



DEPARTMENT OF THE ARMY  
OFFICE OF THE INSPECTOR GENERAL  
1700 ARMY PENTAGON  
WASHINGTON DC 20310-1700

SEP 21 2016

SAIG-JA

MEMORANDUM FOR U.S. Army Freedom of Information Office, Records Management & Declassification Agency, ATTN: Ms. Sasha Ward, 7701 Telegraph Road, Casey Building, RM 150, Alexandria, VA 22315-3860

SUBJECT: FOIA Reading Room Posting of Frequently Requested IG Records


1. As required by the FOIA, 5 U.S.C. 552, (a)(2)(D), request for the enclosed IG reports be posted in your FOIA reading room. These reports, Senior Official Misconduct, have been released to the public at least three times under the FOIA and is or will likely become the subject of subsequent requests.

<u>Document</u>	<u>Subject</u>	<u>Keywords</u>
a. ROI 14-018	MG Pittard	Improperly created the perception of preferential treatment during the award of a government contract.
b. Recruiting Assistance Programs (RAP)	LTG Blum LTG Vaughn	Failed to review and approve contract RAP W9133L-07-D-0007. Failed to conserve government resources.
c. ROI 07-009	BG Tata	Committed adultery
d. ROI 16-00007	MG Haight	Inappropriate Sexual Relationship; Misuse of government resources

2. We will notify your office when to remove these reports from the reading room.

3. If you have any questions concerning this matter, please call me or Ms. Broyles at (703) 545-4591.

Encls

  
JULIE LONG  
COL, JA  
Legal Advisor



DEPARTMENT OF THE ARMY  
OFFICE OF THE INSPECTOR GENERAL  
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**US ARMY INSPECTOR GENERAL AGENCY  
REPORT OF INVESTIGATION**

**(ROI 14-018)**  
DEC 10 2014

**NAME/POSITION:** Major General (MG) Dana J. Pittard, Deputy Commanding General  
- Operations, Army Central (ARCENT), Camp Arifjan, Kuwait

**ALLEGATION / FINDING #1:** The allegation that MG Pittard improperly created the perception of preferential treatment during the award of a government contract was substantiated.

**ALLEGATION / FINDING #2:** The allegation that MG Pittard improperly disclosed non-public information was substantiated.

**BACKGROUND:**

1. On 6 September 2011, DAIG received an anonymous complaint that alleged MG Pittard, as the Commander of the 1<sup>st</sup> Armored Division and Fort Bliss, Texas, abused his authority by awarding lucrative renewable energy contracts to his friends without competition.

[Investigating Officer (IO) note: MG Pittard was the Commanding General (CG) of the 1<sup>st</sup> Armored Division and Fort Bliss from July 2010 through May 2013.]

2. The preliminary inquiry, DIG 11-60048, approved 30 January 2012, found sufficient evidence to warrant further investigation. The DAIG referred the case to the U.S. Army Criminal Investigations Command (CID) due to potential criminal violations.

3. On 30 April 2014, [b)(6) & (b)(7)(C)] Resident Agent in Charge, CID Major Procurement Fraud Unit, El Paso Fraud Resident Agency, notified DAIG that the Federal prosecuting attorney verified that the DAIG investigation into MG Pittard's misuse of his position would not interfere with its ongoing criminal investigation.

[IO note: The prosecuting attorney did not reveal the details of the Federal investigation.]

4. On 30 May 2014, The Inspector General (TIG) directed an investigation by DAIG.

5. On 11 September 2014, CID released additional emails to DAIG, and confirmed DAIG could use the emails in the administrative investigation of MG Pittard. Our review identified two additional allegations involving MG Pittard's relationships with contractors.

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6. On 9 October 2014, TIG approved expanding the investigation to include allegations # 2 and #3.

[IO Note: DAIG dropped allegation #3, that MG Pittard improperly accepted voluntary services from a contractor, based on legal advice during the investigation.]

**ALLEGATION #1: The allegation that MG Pittard improperly created the perception of preferential treatment during the award of a government contract was substantiated. The complaint alleged MG Pittard abused his authority when he awarded contracts to his friends.**

**STANDARDS:**

1. Title 5, Code of Federal Regulations (CFR), Section 2635.702, states, an employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity. An employee shall not use or permit the use of his Government position, or title, or any authority associated with his public office, in a manner that is intended to coerce, or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, or persons with whom the employee is affiliated in a nongovernmental capacity. The standard further states employees must ensure that the performance of his official duties does not give rise to an appearance of use of public office for private gain or of giving preferential treatment.

2. Federal Acquisition Regulation (FAR), Improper Business Practices and Personal Conflicts of Interest, section 3.101, states, government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships.

3. Title 5 CFR, Section 2635.502, states, when an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee. It further states, a covered relationship exists with: (1) A person, other than a prospective employer with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction; (2) A

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person who is a member of the employee's household, or who is a relative with whom the employee has a close personal relationship; (3) A person for whom the employee's spouse, parent or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; (4) Any person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee

**DOCUMENTS / TESTIMONY:**

1. Email, concerned citizen23456, 8 September 2011, subject: Fraudulent Activity, reflected an anonymous allegation that MG Pittard abused his authority and position to help his friends get lucrative contracts with the Army. MG Pittard gave renewable energy contracts to two of his friends, (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C) without giving other companies a chance to compete for the work.

[IO note: The DAIG investigation determined that (b)(6) & (b)(7) was a high school classmate of MG Pittard. (b)(6) & (b)(7) was also a contractor who did business with Fort Bliss. The evidence did not support the complainant's claim that MG Pittard gave (b)(6) & (b)(7) renewable energy contracts. Only the complainant and one additional witness raised concerns with (b)(6) & (b)(7)(C) access to MG Pittard, but neither provided evidence of a contractual arrangement. The evidence established that although (b)(6) & (b)(7) met occasionally with MG Pittard, their relationship was personal, not a business relationship, and did not warrant further investigation.]

2. The United States Military Academy, West Point, 1981 Howitzer Yearbook, indicated then Cadet Dana Pittard was in Company F-2, Corps of Cadets. He participated in the bowling club, contemporary affairs, chess club, and the military affairs club. The yearbook indicated then Cadet (b)(6) & (b)(7)(C) was in Company C-3. He participated in the glee club, football, behavioral science and leadership, and the nautilus supervisor program.

3. Email, CID, 30 April 2014, subject: RE: MG Pittard, reflected that the Federal prosecutor agreed that DAIG could investigate MG Pittard's involvement with the contract award to Tropical Luster Joint Venture (TLJV). The email further cautioned that the investigation would not interfere with the Department of Justice criminal investigation, and could not include any materials obtained through the grand jury process.

4. The Army Energy Program website referred to the Army's sustainable energy plan as the Net Zero Program. Its goal is to manage installations in a sustainable manner through a holistic approach to addressing energy, water, and waste through five interrelated steps: reduction, re-purpose, recycling and composting, energy recovery,

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and disposal. Net Zero is a force multiplier, enabling the Army to appropriately steward available resources, manage costs, and provide its Soldiers, families, and civilians with a sustainable future.

5. Department of Defense Live (DODLive on-line blog), 4 July 2010, Achieving Net Zero in Energy Efficiency, reflected that MG Howard Bromberg, MG Pittard's predecessor as the CG, Fort Bliss, established renewable energy goals for Fort Bliss. The article projected the cost for Net Zero as between \$250 million and \$300 million in ten years.

6. Memorandum, Headquarters, Fort Bliss, 11 March 2011, subject: Self Nomination of Fort Bliss as the Army Integrated Net Zero Installation, reflected that MG Pittard nominated Fort Bliss as a Net Zero Installation.

7. Department of Defense News Release, 20 April 2011, subject: Army Identifies Net Zero Pilot Installations, reflected the Army designated Fort Bliss an integrated Net Zero installation.

8. The testimony below established the background for the award of the short-term renewable energy contract to develop a plan that integrated the energy approaches and produce a schedule to meet the long-term energy needs of Fort Bliss. This report of investigation refers to this integrator contract as the TLJV contract.

a. MG Pittard; Colonel (COL) (b)(6) & (b)(7)(C) Director, Mission and Installation Contracting Command (MICC), Fort Bliss; COL (b)(6) & (b)(7)(C) Garrison Commander, Fort Bliss; (b)(6) & (b)(7)(C) Director, Directorate of Public Works (DPW), Fort Bliss; and (b)(6) & (b)(7)(C) Renewable Energy and Sustainability Program Manager, DPW, testified that MG Pittard made Net Zero a priority for Fort Bliss. (b)(6) & (b)(7)(C) Contracting Officer, MICC, testified MG Pittard was heavily involved in the Net Zero initiative because it had high visibility, and MG Pittard wanted the Fort Bliss Net Zero projects completed before he changed command.

b. MG Pittard, COL (b)(6) & (b)(7)(C) and COL (b)(6) & (b)(7)(C) testified Fort Bliss did not have the necessary expertise to manage the complexities of the Net Zero initiative. Fort Bliss established an energy initiative task force to help get through the renewable energy planning process. The task force identified the need to contract for a program integrator to manage the renewable energy program. COL (b)(6) & (b)(7)(C) testified the preferred method of contracting was through the U.S. Army Engineering and Support Center. That process would take approximately 120 days. MG Pittard wanted the initiative in place sooner.

[IO note: The U.S. Army Engineering and Support Center belongs to the U.S. Army Corps of Engineers (USACE). The USACE supported the Army Energy Campaign Plan

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through specific projects, programs, and contracting support. The remainder of this report will refer to all USACE subordinate offices simply as USACE.]

[IO note: The energy initiative task force appeared to be an unchartered group that consisted of MG Pittard, COL (b)(6) & (b)(7) (b)(6) & (b)(7) and (b)(6) & (b)(7)(C) supplemented by other personnel as necessary. (b)(6) & (b)(7)(C) the Fort Bliss lead for the renewable energy program, implemented the energy task force decisions on behalf of the DPW.]

c. MG Pittard, COL (b)(6) & (b)(7) and COL (b)(6) & (b)(7)(C) Staff Judge Advocate, Fort Bliss, testified that several contractors contacted MG Pittard, or members of his installation staff, after he took command, concerning the Fort Bliss renewable energy program. MG Pittard and his staff met with contractors to help identify the products and services available to the installation.

[IO note: The DAIG investigation did not identify what other companies met with MG Pittard or what renewable energy program capabilities they represented.]

d. MG Pittard and COL (b)(6) & (b)(7) testified they met with TLJV representatives in January 2011. The TLJV representatives briefed their renewable energy program capabilities to MG Pittard and COL (b)(6) & (b)(7)

[IO note: The TLJV representatives at the meeting were (b)(6) & (b)(7)(C) President, Luster National, Inc; (b)(6) & (b)(7)(C) Senior Vice President of Operations, Luster National, Inc; and (b)(6) & (b)(7)(C) Program Manager, (b)(6) & (b)(7)(C) National, Inc. The TLJV was a joint venture between Luster National and Tropical Contracting, LLC.]

e. (b)(6) & (b)(7)(C) testified he attended a meeting with MG Pittard, COL (b)(6) & (b)(7) (b)(6) & (b)(7) and the TLJV representatives in February 2011. The TLJV briefed they had a contract with the USACE they believed Fort Bliss could modify to add the short-term integrator requirement. Fort Bliss could eliminate the need to go through a lengthy contract award process by issuing a task order to modify the existing USACE contract. (b)(6) & (b)(7)(C) wrote a task order for the USACE contract, but found out the short-term integrator work was outside the scope of the existing USACE contract with TLJV.

