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National Security and
International Affairs Division



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September 30, 1993

The Honorable Daniel K. Inouye
Chairman, Subcommittee on Defense
Committee on Appropriations
United States Senate

Dear Mr. Chairman:

In your letter of February 1993, you requested that we review various issues relating to the Department of Defense's (DOD) program to compete depot maintenance workloads between public and private sector activities. In subsequent discussions with your office, you asked that we provide our preliminary observations to support the Subcommittee's review of DOD's fiscal year 1994 budget request.

On August 31, 1993, we briefed your office on these issues. The specifics of that briefing are provided in this correspondence and the attached enclosures. We discussed this material with DOD officials and considered their comments in preparing this briefing. We caution, however, that these are preliminary views.

If you have any questions regarding this information, please contact me or Julia Denman, Assistant Director, at (202) 512-8412.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Donna M. Heivilin".

Donna M. Heivilin, Director
Defense Management and NASA Issues

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Abbreviations

ASO	Naval Aviation Supply Office
CAS	Cost Accounting Standards
DCAA	Defense Contract Audit Agency
DCMC	Defense Contract Management Command
DFARS	Defense Federal Acquisition Regulation Supplement
DMRD	Defense Management Review Decision
DOD	Department of Defense
NAVAIR	Naval Air Systems Command
NAVSEA	Naval Sea Systems Command

SECTION 1

Overview of Air Force, Army, Navy aviation, and Marine Corps public-private competitions completed as of August 31, 1993.

BACKGROUND

As of August 31, 1993, the military services had completed 259 competitions that the Department of Defense (DOD) considers to be part of the public-private depot maintenance competition program. Of these, 188 were competitions for the repair of Navy surface ships and submarines.

Of the remaining 71 competitions, the Air Force conducted 30 percent; the Army 34 percent; the Navy 28 percent, including the Naval Air Systems Command (NAVAIR) and the Naval Aviation Supply Office (ASO); and the Marine Corps 8 percent.

The depot maintenance competition program is carried out under various legislative authorities. The 1985 DOD Appropriations Act¹ directed the Navy to test the feasibility of using competition between public and private shipyards as the basis for awarding a portion of the ship overhaul and repair workload.

The House and Senate Committees on Armed Services initially opposed expanding the competition program to the other services and Navy aviation activities. However, the National Defense Authorization Act for Fiscal Year 1991 provided for a pilot competition program.

The military services' current public-private competition programs are being carried out under the authority and direction of various sections of the National Defense Authorization Act for Fiscal Year 1993 and the Defense Appropriations Act for Fiscal Year 1993.

These authorities also provide limitations on the public-private competition program. For example, section 352 of the National Defense Authorization Act for Fiscal Year 1993 amended 10 U.S.C. 2466 to include two provisions. The first specifies that DOD may not contract for the performance by nonfederal government personnel of more than 40 percent of the depot-level maintenance workload for a military department or defense agency.

The second provision relates specifically to the Army. It specifies that the Secretary of the Army shall provide for the performance by DOD employees of not less than the following percentages of Army aviation depot-level maintenance workload:

¹ P.L. 98-473 (98 stat. 1904, 1907).

50 percent for fiscal year 1993, 55 percent for fiscal year 1994, and 60 percent for fiscal year 1995.

In fiscal year 1992, about 33 percent of all DOD depot maintenance funds were spent for work performed by nonfederal government personnel.² Specifically, the Army contracted out 36 percent of its fiscal year 1992 depot maintenance funds; Navy aviation was 32 percent; Navy ships was 38 percent; the Air Force was 29 percent; and the Marine Corps was 1 percent.

DOD's goal is to achieve cost-effective maintenance through the public-private competition program, but its program has two apparent difficulties: (1) fairly including all pertinent costs for public and private bidders and (2) ensuring that the private sector is being treated fairly in a competition managed by the public sector.

RESULTS OF COMPETITIONS

Table 1.1 provides a summary, by service, of information on the 71 non-shipyard competitions completed as of August 31, 1993. In this correspondence, we use the term "head-to-head" to identify the 59 competitions that had at least one public sector and at least one private sector bidder. Either the public sector or private sector did not bid on the other 12 competitions. We use the term "competition" to refer to the workloads on which both the public and private sectors were invited to bid.

²In this correspondence we refer to work done by nonfederal government personnel as "contract" or "private sector" work.

Table 1.1: Summary by Service of 71 Non-Ship Public-Private Competitions Completed as of August 31, 1993

Dollars in millions

Service	Number of completed competitions	Value of completed competitions	Number of head-to-head competitions	Value of head-to-head competitions
Air Force	21	\$249.1	17	\$220.5
Army	24	131.6	19	123.3
Navy-aircraft rework	6	256.8	6	256.8
Navy-aviation components	14	44.3	12	36.4
Marine Corps	6	10.6	5	9.3
Total	71	\$692.4	59	\$646.3

Note: Table 1.1 does not include the 188 Naval Sea Systems Command (NAVSEA) shipyard competitions held since 1985. The NAVAIR public-private competition program began in 1988; the Air Force, Army, and Marine Corps began in 1991; and ASO began in 1992.

Overall, the public sector has won about 61 percent of the 59 head-to-head competitions. The value of the 36 competitions won by public sector depots was \$510.1 million--nearly four times the value of the contracts won by the private sector. Table 1.2 summarizes information on the numbers and value of the contracts awarded to the private sector and workloads awarded to the public sector. The government does not contract with itself. Therefore, when a public depot wins a public-private competition, the government "awards" the workload to the depot.

Table 1.2: Summary Information on Workloads Awarded to the Private and Public Sectors in Head-to-Head Competitions as of August 31, 1993

Dollars in millions

Service	Private sector		Public sector	
	Number of contracts awarded	Value of contracts	Number of workloads awarded	Value of workloads
Air Force	6	\$26.9	11	\$193.6
Army	7	35.3	12	88.0
Navy-aircraft rework	2	53.5	4	203.3
Navy-aviation components	7	20.1	5	16.3
Marine Corps	1	0.4	4	8.9
Total	23	\$136.2	36	\$510.1

Air Force Public-Private Competitions

Although the private sector was successful in head-to-head competitions with Air Force depots in fiscal year 1991, it lost 8 of 11 head-to-head competitions awarded in fiscal year 1993. The combined value of these eight awards was \$183.6 million. Two of the fiscal year 1993 competitions won by Air Force depots (C-141 wingbox and C-5 speedline) account for \$97 million, or about 56 percent of the total awarded value of head-to-head competitions in the Air Force program. Primarily because of these awards, public depots have taken about 88 percent (\$193.6 million) of the total value of Air Force head-to-head competitions since the program began in fiscal year 1991. Enclosure 1 provides information on all Air Force public-private competitions awarded as of August 31, 1993. Enclosure 2 provides information on Air Force workloads awarded as a result of head-to-head competitions.

