

GAO

Briefing Report to the Chairman,  
Committee on Government Operations,  
House of Representatives

November 1989

# PROCUREMENT

## Navy Competition Advocate General and ADP Vendor Complaint Handling



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**National Security and  
International Affairs Division**

B-237576

November 15, 1989

The Honorable John Conyers, Jr.  
Chairman, Committee on Government Operations  
House of Representatives

Dear Mr. Chairman:

As requested, we are providing information on several issues, including the general process for handling contractor complaints used by the Navy's Office of the Competition Advocate General (OCAG) and, for comparative purposes, the processes used by the ombudsmen (complaint handlers) at the Army Materiel Command (AMC) and Army Communications and Electronics Command (CECOM). We are also providing information on the work of the Navy's Automated Data Processing (ADP) Acquisition Assessment Panel, and the manner in which the Navy handled vendors' complaints regarding nine specific Navy ADP procurements your Office asked us to review. We discussed the preliminary results of our review with your Office on July 6, 1989, and provided a briefing on September 12, 1989. As agreed, this report summarizes the final results of our review.

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**Results in Brief**

The Competition Advocate General (CAG) and the ombudsmen at AMC and CECOM respond to private sector concerns and complaints regarding competition and other acquisition issues. OCAG has only a limited complaint recordkeeping system, which is not used to determine the existence of systemic problems. However, OCAG is currently developing a recordkeeping system, and plans to use it in identifying systemic problems. The Army ombudsmen have more comprehensive recordkeeping, which they use to periodically identify and take action to correct systemic problems.

To maximize full and open competition, the ADP Acquisition Assessment Panel has revised Navy ADP procurement procedures and recommended revisions to several planned ADP procurements. The revised procedures require, among other things, development of acquisition plans or competition briefing papers for procurements of commercial ADP equipment valued at over \$300,000, CAG review of competition planning for such procurements, independent reviews of technical specifications, and increased dialogue with ADP industry representatives.

In most of the nine procurements we examined, OCAF either facilitated discussions between the complainants and Navy decisionmakers or had no involvement. However, in one of these cases, OCAF played a major role in resolving a vendor's complaints to its satisfaction. In another case, we believe OCAF should have challenged the proposed procurement approach earlier. Most of the remaining procurements examined related to recurring complaints from one vendor about the lack of competitiveness of Office of Naval Research's (ONR) ADP procurements. ONR officials acknowledged that (1) it had purchased its ADP equipment on a piece-meal basis and (2) needed to do better long-range planning to foster full and open competition.

## Background

The Competition in Contracting Act of 1984 (CICA) requires each executive agency to appoint an advocate for competition for the agency and for each procuring activity within the agency.<sup>1</sup> The basic role of competition advocates (CAs) is to challenge barriers to and promote full and open competition.<sup>2</sup> In the Navy, the Secretary appoints the CAG who reports directly to the Assistant Secretary of the Navy for Shipbuilding and Logistics (ASN(S&L)). The CAG's responsibilities include recommending to ASN(S&L) goals and plans for increasing competition to each Navy command, reviewing all written justifications and approvals for proposed Navy contracts over \$10 million based on other than full and open competition, and reviewing all acquisition plans requiring approval of ASN(S&L). In addition, the CAG is required to produce an annual report highlighting competition goals, accomplishments, and initiatives, which ASN(S&L) submits to the Congress. The CAG is supported by a professional staff of five naval officers and one civilian, all of whom have acquisition backgrounds. One professional staff member has extensive ADP work experience.

OCAF does not have a direct management link to Navy field activities' CAs. Organizationally, the field CAs are appointed by and report directly to their commanding officers. OCAF maintains a liaison relationship with the field CAs through (1) interaction in the competition goal-setting process, (2) publication of a monthly newsletter, and (3) sponsorship of a competition symposium held every 12 to 18 months.

<sup>1</sup>In addition to procuring activity CAs required by CICA, the Navy requires all of its activities with annual procurement requirements in excess of \$1 million to appoint CAs.

<sup>2</sup>Under CICA, full and open competition means, basically, allowing all sources capable of satisfying the government's needs to compete for a contract award.

The Brooks Act (Public Law 89-306) emphasizes the importance of economically and efficiently acquiring federal ADP resources and gives the General Services Administration (GSA) broad responsibility for such acquisitions. Under this authority, GSA has issued the Federal Information Resources Management Regulation (FIRMR).

## Complaint Handling Procedures, Recordkeeping, and Analysis

As the designated ombudsman in the Navy acquisition process, the CAG is responsible for (1) assisting the private sector regarding complaints about competition and (2) taking appropriate action to resolve valid complaints in a fair and timely manner. The CAG said he has implicit authority to delay, change, or stop procurements. OCAG recently established a 24-hour, toll-free telephone hotline to take calls regarding competition related concerns.

Officials at all three organizations said they handled complaints by (1) closing them out by means of a telephone call or letter without detailed review, (2) investigating them, or (3) referring them to other offices for action. (See app. II for details.)

OCAG currently has only a limited complaint recordkeeping system; for example, it contains little information and covers only written contractor complaints. As a result, OCAG cannot report the total number and nature of complaints it has received, actions taken to investigate or otherwise resolve specific complaints, timeliness of OCAG responses to non-written complaints, the number of complaints referred to other organizations, and complainant satisfaction with OCAG actions. Without a more comprehensive recordkeeping system, adequate information is not available to be systematically analyzed to identify systemic acquisition problems. OCAG is currently developing written complaint handling and comprehensive recordkeeping systems. The data expected to be collected and maintained should provide a better basis than the existing system for identifying systemic problems.

In contrast to OCAG, recordkeeping and analysis is an integral part of complaint handling in the AMC and CECOM ombudsman programs. These records provide information on, among other things, the nature and disposition of each complaint. According to the ombudsmen, analysis of these records over time assists them in identifying and addressing systemic procurement management issues. AMC officials said they are developing a policy document for all AMC ombudsman programs that will require complaint recordkeeping and analysis.

Our review of contractor correspondence to OCAG dated from March 1987 to April 1989 identified 108 complaints. OCAG officials estimated that correspondence accounted for approximately half of all complaints received, the remainder coming primarily from telephone calls, for which OCAG did not maintain information. About half of the 108 complaints alleged either that specifications were restrictive or specific sole-source procurements were unjustified. Seventeen complaints were from ADP vendors, of which 9 specifically addressed concerns about restrictive specifications. CAG correspondence notified contractors of (1) a Navy decision and actions for 68 (63 percent) of the complaints and (2) transfer of the complaint to another Navy activity for action for another 24 (22 percent) of the complaints. Most of the remaining complaints were either still open and unresolved, or their status was unknown. OCAG staff did not monitor other activities' actions in handling referred complaints. OCAG staff assumes that a dissatisfied complainant will contact OCAG again.

## Navy ADP Acquisition Assessment Panel

Responding to industry and congressional concerns about the Navy's ADP procurement practices, on April 10, 1989, the Secretary of the Navy established the ADP Acquisition Assessment Panel. The Panel, co-chaired by the CAG and the Director, Information Resources Management (IRM), is responsible for identifying weaknesses in and recommending changes to Navy ADP procurement practices. The Panel has reviewed documentation for 22 planned procurements and 23 procurement awards based on International Business Machines (IBM)-compatible specifications. Of the 22 planned procurements, the Panel approved 13 (5 with changes), 6 are still under Panel review, and the Panel did not complete its review for the remaining 3. That is, two were canceled before Panel review, and one was inappropriately awarded without the Panel's knowledge and approval. (See the discussion in app. IV regarding this last award.)

As a result of the Panel's work, Navy ADP acquisition procedures have been revised to require development of acquisition plans or competition briefing papers for commercial ADP procurements valued at \$300,000 or more, CAG review of ADP competition planning, independent reviews of technical specifications, and conferences with ADP industry representatives. In addition, the Under Secretary of the Navy has encouraged the CAG to make the ADP community more aware of his role and responsibilities as the Navy's acquisition ombudsman.

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## Reviews of Navy ADP Procurements

The level and extent of CA involvement in addressing vendor complaints about competition was different in each of the Navy ADP procurements we examined. In the Navy's Personnel and Pay Systems Consolidated Computer Center Project (PERSPAY) procurement, no CA involvement was identified. A member of the Assessment Panel reviewed this procurement and found that parts of the solicitation restricted competition. However, since the contract will expire in early 1990 and all contract items have been delivered, the Panel did not recommend changes to the contract.

The November 1987 solicitation for the Data Processing Installation Equipment Transition (DPI Phase III) project specified a fixed-price award to one vendor for six types of IBM-compatible computer configurations. Responding to vendor complaints, in March 1988 the CAG discussed the procurement with officials from the requiring and procuring activities, and directed the procuring activity Commanding Officer (and CA) to meet with complaining vendors. In May 1988, the procuring activity Commanding Officer advised the Director, IRM,<sup>3</sup> that only IBM could supply one of the computer configurations and, therefore, a sole-source justification was required. However, the requiring activity General Counsel (and CA) said the procurement was fully competitive and did not need to be changed. The Director of IRM concurred with the requiring activity's conclusion that the procurement, as structured, met the requiring activity's minimum needs, was fully competitive, and did not require any changes. The IRM Director said he assumed IBM would sell its equipment to other vendors.

OCAG supported the requiring activity's position until August 1988 when a vendor complained that IBM would not sell it the equipment needed to meet part of the requirement. At a September meeting with officials from the requiring and procuring activities, the Deputy CAG said that the office could no longer support the procurement. Shortly thereafter, PacifiCorp Capital, Inc., protested this proposed procurement to the General Services Board of Contract Appeals.<sup>4</sup> In its December 7, 1988, opinion, the Board found the Navy's justification for a single award inadequate and stated that the solicitation had provided for less than full and open competition. The Board directed the Navy to amend the solicitation. In an August 1989 letter to the Navy, GSA suspended the

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<sup>3</sup>The Director of IRM is responsible to the Assistant Secretary for Financial Management for IRM planning and policy for the Navy. Both the requiring and procuring activities involved in this procurement support and report to the Director of IRM.

<sup>4</sup>The Board is statutorily authorized to hear and decide protests relating to ADP procurements.

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Navy's delegation of authority<sup>5</sup> for DPI Phase III, pending the project's restructuring.

We agree with the Board that the need for one award, which in this case apparently would have restricted competition, was not adequately justified by the Navy. We also believe that the previous CAG should have challenged the proposed procurement approach earlier, for example, in May 1988 when the procuring activity found that only IBM could supply one of the computer configurations, as specified.