[IO note: The USACE contract with TLJV was an Indefinite Delivery/Indefinite Quantity (ID/IQ) contract for services. The ID/IQ contract allowed modifications through task orders for additional work. The DAIG investigation did not review the USACE contract as part of the investigation.]

f. MG Pittard, COL (b)(6) & (b)(7) (b)(6) & (b)(7) and (b)(6) & (b)(7)(C) testified that (b)(6) & (b)(7) briefed MG Pittard on courses of action for the integrator contract requirement after the USACE determined they could not issue a task order to the existing contract. (b)(6) & (b)(7)(C) developed two courses of action: (1) Use the Fort Bliss MICC to award a

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sole source contract with TLJV as an 8(a) small business; or (2) Get an Energy Savings Performance Contract through the USACE. Option one would take 30 days to award; option two would take 90 days to award. COL (b)(6) & (b)(7)(C) (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C) testified they recommended pursuing the USACE contract. COL (b)(6) & (b)(7)(C) testified MG Pittard did not want to wait the 90 days, and MG Pittard directed his staff to pursue the contract with TLJV as a short-term fix while simultaneously pursuing the long-term contract through USACE.

[IO note: The U.S. Small Business Administration manages the 8(a) Business Development Program. The 8(a) program helps small, disadvantaged businesses compete in the marketplace. The 8(a) program rules allowed for sole source, non-competitive award of the short-term integrator contract to TLJV. The MICC prepared a contract using the same requirements the DPW developed for the USACE task order.]

9. Email, MG Dana Pittard, 6 August 2011, subject: Re: Luster Technical Eval, 3 Aug, v1.docx, reflected COL (b)(6) & (b)(7)(C) shared (b)(6) & (b)(7)(C) concerns about the TLJV contract proposal cost and schedule deficiencies with MG Pittard and wrote, "We would not normally accept this contract, based on the issues. We will if you direct." MG Pittard wrote that he did not want anyone getting over on Fort Bliss; however, the energy portfolio manager was new ground. MG Pittard further wrote, "I will approve awarding this."

10. Email (b)(6) & (b)(7)(C) 4 April 2012, subject: Re: Meeting, reflected that (b)(6) & (b)(7)(C) told (b)(6) & (b)(7)(C) that it would not be appropriate for DPW to meet with (b)(6) & (b)(7)(C) because his company had an interest in an upcoming contracting action. (b)(6) & (b)(7)(C) responded that he appreciated the position. (b)(6) & (b)(7)(C) forwarded the emails to COL (b)(6) & (b)(7)(C) and noted that (b)(6) & (b)(7)(C) mentioned he was going to have a separate meeting with the CG.

11. Email COL (b)(6) & (b)(7)(C) 4 April 2012, subject: Re: Meeting, reflected that COL (b)(6) & (b)(7)(C) forwarded (b)(6) & (b)(7)(C) email from 4 April 2012 to COL (b)(6) & (b)(7)(C). COL (b)(6) & (b)(7)(C) wrote, "This is not good and downright illegal. These guys know it, and they continue to push the envelope because of their personal relationship with MG Pittard. What do you advise we do?" COL (b)(6) & (b)(7)(C) responded, "All I can do is talk to him about it. I've advised him in the past concerning risks associated with meetings like this."

12. MG Pittard testified (b)(6) & (b)(7)(C) was a classmate from West Point. He considered him an acquaintance. He remembered socializing with him at class reunions. MG Pittard further testified he found out through (b)(6) & (b)(7)(C) that (b)(6) & (b)(7)(C) was also his classmate from West Point. He did not remember (b)(6) & (b)(7)(C) and did not consider him a friend or acquaintance. He recalled that (b)(6) & (b)(7)(C) was his calculus instructor at West Point and did not consider him a friend or acquaintance.

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13. [REDACTED] former Contracting Officer (KO), MICC, Fort Bliss, testified:

a. He was involved in the pre-award phase of the sole source TLJV contract. It was a difficult process because of MG Pittard's involvement. He felt undue pressure from the contractor, TLJV, because of the close relationship [REDACTED] and [REDACTED] had with the CG. The DPW recommended TLJV as the sole source for the integrator contract. He asked DPW for documentation as to why they selected TLJV, but DPW never provided an answer. He thought there were better-qualified companies to do the work. [REDACTED] told him that there was a lot of "political pressure" because of the importance of this project to MG Pittard.

b. He had concerns with the TLJV contract, to include: (1) The extent of the TLJV employees' involvement in the process prior to the award of the contract; (2) A lack of documentation of TLJV's past performance for similar work; (3) A lack of detail in the proposal concerning work to be performed by each entity in the joint venture; and (4) Knowledge by all parties that MG Pittard had a relationship with TLJV personnel.

c. [REDACTED] was difficult to work with and told him he was friends with the CG. During one call concerning a contract issue, [REDACTED] said he was going to get the CG to "fix it."

[IO note: The DAIG and CID interviewed [REDACTED]. The U.S attorney authorized the release of his testimony to DAIG, but did not authorize DAIG to re-interview him.

[REDACTED] was removed as the KO of the integrator project, but he did not explain the circumstances behind his removal.]

14. [REDACTED] Attorney Advisor, Administrative and Civil Law, Office of the Staff Judge Advocate (SJA), Fort Bliss, testified that MG Pittard's timeline for the project did not allow for competitive solicitation. She questioned whether there was proper justification for the sole source award to TLJV, and she felt the contract should have at least been a competitive 8(a) set-aside award. The "CG's office" requested TLJV as the contractor based on its belief the contractor could perform the work.

[IO note: The CID interviewed [REDACTED] and did not ask her who from the "CG's office" requested TLJV. The U.S attorney authorized the release of her testimony to DAIG, but did not authorize DAIG to interview her.]

[IO note: The Competition In Contracting Act of 1984 (CICA), 41 U.S.C. 253, requires, with limited exceptions, that contracting officers promote and provide for full and open competition in soliciting offers and awarding U.S. Government contracts above the simplified acquisition threshold. Maximum competition is desirable from a public perspective because, if properly administered, it results in timely delivery to the U.S. Government of quality products and services at reasonable cost.]

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15. (b)(6) & (b)(7)(C) KO, MICC, Fort Bliss, testified:

a. She became involved in the TLJV contract after (b)(6) & (b)(7)(C) was removed as contracting officer. She believed the MICC removed (b)(6) & (b)(7)(C) as the KO because either TLJV personnel or MG Pittard thought (b)(6) & (b)(7)(C) was being too difficult in the procurement process. She had concerns with the TLJV contract, to include: (1) The lack of market research; (2) The lack of a full legal review; (3) No verification of work to be done by each party; and (4) MG Pittard had too much influence over the project. (b)(6) & (b)(7) testified the MICC would not have awarded the contract to TLJV because of the issues with the contract. The MICC only awarded the contract because MG Pittard directed to award the contract to TLJV.

b. She attended a TLJV contract "kick-off" meeting on 6 September 2011. The TLJV representatives presented their focus for the project. MG Pittard attended the meeting and stated he had five to six specific initiatives he wanted accomplished as part of the contract. (b)(6) & (b)(7) testified, "MG Pittard and the contractor were the only people present in the meeting who had previously discussed or had knowledge of these initiatives the CG wanted accomplished."

c. She understood that MG Pittard was a West Point classmate of (b)(6) & (b)(7) and (b)(6) & (b)(7) and (b)(6) & (b)(7)(C) had been MG Pittard's instructor at West Point.

[IO note: The CID interviewed (b)(6) & (b)(7). The U.S attorney authorized the release of her testimony to DAIG. The DAIG did not interview (b)(6) & (b)(7)(C).

16. (b)(6) & (b)(7)(C) project manager, TLJV, testified:

a. (b)(6) & (b)(7) and (b)(6) & (b)(7) may have had too much interaction with MG Pittard. (b)(6) & (b)(7) was open about his relationship with the CG. He implied the CG would find out if things did not work out well for the contractor. (b)(6) & (b)(7) (b)(6) & (b)(7) and (b)(6) & (b)(7)(C) had dinner with MG Pittard at a downtown steakhouse on two separate occasions.

b. MG Pittard used his influence to help TLJV get paid after it ran into several issues with prompt payment for its work at Fort Bliss.

[IO note: The CID and FBI interviewed (b)(6) & (b)(7)(C). The U.S attorney authorized the release of his testimony to DAIG. The DAIG did not interview (b)(6) & (b)(7)(C). The U.S. attorney did not release (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C) testimony to DAIG, and they were not available to testify.]

17. COL (b)(6) & (b)(7)(C) Director, MICC, Fort Bliss, testified:

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a. He was involved in the TLJV contracting process because of MG Pittard's involvement and interest in the program. The energy initiative was either MG Pittard's top priority, or close to his top priority; MG Pittard was heavily involved with it.

b. The Fort Bliss MICC and DPW personnel agreed the preferred method of getting an energy program integrator was through the USACE. COL (b)(6) & (b)(7) and (b)(6) & (b)(7) told COL (b)(6) & (b)(7) they did not think they needed to go directly to TLJV for this project. They felt there were other options available that would cost less and provide a better technical value for the government. COL (b)(6) & (b)(7) believed the initiative would have been cheaper through the USACE, and they could start in 90 days. MG Pittard told him that 90 days was too long; he wanted an integrator on board within 30 days.

c. MG Pittard was highly involved in getting TLJV on board, particularly after MG Pittard decided the MICC would award the contract. The DPW technical evaluation of TLJV's proposal identified concerns with the cost and schedule. COL (b)(6) & (b)(7) and (b)(6) & (b)(7) told COL (b)(6) & (b)(7) they would normally not support awarding this contract to TLJV, but they would present the matter to MG Pittard. MG Pittard reviewed the concerns of his staff and authorized the MICC to award the short-term integrator contract to TLJV. MG Pittard wanted the short-term integrator contract to fill the gap until the USACE awarded a long-term integrator contract in a few months.

[IO note: The evidence indicated that the TLJV contract complied with the FAR guidelines. The MICC and the Fort Bliss staff advised MG Pittard of concerns they had with the contract; however, none of the concerns identified an illegality in the contracting process. MG Pittard evaluated the alternatives and decided he wanted MICC to award the contract to TLJV.]

d. He believed MG Pittard was too involved in the award of this contract. He could not recall another initiative when MG Pittard's level of involvement was the same as with this particular contract. Companies lobby senior leaders all the time, and TLJV sought out MG Pittard to present its capabilities. He believed that (b)(6) & (b)(7) and MG Pittard were West Point classmates; he did not know the depth of their friendship. He did not know whether (b)(6) & (b)(7) and MG Pittard's relationship resulted in awarding the contract; however, he believed access to the CG might have played a role. COL (b)(6) & (b)(7) believed the contractor was sending notes to the CG as problems arose because the CG, or someone on his staff, would contact the KO on behalf of TLJV.

[IO note: The DAIG and CID interviewed COL (b)(6) & (b)(7). The U.S attorney authorized the release of his CID testimony to DAIG.]

