

GAO

Report to the Secretary of Defense

May 1986

COMPUTER BUYS

Air Force Logistics Modernization Program Should Comply With Brooks Act



130064

1



United States
General Accounting Office
Washington, D.C. 20548

Information Management and
Technology Division

B-220195

May 15, 1986

The Honorable Caspar W. Weinberger
The Secretary of Defense

Dear Mr. Secretary:

We have reviewed procedures followed by the Air Force Logistics Command in procuring computer equipment and services for its Requirements Data Bank Program. This program, estimated to cost over \$300 million, is part of the Command's \$1.7-billion Logistics Management Systems Modernization Program, which is designed to update automated logistics systems that support Air Force organizations worldwide. The purpose of the Requirements Data Bank Program is to calculate (1) the level of materiel requirements that can be supported within existing budgets and assets, (2) the effect of policy changes on logistics delivery methods, and (3) "what-if" scenarios to determine, within budget constraints, the number of parts that can be purchased to maximize spare-parts support goals.

In January 1984, the Air Force awarded a contract to two contractors to demonstrate their ability to develop the Requirements Data Bank Program. A year later, the Air Force awarded the first of 11 options to the winning contractor to continue developing the program and to provide computer equipment and services. The second option, which requires the contractor to supply additional software service, testing, and computer equipment, was awarded in January 1986. Computer equipment procured for the Requirements Data Bank Program is general purpose, mass produced, and commercially available.

We found that the Air Force is not complying with the Brooks Act (Public Law 89-306) and with implementing regulations of the General Services Administration (GSA) in procuring equipment and services for its modernization program. The act requires a federal agency to submit an agency procurement request to GSA when buying general-purpose, mass-produced, commercially available computer equipment. The Air Force has not submitted such a request because it does not believe that the Requirements Data Bank Program and eight other logistics programs undergoing modernization are subject to provisions of the act and to GSA implementing regulations. Instead, it considers these programs to be subject to the provisions of Section 908 of Public Law 97-86 (10 U.S.C. 2315), referred to as the Warner Amendment. This amendment exempts

specific uses of identified computer equipment and services from the Brooks Act and from GSA's implementing regulations.

We believe that the Air Force's decision to continue to exempt these programs is based on incomplete guidance provided by the Defense Department in its "DOD-Wide Guidance for Acquiring Mission Critical Computer Resources Under 10 U.S.C. 2315 (Armed Services Procurement Act)." In its response to a draft of this report, Defense stated that its guidance is correct as written and reiterated its belief that the Requirements Data Bank Program was not subject to the Brooks Act.

Objective, Scope, and Methodology

Our objective was to determine if the Command was following proper procedures in acquiring needed computer equipment and services for the Requirements Data Bank Program. To that end, we reviewed procurement procedures required under the Brooks Act and the Warner Amendment; related Defense guidance; and correspondence between the Office of Management and Budget (OMB), Defense, and GSA regarding Defense's procurement practices. During our review, we sought the views of responsible Air Force, Defense, Command, OMB, and GSA officials on the procurement procedures that should be followed. We did our work at the Command's headquarters, Wright-Patterson Air Force Base, Ohio; Air Force Headquarters; Defense; OMB; and GSA. We completed our work on the information for this report in November 1985 and are continuing work on other segments of this review. We performed our review in accordance with generally accepted government auditing standards.

Features of the Brooks Act and the Warner Amendment, and the Senate Armed Services Committee's Views on the Amendment

In 1965 the Congress enacted the Brooks Act; one important objective of this law was the economic acquisition of general-purpose computer equipment for the federal government. To acquire general-purpose, mass-produced, commercially available computer equipment, a federal agency must submit an agency procurement request to GSA for review. After reviewing the request for completeness and compliance with its implementing regulations, GSA will either

- delegate authority to the agency to conduct the procurement;
- delegate authority to the agency to conduct the procurement with GSA participating in the procurement if need be; or
- conduct the procurement itself with the agency's assistance, as needed.

