRODUCTION
- VERY LOW ULTIMATE COST TO GOVERNMENT

MACHINE TOOL TRIGGER ORDER PROGRAM

The Machine Tool Trigger Order Program (MTTOP) involves standby agreements between the Government and machine tool builders. Under the MTTOP, the Government agrees to buy tools that are produced under trigger orders if they are not purchased by private firms. The MTTOP was created during the Korean conflict and remained active until 1969. It was reactivated in 1982.

The MTTOP is potentially an effective program. Machine tools have always been a major bottleneck early in any emergency requiring major increases in defense production, and the trigger order concept can provide a more effective and coordinated response from producers. However, the potential utility of the MTTOP is limited by the failure to define specific machine tool needs and the absence of effective activation procedures and standby funding. An advance appropriation of funds (and perhaps an authorization) would be needed to fund a major MTTOP activation. The declining health of the domestic machine tool industry also limits the program's potential effectiveness. As domestic machine tool capacity continues to erode, the resources available in an emergency decline correspondingly. Trigger orders, by themselves, cannot reverse this decline.

The trigger order concept could be applied to other critical sectors. A subsequent section of this briefing describes other sectors where trigger orders might help improve emergency responsiveness.

MACHINE TOOL TRIGGER ORDER PROGRAM

- GOVERNMENT COMMITS TO PURCHASE ORDERED TOOLS IF THESE TOOLS ARE NOT PURCHASED BY INDUSTRY
- POTENTIAL EFFECTIVENESS REDUCED BY FAILURE TO IDENTIFY SMOOTH ACTIVATION PROCEDURES
- PROBLEMS: CHRONIC INADEQUACY OF IPP RESOURCES; INABILITY TO IDENTIFY POTENTIAL TOOL REQUIREMENTS; LACK OF STANDBY FUNDING; AND POOR ECONOMIC HEALTH OF THE MACHINE TOOL INDUSTRY
- POSSIBLE APPLICATION OF TRIGGER ORDER APPROACH TO OTHER INDUSTRIES

CIVIL RESERVE AIR FLEET (CRAF)

The CRAF is composed of civil aircraft committed by contractual arrangement to augment U.S. military airlift capabilities during a period of substantially expanded peacetime military airlift requirements or a defense emergency. Four different standby agreements are tied together under CRAF auspices. These include: CRAF; CRAF Enhancement; the expansion option tied to annual airlift services; and Senior Lodger.

CRAF Enhancement involves government modification of civil aircraft so that they can carry military cargo. The expansion option distributes peacetime military charter business in proportion to airlines' CRAF commitment. Senior lodger provides for airlines with major maintenance capabilities at airfields to service other airlines planes during a CRAF operation.

Use of civil air carrier assets for military purposes poses several problems. These include: the limited applicability of commercial assets to defense purposes; the changing nature of civil assets caused by economic conditions; and the availability of non-military personnel for military situations. Nevertheless the CRAF program is a cost-effective means to augment military airlift capabilities during an emergency. Despite several constraints, it is the most carefully established and maintained of the standby agreement programs studied.

The concept of granting preference for peacetime contracts to standby agreement contractors could be a major incentive to increase preparedness planning efforts and participation in such programs by industry. One of the principal weaknesses of DoD's planned producer program is the general absence of follow-through on DoD's policy that planned producers should be guaranteed access to peacetime contracting opportunities.

CIVIL RESERVE AIR FLEET (CRAF)

- LONG-RANGE CIVILIAN AIRCRAFT COMMITTED THROUGH STANDBY AGREEMENTS TO SUPPORT EMERGENCY MILITARY NEEDS
- FOUR STANDBY AGREEMENTS: CRAF; CRAF ENHANCEMENT; EXPANSION OPTION; AND SENIOR LODGER
- COST-EFFECTIVE MEANS TO PROVIDE EMERGENCY AUGMENTATION
- PROBLEMS: COMPATIBILITY OF COMMERCIAL ASSETS TO DEFENSE APPLICATIONS; CHANGING NATURE OF COMMERCIAL ASSETS CAUSED BY ECONOMIC CONDITIONS; AND AVAILABILITY OF NON-MILITARY PERSONNEL FOR MILITARY SITUATIONS

SURGE OPTION CLAUSES

The surge option clause is a standby agreement between contractors and the Government to increase production of items currently being produced for the Government. Use of this option would eliminate the normal administrative delay of a number of weeks or months associated with establishment of a new contract.

The availability of adequate funding is the biggest problem associated with use of the surge option clause. In addition, the option clause has little value unless it is accompanied by planning to identify realistic capabilities and constraints.

The surge option clause applies only to existing production contracts and, therefore, is not currently being used to increase the responsiveness of other potential producers. However, it could be used for planned producers, and might be a very important step in converting them to defense production in an emergency.

SURGE OPTION CLAUSE

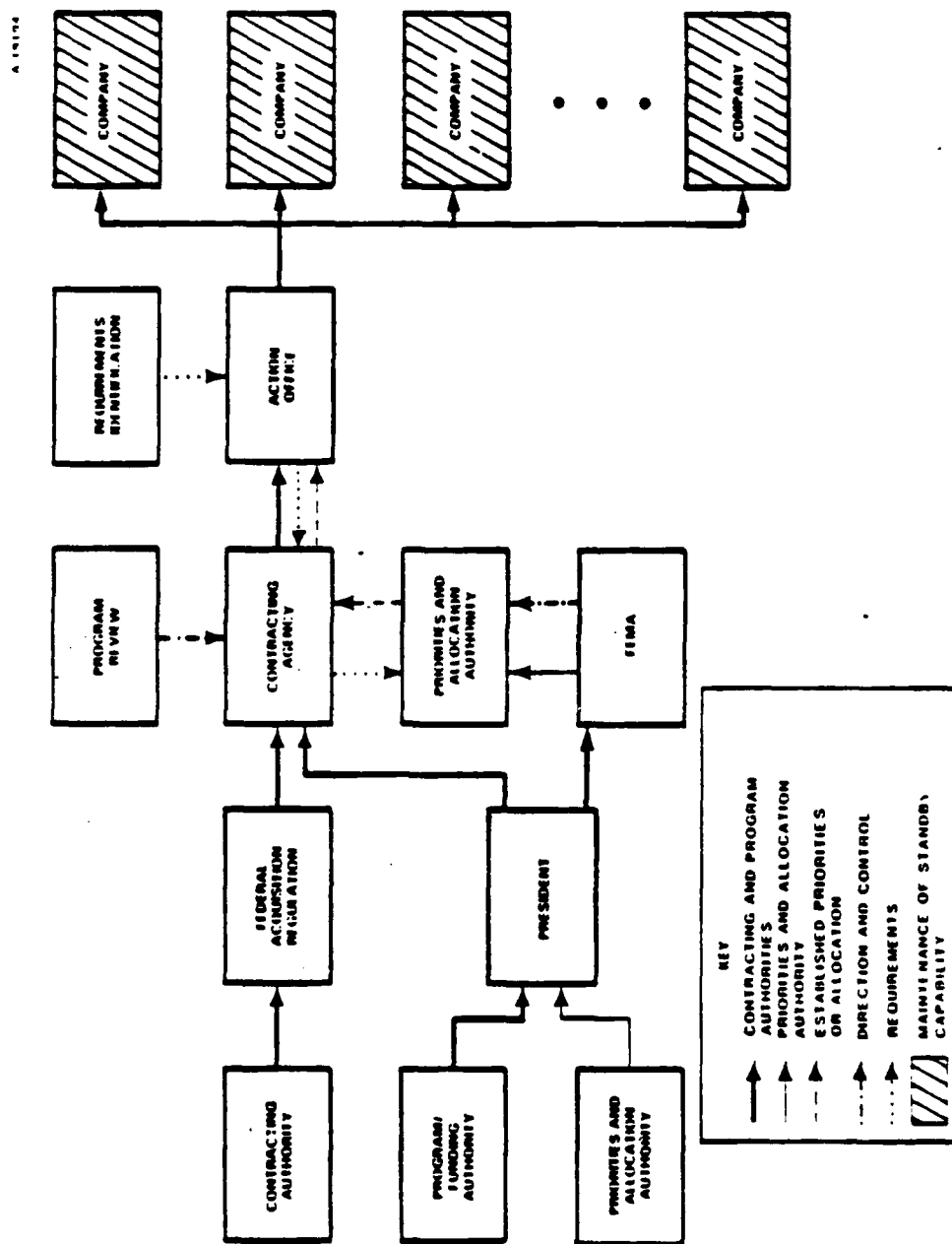
- STANDBY AGREEMENT TO INCREASE OUTPUT OF ITEMS CURRENTLY IN PRODUCTION
- WOULD ELIMINATE ADMINISTRATIVE DELAY ASSOCIATED WITH CONTRACTING
- EXTREMELY BENEFICIAL AND COST-EFFECTIVE; CRITICAL ELEMENT OF IPP
- REQUIRES PLANNING TO IDENTIFY CAPACITY, BOTTLENECKS, AND REMEDIAL MEASURES
- PROBLEMS: AVAILABILITY OF AUTHORIZATION AND FUNDING; AND APPLICATION ONLY TO ITEMS IN PROCUREMENT AND CURRENT PRODUCERS

ESTABLISHING A STANDBY AGREEMENT

Despite considerable differences among the six programs we examined, common elements relating to the establishment and activation of a standby agreement program are evident. Establishing a standby agreement involves some or all of the following elements: program authority; contracting authority; delegation of authority; requirements standby capability; priorities and allocation authority; creation and maintenance of a of potential requirements; and program review. Preparedness planning, including identification of potential requirements, is key to an effective standby agreement program.

Activating a standby agreement involves some or all of the following elements: determination of need; triggering authority; priorities and allocation authority; regulatory authority; and funding. The later in an emerging emergency situation that the need to activate a standby agreement program is recognized, the less effective the program is likely to be.

ESTABLISHING A STANDBY AGREEMENT



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FINDINGS

FINDINGS/STANDBY AGREEMENTS

This slide lists the key findings related to standby agreements. These findings are discussed on subsequent slides.

FINDINGS/STANDBY AGREEMENTS

- WIDE VARIETY OF CURRENT AND POTENTIAL USES
- SIGNIFICANT IMPACT ON INDUSTRIAL RESPONSIVENESS
- STUMBLING BLOCKS
 - FUNDING
 - TIMELY ACTIVATION
- ADEQUATE LEGAL AUTHORITIES TO CREATE AND ACTIVATE

USES OF STANDBY AGREEMENTS: CURRENT/POTENTIAL

This slide lists a number of ways that standby agreements have been used or new ways they could be used to improve industrial responsiveness.

CRAF and the CRAF Enhancement program are examples of standby agreements to use or modify commercially available resources. Standby agreements such as the CRAF program allow DoD almost immediate access to civilian resources and therefore can avoid the need to invest in comparable government-owned resources that would only be needed in an emergency. Plan Bulldozer represents another application of this technique, although it is, as noted previously, not a standby agreement in the strict sense of the term.

Surge option clauses represent a way to accelerate delivery of items already under contract or to execute contracts rapidly for increased orders.

Trigger orders, educational orders, and standby agreements specifically tailored to change production or test specifications represent ways to facilitate conversion of new producers.

Standby purchase agreements (trigger orders) are one means to increase production capabilities rapidly. Standby purchase agreements can incentivize contractors to increase their production rates or invest in enhanced capacity before demand has developed, which can reduce response lead times once the demand has developed.