18. (b)(6) & (b)(7)(C) testified:

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a. He had served as the Renewable Energy and Sustainability Program Manager at Fort Bliss since 12 October 2010. The TLJV had already found a way to get time with MG Pittard before he became involved in the renewable energy program. That did not surprise him; MG Pittard was very proactive in getting his message out to the public about this renewable energy project, which generated a lot of interest from contractors. The CG allowed contractors to meet directly with him and give their pitch for their particular projects, despite COL (b)(6) and COL (b)(6) & (b)(7) telling him "he could not meet directly with contractors." MG Pittard never directed him to award a contract to TLJV, although he did ask if TLJV had the ability to do the work Fort Bliss needed to have done. The market research for this contract was minimal. There was a lot of pressure to get the renewable energy projects done. MG Pittard never dictated any specific contractor to use; however, the feeling was if we were going to tell MG Pittard that we needed more time, he was going to be upset. He did not think the CG understood or cared for contracting rules and procedures. (b)(6) & (b)(7) and COL (b)(6) & (b)(7) told him they would not have awarded the contract to TLJV.

b. He did not want to offer an opinion on whether or not (b)(6) & (b)(7) (b)(6) & (b)(7) and MG Pittard's relationship played a role in the award of the contract to TLJV; however, he felt it definitely created that perception. He was aware that (b)(6) & (b)(7) and (b)(6) & (b)(7) met with MG Pittard at his home for a pre-brief prior to the contract kick off. Prior to the pre-brief, MG Pittard was not in favor of using gas turbines as part for the energy plan on Fort Bliss, but he accepted the idea after the pre-brief. The pre-brief upset (b)(6) & (b)(7)(C) because TLJV had not discussed the issue with him before they presented it to MG Pittard.

c. He believed that TLJV's performance on the contract was outstanding. The contract with TLJV was a short-term contract. (b)(6) & (b)(7) and (b)(6) & (b)(7) wanted Luster National to be the follow-on, long-term integrator; however, the Fort Bliss MICC awarded the long-term contract to another company not affiliated with (b)(6) & (b)(7) or (b)(6) & (b)(7).

19. COL (b)(6) & (b)(7) testified:

a. MG Pittard was so involved in renewable energy projects because he believed his involvement was necessary to get Fort Bliss to move forward on his Net Zero goals and objectives. MG Pittard received many briefs from contractors on their capabilities, but he usually sent them to the contracting office to determine the best contracting decision. MG Pittard has relationships with many people from past assignments, and some have come to Fort Bliss to present proposals. He did not believe (b)(6) & (b)(7) would have come to Fort Bliss if MG Pittard had not been his classmate.

b. He and members of the staff discussed the relationship between (b)(6) & (b)(7) and MG Pittard before contract award because there were other potential companies to

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consider. He advised MG Pittard that he would not normally award a contract when the initiator of the contract had concerns, but because this contract was of special interest to the CG, he asked MG Pittard for guidance on how to proceed. MG Pittard directed him to process the contract through the MICC for the award to TLJV.

c. He believed MG Pittard's relationship to [REDACTED] was the reason Fort Bliss, through the DPW, the Garrison Commander, and ultimately the MICC, awarded TLJV the contract. He did not believe it was illegal; however, he questioned the decision. If not for MG Pittard directing or influencing the decision to award the contract to TLJV, there would have been a high probability of awarding the contract to some other company.

20. [REDACTED] testified:

a. The DPW initially selected TLJV based on a capability brief it provided to MG Pittard and COL [REDACTED]. The DPW considered TLJV because it had an existing contract with the USACE; that eliminated the need for competition and would have resulted in a quicker contract award.

b. He recommended not awarding the 8(a) contract to TLJV after he reviewed its cost proposal. He had concerns with the pricing data. He and his team recommended a USACE-contracted option. MG Pittard said no, award the contract to TLJV. He believed that COL [REDACTED] and COL [REDACTED] agreed that they needed to wait on awarding the contract; but at the same time, he wanted to support MG Pittard. The only reason that they contracted with TLJV was MG Pittard directed them to do so. He believed that MG Pittard was the one who made the final decision to authorize the MICC to award the contract.

c. He did not think awarding TLJV the contract was the right thing to do because there were better options available. This was the only contracting decision in which MG Pittard was heavily involved. He was aware of the relationship between [REDACTED] and MG Pittard: they were West Point classmates.

21. COL [REDACTED] testified:

a. MG Pittard intended to be a very fast-moving commander. He pushed very hard to get things done quickly, or in a more timely manner than what they were being moved. He believed MG Pittard was frustrated with the time it took to get projects done and by the inability of the local staff to manage the issue. MG Pittard was a CG with a lot of ideas, a lot of energy, and a lot of motivation to make significant changes in and around Fort Bliss. That included Net Zero energy and environmental programs. MG Pittard saw himself as being on a limited timeline to get it all done, and time was

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running out. He pushed hard to get things done faster, and he thought by not treating the process in a conservative manner he could move projects forward a little bit faster.

b. He did not like the amount of contact MG Pittard had with contractors. MG Pittard allowed private contractors too much access to his office, behind closed doors, and socially. In the normal course of contracting business, the decision-maker, the CG, should not meet with contractors without a contracting officer's representative (COR) present.

c. The COR is the government representative who works with the contractor to ensure contract compliance. He gave MG Pittard his opinion that he should not meet directly with contractors both orally and in writing. He stopped putting it in writing because MG Pittard told him, "I know what you're going to say, and I'm tired of hearing of it, and this is what I'm going to do." COL (b)(6) recalled a conversation when he pointed out to MG Pittard that he needed to be very careful when conducting business with (b)(6) & (b)(7) because he could be considered a friend. MG Pittard needed to clean up any appearance that he acted inappropriately or that his actions were based on his personal relationship with (b)(6) & (b)(7). MG Pittard responded, "I got it (b)(6) & (b)(7) thanks."

[IO note: COL (b)(6) was not able to locate any of the written opinions he provided to MG Pittard.]

d. He believed (b)(6) & (b)(7) had access to MG Pittard beyond formal meetings. COL (b)(6) further believed there were a lot of conversations, and probably emails, between MG Pittard and (b)(6) & (b)(7). He suspected this because he heard conversations in meetings that made it apparent that additional dialogue outside of the meeting had occurred. He believed that TLJV received special treatment at Fort Bliss. He believed it was an unintended consequence of MG Pittard's interaction with contractors. MG Pittard tried to keep things on the right track with the right staff leaders managing the programs; however, the level of access that he granted people became too much for him to manage. Whether MG Pittard intended it or not, COL (b)(6) believed that TLJV had extraordinary access to MG Pittard, and people responded differently to TLJV contract matters.

22. MG Pittard testified:

a. He was the senior commander of Fort Bliss from July 2010 to May 2011. In May 2011 he became both the CG of 1<sup>st</sup> Armored Division and Fort Bliss. Fort Bliss was going through the largest growth of any Army installation since World War II. As the CG, he provided a strategic vision for moving the installation forward. He also provided the installation a sense of urgency. They had just stood up the Division and were getting ready to deploy to Afghanistan. He cared about results and moving the installation and the Division toward the vision.

b. (b)(6) & (b) was a classmate of his from West Point whom he first met in 1977. They knew each other, but were not friends. (b)(6) & (b) was also a classmate at West Point, although MG Pittard did not know him at West Point. The first time he met (b)(6) & (b) was at Fort Irwin, California, in 2008. He saw (b)(6) & (b) again at a redeployment ceremony at Fort Bliss sometime in the fall of 2010. (b)(6) & (b)(7)(C) was one of his calculus instructors at West Point. He did not have any special recollections regarding (b)(6) & (b)(

c. The renewable energy and Net Zero concept was new to the Army and was part of his vision for Fort Bliss. The idea was that an installation could be self-sufficient in energy, water, and waste. The installation staff learned it was a huge undertaking; they lacked the overall expertise to do everything that was necessary. As the CG, people called and asked for an office call to discuss their renewable energy programs. The SJA's guidance was that if you meet with one, you are going to meet with them all. He and his staff learned about some innovative ideas in the renewable energy industry during these presentations. The Chief of Staff, the SJA, (b)(6) & (b)(7)(C), (b)(6) & (C) and usually someone from the garrison commander's office generally attended these presentations. (b)(6) & (b) was one of the contractors who called the Fort Bliss DPW to set up a presentation. MG Pittard did not seek out (b)(6) & (b) to do work on Fort Bliss.

d. He recognized his staff did not have the ability to develop a renewable energy program. His staff told him it would take six months to a year to go through the contracting process for a renewable energy integrator. He wanted to get the program started sooner than that. He agreed with the staff recommendation to get an interim integrator, and continue to work towards contracting for a long-term integrator. It did not matter to him who received the contract; he just wanted to get things going. It was in the best interest of Fort Bliss and the Army.

e. (b)(6) & (b)(7)(C) mentioned that TLJV had a contract with USACE, and Fort Bliss could write a task order to modify the existing contract for the interim renewable energy integrator. MG Pittard viewed modifying the existing USACE contract as a gap measure because the MICC was going to contract out the long-term renewable energy integrator. He was sensitive to the fact that he knew someone associated with TLJV. He discussed it with his SJA, and followed his advice to the letter. He told (b)(6) & (b)(7)(C) and (b)(6) & (C) that he did not care who received the interim integrator contract.

f. He met (b)(6) & (b) at Damon's Steakhouse in the fall of 2010. He did not recall where he ran into (b)(6) & (b) but invited him to dinner since he had not seen him for a while. He talked to the SJA about the dinner, and the SJA thought it was okay because MG Pittard was going to dinner with someone he had known for 30 years. He was surprised when (b)(6) & (C) and (b)(6) & (b)(7)(C) showed up at dinner with (b)(6) & (b)

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He ate and paid for his own dinner. After the dinner, he told his SJA that there were additional people there, and they did not talk business. He did not go to dinner with other contractors seeking business with Fort Bliss.

g. At some point, (b)(6) & (b)(7)(C) told him USACE could not modify its contract, and the DPW was considering sole-sourcing the work to keep the project moving. MG Pittard got involved in the process when he received an email from (b)(6) & (b)(7)(C) following the USACE determination. (b)(6) & (b)(7)(C) wrote that TLJV was going to drop out of the project because of the USACE decision. MG Pittard met with the SJA, DPW, and (b)(6) & (b)(7)(C) for advice on responding to the email. MG Pittard responded to (b)(6) & (b)(7)(C) based on that advice. His response indicated that the installation was reviewing a sole-source option, and (b)(6) & (b)(7)(C) should allow time for the process to work. The sole-source contractor ended up being TLJV. He did not pressure the DPW to select TLJV. The TLJV did a good job as the interim integrator; it helped the installation figure out how to build a self-sustaining housing neighborhood. MG Pittard also noted that (b)(6) & (b)(7)(C) thought his company was going to receive the long-term integrator contract, and TLJV was upset when it did not win the contract.

{IO note: The USACE determined in May 2011 that they could not modify the existing contract. MG Pittard did not have a copy of the email he received from (b)(6) & (b)(7)(C)}

h. (b)(6) & (b)(7)(C) called MG Pittard on a Sunday after the MICC awarded TLJV the interim integrator contract. (b)(6) & (b)(7)(C) asked if he could stop by MG Pittard's house to drop off the agenda for a meeting the next day. MG Pittard said no, he could look at it the next day. (b)(6) & (b)(7)(C) said, "No, please, I'd like you to see it today." (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C) brought the agenda by his house. They wanted to brief him on the program, but it was not really a briefing. MG Pittard talked to (b)(6) & (b)(7)(C) about the meeting because he thought TLJV was trying to coach him for the next day. (b)(6) & (b)(7)(C) told him that TLJV wanted to make more of its contract, and expand what was in the contract. MG Pittard considered TLJV the interim renewable energy integrators, but believed TLJV wanted to turn that into a long-term program.