In its fiscal year 1982 Defense Authorization Bill, the Congress adopted a provision that changed how Defense was to procure certain computer equipment and services. The language for this change, which is contained in the Warner Amendment, states:

"...(a) Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) [the Brooks Act] is not applicable to the procurement by the Department of Defense of automatic data processing equipment or services if the function, operation, or use of the equipment or services (1) involves intelligence activities; (2) involves cryptologic activities related to national security; (3) involves the command and control of military forces; (4) involves equipment that is an integral part of a weapon or weapons system; or (5) subject to subsection (b) is critical to the direct fulfillment of military or intelligence missions."

Subsection (b) states:

"...subsection (a) (5) [previously stated] does not include procurement of automatic data processing equipment or services to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications)."

We understand this to mean that if the proposed use of the equipment or services is for routine administrative or business applications, the procurement is subject to the requirements of the Brooks Act. The procurement is not subject to the requirements of the act if the equipment is (1) to be used for intelligence, cryptological, or command and control activities; (2) an integral part of a weapons system; or (3) a nonroutine system in direct support of a military and intelligence mission.

In its April 13, 1982, report,¹ the Senate Committee on Armed Services presented its views on the amendment, noting that:

"...the intention of the Congress in enacting Sec. 908 of P.L. [Public Law] 97-86 was that the critical defense missions identified therein should be wholly relieved of the barriers to efficient ADP [automatic data processing] procurement that have developed in the wake of the earlier statute."

The Committee concluded that:

"...Congress intended that procurements made in support of such critical military missions, for example, specialized mission-related logistic support systems, be considered as exempted in the same manner as are the activities they support."

¹Senate Report No. 330, 97th Congress, 2nd Sess., Department of Defense Authorization for Appropriations for Fiscal Year 1983 and Supplemental Authorization for Appropriations for Fiscal Year 1982 Together With Additional Views, p. 158.

Defense Guidance on the Warner Amendment

In a February 1982 memorandum, Defense issued interim direction on the Warner Amendment and established a working group of senior personnel to revise amendment guidelines. This interim direction identified computer equipment and services to be acquired under the Warner Amendment and the Brooks Act. Specifically, "inventory/stock control, storage depot, and base level systems" were identified as not included in the Warner Amendment; the computer equipment and services for these systems had to be acquired under the Brooks Act.

About a year later, Defense issued its "DOD-Wide Guideline for Acquiring Computer Resources Under 10 U.S.C. 2315." This guideline exempted from the Brooks Act "logistics systems which provide direct support to operating forces or provide direct support to maintenance of weapons systems."

On March 4, 1983, the Under Secretary of Defense for Research and Engineering issued a memo concerning the provisions of the Brooks Act and the Warner Amendment, as well as the Senate's views on the amendment. The memo pointed out that Defense criteria for acquiring computer resources under the Brooks Act and the Warner Amendment, as stated in the February 1982 memo, had been revised. In revising the criteria, Defense relied on clarification of the amendment's applicability to logistics systems, which appeared in the Senate's April 13, 1982, report.

In its latest guidance (November 1984), Defense distinguishes between logistics applications that are for "routine administrative and business applications" (as specified in subsection (b) of the Warner Amendment) and those that are, based on the functions to be performed, "critical to the direct fulfillment of a military or defense mission." Routine logistics applications are defined to include systems that support "contracting, accounting, disbursement and budget, etc." To support this definition, Defense relies on the language in the Senate report as clarification and the intent of Congress regarding systems to be exempted by the Warner Amendment.

Warner Amendment Exemption and the Requirements Data Bank Program

In our opinion, the Warner Amendment language regarding procurement of automatic data processing equipment or services for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications) is unclear. One could possibly conclude that subsection (b) of the amendment requires Brooks Act procedures for any logistics application where the system falls under subparagraph (5), regardless of whether the system is mission critical. However, we believe that Defense, in its comments on our draft report, has correctly pointed out that not all logistics applications are “routine” and that the statutory adjective “routine” would be virtually meaningless if all operations listed in subsection (b) are automatically deemed to be nonexempt from the Brooks Act. While the Senate report is useful in clarifying the intent of the Senate Armed Services Committee on this point, it does not remove the ambiguity of the statutory language since it was issued after the amendment was enacted. Therefore, Defense should not use the Senate report as a basis for reinterpreting or expanding the Warner Amendment.

