

May 1988

**SPECIAL ACCESS
PROGRAMS**

**DOD Criteria and
Procedures for
Creating Them Need
Improvement**



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Comptroller General
of the United States

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The Honorable Les Aspin
Chairman, Committee on Armed Services
House of Representatives

The Honorable Bill Chappell, Jr.
Chairman, Subcommittee on Defense
Committee on Appropriations
House of Representatives

The Honorable Sam Nunn
Chairman, Committee on Armed Services
United States Senate

The Honorable John C. Stennis
Chairman, Subcommittee on Defense
Committee on Appropriations
United States Senate

We have reviewed the Department of Defense's criteria and approval procedures for establishing special access programs. The review is in response to section 1133 of Public Law 100-180, which requires that the Comptroller General report to the defense committees on this subject. This report is an unclassified summary of a classified report that we sent to you on April 1, 1988.

We found that the Department of Defense does not adequately follow criteria to be used in determining the need to establish programs as special access required. The definition of special access programs is not clear within the Department of Defense and, until recently, the oversight role of the Office of the Secretary of Defense in the programs' creation has been limited. Nevertheless, the Department has made progress in strengthening regulations and procedures, and efforts are ongoing to address continuing problems.

Congress and the media that DOD was placing growing numbers of programs and amounts of dollars in the special access budget with either the intent, or at least result, of hiding programmatic or budgetary problems. A series of special congressional and other government reviews of security issues has fueled this belief.

Oversight by the Office of the Secretary of Defense regarding acquisition special access programs thus is important to address concerns that DOD is establishing such highly classified programs for legitimate national security reasons in accordance with DOD regulations and procedures. Public Law 100-180 requires that DOD formally report information concerning special access programs to the House and Senate Committees on Armed Services and the Subcommittees on Defense of the House and Senate Committees on Appropriations.

To establish a special access program, DOD regulations require fulfillment of two criteria: (1) a "specific showing" that normal safeguarding procedures would be inadequate for a particular program or technology and (2) the number of persons to be accessed to a special access program should be reasonably small and commensurate with providing extra protection. Only the three service secretaries and Deputy Under Secretary of Defense for Policy are authorized to establish special access programs.

Results in Brief

The definition of special access programs is not clear within DOD. The imprecision has led to uncertainty over what a special access program is and how many exist. As a result, DOD has an ongoing effort to clarify the definition of the term. Some military departments apply the first of two major criteria for establishing special access programs inconsistently, if at all. Although a DOD regulation requires a "specific showing" that normal safeguarding procedures are not sufficient to limit access, special access program sponsors generally consider the sensitivity of a proposed program or technology as sufficient justification without demonstrating the inadequacy of normal security.

Until recently, the oversight role of the Office of the Secretary of Defense has been limited. As far as GAO could determine, the Secretary's Office has no centralized office with cognizance of all special access programs because of the difficulties in compiling special access program information. The Deputy Under Secretary of Defense for Policy is required to maintain a listing of all special access programs, but does not do so because of security concerns. The Office of the Secretary of

**Special Access Program
Funding Has Grown**

Total DOD acquisition special access program funding, as well as funding for each of the military departments, has shown an increase over the period from fiscal year 1980 to 1988. This trend is being reversed with the submission of the fiscal year 1989 amended budget request. This request is lower than for fiscal year 1988 because funding for several large programs no longer requires special security restrictions.

**Criterion Inadequately
Applied**

To establish a special access program, DOD regulations require a "specific showing" that normal safeguarding procedures would be inadequate for a particular program or technology. Nevertheless, GAO found that sponsors authorizing special access programs generally consider the military significance of the program or technology to be sufficient justification without demonstrating normal security's inadequacy by further linking a program's priority to the specific intelligence threat it faces.

A DOD criterion also requires that the number of persons to be accessed to a special access program be reasonably small and commensurate with providing extra protection. The military departments and the defense agencies generally try to follow this criterion. However, the numbers of accesses of most Air Force special access programs in the sample were in the tens of thousands. The Air Force programs were the largest programs that GAO reviewed. Without internal guidance on what constitutes a reasonably small number of accesses, more accesses than are necessary could be granted if large acquisition programs attempt to maintain special access program restrictions into their production phase. An official of the Office of the Secretary of Defense said that "small is relative" when considering this criterion.