USES OF STANDBY AGREEMENTS

CURRENT/POTENTIAL

WA85-3735

- | | | |
|-----------------------------------|---|--|
| EXISTING ITEMS | { | • USE COMMERCIAL RESOURCES FOR MILITARY/EMERGENCY PURPOSES |
| | • | MODIFY COMMERCIAL RESOURCES FOR MILITARY USES |
| INCREASED END-ITEM OUTPUT | { | • ACCELERATE DELIVERY OF ITEMS CURRENTLY IN PROCUREMENT |
| | • | INCREASE ITEMS CURRENTLY IN PROCUREMENT |
| CONVERTED PRODUCTION CAPABILITIES | { | • SHARE TOOLING FOR ESSENTIAL ITEMS |
| | • | MODIFY PRODUCTION PROCESSES TO REDUCE BOTTLENECKS |
| | • | MODIFY PRODUCT DESIGNS TO FACILITATE PRODUCTION |
| | • | CONVERT CAPACITY TO PRODUCTION OF ESSENTIAL ITEMS |
| INCREASED PRODUCTION CAPABILITIES | { | • INCREASE INVENTORIES OF EQUIPMENT AND COMPONENTS |
| | • | EXPAND CAPACITY FOR ESSENTIAL ITEMS |

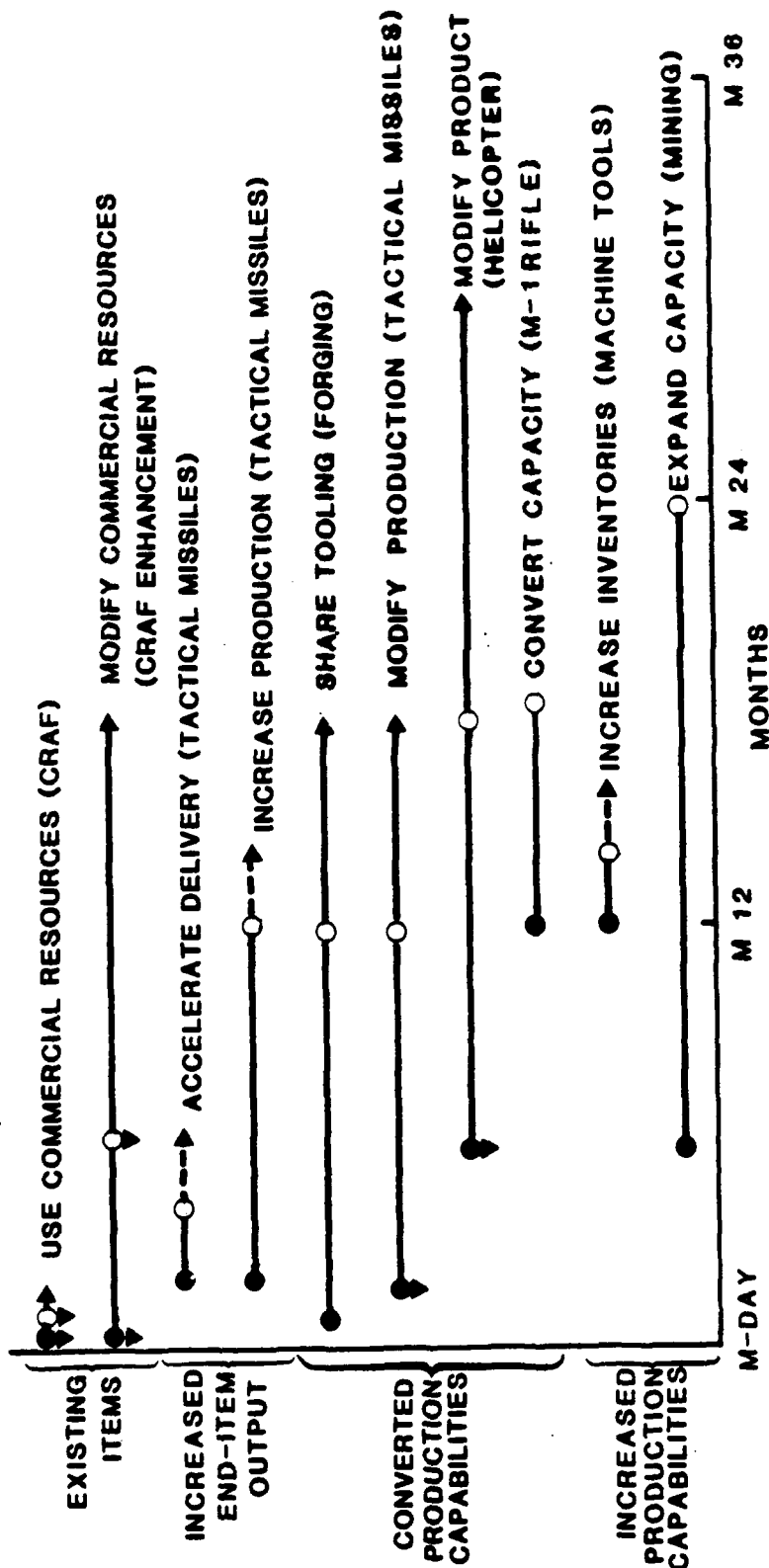
IMPACT OF STANDBY AGREEMENTS ON MOBILIZATION RESPONSIVENESS

This slide suggests one significant potential contribution of standby agreements during a mobilization. It shows the potential reductions in expansion lead times that can be obtained by careful development of standby agreements.

For example, the second line suggests that the six month lead time to modify civil aircraft to CRAF cargo configuration can virtually be eliminated if passenger aircraft undergo CRAF enhancement prior to an emergency. The arrows pointing downward suggest that these commercial resources (civil airliners) may not perform as well as dedicated military assets, although in this case, the significant cost savings from CRAF enhancement would suggest that the investment is still very beneficial.

Similarly, the "modify production" line suggests that the typical response lead time of 12 months (or more) to surge tactical missile production could be reduced to only a few months if standby agreements identified production or test bottlenecks in advance and provided for relaxation of such specifications in an emergency. As with most other standby agreements, this agreement would have little value unless accompanied by detailed planning. However, if engineering surveys and planning were able to identify and resolve production or test bottlenecks, the investment could be repaid many times over during a surge or mobilization.

IMPACT OF STANDBY AGREEMENTS ON MOBILIZATION RESPONSIVENESS



KEY	INCREASED RESOURCES FROM SA	INCREASED RESOURCES WITHOUT SA
●	INCREASED RESOURCES FROM SA	INCREASED RESOURCES WITHOUT SA
→	REDUCED RESOURCES WITHOUT PLANNING	CONTINUED REDUCED RESOURCES WITHOUT ENHANCEMENT MEASURES
⬇	REDUCED PRODUCT SPECS	

FUNDING FOR STANDBY AGREEMENTS

Lack of funding can be a major impediment to activation of standby agreements. Contingency funding is generally not available, although unobligated funds could be used to provide stopgap funding. However, additional funds would eventually be needed to sustain the increased effort.

In some cases, a special appropriation (and perhaps even an authorization) might be required before the agreement could be activated. For example, activation of MTTOP contracts could require prior authorization (or review) and funding by Congress.

Funding delays could reduce or even eliminate the effectiveness of a standby agreement. However, this delay is not inherent in the concept of a standby agreement. It is possible for Congress to provide a contingent authorization and appropriation to permit activation of a standby agreement without further congressional action.

FUNDING FOR STANDBY AGREEMENTS

- LACK OF FUNDING FOR PLANNING AND ENHANCED STANDBY CAPABILITIES REDUCES POTENTIAL EFFECTIVENESS
- LACK OF FUNDING CAN BE A MAJOR IMPEDIMENT TO ACTIVATION OF A STANDBY AGREEMENT
- CONTINGENT FUNDING NOT GENERALLY AVAILABLE
- UNOBLIGATED FUNDS CAN BE USED FOR STOPGAP FUNDING (IN MOST CASES)
- CONTINGENT FUNDING SHOULD BE PROVIDED

ACTIVATING STANDBY AGREEMENTS

The opportunity to save time in acquiring goods and services is the foundation underlying the standby agreement concept. Therefore, timely activation of a standby agreement is key to its effectiveness in an emergency. Ironically, planners often fail to consider the conditions under which these agreements should be triggered when they establish a standby agreement.

In cases where a standby agreement concerns manufactured goods, the desired increase in output would generally take weeks or even months from the time of triggering. In such cases, standby agreements would be far more effective if they were triggered earlier in anticipation of increased requirements rather than later in response to actual need.

Early triggering may be less important for service industries because triggering the agreement can often achieve an almost immediate result. For example, CRAF aircraft could be available to fulfill military airlift requirements shortly after an activation order is issued.

The added benefit from early triggering is not without cost, since greater risk is associated with expenditures in anticipation of requirements. Because of the importance of timely activation, the Government needs to devote considerably more attention to triggering mechanisms and to warning signals and accompanying crisis stages that would cause agreements to be activated.

ACTIVATING STANDBY AGREEMENTS

- CRITICAL ELEMENT THAT MUST BE DEFINED
- TRIGGERING MECHANISMS/CONDITIONS FREQUENTLY NOT CONSIDERED
- EARLY TRIGGERING COULD GREATLY INCREASE THE BENEFIT OF A STANDBY AGREEMENT
- WOULD ALSO INCREASE RISK OF INEFFICIENT GOVERNMENT EXPENDITURES
- "TRIGGERS" MUST BE DEFINED

LEGAL AUTHORITIES/STANDBY AGREEMENTS

The concept of a standby agreement is not defined by law or regulation. Some specific standby agreements (e.g., educational orders, CRAF Enhancement, and surge option clauses) are individually authorized.

Two laws provide general authorities for many types of standby agreements. Exception 3 to the Competition in Contracting Act (formerly Exception 16 to the Armed Services Procurement Act) permits non-competitive contracting for the purpose of maintaining the mobilization base. Title III of the Defense Production Act authorizes the Government to make purchase guarantees, loans, or loan guarantees to expand essential capacity and supply for national defense purposes. These two authorities can be widely applied to standby agreement programs, although Title III, in particular, is not as valuable for mobilization preparedness purposes as it was before the most recent DPA amendments. Title III was recently amended to restrict the total value of guarantees that can be authorized in any year and to require an elaborate set of Presidential findings prior to issuance of any DPA guarantees. These changes limit the utility of Title III in an emergency, when large numbers of commitments might be executed.

Other authorities are relevant to specific standby agreements. These include Title I of the Defense Production Act (priorities and allocations) and various laws providing overall regulatory authority or indemnification. Title I of the DPA is especially important, in conjunction with standby agreements, to relieve companies signing standby agreements from obligations under nondefense contracts.

LEGAL AUTHORITIES/STANDBY AGREEMENTS

- NOT DEFINED EXPLICITLY BY STATUTE OR REGULATION
- SPECIFIC AUTHORITIES (EXAMPLES):
 - EDUCATIONAL ORDERS
 - CRAF ENHANCEMENT
 - SURGE OPTION CLAUSES
- GENERAL AUTHORITIES:
 - FAR "EXCEPTION 3" (FORMERLY "EXCEPTION 16")
 - DPA TITLE III (NOT VERY FLEXIBLE)
- RELATED AUTHORITIES
 - DPA TITLE I
 - REGULATORY
 - INDEMNIFICATION

WAB5-1960

VOLUNTARY AGREEMENTS

WA85-3738

OVERVIEW

USES OF VOLUNTARY AGREEMENTS

During all three 20th Century mobilizations, the Federal Government has found it necessary to allow business to engage in activities that would not be permitted in normal times. The present voluntary agreements program can indirectly trace its ancestry to the World War I government-industry committees, under which businessmen advised the Government on industry capabilities, quantities and delivery schedules, prices, and allocations. During World War II, more than 100 integration committees assisted the military purchasing departments in solving materials and capacity shortages, promoting standardization, and solving other production problems.

The Defense Production Act set more formal procedures for these cooperative programs. Two types of voluntary agreements were formed during the Korean conflict. One involved contractors and subcontractors working on a specific weapons program. These "integration committees" help solve production problems such as:

- Helping convert new producers
- Standardizing components or production processes among different producers of the same item, either by the exchange of information or by agreement among the participants as to standard techniques and processes
- Alleviating component and materials shortages by sharing order boards and supplies of parts, components, or materials
- Improving the scheduling of production by allowing producers to coordinate their orders and deliveries, allocate subcontracts, pool orders for materials, etc.

There was also a broad category of "miscellaneous" agreements, generally involving nondefense producers. Some of these agreements allowed industries to exercise voluntary economic controls. For instance, steel producers formed a voluntary steel pricing agreement and lending institutions formed a voluntary credit restraint agreement.

USES OF VOLUNTARY AGREEMENTS

- WWI AND WWII ANTECEDENTS
 - MORE THAN 100 ARMY INTEGRATION COMMITTEES WITH MORE THAN 10,000 PARTICIPANTS
- KOREA: DEFENSE PRODUCERS
 - PROMOTE CONVERSION OF NEW PRODUCERS
 - IDENTIFY AND SOLVE PRODUCTION PROBLEMS
 - STANDARDIZE PARTS AND PROCESSES
 - EXCHANGE DRAWINGS, "KNOW-HOW," PARTS
 - JOINT PURCHASES TO ASSURE BALANCED SUPPLY
 - ALLOCATION OF MATERIALS, PARTS, SUBCONTRACTS
- KOREA: SERVICE SECTORS
 - PROVIDE COLLECTIVE SUPPORT (WAREHOUSEMEN, OIL TANKERS)
 - COORDINATE ECONOMIC ACTIVITIES (STEEL PRICING, CREDIT RESTRAINT)
 - COORDINATE INTERNATIONAL PETROLEUM SUPPLY

CONTRIBUTIONS OF PROGRAM

This slide summarizes the perceptions of the principal sponsors during World War II, the period during which voluntary agreements were most active. Voluntary agreements have proven to be essential during all-out mobilization efforts, and represent a proven technique to improve the effectiveness of mobilization programs.

In general, the production-oriented integration committees represented a means to harness the problem-solving abilities of American businessmen. By general agreement of the participants, many of the problem areas addressed by integration committees could have been resolved by government inspectors and policy officials, but only at the cost of considerable delay to the production program.

CONTRIBUTIONS OF PROGRAM

"AMONG THE MOST SUCCESSFUL DEVICES ORDNANCE DEVELOPED TO
BREAK BOTTLENECKS, SPEED PRODUCTION, AND PROMOTE COOPERATION
AMONG CONTRACTORS."

OFFICIAL WAR DEPARTMENT HISTORY OF ORDNANCE
DEPARTMENT

"ORDNANCE COULD NOT HAVE MET ITS CONSTANTLY CHANGING
REQUIREMENTS WITHOUT THE EXTREME FLEXIBILITY AFFORDED BY THIS
GROUPING OF CONTRACTORS. SPECIFICALLY, THE VARIOUS INTEGRATION
COMMITTEES MADE IT POSSIBLE TO TURN OUT THOUSANDS OF UNITS
ABOVE AND BEYOND INDIVIDUALLY RATED PLANT CAPACITIES."