Army Public-Private Competitions

Army depots won most of the head-to-head competitions³ awarded in fiscal years 1991 and 1992. Army depots won workloads valued at \$83.6 million, which is about 87 percent of the total value of the workloads awarded under the public-private competition program in

³ The private sector did not bid on three of the Army programs offered up for public-private competition in fiscal year 1992.

fiscal years 1991 and 1992. However, Army depots lost three of the five fiscal year 1993 head-to-head competitions that were awarded as of August 31, 1993⁴. These three contracts that were awarded to the private sector amounted to 84 percent of the Army's fiscal year 1993 competed work to date. Overall, Army depots have retained \$88 million or 71 percent of the value of all workloads competed head-to-head since the public-private competition program began in fiscal year 1991. Enclosure 3 provides information on all Army workload competitions awarded as of August 31, 1993. Enclosure 4 provides information on the workloads awarded as a result of head-to-head competitions.

NAVAIR and ASO Public-Private Competitions

Navy aviation public-private competitions are divided between aircraft and engine competitions, which are managed by NAVAIR, and aircraft and engine component competitions, which are managed by ASO. Public sector depots have won four of the six NAVAIR competitions completed as of August 31, 1993. These four competitions amount to \$203.3 million, or 79 percent of the value of competed aircraft and engine work since the public-private competition program began in fiscal year 1988. An Air Force depot won one of the NAVAIR aircraft competitions, valued at 24 percent of the total competitions in this category. Enclosure 5 provides information on all NAVAIR workload competitions awarded as of August 31, 1993. Enclosure 6 provides information on the NAVAIR workloads awarded as a result of head-to-head competitions.

Private sector companies have won contracts for repair of aviation components representing over 55 percent of the value of the ASO workloads competed head-to-head since the program began in fiscal year 1992. The private sector won both of the component competitions in 1992, and 5 of the 10 head-to-head competitions awarded thus far in 1993. Enclosure 7 provides information on all ASO public-private competitions awarded as of August 31, 1993. Enclosure 8 provides information on the workloads awarded as a result of head-to-head competitions.

Marine Corps Public-Private Competitions

One private sector award had been made as of August 31, 1993 for work competed by the Marine Corps. Five of six Marine Corps competitions have had both public and private bidders. Enclosure 9 provides information on all Marine Corps workload competitions awarded as of August 31, 1993. Enclosure 10 provides information on the workloads awarded as a result of head-to-head competitions.

⁴ The private sector did not bid on one of the Army programs in fiscal year 1993 and the public sector did not bid on another program.

PRELIMINARY OBSERVATIONS

More often than not, maintenance workloads did not change from one sector to another as a result of these competitions. To date, the public depots have retained 28 of 41, or 68 percent of the workloads competed head-to-head with the private sector. The total awarded value of the 28 workloads they have retained is about \$330 million.

Additionally, public depots have won 5 of 15 competitions involving workloads that were originally contracted out to the private sector, with a value of about \$59 million. This amount represents about 44 percent of the total value of work that had been done by the private sector and was subsequently competed head-to-head.

Private sector companies retained 10 of 15 workloads with a value of \$76 million that were originally contracted to the private sector. The private sector has been less successful in winning public sector workloads. To date, the private sector has won 13 of 41 head-to-head competitions for public sector work, at a value of about \$60 million. This represents only 15 percent of the total value of the public depot work that has been offered for public-private competition. Table 1.3 shows the number of workloads awarded to the public and private sectors and which sector had previously done the work. It also shows that three workloads were new--that is, the work had not previously been done by either the public or private sector.

Table 1.3: Workloads That Shifted From a Public Depot to the Private Sector or From the Private Sector to a Public Depot in Head-to-Head Competitions

Service	Public depot workloads		Contract workloads		New work ^a
	Awarded to public depots	Awarded to private sector	Awarded to public depots	Awarded to private sector	Awarded to public depots
Air Force	6	3	2	3	3
Army	12	6	0	1	0
Navy-aircraft rework	3	0	1	2	0
Navy-aviation components	3	3	2	4	0
Marine Corps	4	1	0	0	0
Total	28	13	5	10	3

^aThe three "new" workloads were the Air Force's C-5 speedline in 1992 and its C-141 wingbox and F-16 block 40 upgrade in 1993. The combined value was \$121.4 million.

Also noticeable in competitions won by the public sector are the wide variances between the awarded price of the winning depot and the best and final offers from competing private sector bidders. For example, the awarded price for one competed workload had bids from the private sector that were 157 percent and 396 percent higher than the public depot's winning bid. For 11 selected competitions won by public depots, the competing private sector firms bid an average of 91 percent higher than the winning public depots. The closest private sector bidders in these same competitions averaged 64 percent higher than the winning public depot bids.

Table 1.4 shows the percentage by which the best and final offers exceeded the winning bid for 14 selected public-private competitions. DOD officials said that they believe the large disparities in the bids between many private and public sector companies indicate that private sector companies--particularly original equipment manufacturers--have large overhead expenses that increase the cost of their bid. Private sector officials believed the same data shows that the public depots are not including all their costs in order to bid low and get the work.

Table 1.4: Comparison of Winning Bids and Losing Bids for Selected Public-Private Competitions

Winning ^a bid	Percentage by which best and final offers exceeded the winning bid									
	Other public bids		Other private bids							
Pvt	11		5	18	21	25				
Pub			5	91						
Pvt	17	86	16	58	59	79	86	103		
Pub			31	32	35	71	111			
Pub			152	174						
Pub			45	58	115					
Pvt	197		67	107	120	191	210	288	349	395
Pub			^b	33	87					
Pub	4		25	26	29	57				
Pub			172							
Pub			7							
Pub	134		157	396						
Pub	23		54	114						
Pub	69		60							

^aWinning bid equals 0 percent.