{IO note: The USACE solicited and awarded a long-term integrator contract for a Fort Bliss renewable energy integrator.}

i. He was irritated that (b)(6) & (b)(7)(C) called him several times for assistance when Fort Bliss did not pay TLJV for work it did. He asked (b)(6) & (b)(7)(C) not to contact him, and told him to "go whatever normal way you'd go on that one, but that's not something for me." At some point, MG Pittard asked his staff if Fort Bliss had a problem paying the government contractors. Apparently, there were problems. The MICC's higher headquarters conducted additional inquiries and improved the system.

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j. He did not ask for and never accepted any compensation as consideration of awarding TLJV a contract. He would have terminated discussion with (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C) if they made such an offer. His SJA advised him that any contract award had to be based on merit, and MG Pittard was very careful because he knew (b)(6) & (b)(7)(C). His primary motivation was to get the renewable energy program moving quickly.

**ANALYSIS / DISCUSSION:**

1. The preponderance of evidence indicates that MG Pittard improperly used his position during the award of a government contract. MG Pittard was too involved in the contract process for the renewable energy program at Fort Bliss. His involvement directly benefitted the contractor TLJV. MG Pittard's primary motivation appeared to be his desire to have the contract work performed as quickly as possible. There was no evidence that MG Pittard personally benefitted or gained from the contract award to TLJV. MG Pittard's direct and personal involvement in the contracting process and final award to TLJV created the appearance that he gave preferential treatment to TLJV based on a personal relationship he had with (b)(6) & (b)(7)(C) and to a lesser degree, (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C).

2. Eight of nine witnesses testified they were aware of a relationship between MG Pittard and either (b)(6) & (b)(7)(C) or (b)(6) & (b)(7)(C). Six of the eight believed MG Pittard's relationship with TLJV principals influenced the contract award. One of the remaining two felt that unequal access might have played a role in the contract award, while the remaining witness felt it created a perception of unfair treatment. Significantly, COL (b)(6) & (b)(7)(C), (b)(6) & (b)(7)(C), (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C) all testified that they would not have awarded TLJV the contract absent MG Pittard's involvement. COL (b)(6) & (b)(7)(C) emailed MG Pittard his concerns, as well as those of (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C).

3. The evidence indicates that COL (b)(6) advised MG Pittard not to meet directly with contractors. MG Pittard testified he was cautious in dealing with TLJV because of his relationship with (b)(6) & (b)(7)(C). The evidence indicates that MG Pittard met with (b)(6) & (b)(7)(C), (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C) in both an official capacity and socially, despite the advice of his SJA, and MG Pittard's own acknowledgment of the perception these meetings might create based on his relationship with (b)(6) & (b)(7)(C).

4. The evidence that MG Pittard improperly used his position to provide a benefit to a friend, or person whom he was affiliated within a nongovernmental capacity, as prohibited by 5 CFR 2635.702, was inconclusive. MG Pittard and (b)(6) & (b)(7)(C) were in different companies at West Point. MG Pittard described their relationship as friendly, but not friends. MG Pittard did not have a covered relationship with (b)(6) & (b)(7)(C), (b)(6) & (b)(7)(C) or (b)(6) & (b)(7)(C) as defined by 5 CFR 2635.502. The Department of Justice investigation limited the DAIG's ability to determine the extent of MG Pittard's

relationship with these individuals. The evidence indicates that several government employees heard discussions during meetings that led them to believe MG Pittard and TLJV employees had previously discussed issues related to the contract or the renewable energy program. These conversations gave the government employees the perception that MG Pittard and the TLJV employees were friends, and this relationship influenced MG Pittard's decisions.

5. The evidence indicates MG Pittard inherited the Net Zero program at Fort Bliss from his predecessor. MG Pittard continued the program and set an aggressive timeline for the program. Many contractors were interested in the program due to the money involved. MG Pittard testified that he did not care what company got the work; he was interested in a company that could do the job quickly. The evidence indicated that MG Pittard did not advocate for the contract award to TLJV. (b)(6) & (b)(7)(C) testified MG Pittard never directed him to award a contract to TLJV; however, there was pressure to get the project moving quickly. It is reasonable to conclude that Fort Bliss officials made the initial request to modify an existing USACE contract to hire TLJV in order to have a contract in place quickly to support MG Pittard's priority, and the Army's designation of Fort Bliss as a Net Zero pilot installation.

6. The evidence indicates that MG Pittard authorized the MICC to award an 8(a), sole source contract to TLJV. MG Pittard decided to award the contract despite concerns his staff had with the contract proposal, and their concerns with MG Pittard's interaction with TLJV leadership during the contract process. This led to the staff's perception that MG Pittard misused his position and provided preferential treatment to TLJV.

a. The evidence indicates (b)(6) & (b)(7) briefed MG Pittard on two alternatives after the USACE contract fell through: (1) Pursue a new contract with USACE that could take 90 days; or (2) Pursue a contract under the 8(a) program with TLJV that would take 30 days. The evidence indicates (b)(6) & (b)(7), (b)(6) & (b)(7), (b)(6) & (b)(7) and COL (b)(6) & (b)(7) recommended not pursuing the 8(a) option. COL (b)(6) & (b)(7) notified MG Pittard of these recommendations, and MG Pittard decided it was in the best interest of Fort Bliss to proceed with the award despite the concerns with the proposal. MG Pittard's decision to pursue the 8(a) option was consistent with his desire to move the project forward quickly. This decision gave Fort Bliss control of the process; MG Pittard could directly manage the DPW and MICC personnel, thereby keeping the process moving.

b. Several members of MG Pittard's staff were aware of MG Pittard's relationship with TLJV leadership. MG Pittard's personal involvement in the TLJV contract was not typical in the government contract process. Although MG Pittard did not violate the FAR, his interactions with TLJV leadership concerned his staff. For example, MG Pittard allowed (b)(6) & (b)(7), (b)(6) & (b)(7) and (b)(6) & (b)(7)(C) to stop by his home to provide a pre-brief prior to the contract kick-off meeting. The evidence did not clearly establish what occurred at this meeting; however, it was not a normal government pre-

contract meeting, and contributed to the appearance that MG Pittard gave TLJV preferential treatment. As another example, MG Pittard also became personally involved in a contractual pay issue that involved TLJV. The typical government response would have been to inform (b)(6) & (b)(7) to follow the procedures in his contract to resolve payment issues. MG Pittard's decision to query his staff about the pay issue again added to the appearance of preferential treatment.

**CONCLUSION:** The evidence indicates that MG Pittard improperly created a perception that he gave preferential treatment to a contractor during the award of a government contract. MG Pittard, as the Commanding General, also created the perception among Fort Bliss employees, and any reasonable person, that he unfairly influenced the contracting process to benefit TLJV. There was insufficient evidence to conclude that MG Pittard and (b)(6) & (b)(7) were friends or affiliates, as defined by regulations; however, there was an overwhelming belief amongst Fort Bliss personnel that MG Pittard and (b)(6) & (b)(7) were friends. While the preponderance of evidence did not establish that MG Pittard actually gave preferential treatment to TLJV, or received any personal benefit from TLJV, his interaction with TLJV officials, and his involvement in the contracting process created the appearance that he gave TLJV preferential treatment in violation of 5 CFR 2635.702.

**ALLEGATION #2:** The allegation that MG Pittard improperly disclosed non-public information was substantiated. MG Pittard forwarded an official email intended for the use of the FT Bliss leadership to a contractor.

**STANDARD:** Title 5 CFR, Section 2635.703, states that an employee shall not engage in a financial transaction using non-public information, nor allow the improper use of non-public information to further his own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. It further states, non-public information is information that the employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public.

**DOCUMENTS / TESTIMONY:**

1. The DoD Regulation 5500.07-R, Joint Ethics Regulation (JER), Section 1-218, defines non-public information as information generally not available to the public, obtained in the course of one's official DoD duties or position, which would normally not be releasable under the Freedom of Information Act. The term non-public information includes inside information, proprietary information, and source selection information.
2. Email, MG Pittard, 13 May 2011, Subject: Fw: Bliss – PPCV Info Paper, indicated MG Pittard forwarded an unclassified email from COL (b)(6) & (b)(7) marked For Official Use Only (FOUO), to (b)(6) & (b)(7)(C) and (b)(6) & (b)(7)(C) Attached to the email

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was an information paper from the Deputy Assistant Secretary of the Army (DASA), Installations, Housing, and Partnerships (IH&P), that provided Fort Bliss leadership a proposed strategy to shorten the timeline for exchanging land for housing Soldiers and their families. The information paper did not contain any classification marks. MG Pittard's wrote in his forwarding email, "(b)(6) & (b)(7)(C) Please do not share this. I would like to know what you think as soon as possible."

[IO note: (b)(6) & (b)(7)(C) is the email address for (b)(6) & (b)(7) and (b)(6) & (b)(7)(C) is the email address for (b)(6) & (b)(7) both of Luster National, INC.]

3. Information Paper, DASA IH&P, 12 May 2011, contained the following information:

a. Purpose: To provide Fort Bliss leadership information on a proposed strategy to shorten the timeline for exchanging land for housing Soldiers and their families.

b. Background: On 24 March 2011, the Army held an Industry Forum in El Paso, the showcased the potential sale of two parcels of land in return for the on post construction of Army Family housing. Over 200 prospective developers and investors attended. At the time, the contemplated Army strategy required developers to respond to the initial request for qualifications (RFQ) and a subsequent request for proposal (RFP). Following the forum, DASA IH&P decided to simplify the transactions and compress the transaction timelines.

c. Key Points: The Army would offer both parcels of land to the highest bidder in a one-step process. The USACE would conduct the sale.

d. The information paper listed pros and cons of the proposed strategy.

e. Recommendation: That the FT Bliss command concur with the one-step, cash sale transaction approach.

[IO note: The housing program at FT Bliss was part of the residential communities initiative (RCI). The RCI was an Army program to improve installation housing by partnering with private developers. The program used a two-step RFQ/RFP process because of the benefits it provided to both the government and the private partner.]

4. DAIG-IN Memorandum for Record, 23 September 2014, indicated that (b)(6) & (b)(7)(C) Program Manager, DASA, IH&P, reviewed the Information Paper prepared by (b)(6) & (b)(7)(C) IH&P, on 12 May 2011. (b)(6) & (b)(7)(C) indicated (b)(6) & (b)(7)(C) retired last year. (b)(6) & (b)(7)(C) commented on the information paper.

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a. The IH&P provided information to the garrison for their use. This included sharing the information with their private partners, if necessary. In this case, it would be reasonable to share the information with Balfour Beatty Communities (BBC), and the United States Army Corps of Engineers (USACE), as they were mentioned in the information paper. The IH&P often marked these documents as FOUO. The IH&P authors had an expectation that the garrison would not release this document to the public.

[IO note: The BBC was FT Bliss's private partner for the RCI program. The USACE was the Army's real estate agency for the RCI program.]

b. It was possible that someone wanting to do business with the government could profit from the information contained in the paper. In this case, a company that intended to purchase the property would have insight into the government's strategy.

5. MG Pittard testified he knew both (b)(6) & (b)(7) and (b)(6) & (b)(7). They were acquaintances, and West Point classmates. He was friendly towards them, but he did not consider them personal friends.

6. Email, (b)(6) & (b)(7)(C) 30 October 2014, subject: Questions as discussed, reflected that the IO emailed an attachment containing questions regarding this allegation to LTC (b)(6) & (b)(7) U.S. Army Trial Defense Service, to forward to MG Pittard.