LT. GEN. LEVIN H. CAMPBELL, WWII ORDNANCE
COMMANDER

ANALYSIS OF SIX AGREEMENTS

We reviewed the operations of six past or present voluntary agreements. To present a diverse overview of voluntary agreement program activities, this review stressed the unique "miscellaneous" agreements rather than the larger number of integration committees, all of which operated somewhat similarly.

The B-47 Production Committee was created in 1951 to help speed production of this radically different jet aircraft during a period of rising superpower tensions. It allowed the existing producer to exchange information and coordinate production efforts with two additional (and competing) aircraft manufacturers.

The Voluntary Credit Restraint Program provided an effective means to control business credit and supported the defense program by restraining growth of debt; channeling capital to essential expansion projects; limiting business inventory growth and hoarding; and diverting manpower and materials toward essential defense programs.

Petroleum supply voluntary agreements operated virtually continuously from 1951 to 1976. They prepared and submitted to the Government plans of joint action in response to petroleum supply crises in 1951, 1956, and 1967. They helped provide information on petroleum supplies and coordination of oil supply efforts.

The Voluntary Tanker Agreement would deal with the allocation of tanker capacity to meet DoD fuel transportation requirements during an emergency. It was very effective during the Korean War but has not been used since. The current standby program saves the administrative time and resources that would otherwise be needed to create a voluntary tanker agreement during an emergency.

The M-14 Integration Committee was established in 1961 to speed production of this new rifle during a period of rising Cold War tensions by helping train an additional manufacturer.

The Voluntary Agreement of the Munitions Industry is a proposed plan that would allow private firms and Government arsenals to make joint plans for producing ammunition, propellants, and explosives in response to emergency defense needs. Its predecessor, the Small Arms Ammunition Committee speeded ammunition production improvements and led to more rapid ammunition production during the Korean War.

ANALYSIS OF SIX AGREEMENTS

- B-47 PRODUCTION COMMITTEE (1951-57)
- VOLUNTARY CREDIT RESTRAINT PROGRAM (1951-52)
- FOREIGN PETROLEUM SUPPLY AGREEMENT (1951-76 --
REPLACED UNDER SEPARATE AUTHORITY)
- VOLUNTARY TANKER PROGRAM (1951-PRESENT)
- M-14 RIFLE INTEGRATION COMMITTEE (1961-63)
- MUNITIONS INDUSTRY AGREEMENT (AND PREDECESSOR
AGREEMENT) (1951-84 -- REPLACEMENT BEING CONSIDERED)

WA85-3742

LEGISLATIVE HISTORY

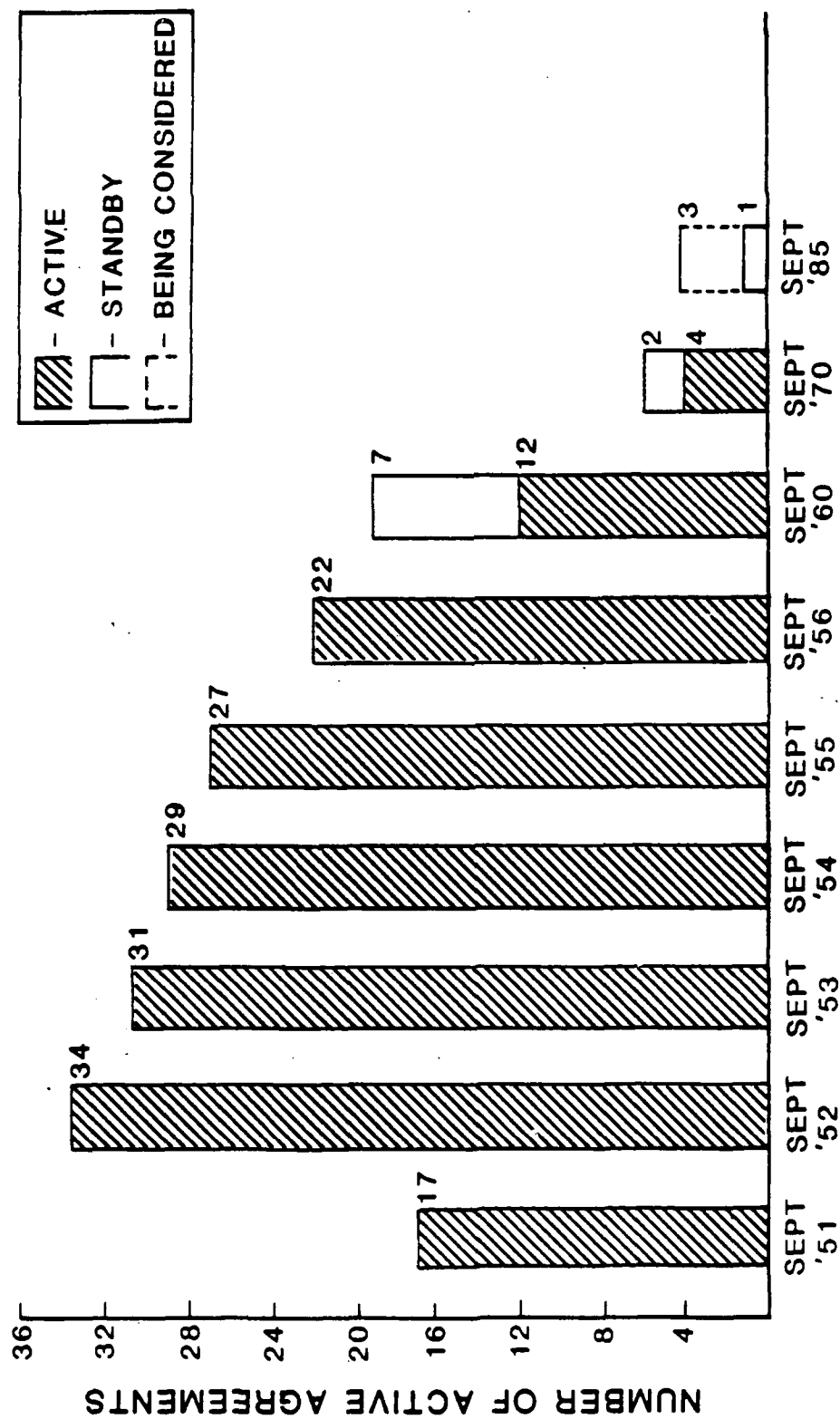
SUMMARY OF PROGRAM ACTIVITY

This slide summarizes voluntary agreement program activity. (It omits a large number of small business production pools, which were formed for the purpose of promoting business opportunities for small business firms rather than specifically to improve mobilization programs. Small business pools are now authorized by the Small Business Act.)

Voluntary agreements were used widely during the Korean conflict and for the first few years after the ceasefire. However, DPA amendments approved by Congress in 1955 discouraged formation or continuation of voluntary agreements. At the same time, the change in national strategy to place increased emphasis on preparedness for nuclear war undercut the strategic rationale for the voluntary agreements program (and many other mobilization preparedness programs). The program declined continuously throughout the late 1950s and 1960s. Voluntary agreements played little, if any, role during the Vietnam conflict, which was pursued largely on a "business as usual" basis.

SUMMARY OF PROGRAM ACTIVITY

WA85-3717



CHANGES IN AUTHORITY

Since its enactment in 1950, Section 708 of the Defense Production Act has been overhauled on three separate occasions:

- In 1955, when Congress restricted the scope of the program and increased the authority of the Department of Justice to question the rationale of voluntary agreements
- In 1969, when the original provisions of Section 708 were restored
- In 1975, when significant new procedural and "open government" requirements were added.

This slide summarizes some of the most important changes in authority, including the permitted scope of a voluntary agreement, the conditions under which voluntary agreements are permitted, the legal role of the Attorney General, the procedural rules prescribed by law, and the legal protection given to participants in voluntary agreements. The individual changes to the DPA are described in the following slides.

CHANGES IN AUTHORITY

	<u>1950</u>	<u>1955 AMENDMENTS</u>	<u>1969 AMENDMENTS</u>	<u>1975 AMENDMENTS</u>
SCOPE	CARRY OUT PURPOSE	DEFENSE PRODUCERS ONLY	REPEALED 1955 LIMITS	TO MAINTAIN PREPAREDNESS
WHEN PERMITTED	ANYTIME	ANYTIME	ANYTIME	WHEN THREAT TO PREPAREDNESS
A.G. ROLE	APPROVE	DEFENSE VS. ANTICOMPETITIVE	APPROVE	2 SEPARATE APPROVALS
PROCEDURAL RULES	NONE IN LAW	NONE IN LAW	NONE IN LAW	SUBSTANTIAL
LEGAL TREATMENT	IMMUNITY	IMMUNITY	IMMUNITY	LIMITED PROTECTION

1950 ENACTMENT OF THE DPA

Section 708 of the Defense Production Act (DPA), which authorized voluntary agreements, was modeled on World War II legislation but provided a more direct role for the Attorney General in reviewing such programs. During World War II, war mobilization officials were required only to notify the Attorney General of proposed antitrust waivers in the national defense interest. The DPA required formal approval by the Attorney General of all such requests.

This increased oversight role was provided because of congressional concerns that these agreements could foster anticompetitive behavior. In particular, Congress was concerned about the possible adverse impact of mobilization programs on small businesses. It was generally perceived that the prior two mobilization programs (WWI and WWII) had worked to the advantage of large business and to the detriment of small businesses.

During the Korean conflict, voluntary agreement authorities were used widely. The largest number of active voluntary agreements was sponsored by the Army, although the Air Force and non-defense agencies also sponsored voluntary agreements.

There was an even larger number of advisory committees, formed to provide coordinated industry policy advice to the Department of Defense, Department of Commerce, and war mobilization agencies. Use of both voluntary agreements and industry advisory committees began to decline shortly after the Korea ceasefire.

1950 ENACTMENT OF THE DPA

- STRICTER CONSTRAINTS THAN IN PRIOR WARS
- CONCERN ABOUT SMALL BUSINESS
- SEPARATE AUTHORIZATION FOR INDUSTRY ADVISORY COMMITTEES
- BROAD USE OF BOTH AUTHORITIES
- RAPID DECLINE OF BOTH
 - VOLUNTARY AGREEMENTS SEEN AS MOBILIZATION PROGRAM
 - INACTIVITY FOLLOWING ABATEMENT OF EMERGENCY
 - MID-50s CHANGE IN DOCTRINE UNDERCUT RATIONALE FOR PREPAREDNESS PROGRAMS

1955 AMENDMENTS TO THE DPA

Congress significantly narrowed the scope of the voluntary agreements program in 1955. New agreements could be formed only to deal directly with defense production, although existing voluntary agreements were allowed to continue.

In addition, Congress provided a substantive review role for the Attorney General, requiring him to weigh the defense need for a proposed voluntary agreement against the possible anticompetitive effects. (Previously, the Department of Justice had deferred to the judgment of defense agencies that proposed agreements were needed, and only reviewed them to assure that the anticompetitive impacts were minimized.)

These amendments reflected a widespread Congressional concern about peacetime government-industry contacts. At the same time, there were major congressional investigations of antitrust policy and monopolies in general, and about the use of industry advisory committees and "without compensation" employees. (The latter term referred to a practice of bringing industry personnel temporarily into senior government management positions while they remained on the payroll of their industry employers.)

1955 AMENDMENTS TO DPA

- RESTRICTION OF SCOPE
 - DEFENSE PRODUCERS ONLY
 - EXISTING AGREEMENTS "GRANDFATHERED"
- SUBSTANTIVE ROLE FOR ATTORNEY GENERAL
 - NATIONAL DEFENSE BENEFITS VS. ANTITRUST PROBLEMS
- SIGNIFICANT OPPOSITION TO PEACETIME GOVERNMENT -
INDUSTRY CONTACTS
 - VOLUNTARY AGREEMENTS
 - INDUSTRY ADVISORY COMMITTEES (IACs)
 - "WITHOUT COMPENSATION" (WOC) TEMPORARY EMPLOYEES
("DOLLAR A YEAR" MEN)
- VOLUNTARY AGREEMENT PROGRAM DECLINE CONTINUED

1969 DPA AMENDMENTS

In 1969, Congress repealed the restrictions that had been added in 1955 and restored the original provisions of Section 708. However, this action was motivated by a desire to use Section 708 for voluntary credit control programs and did not reflect a desire to improve defense preparedness. It had no apparent impact on the program, which was virtually moribund at that time.

1969 DPA AMENDMENTS

- REPEAL OF 1955 RESTRICTIONS AND 1952 RIDER BARRING CREDIT-CONTROL VOLUNTARY AGREEMENTS
- MOTIVATED BY DESIRE TO PROMOTE VOLUNTARY CREDIT CONTROLS
- DID NOT STIMULATE REVIVAL OF MORIBUND PROGRAM

1975 DPA AMENDMENTS

In 1975, Congress adopted an entirely new version of Section 708, which remains in effect. This new law added significant procedural obstacles to the formation and operation of voluntary agreements. Procedures for creating and activating agreements are spelled out in much greater detail than in past versions of the DPA. Significantly, the Attorney General must review the proposed agreement twice before it can be activated.

Participants in voluntary agreements no longer receive antitrust immunity for their participation in these agreements. Instead, they are offered a "defense" against antitrust charges, but must also show that the action was taken in good faith and in full compliance with the terms of the agreement.