^bExceeded the bid by less than 1 percent.

Several of the Army's planned public-private competitions for fiscal year 1993 have been withdrawn from the program. According to Army officials, concern about potential violations of congressional mandates for the percent of depot-level work that must be retained in public depots resulted in some Army helicopter maintenance programs being earmarked for public-public, rather than public-private competition. OSD officials told us that the legislative authorities limiting the amount of work that can be done by nonfederal government personnel have limited DOD's ability to effectively implement the competition program. Congressional action would be needed to remove these restrictions.

SECTION 2

DOD has tried to ensure comparability between public and private sector bids. For many reasons, true comparability may never be achieved, but more could be done to capture the total cost of the proposed work in public sector bids.

BACKGROUND

Section 9095 of the Defense Appropriations Act for Fiscal Year 1993 attempted to address the comparability issue by directing the Defense Contract Audit Agency (DCAA) to certify that successful bids include comparable estimates of all direct and indirect costs. As implemented by DOD, certification is defined as an audit opinion that states a proposal complies with the Cost Comparability Handbook issued by the Defense Depot Maintenance Council.

The Cost Comparability Handbook provides guidance on two categories of costs that must be included in public depots' bid proposals. It specifies that the end-item cost will be charged to the customer and comparability adjustments must account for such items as unfunded civilian retirement liability and differences in the military services' accounting systems. The Handbook states that end-item prices should be developed in accordance with the DOD Accounting Manual and generally accepted accounting principles and that they should include an appropriate share of overhead costs based on the actual/planned workload at the activity. It also provides detailed explanations of the comparability adjustments that must be made.

Neither DCAA nor the private sector provided input for earlier versions of the Handbook, but DOD has sought industry comments over the past year and made adjustments that address many of the private sector's concerns. The latest version of the Handbook was published on August 12, 1993.

PRELIMINARY OBSERVATIONS

While we are still analyzing the latest version of the Handbook, our preliminary analysis indicates that DOD has identified many of the comparability adjustments that should be made to public sector bids to include the costs that private sector bidders normally include. However, comparability adjustments represented only about 2 to 4 percent of the total bid proposal price, and these adjustments have not been a major factor in determining most of the winning proposals. To avoid the perception that public depots are "buying-in" with low bids, it is essential that their proposals be based on realistic estimates of direct costs (labor, material, and other) and that they include an appropriate share of overhead costs.

DCAA audits of public depots' bids have improved the evaluation process by providing an independent assessment of whether all direct and indirect costs have been included. However, there is some question regarding whether the process, as currently implemented, meets the intended objective. Our preliminary work on the 71 non-ship competitions indicates the following:

- The depots have not always complied with the guidance in the Handbook.
- There have been inconsistencies in DCAA auditors' identification and reporting of discrepancies.
- DCAA auditors have not always received the technical support they needed to properly evaluate public depots' bid proposals.
- DCAA has qualified its audits of public depot bids because of such factors as (1) the lack of depot financial disclosure statements; (2) inadequate cost and pricing data; and (3) violations of Cost Accounting Standard (CAS) such as CAS 401 (consistency in estimating, accumulating, and reporting costs), CAS 402 (consistency in allocating costs incurred for the same purpose), and CAS 418 (allocation of direct and indirect costs).
- Contracting officers and source selection officials have in the past had considerable latitude in how they considered the DCAA audit reports. The public depot bids may have been evaluated at the bid proposal price, even if DCAA identified areas of underpricing.⁵
- There is no requirement for post evaluation or incurred cost audits to assess whether public depots were able to perform competition work at the bid proposal price.
- DCAA and the military services have not yet resolved several issues related to how public depots' bid proposals should be developed and evaluated.

These problems may be attributed, in part, to the fact that DCAA's role in public-private competitions is different than its traditional role. According to DCAA, its responsibility under section 9095 of the Defense Appropriations Act for Fiscal Year 1993 is to express an audit opinion on the reasonableness of successful

⁵ In a recent bid protest decision (Canadian Commercial Corporation/Heroux, Inc., B-253278, Sept. 3, 1993), GAO sustained the protest holding that DCAA's certification of a public depot price proposal under section 9095 of the Defense Appropriations Act for Fiscal Year 1993 was unreasonable because it was inconsistent with DCAA's own findings that the proposal did not include all direct and indirect costs.

bids. This is consistent with DCAA's traditional role of auditing private sector bid proposals to provide contracting officers with advisory opinions to use in their negotiations with private contractors. Thus, even though DCAA may identify underpricing in a public depot's bid, DCAA may conclude in its audit report that the bid was "acceptable for evaluation." The services have interpreted this phrase to mean that DCAA has certified that the public sector bids include comparable estimates of all direct and indirect costs. However, because DCAA's responsibility in public-private competitions is to certify that all relevant costs have been included, the current procedures do not appear to be adequate.

Most DCAA audit reports have noted that public depot bids were underpriced on various elements of cost for the proposed work. DCAA auditors were sometimes inconsistent as to the materiality of the underpricing for certification purposes. The relationship of the underpricing to the winning bid price was sometimes significant--45 percent in one case--but the bids were still certified.

In a recent bid protest, the Canadian Commercial Corporation/Heroux, Inc. (Heroux) protested a work assignment to the Ogden Air Logistics Center for the repair and overhaul of aircraft landing gear and landing gear components. Heroux contended that the public depot's cost was not properly evaluated and certified in the source selection. DCAA had audited Ogden's proposal and concluded that it was understated by \$1.3 million and should be adjusted upward to \$15.4 million--an amount higher than Heroux's bid. However, Ogden's bid was certified at the proposed price of \$14,139,712. We concluded that (1) DCAA failed to fulfill the role assigned to the agency by section 9095 of the Defense Appropriations Act of Fiscal Year 1993, (2) DCAA did not reasonably certify Ogden's proposal, and (3) Ogden's proposal could only be certified by DCAA as including comparable estimates of all direct and indirect costs at the upward adjusted price. We sustained the protest and recommended that the work assignment of landing gear to Ogden be terminated and award made to Heroux. Although the Air Force argued that its own evaluation of Ogden's proposed costs was a more reliable estimate, we noted that under 9095 of the Appropriations Act, the Air Force is without authority to disregard DCAA's determination of the depot's probable costs.

