

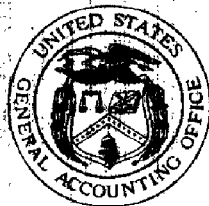
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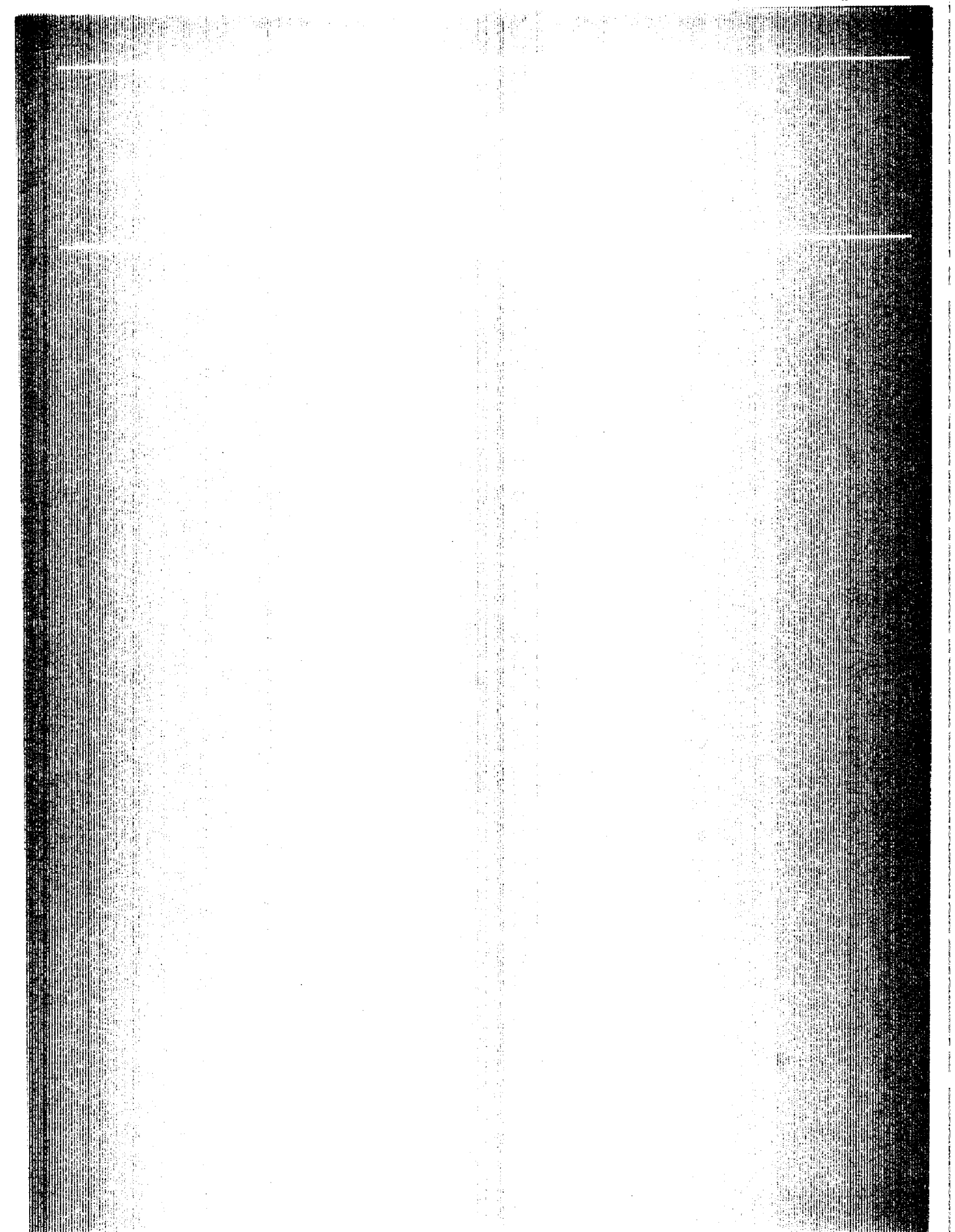
Report to the Honorable
Anthony C. Beilenson, House of
Representatives

February 1994

**INTELLIGENCE
PROGRAMS**

**Inquiry Into
Contracting Practices
for a Classified
Program**





**National Security and
International Affairs Division**

B-256309

February 28, 1994

The Honorable Anthony C. Beilenson
House of Representatives

Dear Mr. Beilenson:

As requested, we reviewed a complaint you received from Technology Research International, Inc. (TRI), a small disadvantaged business, alleging improper conduct by an Air Force prime contractor in awarding a subcontract to a TRI competitor. In addition, on the basis of this complaint, you wanted to know the recourse available to TRI.