Rules for carrying out agreements are much more detailed than in the past. Participants must agree to disclose substantial quantities of information. Advance notice must be provided of meetings and interested parties must be permitted to attend, except under certain circumstances.

As was the case with the 1969 loosening of DPA procedures, the defense-related nature of the program was an afterthought in 1975. These restrictions were not motivated by opposition to defense-related voluntary agreements. In fact, Congress made several changes in its original proposal (at the suggestion of the Federal Preparedness Agency) that preserved the utility of the program and assured that it could be used in peacetime to maintain defense preparedness.

The congressional concern in 1975 was triggered by one particularly controversial DPA voluntary agreement to carry out international energy allocations. Strict standards were created to limit potential collusive behavior on the part of oil companies, and applied to defense-related voluntary agreements almost as an afterthought.

Ironically, the agreement that stimulated the 1975 legislation is no longer an issue. The congressional approval of the Energy Policy and Conservation Act (EPCA) later in 1975 terminated the DPA authorization for international energy agreements and substituted EPCA authorization.

1975 DPA AMENDMENTS

- STRICT NEW PROCEDURAL REQUIREMENTS
 - DUAL A.G./FTC REVIEW
 - LIMITED ANTITRUST RELIEF
 - DISCLOSURE/OPEN-MEETING/DOCUMENTATION REQUIREMENTS
- BETTER THAN ORIGINAL PROPOSAL (FPA INTERVENTION)
 - ALLOWED IN PEACETIME
 - NO PROGRAM ROLE FOR DOJ/FTC
 - NATIONAL SECURITY DISCLOSURE EXEMPTION
- BUT SERIOUS PROBLEMS
 - DUAL DOJ/FTC APPROVAL
 - PUBLIC NOTICE, OPEN MEETING, RECORD-KEEPING, AND DISCLOSURE REQUIREMENTS
 - "DEFENSE" VS. IMMUNITY

ESTABLISHING A VOLUNTARY AGREEMENT

SUMMARY OF AGENCY ROLES

The process to establish a voluntary agreement is specified in DPA Section 708. Executive Order 10480 and FEMA's program regulation (Title 44, Code of Federal Regulations, Part 332) elaborate on the legislation.

In general, the program is controlled by the sponsoring agency, which is delegated Presidential authorities to define and establish the agreement. The sponsor is responsible for developing the agreement, coordinating with other agencies, approving the agreement, and making the prescribed findings that the agreement is needed. The two key findings that must be made are that "conditions exist which may pose a direct threat to the national defense or its preparedness programs" and that the proposed voluntary agreement will "help provide for the defense of the United States through the development of preparedness programs and the expansion of productive capacity and supply beyond levels needed to meet essential civilian demand." Although the sponsor must explain the basis for this finding, no other agency may question the sponsor's conclusions.

The Justice Department and Federal Trade Commission play an important, but limited, role. The agencies must approve the proposal to develop the agreement, attend all meetings to develop an agreement, and review the agreement once it has been developed to minimize anticompetitive impacts. They must also be informed of all actions taken under the agreement, and may attend meetings to carry out the agreement.

SUMMARY OF AGENCY ROLES

- SPONSOR CONTROLS PROGRAM
 - MAKES KEY FINDINGS
 - COORDINATES WITH OTHER AGENCIES
 - APPROVES AGREEMENT AND CERTIFIES NEED
- LIMITED JUSTICE DEPARTMENT/FIC ROLE
 - MUST BE INFORMED OF ALL ACTIONS
 - MUST APPROVE PROPOSAL TO DEVELOP
 - MUST REVIEW AGREEMENT TO MINIMIZE ANTI-COMPETITIVE IMPACTS
- FEMA PROVIDES GENERAL PROGRAM OVERSIGHT
 - MUST BE SPONSOR FOR TITLE I VOLUNTARY AGREEMENTS
- SPONSOR AND INDUSTRY PARTICIPANTS ARE THE KEY ELEMENTS

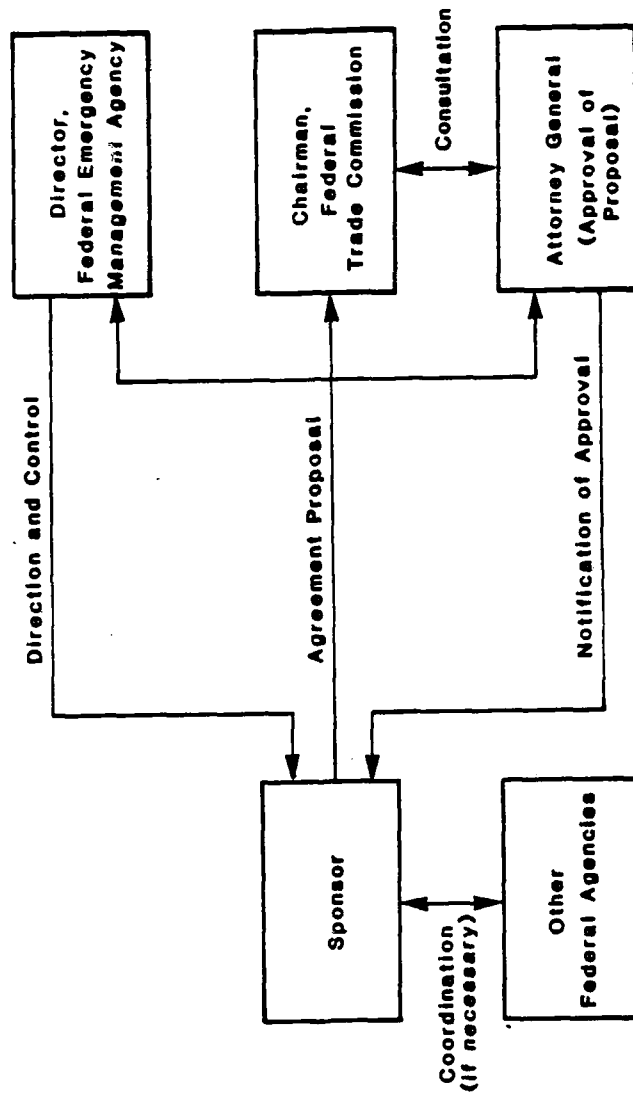
APPROVAL TO DEVELOP AGREEMENT

This slide shows the process for obtaining approval to develop an agreement. The sponsor makes the necessary findings and undertakes any necessary coordination with other Federal agencies. Section 708 requires the sponsor to submit the proposal to the Department of Justice, and the Code of Federal Regulations requires notification of FEMA.* After consultation with the Federal Trade Commission, the Department of Justice notifies the sponsoring agency that it may proceed to develop the agreement.

*Our review noted that the CFR regulations add several procedures not required by the DPA. These are discussed in detail in Appendix B of Volume 4, and are the subject of Recommendation #13. The slides that address voluntary agreement procedures depict the more cumbersome procedures required by the regulation. The text accompanying each slide notes the procedures that are not required by law.

APPROVAL TO DEVELOP AGREEMENT

WA85-3009

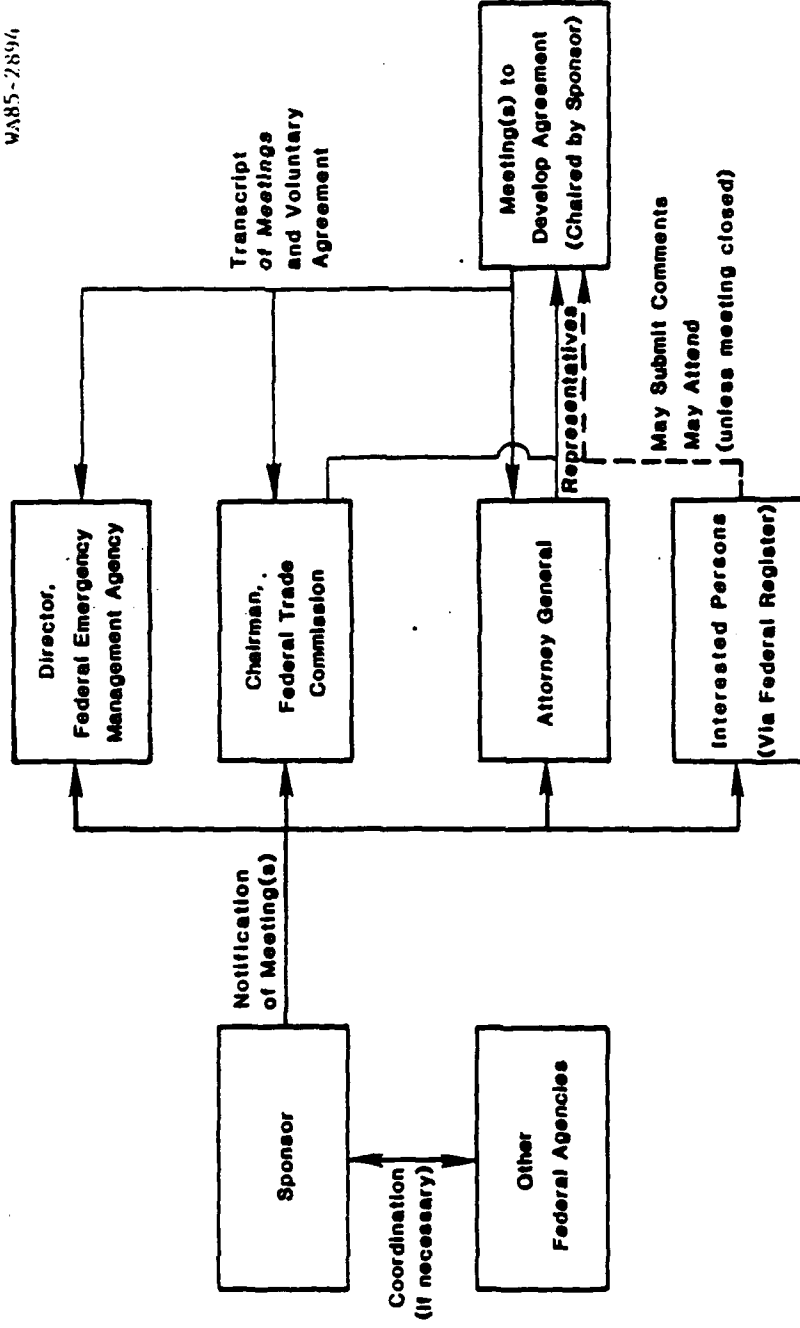


DEVELOPING A VOLUNTARY AGREEMENT

Before meeting to develop an agreement, the Sponsor must notify the Attorney General, FTC, and FEMA and must publish notice of the meeting in the Federal Register. The Sponsor chairs each meeting, and representatives of the Attorney General and FTC must attend. Interested parties may submit written views concerning the voluntary agreement, may attend the meeting (unless it is closed for reasons of national security), and may also make an oral presentation at the chairman's discretion. Finally, the Sponsor must supply a full transcript of each meeting to the Attorney General, FTC, and FEMA. (The requirements to notify FEMA are added by the regulation.)

DEVELOPMENT OF AGREEMENT

WA85-2894



EFFECTUATING A VOLUNTARY AGREEMENT

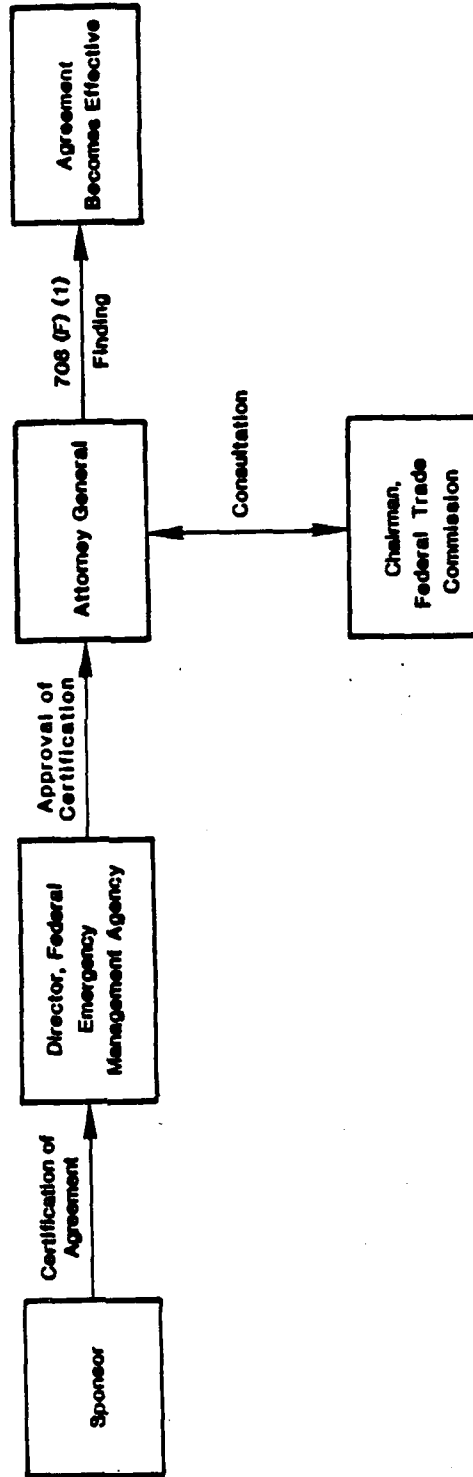
Once the voluntary agreement has been drafted, the Sponsor must approve the agreement and certify that the agreement is necessary to carry out the purposes of Subsection 708(c)(1): to "provide for the defense of the United States by developing preparedness programs or expanding productive capacity and supply." FEMA must then approve this certification and submit the agreement to the Attorney General. (The DPA requires only that the Sponsor certify the need and that the Attorney General approve. The requirement for FEMA to approve the Sponsor's certification is added by the CFR implementing regulations.)