Recognizing that there are costs associated with increased controls, actions that DOD could take to improve the comparability of public and private sector bids might include (1) providing financial disclosure statements that describe accounting policies, practices, and procedures used by the public depots; (2) modifying depot cost accounting systems to accurately accumulate and allocate costs by workload; (3) providing required technical evaluations to DCAA as input to its audit of public depot bids; (4) requiring that public depot bids be evaluated at an amount to include any underpricing identified by DCAA in its audit of the public sector

bid; (5) providing DCAA auditors guidance on the materiality of underpricing for certification; (6) requiring that DCAA and the military services reach agreement on how public depot bids for competitions should be developed; (7) requiring that public depots be consistent between estimating procedures and actual accounting procedures (as stated in CAS 401); (8) requiring DCAA to conduct incurred cost audits of competitions won by public depots; (9) developing improved timekeeping systems in the public depots; and (10) requiring the Defense Contract Management Command (DCMC) to perform post award contract administration functions at public depots that win public-private competitions.

SECTION 3

Total costs of conducting the public-private competition program are unknown.

BACKGROUND

The total cost of conducting the public-private competition program is substantial but cannot be precisely quantified because many costs are not tracked by the military services or, if they are tracked, are not tracked accurately and completely. For example, hundreds of people are involved in monitoring and managing the program, developing requests for proposals, developing bids, and evaluating proposals, but none of the services can provide complete information on the total cost. The following examples indicate the types of costs involved and their relative magnitude.

- Procuring activities, depot maintenance activities, and various headquarters have established business offices to monitor and manage the public-private competition program. For example, in fiscal year 1992, the Air Force Materiel Command used six full-time staff and additional part-time staff to manage and monitor the program. The full-time staff had a total salary of about \$286,000.
- Procuring activities are spending millions of dollars to develop requests for proposals, evaluate bids, and administer contracts. For example, the Air Force estimates that its related costs for the fiscal year 1992 C-141 center wingbox competition will be \$2.2 million.
- Depot maintenance activities are spending millions of dollars to develop bid proposals. For example, the Air Force and Navy reported that the cost of developing their bids for the F/A-18 competition was \$1.5 million and \$1.4 million, respectively. According to public and private sector managers who are responsible for developing bid proposals, the cost of developing a proposal can be as much as 10 percent of the contract amount.

PRELIMINARY OBSERVATIONS

Identifying the costs of the public-private competition program should be an essential part of DOD's efforts to determine savings and to assess costs versus benefits.

SECTION 4

There is no standard methodology for determining savings from DOD's public-private competition program. Overall, reported savings have been overstated. The services believe many of the benefits are not quantifiable.

BACKGROUND

As part of their strategy to achieve the \$6.3-billion reduction in fiscal years 1991 to 1997 depot maintenance costs that was mandated by Defense Management Review Decision (DMRD) 908C, "Consolidating Depot Maintenance," the military services developed plans in 1991 to save \$1.7 billion by implementing a comprehensive public-private competition program. However, neither DOD audit agencies nor we have been able to substantiate much of the competition savings that the military services have claimed.

For example, in 1990, we reported⁶ that we could not substantiate the Navy's claim of \$200 million in savings from initial program competitions. The Navy's savings analysis improperly included savings from other unrelated cost reduction efforts and excluded some of the costs associated with implementing the program, such as the cost to develop and evaluate bid proposals. Similarly, in 1991, the Naval Audit Service reported that NAVSEA's estimate of \$200 million in savings from its initial competitions was overstated by \$184.8 million.

In August 1993, the Office of the Secretary of Defense Comptroller announced that it would no longer require the military services to report DMRD savings. The Comptroller's action was in response to the findings of the Defense Science Board Task Force, called the Odeen Panel. Its report concluded that the "bookkeeping effort devoted to tracking DMRD savings has outlived its usefulness and should be terminated."

Despite the Comptroller's decision, the Defense Depot Maintenance Council plans to continue tracking the savings achieved by the competition program and to compare these savings with the \$1.7-billion savings goal as a means of monitoring the services' participation in the public-private competition program.

⁶ Navy Maintenance: Status of Public and Private Shipyard Competition Program (GAO/NSIAD-90-161 Sept. 26, 1990).

PRELIMINARY OBSERVATIONS

Numerous problems prevent both the military services and us from quantifying the savings that have actually resulted from the completed public-private competitions. For example:

- One problem that has previously been reported by GAO and DOD audit agencies, including DCAA, is the fact that weaknesses in the military services' accounting systems and internal control procedures prevent them from developing reliable estimates of how much it actually costs them to do their work.
- Even if there were no problems with the military services' accounting systems and internal control procedures, it is impossible to determine the actual cost to the government--especially for bids won by public depots--until the work is actually accomplished.
- As noted above, the military services have not accurately and completely identified the costs associated with conducting the competitions.
- Two of the largest competitions are being conducted on new workloads for which there is no baseline cost to compute savings.

In addition to the problems cited above, neither the Air Force nor the Navy has developed adequate methods to estimate savings.

Our preliminary analysis indicates that the services' initial savings estimates were overly optimistic. They have subsequently lowered some of their estimates. Despite this, the military services are still overestimating their actual savings.

These lower-than-expected savings can be attributed to a number of problems. Our preliminary work indicates that declining workloads have resulted in the elimination of some work from the public-private competition program and limited the amount of savings on the remaining work.

Another problem is the congressionally mandated limits on the amount of work that can be done by nonfederal workers. We believe these limits, combined with declining workloads, have made it difficult for the services to identify workloads suitable for competition. One of the Army's buying commands restricted the public-private competitions it had planned for fiscal year 1993 to public bidders only because it was concerned about exceeding the limits.

Although the competitions have sometimes resulted in substantial reductions in unit repair costs, these were not always true

savings. Rather, the services reallocated overhead costs from competed to noncompeted workload. For example, the public-private competition for the TRC-97 radio resulted in nearly a 50-percent reduction in the fiscal year 1993 unit repair price--from \$133,636 to \$68,557. However, more than half of the decrease was a reduction in overhead costs and surcharges that, for the most part, did not represent any actual savings.

Higher-than-anticipated costs for materiel is another reason why savings have been less than expected. For example, higher-than-expected materiel costs were the primary reason the Air Force changed the projected results for its T-56 gearbox competition from a \$3.6-million savings to a \$11.5-million loss.