In the Marine Corps Central Processing Unit Upgrade project, OCAG staff was instrumental in getting the Marine Corps to add a benchmark test<sup>6</sup> to the evaluation criteria. This action was recommended by a GSA expert on government information resources management, with whom OCAG staff consulted on technical questions, as well as by a complaining vendor. This addition provides a more objective means for assessing equipment capability and has allowed competitors to offer alternative equipment.

In the case of ONR, a vendor complained to both ONR and the CAG about the lack of competitiveness in six ONR procurements from GSA ADP schedule contracts with IBM.<sup>7</sup> ONR's summary of its ADP hardware procurements from GSA schedule contracts showed that between 1986 and 1989, 29 of 30 awards went to IBM. OCAG staff arranged and attended meetings with ONR staff and this vendor to discuss the vendor's concerns. ONR's overall agency CA (who is Director of Acquisition) and ONR's Headquarters CA (who is ONR's Headquarters Director of Contracts) acknowledged that ONR did not perform advance procurement planning to facilitate acquisition strategies that achieve full and open competition and ensure that the government's needs are met in the most effective, economical, and timely manner. These officials said, as a result, ONR has purchased its ADP equipment on a piecemeal basis. ONR officials said a consulting firm is now completing work on a contract that will result in ONR's preparation of a long-range ADP acquisition plan.

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<sup>5</sup>Public Law 89-306 authorizes GSA to procure ADP resources for federal agencies. GSA may delegate this authority to agencies.

<sup>6</sup>A benchmark consists of a set of programs and associated data tailored to represent an agency's projected data processing work load.

<sup>7</sup>A large number of ADP items are available under nonmandatory federal supply schedule contracts awarded by GSA. These schedule contracts provide a simplified process for government agencies to directly order commonly used items from commercial vendors based on previously negotiated contracts.



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## Recommendation

We recommend that the Secretary of the Navy take steps to ensure that ONR develops and implements a long-range ADP acquisition plan. Because OCAG is in the process of developing written recordkeeping guidance that should help identify systemic problems, we are not making any recommendations in that area at this time.

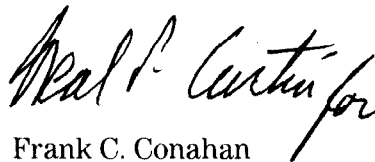
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Appendix I discusses OCAG responsibilities, staffing, and relationship to field competition advocacy programs. Appendix II provides the results of our review of OCAG's contractor correspondence files and describes OCAG, AMC, and CECOM ombudsmen processes for handling contractor complaints. Appendix III discusses initiatives of the Navy's ADP Acquisition Assessment Panel. Appendix IV provides our evaluation of competition advocate involvement in handling vendor complaints about specific Navy ADP procurements. Appendix V discusses our objectives, scope, and methodology.

As requested, we did not obtain official DOD comments on this report. We are sending copies of this report to the Chairmen, House and Senate Committees on Appropriations and Armed Services and Senate Committee on Governmental Affairs. Copies are also being sent to the Secretaries of Defense and the Navy.

This report was prepared under the direction of Paul F. Math, Director for Research, Development, Acquisition, and Procurement Issues, who may be reached on (202) 275-8400 if you or your staff have any questions. Other major contributors are listed in appendix VI.

Sincerely yours,



Frank C. Conahan  
Assistant Comptroller General

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**Appendix VI  
Major Contributors to  
This Report**

National Security and International Affairs Division,  
Washington, D.C.

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**Abbreviations**

ADP	automated data processing
ADPSO	Automatic Data Processing Selection Office
AMC	Army Materiel Command
ASN(S&L)	Assistant Secretary of the Navy for Shipbuilding and Logistics
CA	Competition Advocate
CAG	Competition Advocate General
CBD	Commerce Business Daily
CICA	Competition in Contracting Act of 1984
CECOM	Communications and Electronics Command
CPU	Central Processing Unit
DASD	direct access storage device
DEC	Digital Equipment Corporation
DOD	Department of Defense
DONIRM	Department of the Navy Information Resources Management
DPI	Data Processing Installation
FAR	Federal Acquisition Regulations
FEDSIM	Federal Systems Integration and Management Center
FIRMR	Federal Information Resources Management Regulation
GAO	General Accounting Office
GSI	Government Systems Integration
GSA	General Services Administration
GSBCA	General Services Board of Contract Appeals
IBM	International Business Machines
IRM	Information Resources Management
MVS(XA)	Multiple Virtual Storage-Extended Architecture
NAVDAC	Naval Data Automation Command
NAVSEA	Naval Sea Systems Command
OCAG	Office of the Competition Advocate General
OCNR	Office of the Chief of Naval Research
ONR	Office of Naval Research
PERSPAY	Personnel and Pay Systems Consolidated Computer Center Project
RFP	Request for Proposal
SECNAVINST	Secretary of the Navy Instruction
USMC	United States Marine Corps

# Information on OCAG Operations and Relations With Field Activities

This appendix provides information on OCAG's responsibilities, staffing, and relationship to activity level CA programs.

## Background

- CICA, title VII of division B of Public Law 98-369, amended the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) to, among other things, require each executive agency to designate an advocate for competition for the agency and for each procuring activity within the agency.
- CICA requires agency CAs to promote, and challenge barriers to, full and open competition that may exist within the agency's procurements, review the agency's procurement activities, and identify and report to the agency's senior procurement executive on (1) actions taken and opportunities to provide for full and open competition and (2) situations where competition is unnecessarily restricted. In addition, agency CAs are required to recommend to the agency's senior procurement executive goals and plans for increasing competition each fiscal year. Procuring activity CAs are responsible for promoting full and open competition in the activity and for challenging competition barriers, such as unnecessarily detailed specifications and overly restrictive requirements statements. CAs are not to be assigned any duties that are inconsistent with their CA responsibilities. CICA requires the head of each executive agency to submit an annual report to the Congress summarizing the activities and accomplishments of the agency's CAs.
- The Secretary of the Navy appoints the CAG who reports directly to ASN(S&L)—the Navy's senior procurement executive.
- Secretary of the Navy Instruction (SECNAVINST) 4210.10, dated July 18, 1988, states the Navy's commitment to competition and outlines the duties and responsibilities of key acquisition personnel for supporting this policy. The duties and responsibilities set forth for the CAG generally parallel those prescribed in CICA and the implementing Federal Acquisition Regulation (FAR), subpart 6.5, for an executive agency CA. In addition, the instruction assigns the CAG responsibility as ombudsman. (OCAG's ombudsman function is discussed in app. II.)
- The CAG is required to recommend competition goals to ASN(S&L) for each Navy command. The CAG reviews all written justifications and approvals for contracts over \$10 million based on other than full and open competition, and all acquisition plans that require approval by the Navy's senior procurement executive. The CAG also promotes competition through a variety of education and training programs, policy coordination, and communication efforts.

## OCAG Staffing

- OCAG has a professional staff of five naval officers and one civilian. One additional professional position is currently vacant but, according to the Deputy CAG, should be filled soon by a civilian employee.
- OCAG military personnel have been selected from the Navy's Supply Corps and have backgrounds in contracting and procurement. For example, the current CAG, who was appointed in September 1988, has served 30 years in the Navy, with several assignments in the procurement field. These included tours of duty in the Aviation Supply Office in Philadelphia; Naval Supply Center in Puget Sound; the Contract Administration Services Office in Bridgeport, Connecticut, where he commanded 190 military and civilian employees and administered \$600 million in defense contracts; and the Naval Sea Systems Command (NAVSEA), where he served as the Deputy Commander for Contracts and had oversight of the largest procurement activity in the federal government. The previous Deputy CAG, who was reassigned in August 1989, has served 22 years in the Navy's Supply Corps and has held contracting positions at both the field and headquarters levels. The current Deputy CAG joined OCAG in August 1989. He has 15 years contracting experience, has held positions as a contracting officer and the Director of Contracts and Executive Officer at the Naval Regional Contracting Center in Philadelphia, and has worked in the Contracting Directorate at the Naval Supply Command in Washington, D.C. The Director of Compliance (a civilian) has training and work experience in both procurement and computer technology issues. For example, he has been an ADP programmer, an engineer responsible for computer aspects of a major weapons system, a member of the Defense Acquisition Regulatory Council's ADP Subcommittee, and special assistant to DOD's senior policy official for tactical computer policy.
- OCAG's staff reported spending varying amounts of time performing different competition related functions. For example, the CAG said he devotes most of his time to OCAG's ombudsman role, especially informing industry executives about business opportunities with the Navy, and how OCAG can assist them with their inquiries and complaints. The previous Deputy CAG also said he spent 40 percent of his time in the ombudsman role, with the rest of his time split between compliance and policy activities. The Director of Compliance said he spends approximately equal amounts of time performing compliance work (reviewing justifications and approvals and acquisition plans), ombudsman activities, and during the past several months, work for the ADP Acquisition Assessment Panel.

## OCAG Relationship to Field Programs

- OCAG does not have a direct management link to the Navy's field CAs; instead, they have a "dotted line" relationship. Organizationally, the field CAs are appointed by and report directly to their commanding officers. According to the previous Deputy CAG, although OCAG does not provide specific operating guidance to and oversight of field CA programs, OCAG (1) receives information from and exerts influence over field and field CA activities when developing competition goals, (2) issues monthly newsletters to field CAs that contain mainly general interest information regarding procurement and competition, and (3) sponsors a competition symposium every 12 to 18 months for field CAs and industry representatives to discuss common concerns and current issues.
- The CAG said a closer management link between OCAG and the field CA activities is not warranted. He said field CAs would probably take an "ultraconservative" approach to procurement if they believed a staff office in Washington was constantly monitoring their activities. The previous Deputy CAG stated that most contractor complaints about competition issues are resolved through informal communication between the contractor and procurement personnel at field activities. Issues that cannot be resolved on an informal basis can be addressed through the complaint handling process.
- At the Navy Inspector General's initiative, OCAG personnel have participated in command inspections, observing operations of approximately five field CA programs since August 1987. Summaries of OCAG's observations on CA programs were not available at OCAG. OCAG staff did not recall any systemic procurement problems identified during the inspections. The previous Deputy CAG said he (1) informed the Navy's Inspector General following the mid-March to mid-April 1988 command inspection at NAVSEA that some confusion existed at the Command regarding who had the ultimate CA responsibility at the Command, (2) concluded that the duty seemed to be shared among three officials, and (3) recommended to the Navy Inspector General that the Command clearly delegate the responsibility for the CA program. According to the Inspector General's Counsel, NAVSEA has not adequately addressed the problem. He said another follow-up on this finding is due shortly, and if the problem has not been adequately addressed, it is likely the Inspector General will request an explanation from NAVSEA's Deputy Commander.
- SECNAVINST 4210.10, which was drafted by OCAG, requires field commanders to appoint, in writing, procuring activity and requiring activity CAs and to provide them with sufficient authority to be effective. The CAs are not to be assigned duties and responsibilities that are inconsistent with those of a CA.