[IO note: MG Pittard informed DAIG through his attorney that he preferred to respond to written questions rather than participate in a recall interview.]

7. Email, LTC (b)(6) 5 November 2014, subject: Questions as discussed, contained MG Pittard's written responses to 11 of 11 questions regarding this allegation. The written responses indicated:

a. The information paper noted that the Army was considering the option of a sale of two parcels of land at FT Bliss to housing developers. The highest bidder would receive the parcels and would construct on post housing for Army Families. This was a potential manner of gaining needed housing development in the shortest possible time and at lower cost than the competitive bidding process.

b. The Army had already presented this idea before to over 200 potential developers. MG Pittard forwarded the email to (b)(6) & (b) and (b)(6) & ( ) with the hope of receiving objective opinions on the subject. FT Bliss did not have a contract in place with (b)(6) & (b) or any of his companies when MG Pittard forwarded the email. He did not think (b)(6) & (b) or (b)(6) & ( ) had a financial interest in the outcome.

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c. He did not share this information paper with any other contractors. He stated that organizations such as the Corps of Engineers (COE) were also seeking opinions on this matter from outside the command.

[IO note: MG Pittard's response did not identify whom the COE sought opinions from. The COE was the Army's real estate agent in this matter, and had the authority to seek opinions from outside the command.]

d. Since neither the information paper nor the communiqué transmitting it to him contained any classification, or mention of it being sensitive information, he did not perceive it as either. Since the Army had already held an open forum on the subject, he considered the subject itself as public information, and felt he could seek opinions concerning it. He did not perceive he was prohibited from seeking opinions on the matters contained in the information paper.

e. He wrote "Please do not share this" on the email because he treated the communication as part of a pre-decisional process; i.e., one in which he could gather information. MG Pittard did not desire wider dissemination beyond his request for information. He did not want anyone to perceive that the Army had decided on a course of action, as none had been.

f. He did not consult with DASA IH&P, or anyone on his staff before he forwarded the email.

g. MG Pittard did not perceive he was sending the information paper to one of the prospective developers. He perceived he was sending the information paper to persons who did not have a business interest. He thought, therefore, that his sending the information paper would result in his receiving objective opinions on the subject. As he never used any advice on the subject from (b)(6) & (b)(7) or (b)(6) & (b)(7) and they never obtained a housing development contract, MG Pittard did not believe the U.S. Army benefitted or lost from his actions.

[IO Note: (b)(6) & (b)(7) and (b)(6) & (b)(7) provided two responses to MG Pittard after receiving the email. DAIG considered the possibility that MG Pittard might have received voluntary services when he accepted the responses from (b)(6) & (b)(7) and (b)(6) & (b)(7). DAIG did not pursue that allegation due to legal concerns with designating the responses a voluntary service vice a gratuitous service.]

#### ANALYSIS / DISCUSSION:

1. The email record and MG Pittard's testimony clearly established that MG Pittard forwarded an email marked as FOUO to (b)(6) & (b)(7) and (b)(6) & (b)(7). The email contained an attached information paper prepared by DASA IH&P, and concerned installation

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housing at FT Bliss. MG Pittard asked [REDACTED] and [REDACTED] for their opinions regarding the Army strategy contained in the information paper.

2. [REDACTED] verified that the DASA IH&P provided the information paper to the leadership of FT Bliss. The paper discussed a potential change in the Army strategy for land purchases at FT Bliss. The DASA IH&P was looking for a response from the FT Bliss leadership on their proposed strategy. The DASA IH&P did not intend for FT Bliss to release this information to the general public.

3. MG Pittard disclosed non-public information when he sent the information paper to [REDACTED] and [REDACTED] to get an their opinion. The DASA IH&P addressed the information paper to FT Bliss leadership; [REDACTED] and [REDACTED] were not part of the leadership of FT Bliss. They were acquaintances of MG Pittard. FT Bliss did not have a consulting contract in place with any of [REDACTED] companies when MG Pittard forwarded the email, and requested their opinion. Whether intended or not, MG Pittard's actions disclosed non-public information, and sought advice from a company seeking work at FT Bliss.

4. Even though Army officials had previously presented the land transfer concept to 200 potential developers, the information paper presented specific recommendations to the FT Bliss leadership. The DASA IH&P information paper indicated that DASA IH&P initially considered a two-step procurement strategy. They identified the simplified acquisition strategy after the meeting with the potential developers. The DASA IH&P information paper requested that FT Bliss support the new concept, which further indicated that the general public was not aware of the Army's consideration of the simplified strategy.

5. MG Pittard's assertion that organizations, such as the COE, sought opinions outside the organization does not mitigate MG Pittard's release of the information to individuals seeking to do business with the government. The COE was the Army agency responsible for real estate sales, and was authorized access to the government strategy contained in the DASA IH&P information paper; [REDACTED] and [REDACTED] were not. MG Pittard's releases of the information paper to one potential developer gave that developer an unfair advantage over other developers.

6. MG Pittard's message on the email, "Please do not share this" indicated that he was aware of the sensitivity of the information paper. He acknowledged the pre-decisional nature of the paper, and did not want a wide distribution of the paper. Despite this concern, MG Pittard chose to send the information paper to a contractor. MG Pittard's claim that he did not think [REDACTED] or [REDACTED] had a financial interest in the matter does not mitigate the release of the information. [REDACTED] and [REDACTED] had previously contracted with the government; MG Pittard should have known that they might do business with FT Bliss again. Whether or not they had a financial interest did

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not change the fact that MG Pittard disclosed non-public information when he forwarded the email.

**CONCLUSION:** The evidence indicated that MG Pittard improperly disclosed non-public information in violation of Title 5 CFR, Section 2635.703. The evidence established that MG Pittard forwarded an email, marked FOUO, to contractors (b)(6) & (b)(7) and (b)(6) & (b)(7). The email contained an information paper that contained government strategy prepared by DASA IH&P, and intended for the FT Bliss leadership, not the public. MG Pittard gained this information because of his Federal employment. His note, "Please do not share this" further indicated that he knew, or reasonably should have known, that the government's recommended strategy contained in the attachment, was not intended for the general public.

(b)(6) & (b)(7)(C)

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**RECOMMENDATIONS:**

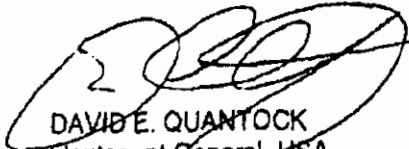
1. This report be approved and the case closed.
2. Refer this report to the Office of The Judge Advocate General.
3. Take no action on the Other Matter.

(b)(6) & (b)(7)(C)

Investigator

(b)(6) & (b)(7)(C)

Investigator



DAVID E. QUANTOCK  
Lieutenant General, USA  
The Inspector General

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LIST OF EXHIBITS

**EXHIBIT ITEM**

**A Authority/Complaint**

- A-1: Directive
- A-2: Complaint
- A-3: Legal Reviews

**B Standards**

- B-1: Title 5, CFR, Section 2635.702
- B-2: Title 5, CFR, Section 2635.502
- B-3: FAR, Section 3.101
- B-4: Title 5 CFR, Section 2635.703

**C Documents**

- C-1: DIG 11-60048, approved 30 January 2012
- C-2: The United States Military Academy, West Point, 1981 Howitzer Yearbook extract
- C-3: Email, CID, 30 April 2014, subject: RE: MG Pittard
- C-4: Army Energy Program website extract
- C-5: Department of Defense Live (DODLive on-line blog), 4 July 2010, Achieving Net Zero in Energy Efficiency
- C-6: Memorandum, Headquarters, Fort Bliss, 11 March 2011, subject: Self Nomination of Fort Bliss as the Army Integrated Net Zero Installation
- C-7: Department of Defense News Release, 20 April 2011, subject: Army Identifies Net Zero Pilot Installations
- C-8: Course of Action Briefing for Fort Bliss Renewable Energy Integrator Contractor
- C-9: Email, MG Dana Pittard, 6 August 2011, subject: Re: Luster Technical Eval, 3 Aug, v1.docx
- C-10: Email chain between [REDACTED] and COL [REDACTED] 4 April 2012, subject, Re: Meeting
- C-11: Memorandum for Record, 23 September 2014
- C-12: JER, Section 1-218
- C-13: Email chain between MG Pittard, [REDACTED] and [REDACTED] between 13 May 2011 and 15 May 2011, Subject: Bliss – PPCV Info Paper
- C-14: Background Information on RCI program and RFQ/RFP process

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**D Testimony Summary:**

- D-1: COL (b)(6) & (b)(7)(C)
- D-2: COL (b)(6) & (b)(7)(C)
- D-3: Mr. (b)(6) & (b)(7)(C)
- D-4: (b)(6) & (b)(7)(C)
- D-5: (b)(6) & (b)(7)(C)
- D-6: (b)(6) & (b)(7)(C)
- D-7: (b)(6) & (b)(7)(C)
- D-8: (b)(6) & (b)(7)(C)
- D-9: COL (b)(6) & (b)(7)(C)
- D-10: MG Pittard (subject)
- D-11: MG Pittard – response to written questions (including all DAIG questions)

**E Notifications**

- E-1: LTG James Terry
- E-2: General Lloyd Austin
- E-3: MG Dana Pittard (subject)

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**US ARMY INSPECTOR GENERAL AGENCY<sup>1</sup>  
REPORT OF INVESTIGATION (ROI)  
(Recruiting Assistance Programs)**

**INTRODUCTION:**

1. The Recruiting Assistance Program (RAP)<sup>2</sup> operated from December 2005 to February 2012. The intent of RAP was to use contracted personnel to assist recruiting efforts to increase the quantity and quality of accessions into the Army Components by prospecting for candidates and convincing potential Soldiers (PS) about the benefits of military service. There were three different versions:<sup>3</sup> National Guard (NG) RAP (GRAP), Army Reserve RAP (AR-RAP) and the Regular Army RAP (ARAP). The programs paid a contractor, Document and Packaging Inc. (DOCUPAK), for leads that resulted in a PS signing an enlistment contract and departing to basic training. DOCUPAK hired recruiting assistants (RAs) to identify and mentor/sponsor PSs through the enlistment process. DOCUPAK paid the RAs (as subcontractors) and then received reimbursement plus an administrative fee from the respective Army Component.<sup>4</sup>

2. Initial indications of problems with RAP appeared in 2007. That year, the U.S. Army Criminal Investigation Command (CID) began receiving RAP-related complaints of fraud from DOCUPAK. In a three year period (2007 to 2009), there were nine reported cases of fraud.<sup>5</sup> In 2010, the number of reported cases of fraud increased by 10. After the investigation of several Army National Guard (ARNG) and U.S. Army Reserve (USAR) Command (USARC) personnel, CID asked the United States Army Audit Agency (AAA) to audit GRAP and AR-RAP in February 2011.<sup>6</sup> A year later (2 February 2012), AAA informed the Secretary of the Army (SA) of systemic weaknesses and shortfalls with the program.

3. As a result of the AAA audit, the SA terminated the program on 9 February 2012. Additionally, he directed various Army staffs and agencies to initiate reviews, take corrective action and institute measures to prevent recurrence of systemic failures.<sup>7</sup> In July 2013, the outgoing Director of the Army Staff provided the SA a memorandum outlining the results. Subsequently, the SA directed additional reviews and investigations (25 September 2013) to determine ultimate responsibility and accountability for failures within the program. The SA tasked The Inspector General (TIG) as part of the comprehensive effort.