In order for the agreement to become effective, the Attorney General, after consultation with the FTC, must issue a finding "that the purpose of subsection 708(c)(1) cannot reasonably be achieved through a voluntary agreement having less anticompetitive effects or without any voluntary agreement." This finding is required for both new and renewed agreements.

The proposed agreement can now be activated. However, if the proposal is to establish a standby (inactive) voluntary agreement, a separate step is necessary to activate it. This process is described on the next slide.

EFFECTUATING AGREEMENT

W/85-2893



ACTIVATING AND CARRYING OUT A VOLUNTARY AGREEMENT

Neither the statute nor the implementing CFR provisions discuss the process for activating a standby voluntary agreement. However, the process developed for the Voluntary Tanker Agreement provides one possible model. The activation process is initiated by the Sponsor, on his own or at the request of another agency. The Sponsor makes whatever finding might be required by the voluntary agreement and notifies FEMA, the Attorney General, and FTC. In the case of the tanker agreement, FEMA must concur in this finding before the Sponsor can activate the agreement.

The Sponsor carries out the agreement by scheduling meetings of the Participants, but must notify FEMA, the Attorney General, and FTC of these meetings in advance. Every meeting must be attended by a fulltime Federal employee, who is traditionally a representative of the Sponsor and the Chairman of the meeting. If the meeting is not closed, advance notice must be published in the Federal Register. If the meeting is closed, notification must be published within 10 days after the meeting.

Participants in an agreement must maintain "for five years all minutes of meetings, transcripts, records, documents, and other data, including any communications among themselves or with any member of their industry, related to the carrying out of the voluntary agreement." They must also agree to make these materials available to the Sponsor, FEMA, the Attorney General, and FTC for inspection and copying.

The flowchart illustrates the process for handling findings and actions, starting from a finding and moving through various stages of review and action.

Initial Finding and Action:

- Other Federal Agencies with Potential Responsibilities:** A dashed box at the top left, connected to the **Sponsor** by a dashed line labeled "Request for Activation".
- Sponsor (Required Finding):** A solid box that receives the finding and initiates the process.
- Concurrence with Finding:** A dashed line from the **Sponsor** to the **Director, Federal Emergency Management Agency**.

Review and Action Stages:

- Director, Federal Emergency Management Agency:** A solid box that receives the finding and initiates the process.
- Attorney General:** A solid box that receives the finding and initiates the process.
- Chairman, Federal Trade Commission:** A solid box that receives the finding and initiates the process.
- Notification of finding, meetings, and actions:** A solid line from the **Sponsor** to the **Meeting of Participants (Federal Employee Present)**.
- Schedule Meeting(s):** A solid line from the **Sponsor** to the **Meeting of Participants (Federal Employee Present)**.
- Representatives to Meeting (Optional):** A solid line from the **Director, Federal Emergency Management Agency** to the **Meeting of Participants (Federal Employee Present)**.

Meeting and Action Stages:

- Meeting of Participants (Federal Employee Present):** A solid box that receives the finding and initiates the process.
- Representatives to Meeting:** A solid line from the **Meeting of Participants (Federal Employee Present)** to the **Participant (Records)** boxes.
- Participant (Records):** A series of solid boxes representing the records of the meeting.
- Cooperative Actions Directed by Meetings of Participants:** A dashed line from the **Participant (Records)** boxes to the **Participant (Records)** boxes.
- Defense Requirements Identification:** A dashed line from the **Participant (Records)** boxes to the **Procurement of Goods and Services, Funding for Procurement (to another Agency) or Financing (for Participants), Provision of Insurance or Indemnification, Waiver of Regulations, Etc.**
- Procurement of Goods and Services, Funding for Procurement (to another Agency) or Financing (for Participants), Provision of Insurance or Indemnification, Waiver of Regulations, Etc.:** A dashed line from the **Participant (Records)** boxes to the **Procurement of Goods and Services, Funding for Procurement (to another Agency) or Financing (for Participants), Provision of Insurance or Indemnification, Waiver of Regulations, Etc.**

WA85-3745

FINDINGS

FINDINGS/VOLUNTARY AGREEMENTS

This slide lists findings related to the voluntary agreements program. These findings are addressed in the subsequent slides.

FINDINGS/VOLUNTARY AGREEMENTS

- POTENTIALLY EFFECTIVE PROGRAM
- POTENTIAL FOR MUCH BROADER USE
- IMPORTANCE OF STANDBY VOLUNTARY AGREEMENTS
- LEGAL REQUIREMENTS ARE PROCEDURALLY CUMBERSOME BUT SUBSTANTIVELY FLEXIBLE

EFFECTIVENESS OF VOLUNTARY AGREEMENTS

Implementation of voluntary agreements could improve industrial preparedness for a wide range of emergencies. Wider application of traditional approaches would be one way to achieve these benefits. This would involve use of voluntary agreement authorities to establish integration committees. Integration committees could be used in a wide range of emergency situations, as they were in past mobilizations, to speed conversion of new producers and identify and solve production bottlenecks.

A number of possible new uses of these authorities could also improve industrial responsiveness. These include:

- Creation of voluntary agreements among subcontractor and supplier companies. This type of voluntary agreement, never widely used in the past, would let critical lower-tier industries determine how to support the demands of multiple production programs. (Past production-related voluntary agreements, organized on the basis of individual defense programs, could not effectively address "horizontal," lower-tier capacity problems that affected multiple programs)
- Use of voluntary agreements to help industries rapidly replace lost foreign sources or cope with other production disruptions caused by natural disaster or sabotage
- Use of voluntary agreements to improve the responsiveness of key defense-supporting industries that have been unduly impacted by changing economic conditions.

EFFECTIVENESS OF VOLUNTARY AGREEMENTS

- VERY EFFECTIVE IN IMPROVING INDUSTRIAL RESPONSE
 - IDENTIFY AND SOLVE BOTTLENECKS
 - MAXIMIZE OUTPUT FROM EXISTING PLANTS
 - COORDINATE CONVERSION AND "TRAINING"
 - FOCUS IMMEDIATE ATTENTION ON PROBLEMS
- INDUSTRY SUBSTITUTE FOR (LESS EFFECTIVE) GOVERNMENT ACTION
- BRIDGE BETWEEN SURGE AND MOBILIZATION?

NON-TRADITIONAL USES

Under the terms of the DPA, voluntary agreements can be used at virtually any time as long as they have the general purpose of improving industrial preparedness. Although voluntary agreements have traditionally been used mainly in wartime, they may be used in peacetime to improve preparedness.

Voluntary agreements could improve surge responsiveness by helping coordinate efforts to produce and deliver spare parts and munitions during a "readiness surge" or limited conflict, increase production of cruise missiles or other strategic programs rapidly to respond to a world crisis or "SALT breakout," or resolve other surge problems.

They could also help respond to unexpected events such as strikes, sabotage, interruption of foreign sources, and natural disasters which could disrupt production of military end items or components. Voluntary agreements could be used to work around these production problems by coordinating production schedules at plants producing similar items, helping qualify new producers, providing technical assistance to restore production at the damaged plant (in the case of sabotage or natural disaster), or coordinating delivery or restoration of limited transportation, utility or financial services.

Voluntary agreements might be used as a way to let industry and Government jointly address peacetime production bottlenecks. Because of personnel limitations and the natural reluctance of Government to enforce defense priorities, the existing Special Priorities Assistance program can have only a limited impact in peacetime. A large number of simultaneous bottleneck problems could overload the system. Voluntary agreements could be used to coordinate prime contractor demand or bottleneck industry production schedules and deliveries.

Voluntary agreements could be used to improve the responsiveness or competitiveness of industries impacted by foreign competition or changing economic conditions. A voluntary agreement could permit a key defense-supporting industry to develop long-range R&D, production, or marketing strategies to improve its economic condition and preparedness posture.

NON-TRADITIONAL USES

- SUPPORT SURGE PRODUCTION
 - RE-SUPPLY OF U.S. OR ALLIED FORCES
 - PREPAREDNESS OR LIMITED CONFLICT
 - RAPID IMPLEMENTATION OF NEW TECHNOLOGY
- ALLEVIATE DISRUPTION
 - SABOTAGE OR NATURAL DISASTER
 - INTERRUPTION OF FOREIGN SOURCES
- RESOLVE PEACETIME PRODUCTION BOTTLENECKS
- IMPROVE RESPONSIVENESS OF DEFENSE-SUPPORTING SECTORS

STANDBY VOLUNTARY AGREEMENTS

Although voluntary agreements should not be used widely in normal conditions, they are likely to be needed at the beginning of a surge, mobilization, or other emergency that requires a sudden change in industrial output. Because of the substantial administrative lead time to establish voluntary agreements, it might not be possible to use them in a rapidly-developing emergency unless the agreement had been established in advance. Standby voluntary agreements (established and approved, but not activated) represent a cost-effective way to improve surge/mobilization or emergency responsiveness. With the administrative paperwork out of the way, the purpose and activation procedures defined, and members appointed, a standby voluntary agreement could be activated immediately in response to an emergency.

STANDBY VOLUNTARY AGREEMENTS

- PRE-APPROVED, BUT NOT ACTIVATED
- FACILITATES IDENTIFICATION OF PLANNING SHORTFALLS
- SAVES TIME DURING CRISIS
- AVAILABLE FOR SUDDEN CRISIS
- SHOULD BE PURSUED WHEN PEACETIME OPERATIONS NOT NEEDED

CURRENT LEGAL REQUIREMENTS

While the current version of Section 708 of the DPA is substantively quite flexible, it adds a substantial number of new procedural requirements for developing, approving, and implementing a voluntary agreement. Generally, the 1975 amendments:

- Added a second requirement for the Department of Justice and Federal Trade Commission to review voluntary agreement proposals before they can be activated
- Established several public notice and other procedural requirements that could delay establishment and operation of voluntary agreements
- Established elaborate record-keeping and disclosure requirements for the sponsors and participants
- Limited the antitrust relief afforded participants in agreements and required them to meet a substantial burden of proof before even the limited protection is available.

These new requirements would limit the utility of the voluntary agreements program. The first two types of requirements could delay creation of voluntary agreements. These delays could make it more difficult to establish these programs in an emergency, when they would be critically needed. Perhaps more important, they could make Government agencies more reluctant to undertake the effort to establish standby (or active) voluntary agreements in peacetime.

The third and fourth types of requirements would also impede operations of voluntary agreements by increasing the effort required for record-keeping. They could also make industry extremely reluctant to participate in these programs. (Appendix A of the final report identifies specific recommended changes to Section 708.)

It must be noted that the original proposed amendments would have made it even more difficult to form agreements. Changes in the original legislation (made at the request of the Federal Preparedness Agency) allowed voluntary agreements in peacetime, deleted a proposal to allow the Justice Department to veto agreements on the basis of need, and allowed sponsors to withhold classified information from disclosure and public discussion.

CURRENT LEGAL REQUIREMENTS

- PROCEDURALLY BURDENSOME, BUT SUBSTANTIVELY FLEXIBLE
 - PERMITTED IN PEACETIME
 - NO SUBSTANTIVE ROLE FOR ATTORNEY GENERAL
 - PROGRAM AGENCIES RESPONSIBLE FOR KEY FINDINGS
 - CONTRAST TO 1955-69 GROUND RULES AND ORIGINAL 1975 PROPOSAL
- PROCEDURAL AND RECORD-KEEPING REQUIREMENTS DELAY APPLICATION
- DISCLOSURE REQUIREMENTS COULD LIMIT INDUSTRY PARTICIPATION
- FEMA CONSIDERING DPA AMENDMENTS

POSSIBLE APPLICATIONS

The following slides discuss some possible new applications of standby and voluntary agreements. These are discussed in more detail in Volume 3 of our series of reports.

In this report, we attempted to present a broad perspective on the potential uses of these programs. Therefore, our review stressed the diversity of possible applications in important sectors rather than attempting to identify the most important sectors or applications. Many of the ideas discussed for a single industry could be applicable in many other sectors as well.

POSSIBLE APPLICATIONS

POSSIBLE APPLICATIONS: ITEMS AND MATERIALS

Special tooling and test equipment (ST/STE) is a commonly identified surge bottleneck in the tactical missile industry. Increasing the amount of ST/STE to eliminate the bottleneck could require an investment of millions of dollars for each missile production line during peacetime or would entail a delay of many months during an emergency or crisis. A standby agreement to reduce testing requirements could help eliminate the ST/STE bottleneck, reduce production lead times, and reduce program costs. It could also lead to reduced product reliability.

A standby agreement to increase helicopter production could take two forms: a surge option clause in a current defense contract; and an educational order with a planned producer for production planning, acquisition of standby equipment and tooling, and actual practice producing the item covered by the order.