This report addresses the merits of TRI's four major allegations against the prime contractor—Lockheed Sanders, Inc. (LSI). Specifically, TRI contended that (1) it offered the lowest initial bid, and LSI then negotiated a lower bid price with a competitor without giving TRI the same opportunity; (2) LSI may have used weighting factors in its source selection process that discriminated against TRI; and (3) the Air Force earmarked the subcontract for a competitor even before TRI had made an offer. Further, TRI questioned whether LSI considered use of a provision of the Defense Federal Acquisition Regulation Supplement that permits preferences for small disadvantaged businesses in the bid evaluation process.

Results in Brief

We found no evidence that LSI engaged in any misconduct in the use of the source selection process questioned by TRI. Source selection information showed TRI did not submit the lowest bid and was given the same opportunity as competitors to update its proposal in response to amendments to the request for proposal. In fact, the winning subcontractor, American Nucleonics Corporation (ANC), substantially increased its bid and was still lower than the final TRI bid. Source selection information also showed that weighting factors were consistently applied to each competitor's bid proposal. While each competitor's proposal was judged to be technically qualified, the ANC offer was considered to be superior. In addition, our review showed the Air Force played no role in the source selection process for this subcontract. Finally, LSI was not required under the prime contract to, and did not use, an evaluation preference for small disadvantaged businesses. It was required, however, to have a small business/small disadvantaged business subcontracting plan as a part of the prime contract. We found such a plan was developed and incorporated into the prime contract.

Background

The Air Force awarded a prime contract to LSI, Nashua, New Hampshire, to develop an electronic warfare component for a classified program. LSI subsequently issued a subcontract request for proposal for the design and fabrication of a subsystem in support of the prime contract. This subcontract was a competitive procurement with source selection based on criteria specified in the request for proposal.

LSI sent a letter of inquiry to four potential sources in late October and early November 1992 to determine interest in competing for the subcontract and to obtain comments on the preliminary specification. While all four sources responded with comments, one source indicated it did not intend to bid. LSI later sent a request for proposal in December 1992 to the three remaining interested sources. Subsequently, LSI issued three request for proposal amendments to the three sources. The first amendment clarified technical information and extended the response due date. The second amendment requested proposal clarifications from each of the three sources. The final amendment requested proposal updates to address changes that included the specification and statement of work. TRI and ANC, two competing sources, fully responded to all three amendments. A third source dropped out of the competition by submitting a no-bid response to the third amendment. After evaluating the two bids, LSI awarded the subcontract to ANC in June 1993.

No Evidence of Misconduct in Subcontract Source Selection Process

Our review of source selection data showed TRI was not the low bidder. Contrary to TRI's contention that ANC may have been given the opportunity to lower its final bid price below TRI's offer, both competitors increased their original bids in response to the May 11, 1993, third amendment to LSI's request for proposal. Even though ANC increased its bid price by over 25 percent, the ANC offer still remained the low bid.

Source selection information showed that the prioritization and the weighted factors LSI used in the source selection process were consistently applied to both competitor's proposals. The LSI request for proposal summarized the evaluation criteria and listed five source selection factors in descending order of importance: technical approach, price, production/programmatic considerations, planned delivery schedule, and past performance history. A methodology for weighting these factors was established at the release of the request for proposal and corresponded to the listed order of importance. The proposals from TRI and ANC were evaluated and scored independently by different preassigned LSI evaluators for each factor in accordance with the preestablished weighting

methodology. LSI judged TRI's proposal to be technically qualified under this methodology; however, it rated ANC's technical approach as superior.