Notwithstanding the above, we did not find Defense’s guidance on the Warner Amendment too useful in determining which logistics applications are routine and which are not for purposes of exemption from the Brooks Act. In our 1982 report,² we identified, by functional classification, the automatic data processing systems that we believed were not exempted from the Brooks Act and from GSA’s implementing procurement process. Among these were logistics systems applications, which included the Air Force’s Logistics Command Wholesale Logistics Support Systems—now called the Air Force Logistics Management Systems Modernization Program. The Requirements Data Bank Program is included in this modernization program.

Our review of the use of the Requirements Data Bank Program, confirmed by discussions with Air Force Logistics Command officials, is that it will be used primarily, if not entirely, for logistics support purposes that we believe are subject to the Brooks Act. In computing materiel requirements, the Requirements Data Bank Program will determine the number of spare parts necessary to support both peacetime and wartime flying hours. However, the program plays no part in determining what these flying hours should be and, therefore, is not critical to wartime decision making. Further, the 21 existing automated systems that

²Agreement Needed on DOD Guidelines For Exempting Certain ADP Equipment and Service Procurements From the Brooks Act (GAO/GGD-82-52, March 17, 1982).

the Requirements Data Bank Program will be replacing already compute spare-parts requirements.

Oversimplified, spare-parts requirements are computed by taking a planned aircraft flying hour program, dividing the flying hours by the mean-time-between-failure for a given spare part, and arriving at the number of parts needed to support the aircraft for a specified period of time. For example, a squadron of F-15s (24 aircraft) will be flown in peacetime 20 hours each per month, and the radios on these aircraft have a failure rate of 12 hours. To determine how many radios will be needed to support this flying hour program, the calculation is: 20 hours per month X 24 aircraft, divided by the 12 hours mean-time-between-failure per radio, equals 40 radios. We can also reverse this computation to determine, with a given supply of radios on hand, how many hours we will be able to fly before we run out of radios.

Other than on-line access and the ability to compute spare-parts requirements more quickly, the Requirements Data Bank Program's primary new capability beyond that of the existing system's is that it is supposed to be able to combine all spare-parts requirements for each aircraft. Given this, the Air Force will be able to optimize its spare-parts buys by doing "what-if" analyses to determine, with a limited number of dollars, which parts should be bought to maximize the number of peacetime or wartime hours that could be flown. This is important only in peacetime when the dollars available to purchase spare parts are limited; presumably, this would not be the case in wartime.

While the Requirements Data Bank Program should provide improved logistics support service, it is in no way any more in direct fulfillment of a military mission than any other logistics system or the systems it will be replacing. Air Force Headquarters and its operating commands, such as the Tactical Air Command and the Strategic Air Command, have their own wartime planning, prioritization, and readiness systems. These, and not the Requirements Data Bank Program, will determine peacetime flying hours programs, war and mobilization plan flying rates for each day of a war surge period, weapon system and force priorities, and readiness rates. The Requirements Data Bank Program merely takes information from these systems as inputs and then calculates the number of spare parts needed. According to the Assistant Secretary of the Air Force for Financial Management, while the size, scope, and method of doing business differ, the functions performed by the Air Force automated systems for spare-parts acquisition, management, and distribution are routine and are probably no more complex than those

performed by systems of private corporations, such as International Harvester, General Motors, or Caterpillar.

Agency Comments and Our Evaluation

We requested written comments on a draft of this report from the Defense Department. The agency did not agree with our findings and recommendations. According to Defense, the Requirements Data Bank Program is properly exempted from the Brooks Act. It also said that the Defense-wide guidance is correct and that the Warner Amendment does apply to logistics systems whose functions are critical to the direct fulfillment of military missions. For these reasons, Defense did not agree that its guidance needed revising or that the Air Force needed a Delegation of Procurement Authority from GSA for the Requirements Data Bank Program.