Long lead times for large aerospace forgings are caused in part by the inability to shift business to an alternate supplier when the current supplier cannot perform in a timely fashion. Both standby and voluntary agreements could expedite the transfer of forging work to an alternate producer. A standby agreement could provide the option to direct the transfer of dies from one firm to another under defined emergency conditions. A voluntary agreement could permit cooperation among forging companies to direct the allocation of forging work.

Virtually all major U.S. "merchant" semiconductor producers operate at least one offshore plant where they complete most of their package assembly work and a growing share of their testing. Standby agreements could be used to identify new production or test methods to increase semiconductor production rapidly. A voluntary agreement could deal with potential production problems resulting from loss of supply from offshore semiconductor plants. A voluntary agreement could also be used to facilitate the transfer of semiconductor production and testing to an alternate producer.

Reopening a mine that has been mothballed is a lengthy process, averaging as much as three years. Standby agreements could help speed production increases during an emergency from both active and inactive mining operations. Standby purchase commitments (i.e., trigger orders) could be used for active mines, and educational orders, covering various maintenance activities, could be used for inactive mines.

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AFFORDABLE STRATEGIES TO IMPROVE INDUSTRIAL
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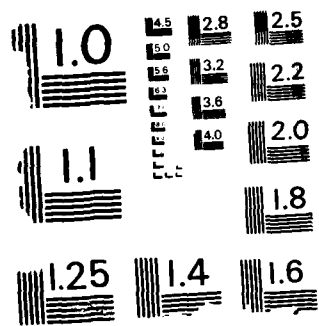
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POSSIBLE APPLICATIONS - ITEMS AND MATERIALS

<u>INDUSTRY</u>	<u>AGREEMENT</u>
<u>TACTICAL MISSILE</u>	• INTEGRATION COMMITTEE TO COORDINATE AND RESOLVE BOTTLENECKS • S.A. TO REDUCE TESTING REQUIREMENTS
<u>HELICOPTER</u>	• SURGE OPTION WITH EXISTING PRODUCER • EDUCATIONAL ORDER TO HELP CONVERT NEW PRODUCER
<u>FORGING</u>	• S.A. TO PROVIDE FOR TRANSFER OF DIES • V.A. TO IDENTIFY AND RESOLVE BOTTLENECKS
<u>SEMICONDUCTOR</u>	• V.A. TO HELP REPLACE FOREIGN SOURCES • S.A. TO IDENTIFY NEW PRODUCTION OR TEST METHODS
<u>MINING</u>	• STANDBY PURCHASE COMMITMENTS WITH ACTIVE MINES • EDUCATIONAL ORDER WITH INACTIVE MINE (ENGINEERING/ PLANNING, PAPERWORK, MAINTENANCE)

POSSIBLE APPLICATIONS: FACILITIES AND EQUIPMENT

The early stages of a major emergency could involve conflicting expansion programs and inadequate government coordinating authority. A network of local or regional construction industry voluntary agreements could coordinate construction schedules and resolve construction bottlenecks. Standby agreements could also be an important part of a preparedness program to expand production capacity. A standby agreement with manufacturers could provide for creating and maintaining standby plans for expansion of existing facilities. A standby agreement with a construction contractor would involve a commitment to provide construction services needed for an expansion effort.

The construction machinery industry might play two important roles during a mobilization. It might be required to produce equipment to meet increased construction needs and might also be required to convert to production of heavy military vehicles or vehicle components. Trigger and educational orders could be used to expedite increased production of construction machinery and speed conversion to production of military vehicles. A voluntary agreement could help coordinate delivery of components among subcontractors and prime contractors and allow the industry to resolve production and planning issues related to civilian and military production.

In addition to a standby agreement to reduce testing requirements, two other types of standby agreement could increase the availability of ST/STE. Educational orders with electronics producers could expedite conversion from production and testing of commercial products to defense products. Trigger orders with ST/STE manufacturers could stimulate earlier production of needed ST/STE during an emergency. Voluntary agreements could also address ST/STE problems. Defense ST/STE producers could agree to transfer technical information needed to convert commercial electronics producers to defense work.

POSSIBLE APPLICATIONS - FACILITIES AND EQUIPMENT

<u>INDUSTRY</u>	<u>AGREEMENT</u>
<u>CONSTRUCTION</u>	• S.A. WITH DEFENSE CONTRACTOR TO PROVIDE STANDBY EXPANSION PLANS • S.A. WITH CONSTRUCTION CONTRACTOR • LOCAL OR REGIONAL CONSTRUCTION INDUSTRY V.A.S.
<u>CONSTRUCTION EQUIPMENT</u>	• STANDBY PURCHASE COMMITMENT FOR PARTS, COMPONENTS • EDUCATIONAL ORDERS TO PROMOTE CONVERSION • V.A. FOR TANK/TRUCK PROGRAMS (INDIVIDUAL COMPANY PARTICIPATION IN LARGER AGREEMENT) • INDUSTRY V.A. TO RESOLVE CONVERSION AND CIVILIAN PRODUCTION ISSUES
<u>ELECTRONICS AND ELECTRONIC TEST</u>	• EDUCATIONAL ORDERS TO PREPARE TEST EQUIPMENT PRODUCERS • TEST EQUIPMENT TRIGGER ORDER PROGRAM • V.A. TO COORDINATE CONVERSION, RESOLVE BOTTLENECKS

POSSIBLE APPLICATIONS: FACILITIES AND EQUIPMENT (Continued)

Conversion and upgrade of existing machine tools through retrofitting can improve machine tool availability. Possible applications of standby and voluntary agreements to enhance retrofit capabilities include:

- Trigger orders with manufacturers of controls and complete retrofit kits to stimulate production of these key items during an emergency
- Trigger orders with refurbishers and retrofitters to remanufacture and upgrade standby equipment in the General Reserve
- Educational orders with equipment owners to expedite retrofits.

The machine tool industry has always been important in the early stages of mobilization. As a result of increased import penetration, the responsiveness of the machine tool industry in a future military emergency is questionable. A voluntary agreement could allow the Government and machine tool producers to take actions to restore the industry's competitiveness and responsiveness. Such an agreement could address R&D, production, marketing, and financing issues. (It was reported to the project team that a voluntary agreement of this nature was considered as part of the President's recent machine tool revitalization program, but was not pursued in part due to administrative difficulties of establishing an agreement.)

POSSIBLE APPLICATIONS - FACILITIES AND EQUIPMENT (CONT.)

<u>INDUSTRY</u>	<u>AGREEMENT</u>
<u>MACHINE TOOL</u>	
<u>RETROFIT</u>	• TRIGGER ORDERS WITH MANUFACTURERS OF CONTROLS AND RETROFIT KITS • TRIGGER ORDERS WITH RETROFITTERS TO UPGRADE PEPS AND GENERAL RESERVE • EDUCATIONAL ORDERS WITH INDUSTRY FOR FACILITY SURVEYS AND PLANNING
<u>MACHINE TOOLS</u>	• V.A. TO IMPROVE INDUSTRY'S COMPETITIVENESS AND RESPONSIVENESS

POSSIBLE APPLICATIONS: INFRASTRUCTURE

The deregulated and more competitive structure of the telecommunications industry can cause a number of responsiveness problems, including contracting difficulties, reduced capacity and component inventories, increased foreign sourcing, conflicting emergency production requirements, and antitrust problems in coordinating services. A Telecommunications Industry Integration Committee (made up of telecommunications carriers and equipment manufacturers) could address equipment production requirement and supply issues. A second voluntary agreement (comprising local and long distance telecommunications carriers) could help identify and resolve emergency planning and coordination issues. Surge option clauses and equipment trigger orders could be used to guarantee timely responsiveness to emergency production or maintenance and repair requirements.

During the Korean conflict, mandatory controls were applied to real estate and consumer credit and a voluntary agreement controlled business credit. These programs helped restrain the growth of debt and channel capital toward essential defense projects. A similar voluntary agreement for business credit would be useful in a future mobilization. A private sector program to allocate credit could be more effective than reliance purely on monetary policy and market forces in supporting defense expansion goals. Such a program would avoid more controversial direct economic controls.

The reliability of electric power supplies during an emergency is threatened by the vulnerability of key production and distribution nodes and by long lead times for production of replacement equipment. The lack of standby replacement equipment and the decline of domestic production sectors complicate the reliability problem. Voluntary and standby agreements could improve:

- Economic health of the power equipment producers
- Long-term responsiveness (reducing lead times to produce replacement equipment by weeks or months)
- Short-term preparedness (providing standby replacement equipment inventories or reducing the risk of disruption by identifying ways to improve security and reliability).

POSSIBLE APPLICATIONS - INFRASTRUCTURE

<u>INDUSTRY</u>	<u>AGREEMENT</u>
<u>TELECOMMUNICATIONS</u>	• INDUSTRY INTEGRATION COMMITTEE (CARRIERS AND MANUFACTURERS) TO RESOLVE PRODUCTION BOTTLENECKS AND FOREIGN DEPENDENCIES • V.A. TO COORDINATE TELECOMMUNICATIONS SERVICE, MAINTENANCE, AND RESTORATION ISSUES • S.A. TO INCREASE EQUIPMENT AVAILABILITY
<u>FINANCIAL SERVICES</u>	• V.A. TO ESTABLISH SCREENING CRITERIA FOR ESSENTIAL AND DEFERRABLE LOANS
<u>ELECTRIC POWER</u> (UTILITIES AND TRANSFORMER MANUFACTURERS)	• S.A. FOR FACILITY VULNERABILITY SURVEYS AND ENHANCEMENT MEASURES • V.A. TO IDENTIFY PREPAREDNESS OPTIONS • TRIGGER ORDERS TO INCREASE EQUIPMENT PRODUCTION

CONCLUSIONS

TIMING CONSIDERATIONS

Increased reliance on standby and voluntary agreements can improve the ability of U.S. industry to support a wide variety of emergency situations. This slide shows the different types of problems that voluntary and standby agreements could address. One advantage of standby and voluntary agreements is the fact that planning and development of agreements are the principal activities required during normal conditions. Relatively small investments are required to develop and maintain these agreements.

This approach avoids the traditional problems with peacetime preparedness investments:

- Budget limitations that prevent complete preparations for all foreseeable emergencies
- The risk of product obsolescence if funds are spent to purchase component or end item stockpiles
- Inability to determine, before an emergency, which weapons, systems, or processes will be most critical.

Planning under these agreements would provide limited immediate enhancements to emergency capabilities and identify specific investments and actions that would be instituted later as the nature of an emergency becomes clearer.

CONCLUSIONS

- WIDE VARIETY OF APPLICATIONS
 - S.A. LIMITED BY FUNDING FOR PLANNING AND ENHANCEMENT MEASURES
 - V.A. LIMITED BY LEGAL REQUIREMENTS AND POLITICAL CONSIDERATIONS
- STANDBY AGREEMENTS CAN PROVIDE
 - ASSURED ACCESS TO CIVIL RESOURCES
 - INCREASED CAPACITY
 - SMOOTHER TRANSITION TO INCREASED PRODUCTION
- VOLUNTARY AGREEMENTS CAN HELP
 - PROMOTE CONVERSION OF NEW PRODUCERS
 - IDENTIFY AND RESOLVE BOTTLENECKS
- PROVIDE BASIC ELEMENTS OF AN EFFECTIVE IPPP
 - GREATER INVOLVEMENT OF INDUSTRY IN PREPAREDNESS
 - BOTH REQUIRE PLANNING AND IDENTIFICATION OF GOALS

TIMING CONSIDERATIONS

AGREEMENT	TIMING				
	PEACETIME PLANNING	BOTTLENECKS/ DISRUPTIONS	SURGE	PRE-MOBILIZATION PREPAREDNESS	MOBILIZATION
<u>Voluntary Agreements</u>					
Industrial Responsiveness Agreements	x	o	o	x/o	o
Lower-Tier Industry Agreements	x	o	o	x/o	o
Weapons Program Integration Committees	x	o		x	o
Other Agreements					
<u>Standby Agreements</u>					
Surge Option	x		o	x	o
Educational Order/Plant Survey	o	o		o	
Equipment Trigger Orders/Standby Purchase Agreements	x	o		o	
Agreement to Change Specifications	x		o		
Plant Expansion Agreements	x			o	o
Other	x				

PEACETIME BOTTLENECKS AND DISRUPTIONS

While standby and voluntary agreements would not be widely used during "business-as-usual" conditions, they could be used to cope with a variety of peacetime defense production problems. Voluntary agreements could be used to help resolve unacceptable production bottlenecks or enhance the responsiveness of industries threatened by foreign competition or changing economic circumstances.

Voluntary agreements could also be used to coordinate an industry's or weapon program's recovery from a major disaster, such as a catastrophic earthquake. Standby agreements could also be used to improve disaster preparedness by surveying vulnerabilities, identifying remedial measures, and defining when these measures would be implemented.

SURGE

A surge in production could be required to support conflict (or imminent conflict) by U.S. or Allied military forces, or it could be required to support a variety of emergencies not involving the threat of conflict. A surge might occur for a single weapon system, selected critical items, or many critical items.