<sup>1</sup>The U.S. Army Inspector General Agency is commonly referred to as the Department of the Army Inspector General (DAIG).

<sup>2</sup>Throughout this report, RAP is used to refer to all of the RAP programs. Specific versions of RAP are referred to using their version name (GRAP, AR-RAP and ARAP).

<sup>3</sup>GRAP operated between December 2005 and February 2012. AR-RAP operated between June 2007 and February 2012 and ARAP operated between May 2008 and June 2009.

<sup>4</sup>The total payment to the RA was \$2K paid in two \$1K installments. \$1K was paid to each RA for each enlistee in two installments for Active Component and USAR (one upon signing a contract and one when the PS shipped to basic training). The ARNG also had a version for officers and total payments ranged from \$1K to \$7.5K (paid in two installments). ARAP did not include prior service enlisted accessions. AR-RAP and ARAP did not include officer accessions as part of the program.

<sup>5</sup>There were two cases in 2007, five cases in 2008 and two in 2009.

<sup>6</sup>The SA subsequently directed the AAA to conduct an audit of ARAP.

<sup>7</sup>Paragraph 5.c. below provides a more detailed discussion of what and who was directed in the SA's 9 February 2012 Memorandum. The document is in exhibit C-1.

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4. SA specified tasks to TIG were:

a. Provide guidance and oversight to the Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA (M&RA)); Army G-1 and Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASA (ALT)) for the conduct of their internal RAP reviews.<sup>8</sup>

b. Review ASA (M&RA) and ASA (ALT) RAP reports for completeness and take action with them to remedy report deficiencies.

c. Task Army activities and personnel as may be required to support Department of the Army Inspector General (DAIG) investigations into RAP-related programs.

The DAIG reviewed reports from ASA (ALT) and ASA (M&RA). The ASA (M&RA) did not identify any individuals who failed in the performance of their duties in support of RAP. However, it did provide position descriptions, background documents, and the names and dates of specific persons with recruiting and retention responsibilities. The ASA (ALT) reviewed the RAP-related contracting actions and reported failures in oversight within the National Guard Bureau (NGB). It also provided policy and other documents, names, dates and positions of specific individuals with oversight responsibilities for service contracting. Additionally, the SA tasked TIG to investigate potential senior official improprieties in the ASA (ALT), ASA (M&RA), and both Active and Reserve Components.<sup>9</sup>

5. On 8 February 2014, TIG more specifically directed DAIG to:

a. Investigate failures in oversight by senior officials assigned to the Army Staff and Secretariat, NGB and USARC with regard to their respective RAPs.

b. Determine whether any individual senior official of the Army, or any entity under the cognizance of the Army, is responsible for failures in oversight, in whole or in part.

6. The result of the actions directed in the preceding paragraphs is this Report of Investigation (ROI). The ROI is organized into five parts:

a. Part One discusses the background and environment in which RAP was developed and executed.

<sup>8</sup>Exhibit C-3 provides the details of the tasks to other agencies and organizations including ASA (M&RA), ASA (ALT); Assistant Secretary of the Army for Financial Management and Comptroller (ASA (FM&C)), TIG, AAA, Chief, National Guard Bureau (CNGB); Commander, CID; Chief, Legislative Liaison (CLL); Chief of Public Affairs (CPA); and the Director, Army Staff (DAS). ASA (M&RA), ASA (ALT), ASA (FM&C), AAA, and CID were required to refer any inappropriate, but noncriminal activity to the chain of command or DAIG for further consideration. No reports of inappropriate but non-criminal activity of senior officials were reported to DAIG.

<sup>9</sup>Review of the Regular Army senior officials responsible for ARAP was included as part of the ASA (M&RA) review. Included as part of the ASA (M&RA) were the Army G-1, United States Army Accessions Command (ACC), and United States Army Recruiting Command.

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b. Part Two discusses systemic issues discovered. The facts supporting the analysis of the issues are located in the five annexes (Exhibit F): Annex F-1, ASA (ALT); Annex F-2, ASA (M&RA); Annex F-3, NGB; Annex F-4, ARNG and Annex F-5, USAR.

c. Part Three identifies the responsible senior officials, provides analysis of the evidence (including any mitigating factors) and provides findings for each individual. The documents and testimony supporting the analysis and discussion are found in the five annexes in Exhibit F. Because the scope of this ROI is limited to senior officials<sup>10</sup> who may have been responsible for failures associated with RAP, any non-senior officials that DAIG determined may have failed in their responsibilities were referred to their parent organizations for action as they deem appropriate, consistent with the SA 25 September 2013 memorandum where he charged those organizations to determine the ultimate responsibility and accountability for the failures of RAP.

d. Part Four includes Other Matters DAIG discovered during the investigation.

e. Part Five provides recommendations as a result of the DAIG investigation.

7. Challenges: The collection of comprehensive documentation and testimony was problematic. GRAP began nine years ago. During this time, Army Accessions Command (ACC) was disestablished, ASA (M&RA) reorganized, and significant personnel turnover contributed to the challenges of collecting documentary evidence.<sup>11</sup> Although several thousand pages of documents were collected and reviewed, DAIG found that many records were no longer available and/or destroyed. As outlined in Army Regulation (AR) 25-400-2 (The Army Records Information Management System (ARIMS)), 2 October 2007, the required time to retain most relevant documents has passed. Finally, the passage of time has negatively impacted individual recollection of details of events. In the absence of documentary evidence, the investigators relied on corroborating witness and subject testimony throughout the investigation.

<sup>10</sup>Senior officials are defined as general officers (including Regular Army, ARNG, USAR, and retired general officers), promotable colonels, and Senior Executive Service civilians. For the purposes of this report, we included the Principal Assistants Responsible for Contracting as senior officials due to their essential and influential role in the review and approval of the GRAP contracts.

<sup>11</sup>The initial contract for GRAP was a task order against an existing marketing contract executed in September 2005. The execution of the program began in December 2005.

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**PART ONE - BACKGROUND:**

The Army was engaged in two major contingency operations, a major disaster relief operation, and relied heavily on both the ARNG and the USAR to provide Soldiers to support combat and disaster relief operations. Enlistments and end strengths were in decline. The rapidly expanding U.S. economy, coupled with the growing demand for employees in the civilian sector, created additional difficulties in the recruiting of personnel into the Army. This created a need for a more comprehensive campaign to attract potential Soldiers. The program, now known as RAP, depended upon a significant increase in contracting capabilities to function as envisioned and designed.

1. Recruiting environment: Each Army Component<sup>12</sup> was required to add Soldiers to maintain directed end strength to support simultaneous operational efforts. From 2004 to 2006, Army Components struggled to meet the increased end strength requirements and recruiting/accession missions.<sup>13</sup> Table 1 provides the accessions by year and component as well as the end strength goals by year and by component with red indicating the years the missions were not met. One can see why there was an emphasis to increase accessions during the time of RAP's introduction and execution (2004-2006). All Components were concerned about the Army's collective ability to meet mission, which resulted in the proposal of numerous initiatives to increase their numbers.<sup>14</sup> The SA initiated monthly Recruiting, Retention and Strength (RR&S) briefings<sup>15</sup> to address these challenges.

2. Contracting environment: Consistent with increased support requirements to fight in two contingencies, Army contracting requirements grew as well. However, contracting capabilities had been reduced, in both capacity and experience, as a result of force reductions and realignments in previous years. In addition, the Army contracting system was adapting from a procurement-based system to a services-based system, much like most of the Services during that period.<sup>16</sup> Between 1995 and 2006, the Army Materiel Command experienced a manning reduction of 53 percent while actions and contract funding increased by more than 350 percent. To meet the increasing demand, the Army began to warrant (certify) contracting officers (KOs) earlier in their career, reducing KO experience levels and knowledge and exacerbating an already complex contracting environment at the time of RAP's inception. A surge in contingency

<sup>12</sup>The Army Components are the Regular Army, USAR, and the ARNG.

<sup>13</sup>The table provides historical Army end strength and recruiting performance data for context. Red represents mission areas where the mission was not achieved. The table was provided by the Army G-1, DAPE-MPA.

<sup>14</sup>In January 2006, Congress passed the National Defense Authorization Act (NDAA), which authorized appropriations for Fiscal Year (FY) 2006 military activities of the Department of Defense (DoD). The NDAA included authorization for a Referral Bonus Program (RBP) to assist Army recruiting efforts. While similar to the RAPs, RBP was a separate and distinct program.

<sup>15</sup>This briefing was also referred to as the Executive Office of the Headquarters briefing.

<sup>16</sup>Procurement contracting dealt with purchasing new major end items and supplies and equipment—usually having applications unique to the DoD (tanks, fighter planes, etc). Services contracting dealt with requirements to obtain specialized and general labor often readily available in civilian society. Procurement contracts had defined reviews, milestones and decision points that had to be approved prior to moving forward with a program. The increased focus and scope on service contracting was a relatively new effort and did not have the same established levels of review and rigor.

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contracting operations overseas and shortages of qualified, experienced KOs contributed to poor contract management and service contract oversight.

Component	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Active Duty Authorized End Strength	482,400	502,400	512,400	512,400	525,400	532,400	562,400	569,400	562,000	552,100
Active Duty Actual End Strength	499,543			522,017	543,645	553,044	566,045			
Army National Guard of the United States Authorized End Strength	350,000	350,000	350,000	350,000	351,300	352,600	358,200	358,200	358,200	358,200
Army National Guard of the United States Actual End Strength				352,707	360,351	358,391	362,015	361,561		
Army Reserve Authorized End Strength	205,000	205,000	205,000	205,000	205,000	205,000	205,000	205,000	205,000	205,000
Army Reserve Actual End Strength	204,131					205,297	205,281			

Historical	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13
Mission	77,000	80,000	80,000	80,000	80,000	65,000	74,500	64,000	58,000	69,000
Achievement	77,587	73,373	80,635	80,407	80,517	70,045	74,577	64,019	60,489	69,154
Achievement % of Mission	100.8%		100.8%	100.5%	100.6%	107.8%	100.1%	100.0%	104.3%	100.2%

Historical	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13
Mission	21,200	22,175	25,500	26,500	26,500	22,500	17,800	19,320	16,000	20,130
Achievement	21,292	19,400	25,378	27,004	26,945	23,684	17,041	19,996	15,729	15,568
Achievement % of Mission	100.4%			101.9%	101.7%	105.3%	100.2%	103.5%		

Historical	FY04	FY05	FY06	FY07	FY08	FY09	FY10*	FY11*	FY12	FY13
Mission	56,002	63,002	70,000	65,115	60,600	52,698	57,000	50,000	43,000	45,400
Achievement	49,210	50,219	69,042	62,914	62,397	52,747	54,201	47,206	43,297	44,734
Achievement % of Mission					103.0%	100.1%			100.7%	

Table 1: Army End Strength and Recruiting Missions

3. Origin of GRAP and subsequent adoption of RAP in the Regular Army and USAR:

a. To help address the personnel shortfalls, the ARNG<sup>17</sup> established GRAP by leveraging an existing marketing contract in order to generate leads for potential accessions in late Fiscal Year (FY) 2005/early FY 2006. The GRAP provided referral payments of up to \$2K per PS to DOCUPAK, and they in turn paid the RAs, who were hired as sub-contractors. DOCUPAK qualified RAs by requiring them to take an online course consisting of a briefing, a short set of questions and an agreement on the conditions of employment. The program used "peer-to-peer" recruiting techniques and was expected to increase the Army's recruiting footprint.<sup>18</sup> Following the introduction to the recruiter, the program required RAs to sponsor, coach, and mentor the PSs

<sup>17</sup>The ARNG did not have its own contracting capability; the NGB Operational Contracting Division wrote and executed ARNG contracts.