We disagree with the agency's conclusions. The amendment exempts Defense from GSA's review when the computer being procured is to be used for intelligence, cryptological, and command and control activities; for weapons systems; and for nonroutine systems in direct support of a military or intelligence mission. It is this last category that we believe Defense has improperly interpreted and needs to develop more precise guidance. (Appendix III contains Defense's specific comments and our responses.)

Conclusions

The Defense procurement guidance being provided to the military services conflicts with the intent of the Warner Amendment because the scope of systems defined, as covered by the Brooks Act, is too limited. On the other hand, the guidance is too broad regarding the systems exempted by the Warner Amendment because the guidance does not provide explicit functional characteristics and definition of systems that are "critical to the direct fulfillment of a military or intelligence mission." Therefore, we believe that the guidance needs to be revised to comply with the intentions of the Brooks Act and the Warner Amendment. In our opinion, Defense should follow the process established by GSA under the Brooks Act for buying computer equipment and services for the functional classification of logistics systems we identified in our 1982 report. We believe that the Brooks Act applies to the general-purpose, mass-produced, commercially available computer equipment that the Command will be procuring and using to modernize its logistics systems.

Recommendations to the Secretary of Defense

We recommend that you revise the "DOD-Wide Guidance for Acquiring Mission Critical Computer Resources Under 10 U.S.C. 2315 (Armed Services Procurement Act)" to be more explicit in defining functional classifications and applications that are exempted by the Warner Amendment. In carrying out this recommendation, use the guidance in our 1982 report (see appendixes I and II). Such use should help to ensure that the intentions of the Brooks Act and the Warner Amendment regarding logistics systems are properly carried out.

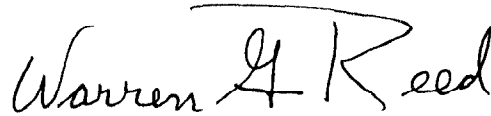
We also recommend that you direct the Secretary of the Air Force to submit an agency procurement request for the Requirements Data Bank Program to the Administrator of General Services. The Command has already awarded the Requirements Data Bank Program contract, and we do not want to disrupt its progress. Therefore, we recommend that the Air Force submit the request before carrying out the next contract option for additional computer equipment and services. For the other programs in the Air Force's Logistics Management Systems Modernization Program, we recommend that you direct the Secretary of the Air Force to submit an agency procurement request to GSA before taking any further procurement actions.

As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report. A written statement must also be submitted to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Administrator of General Services; the Chairmen, House and Senate Committees on Armed Services and on Appropriations, House Committee on Government Operations,

and Senate Committee on Governmental Affairs; and the Director, Office of Management and Budget; and will make copies available to other interested parties upon request.

Sincerely yours,

A handwritten signature in cursive script that reads "Warren G. Reed". The signature is written in black ink and is positioned above the printed name and title.

Warren G. Reed
Director

Contents

Letter		1
Appendix I Administrative and Business Functions Covered by the Brooks Act		12
Appendix II Administrative and Business Automatic Data Processing Applications Covered by the Brooks Act		16
Appendix III Advance Comments From the Department of Defense	GAO Comments	19 25

Abbreviations

GAO	General Accounting Office
GSA	General Services Administration
OMB	Office of Management and Budget

Administrative and Business Functions Covered by the Brooks Act

The following was excerpted from a previous GAO report, Agreement Needed On DOD Guidelines For Exempting Certain ADP Equipment and Service Procurements From the Brooks Act (GGD-82-52, March 17, 1982).