With the exception of acquisition streamlining or peacetime investments in standby inventories, stockpiles, or production equipment, standby and voluntary agreements may represent the only feasible way to improve surge responsiveness. Surge option clauses would identify industry capabilities and help to avoid administrative bottlenecks in the procurement system. Standby agreements to change production or test specifications would help identify likely bottlenecks in peacetime and allow their correction in the initial stages of surge. Agreements modelled on the CRAP program could provide immediate access to commercial resources. Voluntary agreements could also help to coordinate initial production efforts, although they could only contribute during the early stages of surge if they had been established on a standby basis before the emergency.

TIMING		PEACETIME PLANNING	BOTTLENECKS/ DISRUPTIONS	SURGE	PRE-MOBILIZATION PREPAREDNESS	MOBILIZATION
AGREEMENT						
	<u>Voluntary Agreements</u>					
	Industrial Responsiveness Agreements	x	o			
	Lower-Tier Industry Agreements	x	o	o	x/o	o
	Weapons Program Integration Committees	x	o	o	x/o	o
	Other Agreements				x	o
	<u>Standby Agreements</u>					
	Surge Option	x		o	x	o
	Educational Order/Plant Survey	o	o		o	
	Equipment Trigger Orders/Standby Purchase Agreements	x	o		o	
	Agreement to Change Specifications	x		o		
	Plant Expansion Agreements	x			o	o
	Other	x				

PRE-MOBILIZATION PREPAREDNESS ACTIONS

The principal difference between surge and mobilization is that surge relies on rapidly increasing output from current defense producers, while industrial mobilization would create new defense production capacity through expanding facilities or converting nondefense producers. Actions to surge production from the current defense industrial base will not necessarily prepare industry for subsequent mobilization. Because of the limits on surge production (generally a doubling or tripling of current output) and the extremely high consumption and attrition rates for modern combat, significant capacity expansion would be needed for many contingencies far short of sustained, superpower conflict.

Development and execution of standby and voluntary agreements could help prepare for subsequent expansion during a surge in production. For example:

- Educational orders for noncurrent producers could prepare them for subsequent production contracts
- Trigger orders could persuade equipment producers or mining companies to begin production of necessary equipment or re-opening mines before commercial demand had developed
- Standby plant expansion agreements could be executed to begin construction of facilities that would be needed in the future
- Agreements to enhance security at essential facilities might also be triggered, if circumstances warranted.

The premobilization warning phase would also provide an opportunity to complete preparedness planning that had been neglected in peacetime. Standby voluntary agreements could be created for weapons programs or industries most likely to require extensive conversion of new producers or to experience production problems in a mobilization. In addition, some voluntary agreements could be activated to help coordinate preparatory actions and to resolve bottlenecks as they arose. These activities would improve the mobilization posture of U.S. industry, but would still avoid the expense and potential economic dislocation of all-out mobilization. Thus, the programs could help provide a measured response to an increasing, but perhaps still ambiguous, national security threat.

TIMING CONSIDERATIONS

AGREEMENT	TIMING					
	PEACETIME PLANNING	BOTTLENECKS/ DISRUPTIONS	SURGE	PRE-MOBILIZATION PREPAREDNESS	MOBILIZATION	
<u>Voluntary Agreements</u>	x	o				
Industrial Responsiveness Agreements						
Lower-Tier Industry Agreements	x	o	o	x/o	o	
Weapons Program Integration Committees	x	o	o	x/o	o	
Other Agreements				x	o	
<u>Standby Agreements</u>						
Surge Option	x		o	x	o	
Educational Order/Plant Survey	o	o		o		
Equipment Trigger Orders/Standby Purchase Agreements	x	o		o		
Agreement to Change Specifications	x		o			
Plant Expansion Agreements	x			o	o	
Other	x					

MOBILIZATION

During a major mobilization, voluntary agreements could be instrumental in coordinating production. Agreements might be activated to help coordinate many major weapons programs and to resolve bottleneck problems in lower-tier industries. A financial services industry voluntary agreement would probably be activated at this time, if not earlier. Disruptions, inefficiencies, and delays during the initial stages of mobilization could be minimized through use of these programs, especially if preparatory actions discussed on earlier slides had been taken prior to the onset of mobilization.

TIMING CONSIDERATIONS

AGREEMENT	TIMING				
	PEACETIME PLANNING	BOTTLENECKS/ DISRUPTIONS	SURGE	PRE-MOBILIZATION PREPAREDNESS	MOBILIZATION
<u>Voluntary Agreements</u>					
Industrial Responsiveness Agreements	x	o	o	x/o	o
Lower-Tier Industry Agreements	x	o	o	x/o	o
Weapons Program Integration Committees	x	o		x	o
Other Agreements					
<u>Standby Agreements</u>					
Surge Option	x		o	x	o
Educational Order/Plant Survey	o	o		o	
Equipment Trigger Orders/Standby Purchase Agreements	x	o		o	
Agreement to Change Specifications	x		o		
Plant Expansion Agreements	x			o	o
Other	x				

STANDBY/VOLUNTARY AGREEMENTS AND INDCONS

The Federal Government is presently considering the establishment of a system of Industrial Alert Conditions (INDCONS). INDCONS would provide a graduated set of industrial response options, keyed to the stages of a developing emergency. Adopting INDCONS would imply a shift in Government policy to place greater emphasis on pre-crisis emergency planning and industrial responsiveness in the early stages of an emergency. According to the Department of Defense annual report, INDCONS would:

"Prioritize and implement peacetime measures to improve industrial responsiveness, help reduce the time required by industry to meet emergency needs, and provide a predeveloped set of response options for use during crises."*

Standby and voluntary agreements would be an integral part of any system relying on crisis industrial responsiveness, such as INDCONS. They would contribute to INDCON implementation in three ways:

- By providing accurate information on crisis industrial responsiveness capabilities and identifying necessary enhancement measures
- By identifying crisis responsiveness lead times for increased production and the necessary response times that must be built into the system
- By facilitating a more effective industrial response during an emergency.

*Department of Defense, "Report of the Secretary of Defense, Caspar W. Weinberger, to the Congress on the FY88/FY89 Budget and FY88-92 Defense Programs," Washington, D.C., 1987, pp. 139-40.

STANDBY/VOLUNTARY AGREEMENTS AND INDCONS

- CURRENT DOD POLICY INITIATIVE
- RELIES ON TIMELY ACTIONS IN EARLY CRISIS STAGES
- VSA CONTRIBUTIONS:
 - IDENTIFY CAPABILITIES AND ENHANCEMENT MEASURES
 - IDENTIFY CRISIS RESPONSE LEAD TIMES
 - FACILITATE MORE EFFECTIVE RESPONSE IN AN EMERGENCY

CONCLUSIONS

Wider use of voluntary and standby agreements would result in significant improvements in industrial responsiveness. During an emergency, voluntary and standby agreements could promote more effective conversion of new producers, help identify and resolve production bottlenecks, and help maximize production within limited capacity. Standby and voluntary agreements could also provide the basis for a more effective surge and mobilization planning program:

- Standby agreements could reduce the need for peacetime investments in standby production and test equipment by identifying changes in production or test specifications that could increase emergency output from current facilities
- Standby agreements would help identify possible new production equipment or facility requirements in peacetime so that they could be available sooner in an emergency
- A combination of voluntary agreements, surge option clauses, and educational orders could provide an effective instrument for peacetime conversion or expansion planning.

The program would require some investment by the Government. Voluntary agreements might not require substantial direct investments, but would, at a minimum, require the dedication of a considerable amount of personnel time. A voluntary agreement involves a private-public partnership to resolve national security problems. It will require a substantial commitment from all parties -- a commitment that could be repaid through improved emergency responsiveness, security, and economic efficiency.

The Government must also commit resources (principally Government and industry planners' time) to have an effective standby agreement program. Creating a standby agreement has little value without the necessary effort to identify requirements and capabilities, define activation procedures, and, as necessary, invest in enhanced capabilities.

Nevertheless, this could be an extremely cost-effective expenditure. If a standby and voluntary agreement program could identify ways to minimize administrative, production, and test bottlenecks, it could be an effective supplement to ongoing surge/mobilization initiatives.

RECOMMENDATIONS

COORDINATING EMERGENCY PREPAREDNESS

Voluntary and standby agreements, together with less formal methods of industry-Government cooperation, could form the basis for a new approach to national preparedness. This new approach would provide increased emphasis on:

- The role of the private sector in identifying and resolving problems during an emergency
- Pre-emergency planning and identification of specific actions that would be performed during an emergency
- Identifying cost-effective options that can improve responsiveness to a wide range of emergencies
- Identifying the types of problems that would be likely to occur during different types of emergencies and methods to address each of these problems
- Improving the capability and responsiveness of important national security-supporting sectors.

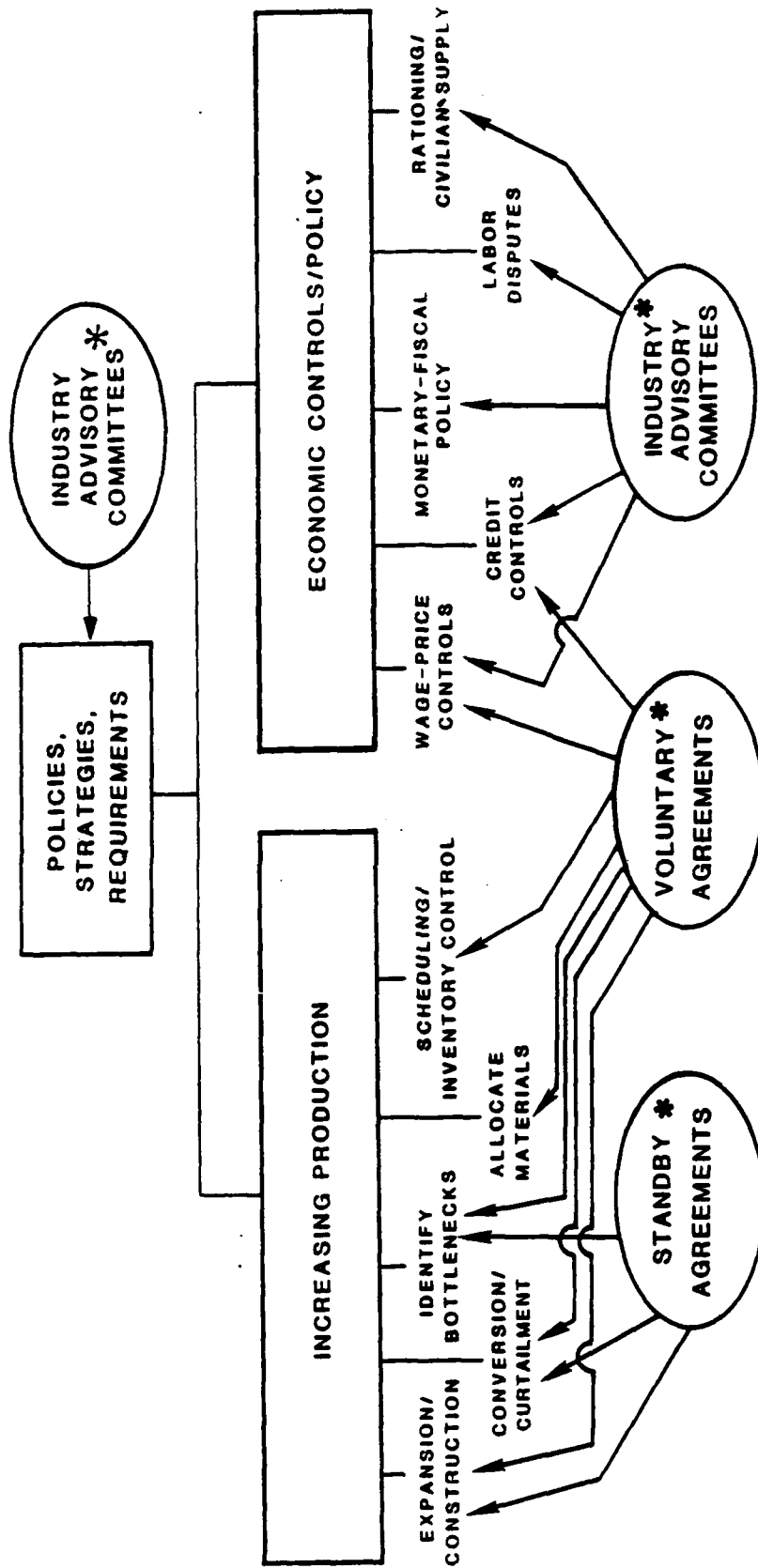
The Federal Government now is larger and more capable than it was prior to past mobilizations. However, emergency planning functions have atrophied in many agencies in the past 15 years. The Federal Government is not effectively postured to carry out the many functions that would be required during a major emergency, and major funding is generally not available for preparedness investments.

Industry has played an important role in resource management during past mobilizations. Even though the organizational model defined in the two most recent mobilizations (World War II and Korea) emphasized central Federal control, industry played an important role in identifying and resolving production problems.

The slide presents a simplified representation of some of the more important functions that have been performed in past mobilizations. It suggests how some of these functions could be planned for and carried out more effectively through the support of industry committees (including voluntary agreements) and pre-emergency planning with industry (including development of standby agreements).