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**Appendix I**  
**Information on OCAG Operations and**  
**Relations With Field Activities**

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- OCAG is not required to and does not receive documentation of CA appointments, such as copies of CA appointment letters, and generally does not know which CA positions are vacant, full-time, part-time, or performed on a collateral duty basis. In addition, OCAG does not maintain an up-to-date listing of the Navy's CAs except for those at the major buying commands. According to an OCAG official, OCAG has not done a complete update since 1985 because CAs at the field activities change regularly. The current list of CAs at the major activities is available through an updated DOD CA listing.
- At the four activities we visited—Marine Corps Headquarters, Automatic Data Processing Selection Office (ADPSO), Naval Data Automation Command (NAVDAC), and ONR Headquarters—the CAs all viewed competition advocacy as a complementary management aspect of their principal positions as Marine Corps Director of Contracts, ADPSO Commanding Officer, NAVDAC General Counsel, and ONR Director of Acquisition, respectively. These officials did not believe their principal positions posed any conflict with carrying out their CA responsibilities.

# Handling of Contractor Complaints

This appendix provides information on the Navy OCAG's process for handling contractor complaints. It also provides information on the processes used by the ombudsmen at AMC and one of its major subordinate commands, CECOM. Except where otherwise stated, this information is based on agency officials' statements and has not been verified.

## Background

An April 17, 1989, change to SECNAVINST 4210.10 assigned the CAG responsibility as ombudsman in the Navy acquisition process. As ombudsman, the CAG is required to:

- "Act as the primary focal point in the Navy to assist members of the private sector regarding their expressed concerns or complaints in reference to . . . competition in the acquisition process;
- "Take appropriate action to ensure that valid complaints from the private sector are resolved in a fair and timely manner; and
- "Have direct access throughout the Navy acquisition community as required to implement the letter and spirit of this directive."
- In addition to handling complaints, the OCAG's fiscal year 1987 report to the Congress stated that a significant part of the ombudsman role is to develop information on future business opportunities and make this information available to interested parties.
- According to OCAG's fiscal year 1988 report to the Congress, "the role of ombudsman is perhaps the most important to the success of the competition advocate program." The CAG stated in the report that, as ombudsman, he can lessen the adversarial relationship between industry and the government, and help resolve identified problems through positive, immediate action on cases. The CAG said his goal is to prevent time-consuming, expensive litigation.
- According to the CAG, he has the authority to delay or stop a procurement if he believes significant competition issues have not been addressed. This authority is not explicitly stated, but is implied, in SECNAVINST 4210.10. The CAG said he does not like to project the image that his office does this routinely, but he could not recall a situation where his authority in this area was challenged. OCAG's Director of Compliance cited a recent example of this authority; that is, OCAG delayed a procurement to upgrade Marine Corps ADP equipment, while ADPSO resolved certain competition issues. (This procurement is discussed in more detail in app. IV.)



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## Ombudsman Programs at AMC and CECOM

Both AMC and CECOM have ombudsman programs that have objectives similar to those of the OCAG's ombudsman function. However, unlike OCAG, these ombudsman programs are separate from their organizations' competition advocacy program. The Department of the Army CAG does not perform ombudsman functions.

- In February 1985, a civilian was appointed as the first AMC ombudsman, which is a full-time position. The AMC ombudsman, who reports and is directly accountable to AMC's commanding general, is authorized by charter to (1) assist the general public, government agencies, industry, and the private sector regarding their concerns or complaints about AMC operations and (2) direct corrective action in the name of the commanding general, when necessary. He has one full-time secretary and no other assigned staff. However, he has the authority to call on any AMC staff resources needed to address and resolve problems brought to his attention.
- CECOM established the position of Solicitation Ombudsman in May 1988 to provide an impartial source for resolving contractor complaints related to CECOM's procurement solicitations. The ombudsman job is performed by the Procurement Directorate's Compliance Branch Chief, a civilian. He can task other CECOM activities, as required, to assist him. As ombudsman, he is chartered with the authority to suspend, cancel, and revise solicitations that contain serious discrepancies or improper elements. He reports directly to the commanding general on ombudsman issues and to CECOM's Procurement Director on his compliance duties.

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## OCAG's Contractor Correspondence Files

We reviewed contractor correspondence files at OCAG for fiscal years 1987,<sup>1</sup> 1988, and 1989<sup>2</sup> to gather certain information about contractor complaints, including (1) approximate number of written complaints received by OCAG, (2) status (open, closed, unable to determine), (3) nature, (4) OCAG response time, and (5) the procuring activities against which the complaints were lodged. The files are maintained by contractor name and consist of any documents that OCAG considers significant: written contractor correspondence, OCAG correspondence to contractors or other Navy activities, response letters from other Navy activities, and occasionally, staff notes and memorandums between OCAG staff members.

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<sup>1</sup>We reviewed only those fiscal year 1987 files that were readily accessible at OCAG. These files contained complaints dated from March through September 1987.

<sup>2</sup>These files contained complaints dated from October 1988 through April 1989.

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## Number and Status of Complaints

We identified 108 complaints—22 from fiscal year 1987, 65 from fiscal year 1988, and 21 from fiscal year 1989.

- For 68 complaints (nearly 63 percent), a letter from the CAG notified the contractor of the Navy decision in the case and actions taken or proposed, such as amending solicitations, arranging meetings between the complainant and the contracting activity, or explaining the Navy's rationale for taking no action.
- For another 24 complaints (22 percent), OCAG transferred a complaint to some other Navy activity for resolution and/or response. In these cases, OCAG generally (1) referred the case to one of the Navy's contracting activities and (2) sent a letter to the contractor stating that OCAG had transferred the complaint and asking the contractor to contact OCAG if the complaint was not handled satisfactorily. Occasionally, the CAG also requested the activity to notify OCAG about the resolution of the complaint. We found no information in the files indicating OCAG monitored or systematically followed up on the progress of complaints sent to other Navy organizations to ensure that the complaint was addressed. OCAG staff members said they assume they will hear from a contractor whose complaint is not resolved.
- At the time of our review, another 12 (11 percent) of the complaints were either still open and unresolved or their status was unknown based on file documentation. In another four (4 percent) of the complaints, a bid protest decision to General Services Board of Contract Appeals (GSBCA) or our Office was pending and, therefore, OCAG did not intervene.<sup>3</sup>

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## Nature of Complaints

Of the 108 complaints we reviewed, 53 alleged either restrictive specifications in requests for proposal (RFPS) or unjustified sole-source procurements. Other concerns included a contractor being unable to qualify a product to compete and disagreeing with a Department of Labor wage determination.

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## OCAG Response Time

OCAG responded in writing to the complainant within 40 calendar days in 50 percent of the 108 complaint cases.<sup>4</sup> In nearly 14 percent of all complaints, OCAG responded in writing within 41 to 60 calendar days. OCAG

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<sup>3</sup>According to the previous Deputy CAG, OCAG does not intervene in a complaint that is being addressed through a more formal remedy, such as a GAO or GSBCA protest.

<sup>4</sup>OCAG's response did not always discuss complaint resolution, but it did give some indication to the contractor that OCAG was aware of the concern and had taken some action.

responded to an additional 4.6 percent of the complainants within 61 to 80 days, and another 4.6 percent within 81 to 100 days. OCAG responded to nearly 6 percent of the complainants in over 100 days, including one which OCAG responded to in 120 days. We could not determine a response time for the remaining 21 percent (23 complaints) because there was no formal dated correspondence either from the contractor or from OCAG in the file.

### Activities About Which Complaints Were Filed

Contractors lodged over 20 percent of the 108 complaints against 1 procuring activity—NAVSEA. However, in nearly 17 percent of the cases, it could not be determined if the complaint was directed to a specific Navy activity. The activity that was the focus of the next highest number of complaints, but only with about 6 percent of the total, was ADPSO. Contractors complained about many other activities, but generally a procuring activity was mentioned only once or twice for the period covered.

### ADP-Related Complaints

Of the 108 complaints, 17 (16 percent) were filed by vendors of ADP-related products or services. In 9 of the 17 ADP complaint cases (53 percent), the vendor was concerned with the restrictiveness of specifications. In contrast, this was a concern in about 23 percent of the non-ADP related cases. Judging from our file review, OCAG generally handled ADP cases in the same manner as non-ADP complaints.

### OCAG's Process for Handling Complaints

The CAG and previous Deputy CAG described OCAG's general process for handling complaints as follows:

- OCAG receives complaints in three different ways: (1) by letter, (2) by telephone, and (3) by personal visit. Close to 50 percent of the complaints the office receives come via the mail, a similar number are received by telephone calls, and only a few complaints are registered by "walk-ins." OCAG attempts to handle anonymous complaints in a confidential manner. Typically, all complaints are routed to the Deputy CAG for review.
- Telephone complainants may be asked to immediately send a letter specifying the problem and parties involved if the complaint is suspicious, detailed, or the complainant is unable to clearly articulate the problem over the phone. The previous Deputy CAG estimated that OCAG requests written information from about 50 percent of telephone complainants.
- OCAG asks complainants if they have sought assistance or resolution at the contracting activity level. If they have not, they are asked to do so

and return to OCAG if they receive no satisfactory resolution. OCAG generally does not monitor referrals. The previous Deputy CAG estimated that 85 to 90 percent of all complaints to OCAG could be resolved at the contracting office level.

- The Deputy CAG recommends a course of action to the CAG to address the complaint, if it is a competition issue. Actions which may be recommended by the Deputy CAG are (1) complaint close-out with a phone call and/or letter to the complainant or (2) an OCAG investigation.
- If the CAG approves the recommendation to investigate, the Deputy CAG assigns OCAG staff to contact the parties involved and discuss the complaint. Complaints regarding ongoing solicitations or pending awards get priority attention. According to the previous Deputy CAG, OCAG will investigate the complaint and, if necessary, take corrective action first and then notify the complainant of the action taken. He said that action addressing the concern is more important than notifying the complainant that the office has received the complaint and is investigating it. After OCAG notifies the complainant of actions taken, any complaint correspondence is filed under the complainant's name. The complaint is considered closed unless OCAG hears from the complainant again.
- The CAG signs final OCAG correspondence sent to a complainant; in his absence, the Deputy CAG signs.