- - - - -

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

GENERAL FINANCIAL FUNCTIONS

--Accounting Systems

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

--Internal Auditing

--Financial Reporting

--Debt Management

--Cash Management

--Statistics

--Credit Management

--Loans, Receivables, and Payables

--Payroll

--Real Estate Buying, Selling, Leasing

--Contract Administration

--Investment Management

**Appendix I
Administrative and Business Functions
Covered by the Brooks Act**

GENERAL PERSONNEL FUNCTIONS

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

GENERAL LOGISTICS FUNCTIONS

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

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

**Appendix I
Administrative and Business Functions
Covered by the Brooks Act**

Tracing and Expediting

Auditing

Claims Administration

--Traffic Research

Transport Services Research

Logistics Systems Research

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

--Obtaining the best price

--Projecting availability of supplies

--Quality maintenance

--Selection of sources

--Quality control program

--Research and development assistance

--Better ways to meet specifications

--New product developments

--Internal inventory transfer

--Utilization and maintenance of equipment

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

--Product-Market Forecasting

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

**Appendix I
Administrative and Business Functions
Covered by the Brooks Act**

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

Administrative and Business Automatic Data Processing Applications Covered by the Brooks Act

The following was excerpted from a previous GAO report, Agreement Needed on DOD Guidelines for Exempting Certain ADP Equipment and Service Procurements From the Brooks Act (GGD-82-52, March 17, 1982).

- - - - -

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

FINANCIAL SYSTEM APPLICATIONS

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

**Appendix II
Administrative and Business Automatic Data
Processing Applications Covered by the
Brooks Act**

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

Appendix II
 Administrative and Business Automatic Data
 Processing Applications Covered by the
 Brooks Act

LOGISTICS SYSTEM APPLICATIONS

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

Advance Comments From the Department of Defense

Note: GAO comment supplementing those in the report text appear at the end of this appendix.



RESEARCH AND
ENGINEERING

THE UNDER SECRETARY OF DEFENSE

WASHINGTON, DC 20301-3010

(R&AT)

28 FEB 1986

Mr. Frank C. Conahan
Director, National Security and
International Affairs Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Conahan:

This is the Department of Defense (DoD) response to the General Accounting Office (GAO) Draft Report "Computer Buys: Air Force Logistics Modernization Program Should Comply With Brooks Act" (GAO Code 510067), November 26, 1985, OSD Case 6888.

The Department does not agree with the findings and recommendations of the draft report. The Requirements Data Bank Program is properly exempted from the Brooks Act and meets the criteria of the Warner Amendment. The Warner Amendment does apply to logistics systems with functions critical to the direct fulfillment of military missions, and the Congress clearly intended that it do so. The DoD has not improperly interpreted the Senate Report of 1982 as being statutorily binding, but has attempted to follow the clear intent of Congress as expressed in the Warner Amendment and the Senate Report.

The Department-Wide Guidance implementing the Warner Amendment is correct, and the Requirements Data Bank Program is properly exempt from the Brooks Act. The Department is reviewing the remaining components of the Logistics Modernization Program to insure compliance with the DoD Guidance.

Detailed comments on the GAO findings and recommendations are enclosed.

Sincerely,


Donald A. Hicks

GAO DRAFT REPORT-DATED NOVEMBER 26, 1985 (GAO CODE 510067)-OSD
CASE 6888, "COMPUTER BUYS: AIR FORCE LOGISTICS MODERNIZATION
PROGRAM SHOULD COMPLY WITH THE BROOKS ACT"

DoD RESPONSE TO GAO FINDINGS AND RECOMMENDATIONS

FINDINGS

FINDING A: Air Force Is Not Complying with the Brooks Act In Procuring Equipment And Services For Its Logistics Modernization Program: GAO reviewed Air Force procedures for procuring computer equipment for its Requirements Data Bank (RDB) program. The RDB, GAO noted, is estimated to cost over \$300 million and is part of a \$1.7 billion Air Force Logistics Modernization Program. GAO reported that Air Force, in January 1984, awarded contracts to two competitors to demonstrate their ability to develop the RDB program, and a year later Air Force awarded the first of 11 options to the winning contractor. The second option, GAO reported, is due to be awarded in January 1986. GAO reported that the Brooks Act (Public Law 89-306) requires federal agencies to submit an agency procurement request to the General Services Administration (GSA) when buying general-purpose, mass produced, commercially available computer equipment as the Air Force is doing. GAO found that the Air Force has not submitted such a request in compliance with the act. GAO further found that the Air Force considers the RDB program and eight other programs in its Logistics Modernization Program to be subject to the Warner Amendment (section 908 of Public Law 97-86), which exempts specific computer equipment and services from the Brooks Act and GSA implementing regulations. GAO concluded that the Air Force continues to incorrectly exempt the nine programs based on guidance contained in DoD's "DoD-wide Guidance for Acquiring Mission-Critical Computer Resources Under 10 U.S.C. 2315 (Armed Services Procurement Act)."