Although the Office of the Secretary of Defense Comptroller has stated that tracking DMRD savings is no longer useful, we believe a standard DOD-wide procedure for calculating savings on individual public-private competitions and for tracking the costs of administering the competition program would help in evaluating the benefits of the program.

SECTION 5

DOD has tried to establish competition procedures that would result in a level playing field.

BACKGROUND

Although GAO has held that the legislation providing for public-private competition does not require a level playing field,⁷ DOD has tried to create an environment in which both public and private depots are treated as equitably as possible in competitions for depot-level maintenance work. However, views regarding a level playing field have become a quarrelsome issue between DOD and private businesses. The private sector concerns have focused primarily on differences in accounting for the costs of performing maintenance work but have also included opinions that public-private competitions have not been evenhanded. DOD components have voiced concerns about federal regulations and procedures for contracting, personnel management, and supply support that they believe unduly restrict the public sector in competing for maintenance work.

PRELIMINARY OBSERVATIONS

Our preliminary analysis indicates that DOD and the services have made considerable progress toward establishing fair procedures for conducting public-private competitions for maintenance work and in overcoming some of the initial problems. The services had difficulty attracting qualified bidders because the workloads offered were (1) low dollar value, (2) old technology, and (3) highly specialized. Additionally, some private sector bidders who have participated in the past indicated that they may not compete again because they believe the competitions were unfair and the probability of winning was low.

DOD, the services, and others have identified a number of issues affecting effective program operations or creating perceptions of less-than-fair treatment. Some problems have been corrected, but other issues must still be addressed. For instance, DOD implemented the program without firm guidelines or procedures for program management. Memorandums and letters of instructions were used to provide guidance for selecting competition candidates and for participating in and managing the program. Program guidance has not been incorporated into the Defense Federal Acquisition Regulation Supplement (DFARS), although draft language has been proposed. However, the draft DFARS language does not appear to recognize that DCAA's role in the certification process involves

⁷ Ryder Aviall, Inc. (B-249920, Dec. 23, 1992).

more than a review of the cost comparability adjustment factors. Guidance for bid preparation is contained in the Cost Comparability Handbook, but this Handbook has been revised three times and still has not been incorporated into a DOD instruction or the DOD accounting manual. The services have experienced difficulty in offering maintenance workload for competition that is consistent with the selection criteria. Core workload reserved for public depots has not been well-defined and may be such a large percentage of the total requirement for many types of maintenance work that it may not be economical for businesses to compete for the remaining workload. In addition, congressionally mandated requirements limit the amount of work that can be offered to non-DOD businesses.

To achieve a level playing field, the services generally have taken actions to establish and maintain an "arms length" relationship among public sector participants that draft solicitations, evaluate proposals, and select sources of repair. In addition to regulations that govern their conduct, participants have been required to sign statements that prohibit disclosing information about offerors' proposals and have been physically separated from each other during the process of proposal evaluation. While these actions appear to have improved the objectivity of the public-private competition process, the private sector still has reservations about whether the competitions are fair. It appears unlikely that any revisions to the process will totally address industry concerns. However, initiatives are available that could improve the equity of the program.

One area for consideration is whether to revise draft DFARS language to provide that, in addition to considering whether all required cost comparability factors have been addressed, DCAA's certification role will include a recognition that the evaluated price of public sector bids should incorporate DCAA's findings of underpriced labor, material, or other direct costs or of general, administrative, and production overhead costs.⁶ Finally, if the Office of the Secretary of Defense and the services developed a clear methodology for determining core workload, it would help the services identify workloads suitable for competition.

⁶ This would ensure that the language in DFARS would be consistent with our holding in Canadian Commercial Corporation/Heroux, Inc., B-253278, Sept. 3, 1993, which is discussed in section 2.

SECTION 6

The Navy completed 188 public-private competitions for surface ship and submarine shipyard repair as of August 31, 1993.

RESULTS OF THE COMPETITIONS

The impetus for public-private competition in the Navy was a 1984 study that concluded that (1) the Navy's industrial activities were not running as efficiently as their counterparts in the private sector and (2) a lack of competition was a major contributor to the industrial activities' historical indifference to cost. Since the inception of public-private competition for Navy ships in fiscal year 1985, 188 ship availabilities⁹ have been competed--112 surface ships and 76 submarines. Of these, public shipyards won competitions for 11 surface ship repairs and 58 submarine repairs. Private shipyards won competitions for 101 surface ship repairs and 18 submarine repairs. One of the 18 repairs was terminated at the request of a private shipyard and the repair was then assigned to a public shipyard.

The Navy has had limited success in achieving competition between the public and private sectors for shipyard repairs. Competition was achieved on 46 percent (86 of 188) of the vessels designated for this program from fiscal year 1985 to 1993. As shown in table 6.1, 54 percent of the surface ship competitions and 34 percent of the submarine competitions received proposals from both the public and private sectors. Private shipyards have bid on all surface ship repairs solicited in the program and, starting in fiscal year 1993, have also bid on all submarine repairs solicited.

Table 6.1: Availabilities on Which Proposals Were Received From Both Public and Private Sector Shipyards (Fiscal Years 1985 Through 1993)

	Availabilities	Proposals received from both sectors	Percent
Surface ships	112	60	54
Submarines	76	26	34
Total	188	86	46

⁹ Assignment of a ship to a repair activity for maintenance and modernization is called an availability.

Table 6.2 captures the results of head-to-head competitions from fiscal years 1985 to 1993. Eighty-three percent of the competitions for surface ships and 46 percent for submarines were won by private shipyards. However, during the first few years of the program (fiscal years 1985 to 1987), public shipyards were not under the requirement to bid full cost. That is, if overhead costs were covered by noncompeted work, the public shipyards could bid the variable costs of the proposed additional work. The National Defense Authorization Act for Fiscal Year 1989 (P.L. 100-456) provided that public shipyard proposals in public-private competitions would include the full costs to the government. Table 6.3 shows the results of head-to-head competitions for Navy ship repair from fiscal years 1988 to 1993. Since fiscal year 1988, the percentage of awards to the public sector has dropped to 14 percent for surface ships and 42 percent for submarines.