## Written Procedures, Recordkeeping, and Analysis

- We found that the Advocate Office is not required to and does not have a comprehensive recordkeeping system for complaints. The Advocate Office maintains only a limited system; that is, an automated spreadsheet of outstanding letter complaints it has received, containing subject, source, action officer, date assigned to action officer, and expected completion date. Cases are deleted from the automated system when OCAG action has been completed. Printed copies of the spreadsheet data for the closed cases are maintained but seldom used for any purpose. Currently, OCAG cannot report the total number and nature of complaints it has received, actions taken to investigate or otherwise resolve specific complaints, timeliness of responses to non-written complaints, the number of complaints referred to other organizations, or the complainants' satisfaction with OCAG actions. Without a more comprehensive recordkeeping system, adequate information is not available to be systematically analyzed to identify systemic acquisition problems.
- The CAG stated that, in the past, the staff identified some recurring concerns through informal means, such as discussions at staff meetings. OCAG occasionally included items relating to these concerns in its monthly newsletter, sent to all Navy field activities.

- OCAG is currently developing written complaint handling procedures and more comprehensive recordkeeping systems. OCAG's Director of Compliance stated that OCAG is developing two recordkeeping and tracking systems so that complaints can be better analyzed to identify systemic barriers to competition. The CAG said (1) an interim system is to be implemented by mid-December 1989 and (2) a comprehensive system is expected to be implemented by mid-February 1990. The data expected to be included in these systems should provide a better basis than the existing system for identifying systemic problems.
- In November, the Deputy CAG told us he was preparing a memorandum to the Navy CAs on the mission and activities of OCAG's ombudsman program. Ombudsman duties and activities to be addressed include, among other things, hearing complaints from competitors, introducing would be competitors to Navy competition opportunities, assisting contracting officers in debriefing unsuccessful competitors, introducing proposed policies to industry, and developing additional competitive sources. The Deputy CAG said the complaint handling and recordkeeping procedures being developed will be included in the memorandum.

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### OCAG Hotline Established

To assist in fulfilling its role as ombudsman, OCAG recently established a 24-hour, toll-free telephone hotline to take calls from both the private industry and government regarding competition related concerns. During non-working hours, a telephone answering machine records callers' messages.

- The CAG said OCAG is in the process of establishing formal procedures for operating its hotline. In September, an OCAG official told us that hotline calls were being logged in by date of the call, identity of the caller, and the reason for calling. OCAG is not currently tracking the disposition of hotline calls. According to OCAG staff, OCAG has received about 55 hotline calls during the last 4 months, of which 24 were complaint oriented and the remainder were inquiries.
- DOD's Office of the Inspector General has issued guidelines for establishing a hotline system, but these are not mandatory for organizations such as OCAG. The guidance states that a hotline should have written operational policies, procedures, and responsibilities, including procedures for ensuring the confidentiality of callers. According to the DOD hotline manager, organizations operating hotlines under the Defense Hotline Program are required to follow all cases to closure and keep appropriate records of case dispositions, including follow-up on all calls referred to other offices for action.

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## AMC Ombudsman's Process for Handling Complaints

The AMC ombudsman described his general process for handling complaints as follows:

- He receives complaints or requests for assistance through telephone calls, correspondence, and personal visits.
- In handling such requests (depending upon the nature of the case), the AMC ombudsman sometimes refers the matter to another office for review and consideration. For example, competition related complaints may be referred or coordinated with the AMC CA's office. The AMC ombudsman monitors the referrals. To ensure that the matter receives proper attention, after the facts are collected and a tentative response formulated, the case is coordinated with the ombudsman before anyone responds to the requester.
- In other cases, when the AMC ombudsman determines that a request should be handled at his level, he may form an ad hoc task group consisting of procurement, legal, and technical AMC staff—and, occasionally, the AMC CA—to review or investigate complex or technical complaints. The AMC ombudsman told us that in the last year he has consulted the AMC CA in a few cases involving alleged barriers to competition or restrictive specifications.
- All requests for assistance are closed with an oral or written response from the ombudsman to the complainant. He records the closure date in his records.

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## Written Procedures, Recordkeeping, and Analysis

The AMC ombudsman uses a standard procedure for handling complaints, although it is not specified in writing. He said written procedures (1) could be used to spell out the detailed steps to be taken and standards to be achieved under each element of the complaint handling process and (2) could serve as a useful checklist to ensure that essential steps are not overlooked, which would be of particular help to newly assigned ombudsmen. He added that written procedures would be especially useful in an organization, unlike his, where there is more than one professional ombudsman staff member, to help ensure that cases are handled uniformly.

- According to the AMC ombudsman, for all complaints he records the date received, the type of case, the source, the nature, subordinate commands involved, current status, outcome, and the closure date. He stated his view that a good recordkeeping system is essential to his ombudsman work. He also said these records (1) support his analyses of the number, characteristics, and disposition of contractor complaints, (2) facilitate identification of trends and systemic issues over time, (3) demonstrate

the scope and nature of his work load, (4) provide the supporting documentation for certain actions, and (5) provide continuity in complaint resolution and analysis in the event of personnel reassignments.

- The ombudsman said he considers the information gained in resolving each case to determine whether there are (1) any systemic problems, (2) other problems beyond the scope of the immediate request which require action, and (3) patterns or trends indicated which need to be addressed. The ombudsman said as each case is handled he typically provides the Commanding General, AMC, summary information indicating the nature of the complaint, findings, and actions taken. He further stated that, periodically, management information is provided to the Commanding General indicating data such as the number and types of cases, sources, patterns, and trends. He said such information has been used as a basis for changes in command policies and practices, such as more timely notification after award of unsuccessful offerors and speedier processing of value engineering change proposals.

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## CECOM Ombudsman's Process for Handling Complaints

The CECOM ombudsman described his general process for handling complaints as follows:

- He told us that he sees his role as that of a complaint department or arbitrator. He receives telephone calls and letters primarily from business and industry representatives either (1) requesting information about contracting with CECOM in general or about a particular CECOM solicitation or (2) complaining about a particular CECOM solicitation, contract award, or business practice.
- In most cases, the ombudsman handles complaints himself. However, in some cases, if the complainant has not already tried to resolve his concern with the contracting officer, the ombudsman refers the complainant to the contracting officer.
- The CECOM ombudsman told us that he follows up on selected complaints he refers to contracting officers and other offices in CECOM, particularly those which may (1) indicate systemic problems or (2) require his oversight to ensure action. He often tells the complainant to contact him again if a satisfactory solution is not reached. Typically, he does not document the progress and resolution of complaints he refers to others for action.

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## Written Procedures, Recordkeeping, and Analysis

- The CECOM ombudsman is not required to and does not have written complaint handling procedures. He said that written procedures would not be helpful to him because the complaints he receives are so diverse that each must be handled differently.
- As part of an AMC study of its ombudsman programs, in March 1989 the CECOM ombudsman began keeping logs regarding each of his contacts with a complainant. The log contains the date; the name, phone number, and organization of the complainant; the solicitation number, if applicable; a description of the complaint; and the ombudsman's resolution of it. The CECOM ombudsman continues to maintain these recordkeeping logs.
- The CECOM ombudsman said he periodically reviews his complaint logs to see if the CECOM technical and contracting staff should be briefed on any recurring problems. He said the analysis and briefings have been beneficial. For example, his analysis of complaints showed that contracting officers were not carefully reviewing statements of work to ensure that they accurately reflected CECOM requirements. He has briefed contracting officers on this and other specific problems identified through complaints.
- He also said that through his analysis of complaints he has identified specific areas in which procurement personnel needed training.
- AMC officials are currently preparing an AMC policy document covering ombudsman programs in subordinate commands, addressing such issues as ombudsman responsibilities, authority, reporting, and operations. According to AMC officials, this policy paper will require ombudsmen to maintain complaint documentation, including log in, tracking, and close out and to provide for analysis of systemic or common problems as appropriate.

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## Conclusion

The CAG and the CECOM and AMC ombudsmen make efforts to resolve private sector complaints relating to procurement. OACG has only a limited complaint recordkeeping system, which is not used to determine the existence of systemic problems. However, OACG is currently developing a recordkeeping system, and plans to use it in identifying systemic problems. The Army ombudsmen have more comprehensive recordkeeping, which they use to periodically identify and take action to correct systemic problems.



# Navy ADP Acquisition Assessment Panel

This appendix provides information relating to the objectives and initiatives of the Navy ADP Acquisition Assessment Panel.

## Background

- On April 10, 1989, the Secretary of the Navy established the ADP Acquisition Assessment Panel to review mid- to large-scale ADP procurements, focusing specifically on the adequacy of (1) ADP requirements' and specifications' generation and review, including whether there is bias in Navy specifications towards specific types of equipment, (2) contracting for ADP resources, and (3) the Navy's current organizational structure and staff for acquiring ADP resources. The Panel was formed after members of Congress and computer industry representatives raised questions about the competitiveness of Navy procurements based on IBM-compatible requirements. Among the issues raised by the vendors was whether the Navy (1) designed specifications to exclude ADP equipment not manufactured by IBM and (2) favored IBM in the evaluation criteria described for specific ADP procurements.
- The Panel, co-chaired by the Navy's CAG and the Director of IRM, is comprised primarily of staff from the office of ASN(S&L), including two staff members from OCAG. Other members and personnel supporting the Panel are from IRM, GSA, the Army's ADP acquisition organization, major Navy contracting organizations, and universities.

## Panel Review of IBM-Compatible Procurements

- In May 1989, the Panel requested documentation relating to IBM-compatible requirements exceeding \$50,000 for (1) all contracts, contract modifications, and purchase orders awarded since October 1, 1988, and (2) all planned ADP procurements at the purchase request stage held by Navy and Marine Corps contracting activities. For each procurement, the Panel examined technical specifications, source selection evaluation criteria, and any other factors that could restrict competition and were not justifiable. Panel members said that they used their collective experience and knowledge about competitive procurement practices to determine if the contracts and planned procurements contained restrictive specifications.
- Panel members said they received detailed documentation for 22 planned procurements of this kind and are awaiting documentation on 8 others. Of the 22, the Panel approved 13 (5 with changes), 6 are still under Panel review, and the Panel did not complete its review for the remaining 3. That is, two were canceled before Panel review, and one was inappropriately awarded without the Panel's knowledge and approval. (See the discussion in app. IV regarding this last award.) Panel members said

they also reviewed documentation for 23 procurement awards to identify restrictions to competition and used the results of their review to develop initiatives to enhance competition in future ADP acquisitions. Such initiatives are described later in this appendix.