DoD RESPONSE: DoD does not concur in this finding. The RDB System was correctly exempted from the provisions of the Brooks Act because it falls under category (a)(5) of the Warner Amendment. The Warner Amendment allows exemption from the Brooks Act of any system that is critical to the direct fulfillment of a military mission. In contrast, the Warner Amendment excludes logistics systems used for "routine administrative and business applications", and which are therefore not critical to the direct fulfillment of military or intelligence missions. The RDB system is critical to the direct fulfillment of military missions because it will perform functions integral to wartime decision making, and maintenance of weapons and command and control systems. Examples of these functions are calculating sortie/launch capability for aircraft squadrons for each day of the war surge period, calculating weapons system and force priorities, and allocating incremental

See comment 1.

war capabilities to specific squadrons based on their wartime tasking and mission priorities. Further, it will determine materiel requirements critical to mission accomplishment. The RDB System, therefore, is clearly not a routine administrative or business system. The Department is examining the other components of the Logistics Modernization Program to insure that they meet the DoD guidelines.

FINDING B: The Warner Amendment Is Not Applicable To Logistics Systems. GAO noted that Congress, in the FY 1982 Defense Authorization Bill, exempted computer equipment and services to be used for intelligence, cryptological or command and control activities or as an integral part of a weapons system from the provisions of the Brooks Act. This language (the Warner Amendment), according to GAO, does not exempt equipment for routine administrative or business application (including payroll, finance, logistics and personnel management applications) supporting direct fulfillment of military or intelligence missions. GAO further noted that DoD in its "DoD-Wide Guidance For Acquiring Mission-Critical Computer Resources under 10 U.S.C. 2315" exempted from the Brooks Act "logistics systems which provide direct support to operating forces or provide direct support to the maintenance of weapons systems." GAO pointed out that the Warner Amendment specifically refers to logistics systems as one of those routine administrative or business applications not exempted from the Brooks Act. GAO, therefore, concluded that the DoD procurement guidance being provided to the Military Services is incorrect and needs to be revised to comply with the language of the Warner Amendment.

DoD RESPONSE: DoD does not concur with this finding. Subsection (b) of the Warner Amendment excludes, from the scope of subsection (a) (5), the procurement of ADPE to be used for routine administrative and business applications. Logistics, finance, payroll and personnel management are listed parenthetically as examples, but subsection (b) does not state that all logistics systems are always used for routine administrative and business applications. It would be inappropriate to apply such an interpretation to the existing law. Clearly, some logistics systems are not part of routine administrative or business applications, but rather are critical to the direct fulfillment of military or intelligence missions. The functional examples presented in the DoD response to Finding A demonstrate that the RDB is such a system. The GAO's narrow focus on the word logistics is improper and not supported by the canons of statutory construction. The proper focus must be on whether a system is to be used for routine administrative or business applications.

As a general rule, a statute is to be construed as a whole, and it is improper to confine interpretation to the one matter to be construed. Sand, Sutherland Statutory Construction, Vol. IIA, §46.05 (1973). Moreover, an act should be read as punctuated. Id. at §47.15. Additionally, the doctrine of

See comment 2.

noscitur a sociis instructs that the meaning of unclear or doubtful words be determined by reference to their association with other associated words and phrases. Id. at §47.16. See also Marshall v. Green Goddess Avocado, 615 F.2d 851 (9th Cir. 1980). Moreover, it is also a familiar principle of statutory construction that words must be read in context and in relation to other words in the same sentence. See, e.g., Schreiber v. Burlington Northern, Inc., 105 S.Ct. 2458, 2462 (1985); Third National Bank in Nashville v. Impac Limited, Inc., 97 S.Ct. 2307, 2313 (1977). Clearly, the emphasis in subsection (b) is on systems used for routine administrative or business applications. From this we can discern that the types of systems that are excluded under subsection (b) are only those which are used for routine applications, and not all systems. Therefore, subsection (b) excludes only routine logistics systems.