Table 6.2: Results of Head-to-Head Competitions Between Public and Private Shipyards (Fiscal Years 1985 Through 1993)

	Availabilities won by				Total
	Public shipyards		Private shipyards		
	Number	Percent	Number	Percent	
Surface ships	10	17	50	83	60
Submarines	14	54	12	46	26
Total	24	28	62	72	86

Table 6.3: Results of Head-to-Head Competitions Between Public and Private Shipyards (Fiscal Years 1988 Through 1993)

	Availabilities won by				Total
	Public shipyards		Private shipyards		
	Number	Percent	Number	Percent	
Surface ships	7	14	42	86	49
Submarines	8	42	11	58	19
Total	15	22	53	78	68

Thus, overall, since the full cost requirement was imposed, public shipyards have won 22 percent of the head-to-head competitions. This percentage is likely to drop even lower in the future. Only two of the public shipyards have won surface ship competitions with private shipyards. Philadelphia Naval Shipyard won the last three

surface ship competitions won by the public sector. However, according to a NAVSEA official, fiscal year 1993 is the last year this shipyard will be permitted to participate in public-private competitions since this facility is scheduled to be closed under the base closure law.

Long Beach Naval Shipyard won four of the surface ship competitions from fiscal years 1988 to 1993. However, three of the four were port wide competitions open to any shipyard in the ship's homeport. Only one private shipyard bid on each solicitation. Long Beach Naval Shipyard has not won a competition ship availability since fiscal year 1991. The homeport of Long Beach is closing, so, in the future, only coast wide competition availabilities will be open for Long Beach bids. Coast wide competitions will result in more private sector bids, which will likely decrease the public shipyard's likelihood of winning.

Nuclear-capable public shipyards have not won any of the 16 surface ship repair solicitations they have bid on since the inception of the public-private competition program. Private shipyards have recently started to win a greater percentage of the submarine availabilities in the public-private competition program. In fiscal year 1993, the first year private shipyards bid on all submarine availabilities; private shipyards won six, or 75 percent of the submarine availabilities solicited in the public-private competition program.

NAVSEA officials are aware that requiring full cost bids from the public shipyards, while not requiring the same from the private shipyards, has given the advantage to the private sector. However, permitting public shipyards to bid less than full cost would give the advantage to the public shipyards. According to a NAVSEA official, requiring private shipyards to bid full cost may be contrary to the Federal Acquisition Regulation and competition, hard to enforce, and probably result in many bid protests. Nonetheless, section 9095 of the Defense Appropriations Act for Fiscal Year 1993 provided that the Secretary of Defense may have public-private competitions, provided that DCAA certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids. To date, DCAA's position is that DCAA certifications that private sector bids included all direct and indirect costs were satisfied by the contracting officer's statement that private sector bids were in the competitive range.

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Data on All Air Force Public-Private Competitions Completed as of August 31, 1993

Dollars in millions

Fiscal year completed	Workload	Source of repair before and after competition		Number of years contract covers		Number of bidders		Basis for award ^a	Total value of contract
		Before	After	Basic	Option years	Public	Private		
1991	G-5615 gearbox	Public	Private	1	2	2	7	SSF	\$7.8
1991	F-16 software	Public	Private	1	2 ^b	1	4	SSF	1.4
1991	TF33 vanes/shrouds	Private	Private	1	2	1	5	Price	6.6
1991	AN/TRC-97A	Public	Public	5	0	1	5	SSF	2.9
1991	AN/ARC-186 UHF	Public	Public	1	4	2	5	SSF	3.8
1992	CSD transmission ^c								3.3
	C-135A	Public	Public	1	2	1	4	Price	-
	C-141	Public	Public	1	2	1	4	Price	-
	F-4	Public	Public	1	1	1	6	Price	-
1992	C-18 PDM	Private	Private	1	4	0	4	SSF	15.3
1992	MM III hardness	Private	Private	N/A ^d	N/A ^d	0	3	SSF	10.0
1993	F-16 APG68 radar ^e	Private	Private	2	0	0	3	Price	1.3
1993	C-141 wingbox	New work	Public	1	3	1	3	SSF	62.1
1993	C-5 speedline	New work	Public	1	2	1	3	SSF	34.8
1993	Heroux landing gear	Private	Public ^f	1	2	1	7	SSF	14.1
1993	Signal source generators	Public	Public ^g	1	4	2	6	SSF	0.6
1993	F-16 APG66 radar	Public	Public ^h	2	0	1	4	Price	2.2
1993	KC-135 booms	Private	Public	1	2	1	5	Price	9.5
1993	F-16 block 40 upgrade	New work	Public	0 ⁱ	3	1	1	SSF	24.5
1993	C-130 turbine motors	Public	Private	1	2	1	4	Price	5.6
1993	TF-39 blades	Private	Private	2	2	1	3	Price	4.3
1993	E-3 PDM/mods	Public	Public	1	4	1	1	SSF	35.8
1993	TF-33 exhaust case	Private	Private	1	2	1 ^j	4	Price	1.2
1993	ALQ-131 rampod	Private	Private	1	4	0	6	Price	2.0

ENCLOSURE 1

ENCLOSURE 1

^aUnder price competition a contract is awarded based on the lowest bid, provided the overall proposal is acceptable. In contrast, a competition awarded on source selection factors (SSF) is based on various factors, such as technical competence, as long as the bid price is within the competitive range.

^bOption years consisted of one 1-year option, one 6-month option, and two 3-month options.

^cThis competition consisted of three separate workloads classified as one competition.

^dThe workload covered by this contract is identified by phase, not years.

^eThe Air Force Materiel Command has included this workload as a public-private competition, even though it was never offered to the public sector and was restricted to three pre-approved private sector companies. Since public depots were not allowed to bid, it should not be considered a public-private competition.

^fIn a recent decision, GAO sustained a bid protest and recommended that this work, which was assigned to Ogden Air Logistics Center be terminated and awarded to the private sector bidder, Heroux.

^gThis competition was awarded to Tobyhanna Army Depot.

^hMost of this contract was awarded to the public bidder. However, one of the private bidders was awarded a segment of the work valued at approximately \$38,000.

ⁱThis contract was not structured with a basic year, instead it has three option years with fixed quantities if the options are exercised.

^jThe public bid was classified as non-responsive to the request for proposal and was rejected by the procuring activity.