<sup>18</sup>The intent was for "influencers" to identify people who were qualified to join the Army and encourage them to join; a friends recruiting friends idea that would reduce the amount of time a recruiter spent identifying PSs (prospecting) and increase the number of PSs (productivity) each recruiter was contracting.

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throughout the enlistment and initial training process.<sup>19</sup> Once initial mentorship was completed, RAs referred PSs to a military recruiter to complete the enlistment process. The program was first contracted as a "lead generation" program, but eventually became known as GRAP.<sup>20</sup>

b. In 2006, the ARNG attributed the recruitment of 24 percent (16,258 Soldiers) of the total number of Soldiers accessed to GRAP.<sup>21</sup> The ARNG touted the success of the program to the USAR and the Regular Army, both of which adopted the program in 2007 and 2008, respectively. From late 2005 to early 2012, the ARNG attributed the enlistment of 149,418 recruits to the program, with an approximate cost of \$402.5M. From mid-2007 to early 2012, the USARC attributed 12,815 recruits to their program, with an approximate cost of \$44.1M. From mid-2008 to mid-2009 the Regular Army attributed 2,801 recruits to their program, with an approximate cost of \$7.9M. The Regular Army's program was terminated in 2009 due to a shortage of funds and the belief that the program did not generate enough recruits to justify the allocation of resources to continue the program.<sup>22</sup> AR-RAP and GRAP continued until February 2012. The figure on page 7 illustrates the duration and some key milestones associated with RAP.

4. Initial indications of problems:

a. In 2007, DOCUPAK contacted CID concerning potential fraud with GRAP and AR-RAP. CID initiated nine fraud investigations from 2007 through 2009. In 2010, allegations of potential fraud increased considerably, with the initiation of 10 new cases. In February 2011, after investigating several cases involving ARNG, CID requested that the AAA conduct a fraud risk assessment of both GRAP and AR-RAP. As a result of the AAA audit, CID formed a RAP Task Force (TF) consisting of 60 agents from across all Army Components who began a review of approximately 105,000 individuals who received money from RAP. CID has cleared more than 81,000 individuals, with more than 22,000 others pending a preliminary investigation. CID anticipates completion of preliminary investigations sometime in the fall of 2016.

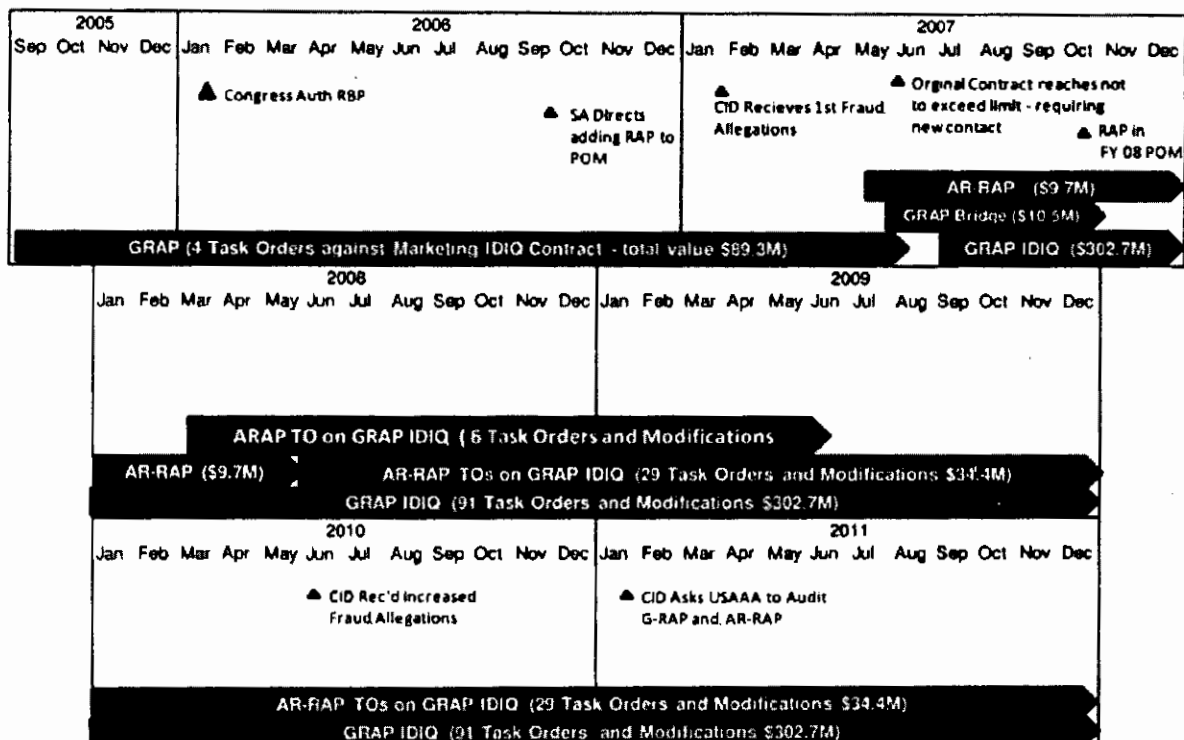
<sup>19</sup>RAs introduced PSs to the recruiter, mentored them through the enlistment process and helped prepare them for basic training. Additionally, the RA answered PS questions about military service.

<sup>20</sup>The GRAP Task Order was modified to change the name from lead generation to GRAP. Testimony indicates that the name was changed due to GRAP's sponsorship component (the RA had other tasks to complete after introducing the PS to a recruiting and retention non-commissioned officer) and to avoid the appearance of providing a bounty for a referral/lead. Section 514 of Title 10 United States Code states, (a) No bounty may be paid to induce any person to enlist in an armed force. A clothing allowance or enlistment bonus authorized by law is not a bounty for the purposes of this subsection. (b) No person liable for active duty in an armed force under this subtitle may furnish a substitute for that active duty. No person may be enlisted or appointed in an armed force as a substitute for another person.

<sup>21</sup>These numbers were based on the number of Soldiers referred by RAs who signed a contract. ARNG did not have specific metrics to measure the reasons a Soldier joined the ARNG, so we were unable to determine if the Soldier truly joined because of an RA's action or if the PS was going to join anyway to take advantage of other programs or for other reasons and decided to use RAP to help out a friend or acquaintance who already indicated an intention to join.

<sup>22</sup>E-mail, Headquarters, United States Army Recruiting Command, then Major General Bostick, 6 March 2009, subject: A-RAP Funding.

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\* The original marketing indefinite delivery indefinite quantity (IDIQ) contract would reach its not to exceed limit before the GRAP base contract was completed; to continue work NOR did a bridge contract (valued at \$10.5M)

■ GRAP      ■ ARAP      ■ AR-RAP

Triangles represent selected events      Task Order and Modification dollar figures are derived from the contracts and may not represent actual expenditures.

Figure 1 – RAP timeline<sup>23</sup>

b. The AAA conducted four RAP-related audits between June 2012 and August 2013.<sup>24</sup> Of the four audits, one looked at both the ARNG and USAR programs and another audited the Active Component (or Regular Army). One was conducted on the Congressionally-mandated Referral Bonus Program (RBP)<sup>25</sup> and the other on GRAP contracting. These reports concluded that controls for the programs were not operating effectively and that recruiting personnel were able to circumvent them. These conditions occurred primarily because:

<sup>23</sup>This figure is for illustrative purposes only; end dates are approximate. GRAP and AR-RAP were terminated in February 2012. The dollar values were derived from the contracts, task orders and modifications for GRAP, AR-RAP and ARAP.

<sup>24</sup>Dates listed are when the reports were completed. The audit of GRAP and AR-RAP was completed on 4 June 2012; the audit of ARAP was completed on 3 October 2012; the audit of RBP was completed on 28 March 2013 and the audit of GRAP contracts was completed on 1 August 2013. See exhibits C-6 through 8 and C-89.

<sup>25</sup>The 2006 NDAA allowed the Department of the Army (DA) to establish bonuses for recruit referrals. The Army and Army Reserve established the RBP. The National Guard established the "Every Soldier a Recruiter" program. These two programs sought to increase recruitment by leveraging Soldiers, DA Civilians and military retirees to identify potential recruits. Both programs (after NDAA 2007) paid sponsors two \$1K installments for nominating a potential recruit. The RAPs were not authorized in any NDAA.

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(1) Internal controls were not in place or operating as intended; some recruiters stole identities<sup>26</sup> to circumvent controls and/or colluded with RAs to bypass controls.

(2) Contracts were written incorrectly or lacked effective oversight. The contracts assigned responsibility for implementing and monitoring controls to the contractor. Responsibility for internal controls is an inherently governmental function. In addition, contracting officer's representative (COR) oversight was insufficient. As a result, the Army lacked knowledge and assurance that RA payments for enlistments were legitimate.<sup>27</sup>

Each of the four reports provided recommended corrective actions to prevent recurrence of the issues identified (discussed in each of the applicable annexes of this report).

5. Response to AAA Audit:

On 2 February 2012, the SA terminated AR-RAP and GRAP programs following the briefing of results found by the AAA Audit.<sup>28</sup> As previously outlined, the audit identified a significant amount of potential fraud. Based on this information, the SA removed RAP from budgetary programming and directed the Army Secretariat, staff agencies and Components to take action. Their actions are summarized below:<sup>29</sup>

a. From March to September 2012, the Assistant Secretary of the Army, Financial Management and Comptroller (ASA (FM&C)) conducted a preliminary investigation into RAP to determine if there was a violation of the Anti-Deficiency Act (ADA). The preliminary report identified 61 potential violations with respect to amount, time or purpose. The formal report was in staffing at the time of this ROI. The final report will identify actions required to correct the violations and to ensure similar violations do not occur in the future. Because the ASA (FM&C) report will identify responsible individuals for each violation, ADA violations will not be addressed in this report. Although there were no preliminary indications of senior official violations at the time of this ROI, DAIG stands ready to investigate further should any senior officials be identified.

b. ASA (ALT) conducted Procurement Management Reviews (PMRs) of the RAPs,<sup>30</sup> from April to July 2012. The PMR assessed the contract solicitation, evaluation and award process and examined the RAP contract administration and execution. The PMR concluded that there were systemic weaknesses with internal

<sup>26</sup>Others are people who were eligible to become RAs.

<sup>27</sup>The AAA audits did not find any evidence of paying for PSs who did not exist.

<sup>28</sup>Preliminary findings of the audit reported in the memorandum, AAA, SAAG-ZBZ, 4 June 2012, subject: Audit of Recruiting Assistance Programs – Reserve Components (Project Number A-2011-ZBT-0403.00), Report: A-2012-0115-IEF

<sup>29</sup>For a complete list of tasks see Exhibit C-1 Memorandum, SA, 9 February 2012, subject: Review, Investigation and Corrective Action – Active Army and Army Reserve Component Recruiting Assistance Programs.

<sup>30</sup>See exhibit C-25.

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and external oversight for all contracting offices responsible for RAP administration. Additionally, the NGB organizational structure was not conducive to proper oversight or appropriate management controls.

(1) Key findings with respect to AR-RAP<sup>31</sup> and ARAP:

(a) ARAP<sup>32</sup> and AR-RAP<sup>33</sup> contained many of the same fundamental flaws as the GRAP base contract (outlined below) on which they were modeled.<sup>34</sup>

(b) There was an excessive focus on accessions without comprehensive contract oversight.