Although the programs reviewed were not free of problems, GAO found no evidence that the special access programs in the sample were established for other than what the program sponsors considered to be plausible national security reasons. GAO notes, however, two factors that constrained its analysis: (1) DOD, for security reasons, placed limitations on GAO's access to some establishment information, and (2) the military departments and defense agencies in the past documented special access justifications less rigorously than they currently do.

A DOD review of Army special access programs in 1983 revealed systemic weaknesses in various management areas, which resulted in establishment of a central oversight office in September 1984. Although the Department of the Army since has made significant improvements to its special access program approval system, GAO is concerned that the Army approval system has duplicative layers of review, which may unnecessarily increase the numbers of people requiring special accesses.

Recommendations

Oversight by the Office of the Secretary of Defense regarding acquisition special access programs is important to address congressional concerns that DOD is establishing such highly classified programs for legitimate national security reasons in accordance with DOD regulations and procedures. Because DOD recognizes the need for adequate oversight and has ongoing efforts to address the concerns raised by GAO during its review, GAO makes no recommendations.

Views of Agency Officials

GAO did not obtain official DOD comments. However, DOD officials responsible for oversight and management of special access programs commented on a draft of GAO's report.

Some officials of the Office of the Secretary of Defense expressed concern that GAO placed too much emphasis on that Office's ability to count the number of approved special access programs accurately. They said that they have clearly accounted for all acquisition special access programs in accordance with Public Law 100-180. GAO is encouraged by the Acquisition Office's efforts to account for acquisition special access programs and believes that identifying and counting the number of these programs within DOD's responsibility is one element of establishing accountability. However, throughout the course of GAO's review, the number of special access programs that the Acquisition Office found in DOD and the services increased. In the absence of specific definition and criteria, GAO cannot verify that all acquisition special access programs have been accounted for.

Office of the Secretary of Defense officials concurred with GAO's finding that little formal documentation is available to justify why normal security methods are insufficient for programs proposed to be special access programs. However, the officials commented that careful consideration of this issue is given prior to establishing a special access program. The officials also noted that in many instances the critical

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intelligence information, which in part justifies a special access program, is available only in closely held intelligence security compartments.

Although GAO does not question the ultimate decisions to establish the special access programs reviewed, GAO believes that this is an area where DOD could improve its compliance with DOD regulations. Despite the use of closely held intelligence, it should be possible for DOD organizations to maintain a systematic record to demonstrate adequate implementation of DOD requirements.

Office of the Secretary of Defense Needs Better Awareness of Special Access Programs

As far as GAO could determine, DOD has no centralized office with cognizance of all special access programs. According to DOD officials, this is partly because individual offices within the Office of the Secretary of Defense maintain only partial listings of special access programs. By compiling a listing of acquisition special access programs, the Acquisition Office is moving toward fuller awareness of these programs.

GAO found that, despite a regulatory requirement, the Deputy Under Secretary of Defense for Policy does not maintain a listing of all DOD special access programs. The Office of Policy does not do so pursuant to internal oral instructions pending an update of special access program regulations. Also, each service has not always routinely and promptly sent notifications of program establishment to that office.

Controls Over Acquisition Special Access Programs Improving

Both the Office of the Secretary of Defense and the military departments have improved and formalized their procedures and regulations for establishing and monitoring special access programs. The Office of the Secretary's efforts are ongoing to clarify the definition of a special access program, revise regulations, reduce the number of types of unauthorized restricted access programs, and establish a new security category. Also, the Acquisition Office's compliance with new legislative requirements to provide a listing of acquisition special access programs to the congressional defense committees is moving DOD toward increased centralization and awareness of DOD acquisition special access programs. The reporting requirement has established a more accurate baseline for such authorized programs. During GAO's review, a new DOD directive and DOD instruction for special access program management, a special access program Security Handbook intended to expand and standardize DOD special access procedures, and a revision to clarify the definition in the existing regulation were being coordinated for comments within DOD.