## Navy Actions

- Results of the Panel's initial work prompted the Acting Under Secretary in June 1989 to direct the ASN(S&L) and the Assistant Secretary of the Navy for (Financial Management) to: (1) establish a stronger role for the CAG in reviewing ADP competition planning and industry concerns about ADP competition as the Navy's ombudsman, (2) institute an independent ADP technical specification review capability, (3) increase development and use of acquisition plans for commercial ADP procurements, and (4) develop an improved dialogue with industry by such means as conducting specification review conferences and increasing the use of draft RFPs.
- In response to the Under Secretary's memorandum, the Director of IRM, in mid-July, set out various actions to improve competition in Navy ADP procurements. These included:
- Establishing an independent technical specification review capability. IRM is currently working on policies and procedures that ADP project managers and contracting officers can use to obtain independent specification reviews from GSA's Federal Systems Integration and Management Center (FEDSIM). FEDSIM assists agencies, on a cost reimbursable basis, to use their own information resources more efficiently and effectively. FEDSIM has supported the Panel's work by reviewing RFPs and suggesting ADP policy changes, among other things. In addition to providing independent specification reviews, FEDSIM can develop acquisition strategies, analyze requirements, evaluate proposals, and design, develop, and execute benchmark tests. According to an IRM official, a formal agreement between the Navy and FEDSIM is expected to be approved in November 1989.
- Requiring managers of Navy and Marine Corps data processing facilities to prepare briefings, to be provided to all interested vendors, on the facilities' current capabilities and needs and projected growth objectives. A Department of the Navy Information Resources Management (DONIRM) official recently stated that these presentations are now being developed by site managers at ADP facilities.
- Conducting frequent Navy/industry roundtable discussions on ADP acquisition problems, perceptions, and improvements. DONIRM convened the first of these conferences in July and plans to have these forums at least once, and possibly twice, a year. More informal sessions between DONIRM and ADP vendors have also been held.

- According to the Deputy CAG, efforts have been underway to make the ADP community aware of the CAG's role and responsibilities as the Navy's ombudsman. For example, since April 1989, the CAG has discussed his views and plans for the ombudsman program at conferences and conventions, including DONIRM's July ADP vendor conference. The CAG is considering submitting articles to various trade publications as another means to provide contractors with information about the program.

## Panel Initiatives to Enhance Competition

- The Assessment Panel has formulated several initiatives to improve documentation for ADP competition planning purposes. These initiatives are discussed in a policy memorandum, signed by the acting ASN(S&L) on August 28, 1989, and issued to Navy commands and organizations. Chief among these is a requirement to develop formal ADP acquisition plans before issuing solicitations for procurements that exceed certain dollar thresholds. For commercial ADP resources, the threshold is \$5 million; other ADP resources have a threshold of \$5 million spent in any 1 year, or \$15 million over all years.
- Before implementing this policy, Navy life-cycle management directives for procurement of general purpose, commercially available ADP equipment did not require acquisition plans to be developed. According to a member of the Panel, commercial ADP procurements were exempted from acquisition planning because (1) this type of ADP equipment is purchased off-the-shelf and, therefore, no equipment development is required, (2) existing life-cycle documentation was considered to be adequate, and (3) these systems are generally characterized as one-time buys for long-term use. However, Panel members said the Panel has concluded that acquisition plans are an essential element for improving ADP procurement competition. They also said several ADP procurements reviewed by the Panel showed that a lack of early planning had resulted in acquisition strategies that did not maximize competition. According to Panel members, development of acquisition plans will encourage requiring and procuring activities to work together to maximize competition.
- The memorandum also describes other initiatives adopted by the Navy to improve competition. These include: (1) preparing competition briefing papers for all procurements of commercially available ADP hardware where an acquisition plan is not required and having them reviewed by activity CAs to ensure action has been taken to maximize full and open competition, (2) giving responsibility to contracting activity CAs for ensuring that offerors' comments regarding restrictive specifications are fully considered and that any corrective action is documented, (3) providing draft RFPs to interested vendors and holding specification conferences, (4) requiring solicitations for commercially available hardware

expected to exceed \$100,000 to contain a current site plan describing the ADP hardware in use and other pertinent site information, and (5) providing adequate legal reviews of proposed interagency purchases of ADP resources so they will comply with applicable legislation.

- According to members of the Assessment Panel, the August 1989 memorandum achieves the Panel's main objective of providing recommendations to improve ADP acquisition within the Navy. However, the Panel will continue to meet periodically to monitor certain ongoing procurements. The Deputy CAG stated that when the Panel's work is completed, OCAG will continue to influence ADP competition planning by reviewing the formal acquisition plans that are now required for ADP procurements. The CAG said the Panel is awaiting the outcome of ongoing congressional hearings to determine what other actions the Panel should take.

# Handling of Specific ADP Vendor Complaints

This appendix provides information on the manner in which the Navy handled vendors' complaints regarding nine Navy ADP procurements.

## Analysis of Data Processing Installation Equipment Transition Procurement

- DPI Phase III project was designed to provide an alternative capability to the existing (Sperry-Unisys) systems at various facilities within the Naval Data Automation Command (NAVDAC).<sup>1</sup> A November 1987 solicitation specified a fixed-price award to one vendor for six types of IBM-compatible computer configurations. The project's estimated cost is \$125 million over 10 years.
- As a result of a formal protest filed with GSBGA, the Navy was required to revise the RFP, which it has done. On August 29, 1989, GSA suspended the Navy's delegation of authority for the procurement.
- Several vendors first expressed concerns about the competitiveness of the solicitation after they reviewed a March 1987 presolicitation document describing the planned procurement. For example, one vendor wrote to ADPSO and noted that the proposed solicitation would favor IBM because it was the only company capable of supplying all the components.
- Following release of the RFP in November 1987, vendors continued to express concerns. A February 1988 letter to ADPSO (with a copy sent to the Navy CAG) said the vendors were concerned that the provisions in the RFP were overly restrictive and would require specific IBM products, thus resulting in less than full and open competition. The RFP included six basic configurations from relatively low-level central processing units (CPUs) to increasingly more powerful CPUs. The February vendors' letter stated that only IBM manufactured the low-level CPU. Since the RFP also specified a single vendor for the entire project, the vendors said they were at a competitive disadvantage. On March 1, 1988, another vendor wrote directly to the Navy CAG requesting a meeting to discuss this concern.
- As a result of the vendors' letters, the previous CAG requested a meeting with ADPSO's Commanding Officer to discuss the procurement. At that meeting, held on March 8, 1988, ADPSO and NAVDAC officials briefed the previous CAG on the procurement. According to ADPSO's General Counsel, the NAVDAC and ADPSO position was that since other vendors could obtain the low-level CPU from IBM, they would not be at a competitive disadvantage. The previous CAG accepted this assessment and directed ADPSO's Commanding Officer to respond to the vendors.

<sup>1</sup>NAVDAC is the requiring activity while ADPSO is the procuring activity for the DPI Phase III procurement.

- On March 29, 1988, ADPSO and NAVDAC officials met with five vendors. The purpose of this meeting was to gain a detailed understanding of the vendors' concerns and to explain the Navy's position. At that meeting, ADPSO and NAVDAC officials stated their opposition to modifying the RFP into two or more different procurements, with the low-level CPU going to IBM as a sole-source procurement, and the remainder fully competitive. NAVDAC officials cited higher administrative costs in conducting more than one procurement. The officials also said the procurement as currently structured represented the government's minimum requirement because using more than one vendor would result in difficulties in upgrading and maintaining different systems. However, as a result of the vendors' continuing concerns, ADPSO officials agreed to reexamine the procurement.
- In May 1988, ADPSO's Commanding Officer sent a memorandum to the Director of IRM, informing him that the requirement for the low-level CPU (1) appeared to be a sole-source procurement because only IBM could supply it and (2) therefore, would require approval by both ASN(S&L) and the Assistant Secretary of the Navy (Financial Management). The Director did not accept this view, agreeing instead with NAVDAC's assessment that (1) the procurement, as structured, met NAVDAC's minimum requirement and did not require any changes and (2) the written approvals were not necessary because the procurement was fully competitive.
- At a June 1988 meeting with NAVDAC and ADPSO officials, the Navy's previous CAG agreed that the solicitation accurately reflected NAVDAC's requirements and should not be changed. According to the previous CAG, it appeared that IBM's advantage in supplying the low-level CPU would be offset by other vendors' relative advantages in supplying the more powerful CPUs. He said he assumed that IBM would sell its low-level CPU to any other vendor, but he did not verify this with IBM. The previous CAG said NAVDAC officials made a convincing case that the package should remain a single procurement.
- In August 1988, Sysorex Information Systems, Inc., wrote to ADPSO and the Navy CAG that the specifications were restrictive and that IBM refused to sell it the low-level CPU. At a September meeting among OCAG, ADPSO, and NAVDAC officials, the previous Deputy CAG said that OCAG could no longer support the procurement, given IBM's refusal to sell the low-level CPU to Sysorex.
- NAVDAC's General Counsel/CA objected to OCAG's position, stating that two vendors had already delivered proposals based on non-IBM equipment and other ADP vendors were planning to bid. He said he continued to believe that the proposed procurement was consistent with full and open competition, despite the loss of one bidder.

- In October 1988, PacifiCorp Capital, Inc., filed a protest with GSBICA claiming that the Navy, by permitting only one award for the six different sets of ADP equipment, unlawfully restricted competition.
- In its December 7, 1988, opinion, GSBICA directed the Navy to amend the solicitation because (1) the Navy's justification for a single award was inadequate and (2) the solicitation provided for less than full and open competition. The judge said it would be reasonable to allow bids to be submitted and evaluated based on the possibility of either (1) an award to one source for the entire procurement, if warranted or (2) awards to two sources, one for the low-level CPU portion of the requirement, and one for the higher-level CPUs.
- The current CAG said that (1) ADP Assessment Panel members met several times since April 1989 with NAVDAC and ADPSO representatives to discuss changes to the DPI Phase III solicitation and directed major changes for enhancing competition and (2) as a result of the Panel's actions, the solicitation was restructured to eliminate all non-price evaluation factors, remove the contested low-level CPU configuration, and allow vendors of used equipment the opportunity to compete.