Value of Air Force Workloads Won by the Private and Public Sectors in Head-to-Head Competitions
Awarded as of August 31, 1993

Dollars in millions

Competition program year	Fiscal year awarded	Workload	Private sector contract value	Public sector contract value
1991	1991	G-5615 gearbox	\$7.8	
1991	1991	F-16 software	1.4	
1991	1991	TF33 vanes & shrouds	6.6	
1991	1991	AN/TRC-97A		\$2.9
1991	1991	AN/ARC-186 UHF		3.8
		1991 award subtotal	\$15.8	\$6.7
		Percent of 1991 dollar value awarded	70.2	29.8
1992	1992	CSD transmissions		3.3
		1992 award subtotal	\$0	\$3.3
		Percent of 1992 dollar value awarded	0	100.0
1992	1993	C-141 wingbox		62.1
1992	1993	C-5 speedline		34.8
1992	1993	Heroux landing gear		14.1
1992	1993	Signal source generators		0.6
1993	1993	F-16 APG66 radar		2.2
1993	1993	KC-135 booms		9.5
1993	1993	F-16 block 40 upgrade		24.5
1993	1993	C-130 turbine motors	5.6	
1993	1993	TF-39 blades	4.3	
1993	1993	E-3 PDM/mods		35.8
1993	1993	TF-33 exhaust case	1.2	
		1993 award subtotal	\$11.1	\$183.6
		Percent of 1993 dollar value awarded	5.7	94.3
Total awarded			<u>\$26.9</u>	<u>\$193.6</u>
Percent of total dollar value awarded			12.2	87.8

ENCLOSURE 2

ENCLOSURE 2

Data on All Army Public-Private Competitions Completed as of August 31, 1993

Dollars in millions

Fiscal year completed	Workload	Source of repair before and after competition		Number of years contract covers		Number of bidders		Basis for award ^a	Total value of contract
		Before	After	Basic	Option years	Public	Private		
1991	T63-700 engine	Public	Public	1	2	2	5	Price	\$36.7
1991	Patriot launcher	Public	Public	1	0	1	1	Price	0.6
1991	M113 engine	Public	Private	1	1	1	7	SSF	3.7
1991	2.5-ton engine	Public	Public	1	1	1	4	SSF	11.3
1991	AN/TPQ-36-37	Public	Public	1	3	1	1	SSF	9.3
1991	RT-524	Public	Public	1	3	1	4	SSF	13.3
1991	MILVANS	Private	Private	1	2	1	11	SSF	2.1
1992	60-ton locomotive	Public	Private	1	0	1	4	Price	1.0
1992	30-KW generator	Public	Public	1	0	1	0	Price	0.5
1992	15-KW generator	Public	Public	1	0	1	0	Price	0.4
1992	M578 LRV	Public	Public	1	0	1	1	SSF	0.7
1992	M12A1 decon	Public	Public	1	0	1	2	SSF	1.0
1992	Shop equipment	Public	Public	1	0	1	0	Price	0.4
1992	M270 launcher	Public	Public	1	0	1	1	SSF	8.8
1992	M88 transmission	Public	Public	1	1	1	1	Price	1.4
1992	M88 final drive	Public	Public	1	1	1	9	Price	0.5
1992	M60 T142 track	Public	Private	1	0	1	4	Price	5.0
1993	T53 fuel control	Public	Private	1	2	1	9	Price	19.6
1993	T-700 ECU	Public	Private	1	2	1	2	Price	1.3
1993	T-700 fuel control	Public	Public	1	2	1	1	Price	2.7
1993	OH-58 main rotor	Public	Private	1	2	1	9	Price	2.6
1993	MLRS secondary	Private	Private	3	0	0	2	Price	6.0
1993	Patriot launcher	Public	Public	1	0	1	0	Price	1.0
1993	M109 transmission	Public	Public	1	1	1	1	Price	1.7

ENCLOSURE 3

ENCLOSURE 3

Under price competition a contract is awarded based on the lowest bid, provided the overall proposal is acceptable. In contrast, a competition awarded on source selection factors (SSF) is based on various factors, such as technical competence, as long as the bid price is within the competitive range.

ENCLOSURE 3

ENCLOSURE 3

Value of Army Workloads Won by the Private and Public Sectors in Head-to-Head Competitions
as of August 31, 1993

Dollars in millions

Competition program year	Fiscal year awarded	Workload	Private sector contract value	Public sector contract value
1991	1991	T63-700 engine		\$36.7
1991	1991	Patriot launcher		0.6
1991	1991	M113 engine	\$3.7	
1991	1991	2.5-ton engine		11.3
1991	1991	AN/TPO-36-37		9.3
1991	1991	MILVANS	2.1	
1991	1991	RT-524		13.3
		1991 award subtotal	\$5.8	\$71.2
		Percent of 1991 dollar value awarded	7.5	92.5
1992	1992	60-ton locomotive	1.0	
1992	1992	M578 LRV		0.7
1992	1992	M12A1 decon		1.0
1992	1992	M270 launcher		8.8
1992	1992	M88 transmission		1.4
1992	1992	M88 final drive		0.5
1992	1992	M60 T142 track	5.0	
		1992 award subtotal	\$6.0	\$12.4
		Percent of 1992 dollar value awarded	32.6	67.4
1992	1993	T53 fuel control	19.6	
1992	1993	T-700 ECU	1.3	
1992	1993	T-700 fuel control		2.7
1992	1993	OH-58 main rotor	2.6	
1993	1993	M109 transmission		1.7
		1993 award subtotal	\$23.5	\$4.4
		Percent of 1993 dollar value awarded	84.2	15.8
Total awarded			<u>\$35.3</u>	<u>\$88.0</u>
Percent of total dollar value awarded			28.6	71.4

ENCLOSURE 4

ENCLOSURE 4

Data on All NAVAIR Public-Private Competitions Completed as of August 31, 1993

Dollars in millions

Fiscal year completed	Workload	Source of repair before and after competition		Number of years contract covers		Number of bidders		Basis for award ^a	Total value of contract
		Before	After	Basic	Option years	Public	Private		
1988	F-14A standard depot-level maintenance (SDLM) ^b	Public	Public	1	4	1	2	SSF	\$81.8
1988	P-3C modification	Private	Public	3	0	1	1	SSF	33.3
1990	SH-2F SDLM	Private	Private	1	4	1	2	SSF	23.0
1990	S-3A weapon system improvement program	Private	Private	3	0	1	1	SSF	30.5
1993	F/A-18 aircraft	Public	Public ^c	1	4	2	2	SSF	60.6
1993	J-52 engine	Public	Public	1	4	2	3	SSF	27.6

^aA competition awarded on source selection factors (SSF) is based on various factors, such as technical competence, provided the bid price is within the competitive range.