Service Procedures and New Problems

In recent years individual military departments have strengthened their procedures for establishing and monitoring special access programs. For example, the Secretary of the Air Force in 1986 noted confusion over the service's special access program approval procedures. The Secretary attributed this confusion partly to a failure to comply with DOD and Air Force regulations and thus issued new procedures for special access program approvals.

Defense is considering changing this requirement to provide an alternative for maintaining one listing.

The Office of the Under Secretary of Defense for Acquisition's cognizance of acquisition special access programs has been limited. However, by recently compiling a listing of acquisition special access programs and providing it to the congressional defense committees, the Acquisition Office is moving toward fuller awareness of these DOD programs. In addition, the procedures and regulations of the Office of the Secretary of Defense have become increasingly structured over the past few years in an attempt to reduce the number of unauthorized restricted programs, called "gray" programs.

In the past few years the Air Force and the Army explicitly recognized difficulties in complying with regulations for establishing and monitoring special access programs. As a result, each service took corrective actions. Although significant progress has been made, particularly by the Army, problems with procedures for establishing and maintaining special access programs persist.

GAO's Analysis

Number of Programs Uncertain

Information GAO reviewed from offices within the Office of the Secretary of Defense showed differences in estimates of the total number of DOD acquisition special access programs in fiscal year 1988. GAO found that the total number of acquisition special access programs is difficult to establish because the definition of a special access program is imprecise. As a result, there may be more programs than reported in aggregate listings compiled separately by DOD and the military departments. For example, a program established under one nickname or codeword can include more than one special access program. Also, it is sometimes uncertain whether special access programs are considered as acquisition, intelligence, or operations programs. Moreover, the number of "gray" programs, those operating as special access programs without proper authorization, could be large by some estimates, although no DOD source can reliably estimate this number. DOD has recognized this problem and is working to clarify the meaning of "special access program."

Summary

Purpose

GAO examined the criteria used to establish and maintain Department of Defense (DOD) acquisition programs as special access programs and the process and procedures for creating these programs. GAO's classified report, designated as special access, was provided to the House and Senate Committees on Armed Services and to the Subcommittees on Defense of the House and Senate Committees on Appropriations on April 1, 1988. This unclassified summary is being released because of widespread interest in DOD's management of special access programs.

There are three broad categories of special access programs: acquisition, intelligence, and military operations. The distinctions between these categories, however, are imprecise. For its review GAO selected a generally representative sample of about 30 acquisition special access programs from the DOD military departments and defense agencies and assessed the process used by DOD to establish such programs, the justifications to establish the programs as special access, and the growth in special access program funding and numbers between fiscal year 1980 and March of fiscal year 1988.

Public Law 100-180, the fiscal year 1988 defense authorization bill, required that GAO conduct a study of criteria used to establish special access programs. GAO conducted its audit work from June 1987 to March 1988. A second report will address special access program management and oversight issues.

Background

Special access programs, commonly referred to as "black" programs, are highly classified projects intended to have tightly controlled access and stringent security measures beyond those of standard classified programs. Examples of officially acknowledged special access programs are the Advanced Technology Bomber, Advanced Tactical Aircraft, and Advanced Cruise Missile. Until submission of the fiscal year 1989 budget, information about these three programs, even funding levels in some cases, was released to the Congress on a selective basis for security reasons. Similar information on other special access programs remains highly restricted. Special access programs, along with the National Foreign Intelligence Program and Tactical Intelligence and Related Activities, are the most highly classified national security programs.

As a result of the highly restricted access to special access programs and problems with development and costs of major weapons systems, congressional concern has risen over the adequacy of DOD program oversight. During the past several years a perception has grown in both the

Copies of this summary are being sent to the Director, Office of Management and Budget; the Secretary of Defense; and the Secretaries of the Air Force, the Army, and the Navy.

Frank C. Conahan

for Charles A. Bowsher
Comptroller General
of the United States