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**Role of Requiring Activity  
CA**

- NAVDAC Instruction 5231.1 sets the command policy for its CA program.
- On September 21, 1987, NAVDAC's Commander appointed his General Counsel as the activity's CA. According to the General Counsel/CA, NAVDAC does not have the resources to appoint a full-time CA and he spends about 20 percent of his time on competition advocacy as a collateral duty. He noted that part of his last performance rating was based on his competition advocacy role. His primary work in competition advocacy involves reviewing sole-source ADP procurements or responding to vendor concerns.
- NAVDAC's General Counsel/CA said his primary involvement as the requiring activity CA in the DPI case began in June 1988, when he met with ADPSO officials and the previous CAG. In his view, the original RFP was fully competitive and did not need to be changed. He argued the Navy's case at the GSBICA hearing of PacifiCorp's protest.

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**Role of Procuring Activity  
CA**

- ADPSO Instruction 5420.2 appoints ADPSO's Commanding Officer as its CA. The ADPSO Commanding Officer said that this instruction formalizes his view that competition advocacy is a routine part of his job as Commanding Officer. For example, when he received vendor complaints about the DPI procurement and arranged a meeting with the vendors, he did this as part of his job as Commanding Officer, regardless of his role as CA. He

could not provide a breakdown on how much time he spent on competition advocacy, but did note that most of his time is spent on management issues.

- ADPSO has requested one GM-14 CA/Industry Ombudsman position for fiscal year 1990, but as yet the position has not been funded. As an assistant to the Commanding Officer/CA, this individual would report directly to the Commanding Officer and be responsible for (1) evaluating the competitiveness of ADPSO procurements, (2) ensuring that specifications are as nonrestrictive and functional as possible, and (3) providing a single point of contact for the resolution of concerns, allegations, and conflicts regarding ongoing procurements and contracting actions.
- The ADPSO Commanding Officer/CA said that, based on numerous vendor complaints about the DPI Phase III procurement, he and his General Counsel expressed their concerns regarding the need for a sole-source procurement of the low-level CPU to the Director of IRM in May 1988, about 5 months before PacifiCorp's formal protest to GSBICA. The ADPSO Commanding Officer/CA recalled no substantive dialogue between ADPSO and NAVDAC concerning competition issues until vendors complained to ADPSO and the Navy CAG during the February - March 1988 time frame.

### Observations on OCAG Involvement in DPI Phase III

- OCAG played essentially a coordinating or facilitating role in this case. For example, the previous CAG received complaints from various vendors about the RFP's specifications and responded to the vendors by arranging meetings with NAVDAC and ADPSO officials. According to the previous Deputy CAG, neither he nor the previous CAG consulted with anyone outside ADPSO and NAVDAC regarding possibly restrictive specifications because they believed those activities had sufficient technical resources to evaluate the vendors' concerns. The previous CAG essentially supported NAVDAC's position that the procurement was fully competitive until Sysorex reported in August 1988 that IBM would not sell it the low-level CPU. Following this disclosure, the Deputy CAG, in consultation with ADPSO's General Counsel, suggested other alternatives, including (1) breaking out the low-level CPU as a separate sole-source procurement and supplying it as government-furnished equipment and (2) allowing individual vendors to buy the low-level CPU from the GSA's schedule contract with IBM. According to the previous Deputy CAG, the Navy never had an opportunity to explore these alternatives due to the October 1988 protest to GSBICA.
- According to the previous Deputy CAG, if OCAG had taken a more active role earlier in the process, it might have been possible to implement one of the alternatives discussed above and avoid the PacifiCorp protest. Since the previous CAG essentially supported the RFP until Sysorex



reported IBM's refusal to sell it the low-level CPU, there was insufficient time to implement one of the alternatives. The previous Deputy CAG said litigation became inevitable, considering the RFP's structure and high dollar value.

- According to a PacifiCorp official, the previous Navy CAG did not take a "proactive" role in addressing his and other vendors' complaints. As an example, the PacificCorp official said that when he requested the previous CAG's participation at a meeting with ADPSO officials held in March 1988, the previous CAG instructed ADPSO's Commanding Officer/CA to work with the vendors. According to the previous CAG, he did not monitor ADPSO's actions. However, the previous CAG indicated in his correspondence to vendors his willingness to be of further assistance.
- Based on our review of OACAG correspondence files, the previous CAG's actions following the vendors' February 1988 letter were consistent with OACAG's general process for handling complaints. (See app. II.) OACAG received a complaint, directed an official at the contracting office (in this case ADPSO's Commanding Officer/CA) to respond, and indicated a willingness to be of further assistance if needed. By the time the previous CAG withdrew his support for the procurement, as originally structured, and proposed alternative solutions, it was too late to prevent a formal bid protest.
- We agree with GSBICA that the need for one award, which in this case apparently would have restricted competition, was not adequately justified by the Navy. We also believe that the previous CAG should have challenged the proposed procurement approach earlier; for example, in May 1988 when the procuring activity found that only IBM could supply one of the computer configurations, as specified.

## Analysis of Marine Corps CPU II Upgrade

- This procurement is intended to replace and/or augment the CPUS at seven U.S. Marine Corps (USMC) regional processing centers. The requirement calls for a baseline system with 110 percent of current processing capacity, and upgrades to 200 percent and 280 percent. The major system components to be acquired are 14 IBM 3090-type brand name or equal mainframe CPUS, including (1) optional memory, channel, and processor upgrades and (2) hardware maintenance for the projected 8-year system life. The estimated value of this award is \$70 million.
- ADPSO issued an RFP for the requirement in May 1988. In January 1989, an attorney for ViON Corporation called OACAG about the company's inability to compete on this procurement. ViON has a marketing agreement with National Advance Systems Corporation to serve as the exclusive dealer to the federal government for the Corporation's line of computers and peripheral equipment. The Corporation remarkets

medium HITACHI and large scale IBM-compatible processors and peripheral equipment.

- The previous Deputy CAG told the attorney to send OACG a letter formalizing ViON's complaint. The February 10, 1989, letter and enclosure indicated that ViON's primary concern centered around amendment 12 to the RFP, issued in early February 1989. ViON stated that ADPSO made significant changes in amendment 12 favoring IBM equipment and putting the Corporation's equipment at a competitive disadvantage. Specifically, ViON objected to ADPSO's use of ratings by commercial reporting services to determine which CPUs could meet its requirement. ViON said these reporting service ratings are based on manufacturers' claims of their own machines' performance and not independent testing. ViON stated that benchmark testing is far preferable to a rating based on a manufacturer's claims in determining whether a CPU can satisfy an agency's actual minimum needs. ViON recommended that the government run its own benchmark test or revise the list of acceptable CPUs to include additional National Advance Systems Corporation equipment.
- According to USMC's IRM Branch Head, in a late February meeting, OACG staff recommended that USMC either change the requirement to permit ViON to compete or do benchmark testing. USMC officials told OACG staff that (1) a benchmark test was not necessary and (2) USMC did not want to do one because of the added costs and time delays. USMC estimated that benchmark testing would cost about \$262,000 and would delay the procurement by about 6 months. Both USMC and ADPSO told us that most government agencies do not conduct benchmark testing for IBM buys or other plug-compatible equipment since the products' features are well known.
- In April, the ADP Acquisition Assessment Panel began its review of this procurement and ViON submitted a "draft" protest to ADPSO covering five allegations concerning the RFP. These allegations were (1) overly restrictive specifications, requiring processing power substantially in excess of agency needs, (2) performance evaluation criteria biased in favor of IBM, (3) improperly limited competition among CPU manufacturers, (4) failure to describe in the RFP a method for measuring processing power to be supplied, and (5) inappropriate refusal to employ benchmark testing.
- In May, the Panel directed that a preaward benchmark test be added to the evaluation criteria. According to USMC and ADPSO officials, all the competitors will be provided the benchmark package upon its completion. According to USMC's IRM Branch Head, the benchmark package is still being developed. He said the expected award date is, at the earliest, March 1990, with equipment delivery expected in June 1990.

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## No Activity Level CA Involvement

- Neither the USMC (requiring activity) nor the ADPSO (procuring activity) CAs reported participating in this procurement. Moreover, the USMC Headquarters CA—who is also the Director of the Contracts Division—told us that he is only the “procurement CA.” As such, he said he only reviews USMC requirements for ADP hardware and software support when USMC is the procuring activity. He stated that when USMC is the requiring command but not the buying command for a procurement, the responsibility for reviewing specifications is really “out of our hands.” He said, however, that he would “get the message” to the buying command that USMC wants competition to occur. The USMC Headquarters CA stated that he believes he is in compliance and that his duties are consistent with FAR 6.5 requirements.
- The ADPSO Commanding Officer/CA said he did not attend any meetings between ViON and ADPSO officials to discuss vendor concerns because typically ADPSO contracting officers handle these matters. According to ADPSO’s General Counsel, ADPSO’s Commanding Officer was first briefed on the issues in the case by ADPSO’s Director of Contracts in February 1989 upon receipt of ViON’s initial complaint.

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## Role of OACG in the Procurement

- According to the former Deputy CAG, ViON “got a very responsive action” from OACG regarding its initial complaint. After receiving the February 1989 letter from ViON’s attorney, OACG’s Director of Compliance said he initiated a review of the procurement and got technical assistance from a FEDSIM official to determine whether benchmark testing should be performed. The FEDSIM official advised OACG that (1) benchmark testing should be done given the size (14 mainframe CPUs) and the dollar value (\$70 million) of the procurement and (2) ratings provided by commercial reporting services are not adequate measures of a machine’s true performance capacity. Subsequently, OACG recommended that USMC either change the requirement to permit ViON to compete or do benchmark testing.
- OACG’s Director of Compliance continued his review as a member of the ADP Acquisition Assessment Panel from early April until early May 1989, when the Panel directed that a benchmark test be added to the evaluation criteria.
- The attorney for ViON said he would give OACG staff “high marks” for their willingness to intervene and be educated about the procurement; however, he noted that OACG does not have sufficient technical expertise to deal with many ADP procurement issues.