The Warner Amendment explicitly allows exemption of any system that is critical to the direct fulfillment of military or intelligence missions. While certain logistics systems are "routine administrative and business applications", others are "critical" to the direct fulfillment of military missions and are not "routine" in nature. Examples of types of logistics systems that are "critical" include those that provide for maintenance of weapons systems, development of maintenance and diagnostic software, provisioning of spares for repair and replacement of weapons system parts, weapons calibration, engine life analysis, measuring force readiness, and computing needs for critical weapons system assets for combat operations. The RDB System and at least some other components of the Logistics Modernization Program perform such mission-critical functions and thus, properly will be exempt from the provisions of the Brooks Act.

FINDING C: DoD has Improperly Interpreted The Senate Report As Being Statutorily Binding: GAO found that DoD had modified its guidance to reflect the Senate's April 13, 1982 report that states "...Congress intended that procurements made in support of such critical military missions, for example, specialized mission related logistic support systems, be considered as exempted in the same manner as are the activities they support." GAO pointed out that it, in agreement with the Supreme Court, has traditionally held that actions of a specific or conference committee are not binding unless they are carried into the legislative act itself. GAO also pointed out that there is a distinction between using legislative history to illuminate the intent of underlying language of a statute and resorting to that history to write into law that which is not there. GAO found that the Warner Amendment defines logistics systems as "routine business applications" which are not exempted by the Amendment. GAO concluded that Congress did not want logistics systems exempted by the Warner Amendment when these systems are in direct fulfillment of military or logistics missions. GAO further concluded that while a federal agency has a practical

duty to abide by all congressional expressions of intent, this duty must be understood to fall short of a statutory requirement, particularly when a legal infraction may result if that intent is followed. GAO finally concluded that DoD has improperly interpreted the Senate's language as being statutorily binding even though never enacted into law.

DoD RESPONSE: DoD does not concur with this finding. The Department agrees that the actions of a Congressional Committee are not binding unless they are carried into the act itself, but the Senate report referenced by the GAO is a clear indication of congressional intent in the writing of the Warner Amendment. The Senate language is consistent with, and properly clarifies the intent of the Warner Amendment. It is clear to the DoD that the Senate, in its report, did not attempt to change the law, but properly clarified the intent of Congress in writing and enacting the Warner Amendment. As the Supreme Court has stated: "Of course, the view of a later Congress does not establish definitively the meaning of an earlier enactment, but it does have persuasive value." Bell v. New Jersey and Pennsylvania, 103 S.Ct. 2187, 2194 (1983); Sand, supra, at §49.11. The Department, therefore, totally disagrees that the Congress did not intend to exempt logistics systems from the Brooks Act that are critical to the direct fulfillment of a military or intelligence mission. No statutory infraction has resulted from the exemption of certain logistics systems from the Brooks Act because these systems are clearly critical to the direct fulfillment of military missions. This is consistent with the the Warner Amendment language and meets the intent of Congress as expressed by the Senate Report.

RECOMMENDATIONS

RECOMMENDATION 1: GAO recommended that the Secretary of Defense direct the Under Secretary of Defense for Research and Engineering to revise its "DoD-Wide Guidance for Acquiring Mission-Critical Computer Resources Under 10 U.S.C. 2315 (Armed Services Procurement Act)" by eliminating the present exemption provisions for logistics systems.

DoD RESPONSE: DoD does not concur with this recommendation. The "DoD-Wide Guidance for Acquiring Mission-Critical Computer Resources Under 10 U.S.C. 2315 (Armed Services Procurement Act)" is correct as written. The document correctly reflects the provisions of the Warner Amendment and the intent of the Congress.

