



**Comptroller General  
of the United States**

**Washington, D.C. 20548**

B-238512

February 28, 1990

The Honorable Andy Ireland  
House of Representatives

Dear Mr. Ireland:

This is in response to your letter of February 27, 1990, asking three questions regarding implementation by the Department of Defense (DOD) of 10 U.S.C. § 114a, as added by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1602, November 29, 1989. That section requires the Department to submit its five-year defense program (FYDP) annually to Congress.<sup>1/</sup> You have asked us to describe the requirements of section 114a, to identify the FYDP material that DOD has provided to this Office, and to provide our views on whether DOD has complied with the statute.

Section 114a essentially imposes two requirements on the Secretary of Defense. First, the Secretary must submit "the current five-year defense program" to Congress each year at or about the time the President submits DOD's annual budget. Second, that FYDP must reflect "the estimated expenditures and proposed appropriations included in that budget." The

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1/ Subsection (a) of section 114a reads as follows:

"§ 114a. Five-Year Defense Program: submission to Congress; consistency in budgeting

"(a) The Secretary of Defense shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, the current five-year defense program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget."

Subsection (b) sets forth detailed requirements for consistency between the FYDP and the President's budget submission. Subsection (c) provides that the inclusion of amounts for management contingencies is permissible.

FYDP is a DOD budget and planning tool that quantifies forces and resources associated with DOD programs. See DOD Instruction 7045.7, May 23, 1984.

In our view, in order to comply fully with section 114a, the Secretary each year must submit a FYDP that has been revised to reflect the figures included in the President's most recent budget submission. The legislative history of the FYDP submission requirement is consistent with this view. The requirement for submission of a FYDP was first enacted in 1987 as an amendment to section 114 of Title 10, adding a new subsection (g). Pub. L. No. 100-180, § 1230, December 4, 1987, 10 U.S.C.A. § 114(g) (Supp. 1989). The conference report explained as follows:

"The provision is intended to require the Department of Defense to show in detail how its plans for the outyears of the five-year period presented in the Five-Year Defense Program would be affected by enactment of the aggregate obligational authority for those years set forth in the President's budget."

H.R. Rep. No. 446, 100th Cong., 1st Sess. 680 (1987). In 1989, the FYDP submission provision was amended by section 1602 of Public Law 101-189, November 29, 1989, to eliminate language that permitted "inconsistency between the President's budget and the five-year defense program." H.R. Rep. No. 121, 101st Cong., 1st Sess. 323 (1989); H.R. Rep. No. 331, 101st Cong., 1st Sess. 666 (1989). The 1989 amendment, in general, strengthened and elaborated on the requirement that the FYDP be consistent with the budget submission. Accordingly, it is clear that in enacting the FYDP submission provision, Congress intended that DOD would provide updated information revised to reflect the most recent budget figures, showing in detail how those budget figures would affect "the outyears of the five-year period presented in the Five-Year Defense Program."


DOD has submitted to Congress copies of the current FYDP data base along with the associated annexes, but that information is not consistent with the estimated totals in the President's budget. As expressed in the DOD Comptroller's letter to you of February 9, 1990, it is DOD's position that this material is not intended to satisfy the requirements of section 114a. We agree that this is not sufficient to satisfy the requirements of section 114a, and conclude therefore that DOD to date has not complied with that section. It is DOD's position that "unusual circumstances surrounding the FY 1991 budget submission" preclude a meaningful update of the FYDP at this time.

DOD has provided to this Office the current FYDP data base computer tapes. We also received from DOD a package of documents entitled "Department of Defense FY 1992-1994 Plan." That package consisted of the following:

- I. Introduction
- II. Summary of Adjustments--Approved and Pending
- III. Outyear Impact of FY 1991 Budget Decisions
- IV. Impact of Defense Management Report Initiatives
- V. Comparison of Specific Programs in April FYDP and FY 1991 Budget

We understand that the appropriate committees of Congress have received the same materials.

Sincerely yours,

*for*   
Comptroller General  
of the United States