COORDINATING EMERGENCY RESPONSE

WARS-2379



* SUPPLEMENTED BY GOVERNMENT COORDINATION, IMPACT ASSESSMENT, AND APPROPRIATE DECISION/ENDORSEMENT AUTHORITY

GENERAL RECOMMENDATIONS

Recommendation #1: FEMA and other agencies should develop an industrial responsiveness program strategy that maximizes use of private sector planning and management capabilities. Private sector management resources and expertise are valuable assets for preparedness planning and emergency management. Industry has played a key role in managing past industrial mobilizations. Given the current trend towards deregulation and reduced Government capabilities to oversee private sector behavior, private industry's management role would be even more important during a future emergency or crisis that required major shifts in industrial output.

Recommendation #2: FEMA should develop a program to educate Federal officials and industry about standby and voluntary agreements. Federal and industry officials are generally unaware of these mechanisms, so it is only natural that they are rarely used. And yet, they could be the most cost-effective solutions to many problems facing Government decisionmakers. Educational programs would raise general awareness of these mechanisms and lead to their more effective use. Handbooks or manuals describing program applications, benefits, and procedures should be developed for distribution to Federal and industry officials. In addition, seminars to explain the programs to FEMA regional and industry personnel should be developed.

GENERAL RECOMMENDATIONS

- FEMA AND OTHER AGENCIES SHOULD DEVELOP AN INDUSTRIAL RESPONSIVENESS PROGRAM STRATEGY THAT MAXIMIZES USE OF PRIVATE SECTOR PLANNING AND MANAGEMENT CAPABILITIES
- FEMA SHOULD DEVELOP A PROGRAM TO EDUCATE FEDERAL OFFICIALS AND INDUSTRY ABOUT STANDBY AND VOLUNTARY AGREEMENTS

GENERAL RECOMMENDATIONS (Continued)

Recommendation #3: FEMA should coordinate a program to identify key industrial responsiveness problems and potential applications of standby and voluntary agreements. Although standby and voluntary agreements can be cost-effective, availability of resources will still limit their initial application. In cooperation with other agencies, FEMA should establish emergency preparedness planning priorities and identify critical sectors for initial application of standby and voluntary agreements. Decisions should be made on a fundamental strategy. This involves selecting one or more of the following areas for initial concentration:

- Improving the economic health and responsiveness of key sectors
- Improving the security of infrastructure industries
- Promoting rapid surge responsiveness among current defense producers
- Planning for more effective actions during mobilization.

Recommendation #4: FEMA should identify commercial producers who have most or all of the capabilities needed to produce key military items. DoD naturally focuses most of its attention on current defense contractors and gives relatively little consideration to planned producers. FEMA could complement DoD's analytic efforts by examining the capabilities of various commercial producers to convert to defense production during an emergency and by identifying cost-effective measures, including standby and voluntary agreements, that would enhance these capabilities.

GENERAL RECOMMENDATIONS (CONT.)

- FEMA SHOULD COORDINATE A PROGRAM TO IDENTIFY KEY INDUSTRIAL RESPONSIVENESS PROBLEMS AND POTENTIAL APPLICATIONS OF STANDBY AND VOLUNTARY AGREEMENTS
- FEMA SHOULD IDENTIFY COMMERCIAL PRODUCERS WHO HAVE MOST OR ALL OF THE CAPABILITIES NEEDED TO PRODUCE KEY MILITARY ITEMS

GENERAL RECOMMENDATIONS (Continued)

Recommendation #5: The Federal Government should develop and implement a system of industrial alert conditions (INDCONs) that would trigger increased (and appropriate) industrial preparedness activities during a period of rising tensions. Timing is key to effective use of voluntary and standby agreements. If these agreements are not activated in a timely fashion, they do not contribute to industrial responsiveness. A system of INDCONs could provide a set of "triggers" to activate standby agreements, standby voluntary agreements, and other industrial response options at the appropriate time in a crisis.

GENERAL RECOMMENDATIONS (CONT.)

- THE FEDERAL GOVERNMENT SHOULD DEVELOP AND IMPLEMENT A SYSTEM OF INDUSTRIAL ALERT CONDITIONS (INDCONS) THAT WOULD TRIGGER INCREASED (AND APPROPRIATE) INDUSTRIAL PREPAREDNESS ACTIVITIES DURING A PERIOD OF RISING TENSIONS

STANDBY AGREEMENT PROGRAM RECOMMENDATIONS

Recommendation #6: Existing standby agreement programs should be allocated planning and funding resources. Standby agreements do not provide "something for nothing." They must be accompanied by emergency planning and maintenance of standby capabilities. The mere existence of a signed contract does not guarantee crisis responsiveness. While it could reduce the administrative delay resulting from the contracting process, the signed contract would not otherwise contribute to the efficient and effective use of industrial resources during an emergency. Minimal emergency planning and investments in standby capabilities that complement active industrial capabilities enhance the ability to use industrial resources to their best advantage during an emergency.

Recommendation #7: FEMA should upgrade the Machine Tool Trigger Order Program (MTTOP) through increased planning. The MTTOP is currently little more than a number of signed standby contacts between the Government and machine tool builders. In the absence of credible emergency planning with respect to both potential machine tool requirements and activation of the standby contracts during an emergency, the current program contributes little to industrial responsiveness. FEMA should actively promote the planning needed to make the MTTOP a valuable program.

Recommendation #8: Standby agreement programs should be periodically reviewed to ensure that existing resources are being maintained at an appropriate level of readiness and to identify new resources that might be used to fulfill the standby mission. Private sector production resources are continually changing in the face of changing market demand and technologies. For example, the U.S. machine tool industry has suffered a steady erosion of production capabilities in recent years as imports have claimed an increasing share of the U.S. market for tools, and air carriers have been shifting away from large three- and four-engine wide-body aircraft to smaller two-engine aircraft. Both of these changes affect existing standby agreement programs (i.e., MTTOP and CRAF). In addition, changes in mobilization plans and assumptions can require continuing changes in the standby capabilities needed.

SA RECOMMENDATIONS

- EXISTING STANDBY AGREEMENT PROGRAMS SHOULD BE ALLOCATED PLANNING AND FUNDING RESOURCES
- FEMA SHOULD UPGRADE THE MACHINE TOOL TRIGGER ORDER PROGRAM (MTTOP) THROUGH INCREASED PLANNING
- STANDBY AGREEMENT PROGRAMS SHOULD BE PERIODICALLY REVIEWED TO ENSURE THAT EXISTING RESOURCES ARE BEING MAINTAINED AT AN APPROPRIATE LEVEL OF READINESS AND TO IDENTIFY NEW RESOURCES THAT MIGHT BE USED TO FULFILL THE STANDBY MISSION

STANDBY AGREEMENT PROGRAM RECOMMENDATIONS

Recommendation #9: DoD should promote cost-effective uses of standby agreements for peacetime and emergency acquisition needs. All of the standby agreement types reviewed in this project could have broader applications than they do at present. Surge option clauses are gaining wider use in conjunction with current defense procurements. However, the simple addition of surge option language in defense contracts does little for industrial responsiveness without emergency planning and cost-effective investments in industrial preparedness measures. Targeted use of surge option clauses, accompanied by a modest increase in planning and funding support, could significantly improve industrial responsiveness. Educational orders could also improve responsiveness while improving peacetime competition (by enhancing the capabilities of potential alternate producers). Trigger orders could be used in other sectors besides the machine tool industry, and agreements like CRAF and Plan Bulldozer could be used to provide access to a broad range of commercial resources.

Recommendation #10: The need for standby funding mechanisms should be examined and such mechanisms should be created when cost-effective. Standby agreements can not be activated in the absence of appropriated funds. The delay associated with acquiring such funds could reduce or eliminate the potential benefits derived from standby agreements. For example, few, if any, MTOP contracts could be activated during an emergency without prior congressional funding action. A standby appropriation could eliminate the need for additional congressional action during an emergency.

SA RECOMMENDATIONS (CONT.)

- DOD SHOULD PROMOTE COST-EFFECTIVE USES OF STANDBY AGREEMENTS FOR PEACETIME AND EMERGENCY ACQUISITION NEEDS
- THE NEED FOR STANDBY FUNDING MECHANISMS SHOULD BE EXAMINED AND SUCH MECHANISMS SHOULD BE CREATED WHEN COST-EFFECTIVE

VOLUNTARY AGREEMENT PROGRAM RECOMMENDATIONS

Recommendation #11: FEMA should establish an interagency committee to develop proposed changes to Section 708 of the DPA as the basis for a revitalized voluntary agreement program. This project has identified a number of requirements in Section 708 of the DPA that could significantly delay revival of this program and limit its potential. If FEMA can demonstrate that these requirements are preventing preparedness actions that would otherwise be undertaken, Congress should be receptive to reasonable proposals to amend Section 708.

TASC's recommended changes (discussed in detail in Appendix A of Volume 4) would simplify procedures and improve program implementation by:

- Requiring only a single formal review by the Justice Department and FTC
- Relaxing excessive recordkeeping, disclosure, and open meeting requirements
- Restoring full antitrust immunity to participants in voluntary agreements.

These recommendations avoid sweeping changes that would be impossible to justify or approve. Our proposal identifies specific, targeted changes and preserves necessary rules to protect the public interest.

VA RECOMMENDATIONS

- FEMA SHOULD ESTABLISH AN INTERAGENCY COMMITTEE TO DEVELOP PROPOSED CHANGES TO SECTION 708 OF THE DPA AS THE BASIS FOR A REVITALIZED VOLUNTARY AGREEMENT PROGRAM

VOLUNTARY AGREEMENT PROGRAM RECOMMENDATIONS (Continued)

Recommendation #12: Pending amendments to the DPA, FEMA and other agencies should proceed with efforts to develop voluntary agreements where the need can be shown. The revival of the voluntary agreement program could be delayed more by a sequential strategy (amending the DPA before development of voluntary agreements) than by the DPA requirements themselves. Rather than awaiting Congressional action, agencies should proceed with efforts to develop a limited number of voluntary agreements. Moving forward with voluntary agreements will demonstrate the preparedness community's intention to use these authorities, and if current requirements prove to be insurmountable, will improve the justification for the proposed amendments.

Recommendation #13: FEMA should revise the Defense Mobilization Order (DMO) concerning voluntary agreements. The revision should eliminate procedures not required explicitly by law and provide guidance on legislative requirements not presently explained in the DMO. As noted earlier in this briefing, the DMO describing the voluntary agreements program describes a more cumbersome process to establish a voluntary agreement than the DPA requires. Another FEMA document, describing Major Emergency Actions, complicates the issue further by describing an even more complex process. In addition, the DMO does not mention or define the concept of standby voluntary agreements. (These problems are discussed in Volume 4, Appendix B.)

These program documents will impede development of voluntary agreements by creating confusion among sponsors and participants and by requiring administrative procedures that go beyond those imposed by law. FEMA should convene an interagency group to identify the objectives of the voluntary agreements program and eliminate unnecessary extralegal requirements. The group should then proceed to harmonize regulations and other program documents with these decisions.

VA RECOMMENDATIONS (CONT.)

- PENDING AMENDMENTS TO THE DPA, FEMA AND OTHER AGENCIES SHOULD PROCEED WITH EFFORTS TO DEVELOP VOLUNTARY AGREEMENTS WHERE THE NEED CAN BE SHOWN
- FEMA SHOULD REVISE THE DEFENSE MOBILIZATION ORDER (DMO) CONCERNING VOLUNTARY AGREEMENTS

VOLUNTARY AGREEMENT PROGRAM RECOMMENDATIONS (Continued)

Recommendation #14: Federal officials should establish voluntary agreements during peacetime in cases where they would deal effectively with a serious national security problem. Voluntary agreements should not be a standard peacetime practice, but they could be the most effective solutions to some specific peacetime production problems. For example, voluntary agreements might be an effective means to help restore the competitiveness of essential industries. They could also supplement the existing Special Priorities Assistance program to resolve peacetime production bottlenecks. They could also be used to help Government and industry jointly address preparedness planning and responsiveness problems. They would be effective wherever cooperation among industrial competitors or between Government and industry could help solve a production or preparedness planning problem.

Recommendation #15: Federal officials should establish standby voluntary agreements where they would be effective in dealing with anticipated emergency industrial responsiveness problems. In cases where an active peacetime voluntary agreement is unnecessary, creating a standby voluntary agreement can be an effective preparedness action. The time-consuming process of creating voluntary agreements would prevent their use during the early stages of an emergency. By contrast, activating a standby voluntary agreement can be a simple and short process. The availability of standby voluntary agreements could be critical in the immediate aftermath of a disaster or in the first days and weeks of a surge or mobilization. The government and industry should identify those programs or industries most likely to be critical in an emergency and establish standby voluntary agreements during "normal" times, when time is not an important consideration.

VA RECOMMENDATIONS (CONT.)

- FEDERAL OFFICIALS SHOULD ESTABLISH VOLUNTARY AGREEMENTS DURING PEACETIME IN CASES WHERE THEY WOULD DEAL EFFECTIVELY WITH A SERIOUS NATIONAL SECURITY PROBLEM
- FEDERAL OFFICIALS SHOULD ESTABLISH STANDBY VOLUNTARY AGREEMENTS WHERE THEY WOULD BE EFFECTIVE IN DEALING WITH ANTICIPATED EMERGENCY INDUSTRIAL RESPONSIVENESS PROBLEMS

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