RECOMMENDATION 2: GAO recommended that the Secretary of Defense direct the Secretary of the Air Force to:

See comment 3.

**Appendix III
Advance Comments From the Department
of Defense**

a. Submit an agency procurement request to the GSA Administrator for the Requirements Program;

b. Submit such a request prior to effecting the next contract option; and,

c. Submit an agency procurement request to GSA before taking any further actions for the other programs in the Air Force Logistics Modernization Program.

DoD RESPONSE: DoD does not concur with this recommendation. The RDB Program is properly exempt from the Brooks Act because it is critical to the direct fulfillment of military missions. The Department is reviewing the other components of the Logistics Modernization Program to ensure that they also meet DoD's guidelines.

The following are GAO's comments on the Department of Defense's letter dated February 26, 1986.

GAO Comments

1. When enacted, the Warner Amendment listed four fairly specific categories of computer applications to be excluded from the Brooks Act. Category (a)(5) of the amendment was a broader category of computer applications, those "critical to the direct fulfillment of military or intelligence missions." However, the Congress, with subsection (b) to category (a)(5), intended to restrict this broad category. Routine administrative and business applications were to be subject to the act. According to Air Force Logistics Command officials, the Requirements Data Bank program does not perform decision-making functions cited in Defense's response. Rather, the program provides direct logistics support by calculating spare-parts materiel requirements, maintenance repair work load, the effect of policy changes on logistics requirements and delivery methods, the level of materiel requirements that can be supported within existing budget and assets, and "what-if" scenarios to determine, within budget constraints, the number of parts that can be purchased to maximize spare-parts support goals. These support actions occur whenever operational commanders provide new decisions and priorities requiring the recalculation of supply requirements.

In our opinion, these are the type of routine administrative or business applications we identified in our 1982 report that should remain subject to the Brooks Act. Therefore, we still maintain the Air Force should follow the Brooks Act for this program and the other parts of its Logistics Management Systems Modernization Program.

2. Our examination of the text and history of the Warner Amendment leads us to believe that the Congress was concerned that the Brooks Act reviews were leading to delays in procurement of certain critical computer equipment. The Congress was particularly concerned that defense capabilities could be affected and therefore listed specific uses to be excluded from the act. We agree with Defense that some logistics systems are covered by the Warner Amendment. However, Defense applies a broad definition to "logistics."³

³Defense's Dictionary of Military and Associated Terms defines logistics in its most comprehensive sense as "... those aspects of military operations that deal with: a. design and development, acquisition, storage, movement, distribution, maintenance, evacuation, and disposition of materiel; b. movement, evacuation, and hospitalization of personnel; c. acquisition or construction, maintenance, operation, and disposition of facilities; and d. acquisition or furnishing of services."

Therefore, we believe that the Warner Amendment subsection (b) provisions will not have any effect if certain logistics systems are not more explicitly defined. In our 1982 report, we listed logistics and other functions we believed useful in establishing a framework for identifying "routine administrative and business applications" and examples of logistics systems applications that we believed remained subject to the Brooks Act.

3. Defense agreed that actions of a congressional committee are not binding unless carried into the act itself, but it argued that the Senate committee report is a clear indication of congressional intent in the writing of the Warner Amendment. We agree with Defense that the Senate committee's subsequent report could be used to clarify what the committee intended, but it should not be used to expand the meaning of the action of a prior Congress. In our opinion, in the absence of any consideration by either House of Congress of legislation to codify that interpretation, the clarification is not of persuasive value. The Warner Amendment cannot be read to exclude from the Brooks Act logistics systems critical to the direct fulfillment of military missions, if these systems are used for routine administrative or business applications.

Requests for copies of GAO reports should be sent to:

U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877

Telephone 202-275-6241

The first five copies of each report are free. Additional copies are \$2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.

United States
General Accounting Office
Washington, D.C. 20548

Official Business
Penalty for Private Use \$300

Address Correction Requested

First-Class Mail Postage & Fees Paid GAO Permit No. G100