We found no indication that the subcontract award was earmarked for ANC based on our examination of source selection data and Air Force contract files and discussions with LSI and Air Force officials. Also, we found no evidence the Air Force played any part in the selection and award of the subcontract. According to a LSI official, LSI did not have any previously established contractual relationships with either ANC or TRI. An LSI official told us they used different personnel to evaluate the ANC and TRI proposals to avoid favoritism in the source selection process. Also, an Air Force official who TRI believed may have had an opportunity to influence the source selection process told us that he purposely distanced himself from the process.

Small Disadvantaged Business Preference Not Required or Used

While the prime contract did not require the use of an evaluation preference for small disadvantaged businesses, the prime contract did require LSI to have a small business/small disadvantaged business subcontracting plan. The Defense Logistics Agency's most recent review of LSI's plan for the period ending June 1, 1993, rated LSI's subcontracting program as outstanding and did not recommend improvements.

LSI did not specify in its request for proposal or amendments that a small disadvantaged business price preference would be an award consideration. According to LSI, no small disadvantaged business price preference was considered because this was a high dollar procurement. Further, LSI said there were few potential sources even capable of producing the electronic warfare subsystem component. However, to determine if a small disadvantaged business price preference would have changed the outcome of source selection in favor of TRI, we calculated a price differential using the method outlined in the Defense Federal Acquisition Regulation Supplement and found no significant change in the competitive ranking of TRI.

Debriefing Offered to TRI

On four separate occasions, LSI offered to provide a debriefing/exit conference to TRI to discuss TRI's proposal strengths and weaknesses. On July 2, 1993, LSI informed TRI that it would give TRI a debriefing on the strengths and weaknesses of its proposal. In response to LSI's July 19, 1993, offer to schedule a debriefing, TRI faxed to LSI a request to schedule a debriefing on the same day as the request—July 21, 1993. An LSI official

advised TRI that he could not support TRI's request for a debriefing on that date because the key official involved in the source selection was not available. Subsequently, LSI made two additional offers to debrief TRI on or after August 18, 1993. As of February 1994, TRI had not taken advantage of LSI's offer because a TRI official believed that a debriefing would be of little value and that nothing would be gained.

TRI officials requested that LSI provide them with the subcontract award price, prime contract number, federal agency under contract, and other details of LSI's source selection process. LSI consistently advised TRI that it was not LSI's policy to disclose a winning supplier's price or the specific details of its source selection evaluation regarding proposals from other suppliers. In addition, LSI told TRI that due to security reasons, LSI was unable to divulge the prime contract number or specific customer within the Air Force associated with the acquisition. We examined the prime contract awarded by the Air Force to LSI and confirmed that the prime contract number and specific Air Force procurement organization are classified. In addition, the prime contract is in support of a highly classified program.

Recourse Available to TRI

One course of action available to TRI is to take advantage of the debriefing conference offered by LSI. The information realized from this conference may assist TRI in improving its competitiveness in future procurements.

Scope and Methodology

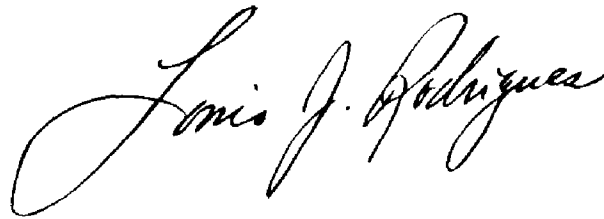
To evaluate TRI's concerns, we interviewed officials from LSI, Nashua, New Hampshire; TRI, Calabasas, California; and the Air Force procurement organization. We reviewed and evaluated pertinent information contained in Air Force contract files and LSI source selection documentation related to the prime contract and subcontract awards. We also reviewed applicable acquisition regulations concerning evaluation preferences for small disadvantaged businesses.

We conducted our review from October 1993 through February 1994 in accordance with generally accepted government auditing standards. As requested, we did not obtain written agency comments on this report. However, we discussed our draft report with officials from LSI, the Department of Defense, and the Air Force, and incorporated their comments as appropriate.