^bThe contract value of this workload is \$124.5 million if over and above work is included.

^cThe Air Force was the winning bidder in this competition.

Value of NAVAIR Workloads Won by the Private and Public Sectors in Head-To-Head Competitions
as of August 31, 1993

Dollars in millions

Competition program year	Fiscal year awarded	Workload	Private sector contract value	Public sector contract value
1988	1988	F-14 SDLM		\$81.8
1988	1988	P3C modification		33.3
		1988 award subtotal	\$0	\$115.1
		Percent of 1988 dollar value awarded	0	100.0
1990	1990	SH-2F SDLM	\$23.0	
1990	1990	S-3A weapon system improvement program	30.5	
		1990 award subtotal	\$53.5	\$0
		Percent of 1990 dollar value awarded	100.0	0
1992	1993	F/A-18 aircraft		60.6
1992	1993	J-52 engine		27.6
		1993 award subtotal	\$0	\$88.2
		Percent of 1993 dollar value awarded	0	100.0
Total awarded			<u>\$53.5</u>	<u>\$203.3</u>
Percent of total dollar value awarded			20.8	79.2

ENCLOSURE 6

ENCLOSURE 6

Data on All ASO Public-Private Competitions Completed as of August 31, 1993

Dollars in millions

Fiscal year completed	Workload	Source of repair before and after competition		Number of years contract covers		Number of bidders		Basis for award ^a	Total value of contract
		Before	After	Basic	Option years	Public	Private		
1992	F-18 auxiliary power unit	Public	Private	5	0	1	1	Price	\$7.5
1992	T700 engine components	Public	Private	1	0	1	1	Price	3.2
1993	ARN-118 TACAN	Public	Private	2	0	1	1	Price	0.7
1993	ARC-182 radio set	Private	Private	1	2	1	2	Price	4.2
1993	ARC-182 radio set	Private	Private	1	2	1	2	Price	0.1
1993	ARC-182 radio set	Private	Public	1	2	1	2	Price	0.4
1993	CN1054A gyro	Public	Public	3	2	1	1	Price	10.5
1993	F-14 fire control	Private	Public	3	2	1	1	Price	1.6
1993	S-3 actuator assy	Public	Public	3	2	1	1	Price	1.0
1993	P-3 ARR-78/ALQ-158 components	Private	Private	3	2	1	1	Price	3.4
1993	A-4 flight control surfaces	Public	Public	2	0	1	0 ^b	Price	7.7
1993	P-3 gyro	Public	Public	3	2	1	1	Price	2.8
1993	J-52 stator rotor	Private	Private	1	2	1	1	Price	1.0
1993	A-4 position indicators	Public	Public	2	1	1	0	Price	0.2

^aUnder price competition, a contract is awarded based on the lowest bid price, provided the overall proposal is acceptable.

^bThe only bid received from the private sector was not a qualified source of repair.

Value of ASO Workloads Won by the Private and Public Sectors in Head-To-Head Competitions
as of August 31, 1993

Dollars in millions

Competition program year	Fiscal year awarded	Workload	Private sector contract value	Public sector contract value
1992	1992	F-18 auxiliary power unit	\$7.5	
1992	1992	T-700 engine components	3.2	
		1992 award subtotals	\$10.7	\$0
		Percent of 1992 dollar value awarded	100.0	0
1993	1993	ARN-118 TACAN	0.7	
1993	1993	ARC-182 radio set	4.2	
1993	1993	ARC-182 radio set	0.1	
1993	1993	ARC-182 radio set		\$0.4
1993	1993	CN1054A gyro		10.5
1993	1993	F-14 fire control		1.6
1993	1993	S-3 actuator assembly		1.0
1993	1993	P-3 ARR-78/ALQ 158 components	3.4	
1993	1993	P-3 gyro		2.8
1993	1993	J-52 stator rotor	1.0	
		1993 award subtotal	\$9.4	\$16.3
		Percent of 1993 dollar value awarded	36.6	63.4
Total awarded			<u>\$20.1</u>	<u>\$16.3</u>
Percent of total dollar value awarded			55.2	44.8

ENCLOSURE 8

ENCLOSURE 8

Data on All Marine Corps Public-Private Competitions Completed as of August 31, 1993

Dollars in millions

Fiscal year completed	Work load	Source of repair before and after competition		Number of years contract covers		Number of bidders		Basis for award ^a	Total value of contract
		Before	After	Basic	Option years	Public	Private		
1991	AN/TPB-1D radar	Public	Private	1	0	1	1	Price	\$0.4
1991	M923 5-ton truck	Public	Public	1	0	2	5	Price	2.1
1992	LAV-25	Public	Public	1	0	2	0	Price	1.3
1992	HMMWV	Public	Public ^b	1	1	1	1	Price	6.3
1992	AAVP7 engine	Public	Public	1	3	2	1	Price	0.2
1992	AAVP7 transmission	Public	Public	1	3	2	2	Price	0.3

^aUnder price competition, a contract is awarded based on the lowest bid price, provided the overall proposal is acceptable.

^bTooele Army Depot submitted the winning public bid on this competition. The Marine Corps chose not to bid because of its high capacity utilization and a desire to reduce its backlog of maintenance work.

Value of Marine Corps Workloads Won by the Private and Public Sectors in Head-to-Head Competitions as of August 31, 1993.

Dollars in millions

Competition program year	Fiscal year awarded	Workload	Private sector contract value	Public sector contract value
1991	1991	AN/TPB-1D radar	\$0.4	
1991	1991	M923 5-ton truck		\$2.1
1991 award subtotal			\$0.4	\$2.1
Percent of 1991 dollar value awarded			16.0	84.0
1992	1992	HMMWV		6.3
1992	1992	AAVP7 engine		0.2
1992	1992	AAVP7 transmission		0.3
1992 award subtotal			\$0	\$6.8
Percent of 1992 dollar value awarded			0	100.0
Total awarded			<u>\$0.4</u>	<u>\$8.9</u>
Percent of total dollar value awarded			4.3	95.7