## Analysis of Navy PERSPAY Procurement

- The Navy's PERSPAY was established in 1979 to combine the data processing operations of the Navy Finance Center in Cleveland, Ohio, and the Naval Military Personnel Command in Washington, D.C., at a computer center in Bratenahl, Ohio. The requirement called for replacing existing IBM hardware at these sites with newer technology IBM equipment or IBM plug-compatible equivalents. Specifically, the RFP required three IBM 3081 processors and one IBM 4341 processor, or their plug-compatible equivalents. Other required deliverables were software, maintenance and support services, training, and manuals.
- The January 1983 RFP stated the Navy's intent to award to a single prime contractor. Also, the Navy specified that ADP vendors would have to demonstrate, through benchmark testing, the ability of their hardware to run new IBM operating system software selected for this project. Several IBM plug-compatible vendors challenged the competitiveness of the solicitation.
- In a December 1983 response to a bid protest, our Office denied an objection to the single contractor requirement, finding that the agency's decision to use the single contractor approach was reasonable and clearly within the discretion of the contracting agency. Our Office also dismissed the protester's objection to the requirement for using new operating system software. On this latter issue, our Office determined that only vendors of IBM-compatible computers were directly affected by this requirement. The protester in this case only sold IBM-compatible mass storage equipment and, therefore, was not considered to possess the necessary interest to challenge the requirement.
- In January 1984, the Navy awarded a \$39.8 million firm fixed-price contract for the requirement to IBM. The contract established fixed-price options for additional storage, an additional 3081 system, and model upgrades for two 3081 systems. The contract life runs through March 1990.
- In mid-1987, Storage Technology Corporation (StorageTek), a computer vendor specializing in IBM-compatible information storage and retrieval equipment, sent an unsolicited proposal to ADPSO offering its storage equipment to support the PERSPAY program. According to a StorageTek representative, the proposal was submitted so the Navy could consider an alternative to a scheduled contract option buy from IBM for additional storage equipment. ADPSO instructed the Navy Finance Center to evaluate the StorageTek proposal. The Center determined that the proposal, while technically acceptable, did not address total life-cycle costs for electrical consumption, space requirements, and maintenance. The uncertainty of these costs, coupled with the length of time and costs associated with pursuing another procurement action, led the Center to

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conclude that pursuing the proposal would not be in the best interests of the Navy.

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- Assessment Panel Review**
- OCAG staff, as part of the Navy ADP Acquisition Assessment Panel, was briefed on PERSPAY because it was one of the procurements cited in a November 1988 ADP vendors' letter to the Secretary of Defense, which alleged that the Navy was restricting competition for ADP acquisitions. One member of the Panel was the principal reviewer of this procurement. He stated that (1) procurement planning and contract award for the PERSPAY requirement were completed before competition requirements were strengthened by CICA, (2) his observations on PERSPAY were presented during a Panel meeting, and (3) there was general agreement among Panel members that several provisions included in the solicitation restricted competition. His observations were:
    - The PERSPAY solicitation contained several features that favored IBM. Most importantly, the requirement for Multiple Virtual Storage-Extended Architecture (MVS(XA)), an IBM operating system that had not been commercially released at the time the solicitation was issued and that was too complex for plug-compatible mainframe vendors to use on their hardware until about a year after commercial release, made competition impossible. The requirement that MVS(XA) be operated during the benchmark test effectively made the solicitation sole source to IBM.
    - The Source Selection Advisory Council decision to require vendors to demonstrate MVS(XA) at the benchmark test was a poor one. The Council should have determined when PERSPAY work load would grow to the point where MVS(XA) was needed and work back from there, considering training and similar requirements, to decide when offerors would have to provide it. This was not done. Instead, it was decided to include MVS(XA) in the benchmark so offerors would demonstrate the capability before award.
    - The source selection evaluation criteria of cost, technical response, and management were also questionable. Because this was an off-the-shelf buy, the technical capabilities of proposed equipment were very similar. The management evaluation factor was not necessary because there were not complex system development requirements that would have required extensive management capabilities.
    - The reviewer presented to the Panel his findings that parts of the PERSPAY solicitation restricted competition. However, since the contract will expire in early 1990 and all contract items have been delivered, the Panel did not recommend changes to the contract.
    - The principal reviewer's findings on the PERSPAY procurement, together with information on other procurements provided to the Panel, were

used to help formulate recommendations for improving Navy ADP procurement practices. For example, the Navy has recently approved an initiative that requires acquisition plans to be developed for commercial ADP procurements over \$5 million. Where applicable, these plans must describe why requirements, such as software and certain performance evaluation factors that can only be provided or met by one company, are necessary.

## Analysis of StorageTek's Complaints About ONR Procurements

- Between 1987 and 1989, StorageTek, an ADP vendor whose principal products are high performance tape, direct access storage devices, and printer subsystems for the IBM-compatible market, wrote several complaint letters to ONR or OACG about the lack of competitiveness in planned ONR buys from GSA's ADP schedule contracts with IBM.
- Specifically, StorageTek expressed concerns about six Commerce Business Daily (CBD) preaward notices of ONR's intent to purchase direct access storage devices (DASD) control units, or magnetic tape units from the IBM contracts. StorageTek stated that ONR misused the IBM contracts to perpetuate "de facto" sole-source procurements of IBM equipment. In all six cases, ONR specified requirements for IBM-compatible equipment. Following is our synopsis of the six procurements and StorageTek's objections obtained from ONR's contract files and correspondence from and interviews with ONR, OACG, StorageTek, and other contractor officials.

### Case #1: CBD PSA-9156

- An August 19, 1986, CBD notice stated ONR's intent to acquire, through an order under a GSA schedule contract with IBM, three DASDs capable of being controlled by IBM DASD controllers. Government Systems Integration (GSI) Corporation,<sup>2</sup> attempting to offer StorageTek equipment, wrote a proposal to ONR on August 29, 1986. The Director of ONR's Management Information Systems Division recommended awarding to IBM, stating that "the equipment (in part or whole) offered by GSI is not plug compatible because of the swap out required (STC [StorageTek] 8380 won't attach to IBM 3380's [sic 3880's]); it also requires more A/C [air conditioning] than is available." The contracting officer's response to GSI stated that the company's proposal would not satisfy ONR's requirement. A \$299,264 award was made under the IBM contract on September 30, 1986.
- Following the award, GSI protested to GSBGA in October 1986 alleging that (1) the award to IBM was an unjustifiable sole-source award, (2) the

<sup>2</sup>This company became PacifiCorp Capital, Inc., in July 1987.

requirement was overly restrictive, allowing only IBM equipment to comply, (3) GSI was the low-cost offeror, and (4) ONR made no attempt to have a technical conference to promote full and open competition. According to GSI's president, his fundamental concern was that ONR denied his company access to ONR's office space, thereby preventing the company from doing any on-site planning to determine how to meet ONR's needs. He recently told us that he has not had any other involvement with ONR since this procurement. ONR contracting officials did not recall GSI ever requesting access to ONR's office space. According to an ONR contracting officer, GSI withdrew its protest when ONR agreed to provide the company with all CBD synopses for ADP equipment for the next year.

Cases #2 and #3: CBD  
PSA-9433 and CBD PSA-  
9538

- According to ONR officials, in January 1987 ONR received from government excess two IBM 3880 controllers that only work with IBM DASDs. After looking for 9 months for excess IBM DASDs, ONR announced its intent to buy in the CBD.
- In response to the September 28, 1987, CBD notice (PSA-9433) stating ONR's intent to place a delivery order for DASDs under a GSA schedule contract with IBM, StorageTek wrote to the designated ONR contracting officer that the equipment could be purchased from GSA's schedule contract with StorageTek at a lower price than the IBM contract provided. StorageTek recommended that ONR issue a competitive solicitation. ONR withdrew PSA-9433, based on its decision to acquire triple density drives that were new on the market and that would provide about 47 percent more disk storage capacity. As a result, a new CBD notice (PSA-9538), stating ONR's intent to place a delivery order for triple density drives or equivalents under GSA's schedule contract with IBM, was issued on March 2, 1988.
- In March 1988, StorageTek sent a preaward protest to the contracting officer and also wrote to the Navy CAG requesting a meeting between the appropriate Navy personnel and StorageTek to resolve its competition related concerns. Among the Navy practices cited by StorageTek in its letter to the CAG as contrary to "open competition" were (1) inappropriately relying on the installed equipment base as a reason to justify and perpetuate sole-source awards for additional IBM purchases, (2) using the GSA schedule excessively to buy from a sole source, (3) amending existing contracts to upgrade existing capability and procure new technology without competition and without updating GSA's delegation of procurement authority to ONR to buy such equipment, and (4) inconsistently applying federal procurement regulations. On March 28, 1988, the CAG notified StorageTek that ONR's overall agency CA would arrange a

meeting to discuss the company's concerns. According to StorageTek, it withdrew its protest following a March 31, 1988, meeting with ONR's overall CA and other officials because ONR indicated it was going to compete future procurements.

- Two firms (StorageTek and ViON) responded to CBD PSA-9538. A memorandum to the ONR contract file said that StorageTek did not submit a responsive offer and a proposal from ViON to provide National Advance Systems Corporation equipment was found to be more costly than IBM's price due to equipment availability delays. A \$246,960 award was made under the IBM contract on April 8, 1988.

Case #4: CBD PSA-9662

An August 1988 CBD notice stated ONR's intent to place a delivery order for DASDs and control units under GSA's schedule contract with IBM. StorageTek submitted information to ONR on its ability to meet the ONR requirement. According to ONR's Deputy for ADP Planning and Procurement, ONR canceled the CBD notice after an evaluation of vendor responses indicated that going forward with an RFP would result in the lowest overall cost alternative to meet the needs of the government. ONR is currently defining the specifications for an RFP, which combines the requirements under this CBD notice and CBD PSA-9800 (discussed later in this appendix).

Case #5: CBD PSA-9777

- A February 13, 1989, CBD notice stated ONR's intent to purchase, under GSA's schedule contract with IBM, one magnetic tape control unit and three magnetic tape units to support its existing IBM processors. On February 22, 1989, StorageTek wrote the contracting officer that it could provide equivalent equipment at a lower cost. ONR officials said several other suppliers also expressed interest in meeting the requirement.
- According to a member of the ADP Acquisition Assessment Panel, the Panel received documentation on this procurement in response to the May 1989 ASN(S&L) memorandum; however, the Panel did not review the procurement because the ONR overall agency CA told Panel members that ONR had canceled the solicitation.
- The ONR Headquarters Director of Contracts (who is also ONR Headquarters CA) said (1) this pending purchase was reported to the Panel on May 18, 1989, by the Office of the Chief of Naval Research's (OCNR) Special Assistant for Information Systems and (2) due to a communication failure within OCNR, he, the contracting officer, and the Director of Operations, Resources, and Management (the requiring office) were unaware that the procurement was subject to Panel review. As a result, a



\$136,336 award was made under GSA's schedule contract with Memorex-Telex Corporation on June 30, 1989, without the Panel's knowledge and approval. The ONR Headquarters Director of Contracts said that ONR needs to take corrective action to ensure that similar problems do not reoccur.