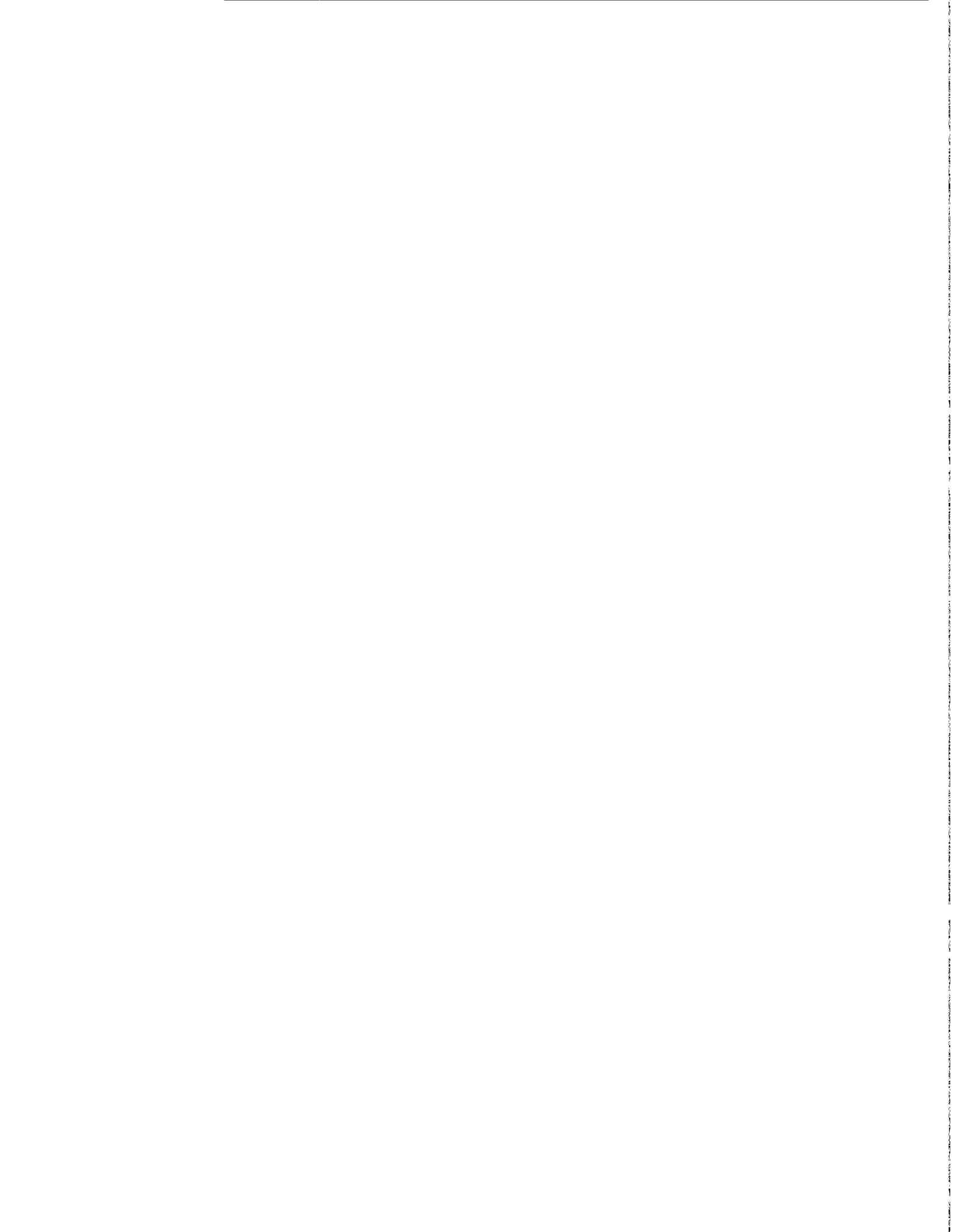
As agreed, we plan no further distribution of this report until 10 days after its issue date. At that time, we will send copies to appropriate congressional committees, the Secretaries of Defense and the Air Force, and other interested parties.

Please contact me at (202) 512-4841 if you or your staff have any questions concerning this report. Major contributors to this report were Howard R. Manning, Assistant Director; John M. Murphy, Jr., Issue Area Manager; Michael F. McGuire, Evaluator-in-Charge; and Neilson S. Wickliffe, Evaluator.

Sincerely yours,

A handwritten signature in cursive script that reads "Louis J. Rodrigues". The signature is written in black ink and is positioned centrally on the page.

Louis J. Rodrigues
Director, Systems Development
and Production Issues



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