- On July 12, 1989, Federal Systems Group Incorporated submitted a formal agency protest to ONR alleging that the award was noncompetitive and that a competitive solicitation should have been developed. The contracting officer said that following receipt and due consideration of the protest, he notified Memorex-Telex Corporation to stop performance under the delivery order, as required by FAR 52.233-3 entitled "Protest After Award." The contracting officer also notified all other respondents to the CBD notice that they could submit their views and relevant information in accordance with the Navy Acquisition Procedures Supplement subpart 33.1. The contracting officer said he revised the CBD notice to include performance capabilities not stated in the original CBD. On September 11, 1989, ONR resynopsized in the CBD announcing its intent to place a delivery order under the Memorex-Telex Corporation contract. A \$115,394 award was made again under the Memorex-Telex Corporation contract on September 30, 1989. According to the contracting officer, based on documentation from Memorex-Telex Corporation, the dollar amount of this award was lower than the original award because of a revised GSA schedule price offered government-wide for the equipment purchased. The contracting officer stated that StorageTek "took no exception" to this award.

Case #6: CBD PSA-9800

- A March 17, 1989, CBD notice stated ONR's intent to acquire a DASD control unit from GSA's schedule contract with IBM. On March 22, 1989, StorageTek wrote to the contracting officer stating its continuing concern with ONR purchases of IBM disk equipment from the IBM contract. At the request of StorageTek, OACG staff arranged a meeting—held April 11, 1989—among StorageTek, ONR, and OACG's Director of Compliance to discuss this proposed procurement. The contracting officer stated that subsequently he canceled the CBD because it was incomplete and insufficiently portrayed ONR's operating system. Other ONR officials said evaluation and approval of the requirement were needed. According to the Director of ONR's Contracts Division/ONR Headquarters CA, StorageTek made a "swap-out" (replacement) proposal in March 1989 of all of ONR's IBM equipment with StorageTek equipment. He stated that StorageTek's swap-out proposal convinced him that ONR needed a long-range ADP plan that clearly defined and that would let industry know the office's requirements.

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## Role of ONR CAs

- ONR's Director of Acquisition is the overall agency CA. As CA, he said he reviews justifications for procurements based on other than full and open competition between \$1 million and \$10 million and sometimes reviews specifications to determine if they are unduly restrictive. He said (1) the Director of ONR primarily evaluates his performance as CA in terms of how well ONR meets its assigned competition goal and (2) he spends "very little" time performing strictly competition advocacy tasks, because ONR's competition rate, in relation to the value of its awards, is now in the 90-percent range.
- According to ONR's overall CA, ONR contracting officials do not routinely analyze individual vendor complaints to determine whether systemic impediments to competition exist. He also said that (1) ONR does very little ADP buying<sup>3</sup> and (2) since the FIRMR generally defines GSA schedule contracts as competitive, he has seen little need for his involvement in individual GSA schedule procurements. He said the final check for ensuring competition is the "open market."
- He has delegated ONR Headquarters procuring activity CA responsibilities to the ONR Headquarters Director of Contracts. Although the Director of Contracts had no documentation showing his assigned duties as CA, he said he performed many CA functions, including personally reviewing justifications for other than full and open competition for procurements between \$100,000 and \$1 million, tracking competition statistics to ensure that high competition rates are maintained, and working with ONR division directors to eliminate barriers to competition.
- Although he said he personally receives very few complaints, he did recall several vendors calling during February and March 1988 to complain about ONR ADP procurements. To monitor the situation, he instructed the contracting officers to keep him informed about all complaint letters regarding procurements of ADP equipment from GSA schedule contracts.

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## Assessment of ONR's GSA Schedule Procurements and Related Matters

- An ONR summary of its ADP hardware procurements from GSA schedule contracts, for fiscal years 1986 through March 1989, shows that of 30 contract awards, IBM received 29 and that 21 of these 29 awards were valued at under \$50,000. On the basis of FIRMR section 201-32.206(f), a CBD notice of intent to place an order under a GSA ADP schedule contract did not have to be issued in these 21 cases because only proposed orders exceeding \$50,000 must be synopsisized in the CBD. However, in an

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<sup>3</sup>In fiscal years 1989 and 1990, ONR budgeted \$3,425,000 and \$425,000, respectively, for procurement of ADP equipment and software to support Office of the Chief of Naval Research Headquarters management information structure.

August 14, 1989, decision (B-158766.16), our Office found that GSA did not have the legal authority to promulgate a CBD synopsis level higher than the statutory \$25,000 threshold, except on a case-by-case basis. In line with this decision, 8 of the 29 awards to IBM were between \$25,000 and \$50,000 and would now require synopsis in the CBD prior to contract award.

- The ONR Director of Acquisition/overall CA stated that his organization has not conducted a management review of ONR's ADP schedule procurements to determine compliance with FAR and FIRMR regulations. He added that ONR's current "core" computer system was built on "surplus" IBM equipment; therefore, he did not find it unusual that many system upgrades have been for IBM equipment. He said when vendors have challenged CBD synopses for proposed ONR procurements either formally or informally, ONR found the vendors' proposed equipment "not to be equal" in all but one case.
- The ONR Headquarters CA said the ONR summary data showed a trend toward more ADP buys below \$50,000 and this did not look good because it might appear that ONR was trying to avoid issuing CBD notices. To ensure that ONR properly uses GSA schedule contracts, he has advised his staff to closely monitor requests for orders under GSA schedule contracts. He stated it is essential that ONR (1) prepares and uses a "comprehensive" long-range (5 year) ADP acquisition plan and (2) starts getting "competitive requirements out on the street."
- Both the ONR Headquarters CA and the Director of Operations, Resources, and Management told us that the existing ONR computer system is comprised of a majority of IBM equipment because the former ONR Management Information Systems Division Director was able to acquire "excess" equipment for virtually no cost. The Headquarters CA said that ONR had to "build a system on a shoestring" in the early 1980s because there were limited funds available to acquire ADP equipment. The Director of Operations, Resources, and Management stated that ONR has gotten several million dollars worth of ADP equipment off the "excess" list, including IBM, Magnuson, and Digital Equipment Corporation (DEC) equipment.
- According to the ONR Headquarters CA, at the time ONR began acquiring its computer system—around 1981—the former Director of the Management Information Systems Division was the only ONR expert on computers and the Contracts Division staff "wasn't smart enough" to question his procurement strategy. The Headquarters CA stressed that the Contracts Division has gotten smarter since then by sending its people to government-sponsored ADP procurement courses, familiarizing them with FIRMR, and discussing ADP issues with OACG, ADPSO, and NAVDAC.

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He said that the Contracts Division is now better able to question current management about its ADP requirements.

- FIRM section 201-16.001, emphasizes the requirement for advance procurement planning and market research to achieve full and open competition. ONR's Headquarters CA said that he and ONR's Director of Acquisition/overall CA have told the ONR Director of Operations, Resources, and Management to prepare and use an ADP acquisition plan to better fulfill requirements for full and open competition. He also stated that although ONR does not have an ADP acquisition plan at this time, a consulting firm is completing work on a contract that will result in ONR's preparation of a long-range ADP acquisition plan for ONR. According to the Director of Operations, Resources, and Management, the plan should be completed by the end of 1989. He said it will identify opportunities for competitive acquisition strategies for ONR's future ADP procurements.
- The overall CA stated that there has been a competition advocacy concern that ONR was buying its computer system in a "piecemeal" fashion and that there was not any long-range ADP acquisition plan to indicate to industry the direction ONR's computer system was headed. He told us that he put a lot of pressure on the Director of Operations, Resources, and Management to prepare a long-range plan because his "hunt and peck" method of buying was not acceptable. The overall CA added, however, that he does not know if having a plan will make any difference in determining which company will receive future awards.

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## OCAG Involvement

- OCAG staff arranged meetings between StorageTek and ONR staff to discuss the company's concerns. A StorageTek official told us he has been satisfied with OCAG's intervention and assistance.

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## Conclusions

In most of the specific procurements we examined, OCAG either facilitated discussions between the complainants and Navy decisionmakers or had no involvement. However, in one of these cases, OCAG played a major role in resolving a vendor's complaints to its satisfaction. In another case, we believe the CAG should have challenged the proposed procurement approach earlier. Most of the remaining procurements examined related to recurring complaints from one vendor about ONR's ADP procurements. ONR officials said that ONR had not, but needed to, perform comprehensive ADP planning to guide its purchases of ADP equipment and better fulfill requirements for full and open competition.

# Objectives, Scope, and Methodology

On April 17, 1989, the Chairman, House Committee on Government Operations, requested that we do work relating to executive agency competition advocacy programs. On the basis of discussions with the Chairman's office, we agreed to focus our work primarily on the Navy. The specific objectives of the assignment were to

- examine certain operational aspects of OACG, including OACG's responsibilities, staffing, and relationship to field competition advocacy programs;
- evaluate OACG's general processes for handling complaints from contractors;
- review correspondence files maintained by OACG to obtain data on contractor complaints received and the resolution or status of those complaints;
- analyze, for comparative purposes, the processes the AMC and CECOM ombudsmen use to handle contractor complaints;
- review the status of the Navy's ADP Acquisition Assessment Panel; and
- review in detail ADP vendors' complaints regarding three specific Navy ADP procurements and a single vendor's complaints about ONR's ADP procurement practices, focusing on the processes used to handle complaints in these cases.

To accomplish these objectives, we

- interviewed Navy, Marine Corps, Army, and other DOD officials responsible for competition advocacy, ombudsman functions, Navy ADP procurements, hotline operations, and related areas to obtain their views and other information on the subject request;
- reviewed FAR, FIRMR, and Navy regulations and instructions relating to competition, competition advocacy, and ADP equipment procurement;
- reviewed OACG contractor correspondence files;
- obtained and analyzed documentation on specific Navy ADP procurements and proceedings of the Navy's Acquisition Assessment Panel; and
- interviewed representatives of ADP firms that had complained about Navy ADP procurements to obtain their views on OACG's and other CAS' efforts to address their complaints and overall effectiveness.

We did not verify OACG, AMC, or CECOM officials' descriptions of their complaint handling processes.

We performed our work between May 1989 and November 1989 in accordance with generally accepted government auditing standards.

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