(c) Sufficient oversight of contractor performance in accordance with the Federal Acquisition Regulation 46.4 and 42.1502, and memorandum, ASA (ALT), 25 October 2005, subject: Contract Surveillance for Service Contracts was not conducted by the Mission Installation Contracting Command (MICC)<sup>35</sup> contracting offices.

(2) Key findings with respect to GRAP:

(a) Failure by NGB to follow statutory, regulatory and/or policy requirements.

(b) Failure to ensure that management controls were in place at any level.

(c) Competitive award procedures were not followed.

(d) Oversight of contractor performance was not conducted.

<sup>31</sup>The USAR did not have its own contracting activity and was supported by the Regular Army contracting activities. The ARAP was contracted by the Fort Knox, KY, contracting office. The AR-RAP was contracted by the Fort Dix, NJ, contracting office (later transferred to the Fort Bragg, NC, contracting office).

<sup>32</sup>The first ARAP task order was placed against the NGB GRAP contract on 20 March 2008 and was contracted by the Fort Knox contracting office and was modified five times before it was terminated in June 2009. The total value of the task order did not reach the threshold requiring Principal Assistant Responsible for Contracting (PARC) review (greater than or equal to \$10M).

<sup>33</sup>The first AR-RAP contract was contracted by the Fort Dix Contracting office and was modified four times; this contract did not reach the threshold requiring PARC review. Subsequently, in May 2008, the Fort Dix contracting office began placing task orders against the GRAP contract to support AR-RAP (the Fort Bragg contracting office performed the close out actions for AR-RAP). There were a total of five task orders and twenty-four modifications against the GRAP contract for AR-RAP. None of the task orders or modifications reached the threshold requiring PARC review.

<sup>34</sup>The AAA report did not provide a reason that the Mission Installation Contracting Command adopted the fundamental flaws of the GRAP base contract. The report did specify that there were attempts with the AR-RAP task orders to correct some of the flaws (minimal legal reviews and inherently governmental function determinations, documented negotiations and no surveillance or performance reports). Testimony indicated speed (getting a new contract in place would have taken additional time) and consistency across the components were the primary reasons for adopting the GRAP contract.

<sup>35</sup>The MICC was established in 2008. Prior to the establishment of the MICC, installation contracting directorates of contracting and regional contracting centers were under the supervision of the Army Contracting Agency (ACA). The MICC is used here since it is currently the responsible command. The ACA was disestablished with the establishment of the ACC; the MICC is a subordinate command of the ACC. The PARC for the ACA was a Senior Executive Service member and the PARC for the MICC was a brigadier general.

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(e) Organizational structure of contracting was not conducive to proper oversight and appropriate management controls.

(f) Failure to oversee contractor performance by the ARNG Army Strength Maintenance Division (ASM) and the NGB Operational Contracting Division (NGB-AQ). These divisions were focused on the number of accessions generated by the contractors versus comprehensive contract compliance and oversight.

e. ASA (M&RA) actions:

(1) The ASA (M&RA) reviewed and assessed RAP recruiting and retention incentives for return on investment, effectiveness and vulnerability for abuse and provided a report on its findings. ASA (M&RA) identified ongoing improvements in information technology systems that would allow better oversight of incentives. ASA (M&RA) recommended establishing routine governance meetings at the SA-level and below and requiring annual reviews of new recruiting incentive programs. These reviews would be completed during the requirements phase of the Program Objective Memorandum (POM) process.<sup>36</sup> Recommendations were also made for the ARNG to establish a recruiting standards directorate (RSD).<sup>37</sup>

(2) Each component conducted AR 15-6 investigations assessing the administration of the RAP programs and low fraud-risk RAs.<sup>38</sup> The ASA (M&RA) conducted a review of the investigations and found there was an inability of supervisors/leaders to monitor the behavior of RAs,<sup>39</sup> a lack of adequate oversight and direction for RAP, a lack of training for leaders and recruiters and no periodic reviews of the program. The results of their reviews were provided to the SA. Nine additional Soldiers were referred to CID for investigation.

(3) The ASA (M&RA) identified four lessons learned:

(a) The need for one Headquarters, Department of the Army (HQDA) entity to oversee recruiting and retention.

(b) A requirement for new initiatives to have an approved business case analysis and to have fully tested and developed oversight structures prior to implementation.

<sup>36</sup>ASA (M&RA) and Army G-1 have a change to the regulation in staffing to outline the governance structure and adds review requirements. They also attempted to do this with a directive type memorandum that was returned without action by the Office of the SA. ASA (M&RA) has implemented a requirement to provide a analysis of return on investment for all programs during the annual review.

<sup>37</sup>As of the date of this report, ARNG had not established an RSD but has identified an officer to lead the effort.

<sup>38</sup>The SA's 9 February 2012 memorandum at exhibit C-1 tasked the Components to conduct AR 15-6 investigations into the list of low risk RAs as identified by AAA and tasked ASA (M&RA) to review the resulting AR 15-6 investigations.

<sup>39</sup>It is not clear how the military supervisors of traditional Guardsmen and Army Reservists could have supervised and/or monitored the behavior of an assigned Soldier when the Soldier was working in a civilian status for a non-military entity.

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(c) A requirement for annual reviews and reports on each program, to include program return on investment.

(d) A requirement for significant involvement of leaders and supervisors prior to and during the execution of a program.

(4) Panels for Documentation of Contractors (PDC) were conducted to determine whether or not the RAP contracts constituted an inherently governmental function.<sup>40</sup> The certification that a contract does not contain inherently governmental functions had been a requirement since 2008; therefore, the certification was only required for RAP contract actions since 2008. The PDCs reviewed RAP contracts and determined that the contracts contained requirements that were closely associated with inherently governmental functions and may have been at risk to become inherently governmental in execution. The PDC recommended their preliminary findings be integrated with the fact finding efforts of CID, AAA and ASA (ALT) prior to making a final determination. The PDC also recommended that the Army's in-sourcing policy be revised.<sup>41</sup>

(5) An additional review identified 155 individuals who received payments for the same referral in both the RAP and RBP. At the time of this report, the Defense Finance and Accounting Service (DFAS) determined that the duplicate payments could be recovered once DFAS Military Pay certifies the debt. ASA (M&RA) is clarifying and initiating the recoupment process.

Part One - Summary. Congress authorized the Army to rapidly expand the force and subsequently increase recruiting efforts in support of operational requirements. As service contracts, GRAP, and later ARAP and AR-RAP, were options designed to meet this requirement. These programs required additional contracting capabilities and expertise.

1. The contracting community was not prepared for the rapid expansion of requirements and the shift in contracting focus from procurement to services contracts, lacking adequate numbers and experience of contracting personnel. The programs became susceptible to fraud. Following the results of investigations by CID and an AAA audit, the SA became aware of issues of fraud with the program and directed its termination in all Components. Additional reviews and audits the SA directed identified numerous weaknesses, shortfalls and violations.

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<sup>40</sup>The Deputy Assistant Secretary of the Army (Force Management, Manpower and Resources) reported the results of the AR-RAP and ARAP PDC on 16 May 2012 and of the GRAP PDC on 13 July 2012 to the ASA (M&RA).

<sup>41</sup>In-sourcing is defined as the use of government personnel to perform functions that contractors have performed on behalf of federal agency. The policy was under revision at the time of this report.

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2. Oversight efforts related to the programs were proved to be insufficient.

**PART TWO - SYSTEMIC ISSUES:**<sup>42</sup>

Evidence reflected that the planning and implementation of RAP was impacted by several failures and factors across multiple Army organizations.

During the course of the investigation, we identified several systemic issues that negatively impacted RAP. These issues are present from the inception of the program through implementation, execution, maintenance and termination. The five systemic issues identified were: lack of policies, procedures and guidance for recruiting initiatives; excessive focus on RAP accessions; poor contracting; insufficient contracting and oversight personnel; and lack of risk management.

**1. Lack of Policy, Procedures and Guidance for Recruiting Initiatives:**<sup>43</sup>

a. Inception: There were no written policies or procedures governing the initiation or approval of new recruiting initiatives at the Army Secretariat/Army Staff levels. During the initial phases, GRAP was informally briefed to the Acting ASA (M&RA),<sup>44</sup> and presented to the SA<sup>45</sup> without undergoing a thorough review and analysis by the appropriate Staff elements. We found no evidence of staff rigor and analysis supporting a decision to adopt the RAP initiative. Testimony indicated that after the ARNG briefed the Acting ASA (M&RA), GRAP was presented to and approved by the SA.

b. Execution: Program progress was monitored through the monthly RR&S briefing on recruiting metrics, progress, outcomes, issues and waivers. However, there was no written guidance governing the content, conduct or notes/documentation of the RR&S meetings. The DAIG found no formal approval process to document and approve new recruiting initiatives. As a result, there was no documentary evidence that GRAP was formally staffed and approved within the Army Secretariat.<sup>46</sup> The RR&S forum was designed to conduct strategic reviews of existing programs (to include recruiting) and achieve Secretariat-level approvals for new initiatives. As a part of the process for approval of a new initiative, detailed staffing should have been conducted to address potential pitfalls and risk mitigation activities. Evidence indicates that this did not happen. RAP was briefed and approved, and the program moved forward.

<sup>42</sup>The summarized testimony and key documents supporting the analysis and related conclusions are found in the annexes in Exhibit F.

<sup>43</sup>Policy outlines, at a high level, the general goals and acceptable procedures used to achieve the goals. Procedures outline a certain way or order of doing something. Guidance and leader engagement refer to how leaders (for the purpose of this investigation, senior officials) advise and engage subordinates and superiors alike in reaching goals or mission accomplishment within the governing standards.

<sup>44</sup> The SA had broad statutory authorities that would allow him to approve or disapprove NGB or ARNG recruiting programs (distinct from a State recruiting program). It was not clear if the ASA (M&RA) was briefed before or after the SA.

<sup>45</sup>The SA who approved GRAP was the Honorable Francis J. Harvey.

<sup>46</sup>Documentary evidence shows the Army G-1 reviewed and approved AR-RAP and the ASA (M&RA) reviewed and approved ARAP.

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c. The ARNG, USARC and United States Army Recruiting Command (USAREC) (the primary office of responsibility for ARAP) failed to establish adequate policy and procedures to effectively manage RAP during implementation.<sup>47</sup> Although Components published operations orders and used other means to disseminate some policy and guidance, each failed to develop specific policies and procedures dedicated to management, reporting and program assessment. This would have likely helped to ensure that each Component's RAP was an effective recruiting tool, and that government resources were appropriately conserved. Evidence reflected that senior Army leadership<sup>48</sup> did not receive requisite data from those executing the program in order to properly assess the RAPs and to ensure that oversight was adequate.<sup>49</sup>

The absence of guidance, policies and procedures created an environment for potential inefficiencies and fraud. Metrics and safeguards were not in place to make supervisors aware of any issues with the program and thereby to enable them to implement preventive measures.

**2. Excessive Focus on RAP Accessions:**

a. RAP accessions dominated senior official focus. Evidence indicated that during the initiation phase, ARNG leaders frequently interacted with the States to increase awareness of GRAP among ARNG personnel. Senior ARNG leadership was significantly engaged and expended a great deal of energy and focus on program participation and achieving end strength goals. There was a failure to place appropriate emphasis on the establishment of adequate risk management/fraud prevention policies and procedures.

b. Subordinates consistently provided updates on RAP RA participation and accessions to Army Senior Leaders with little to no focus on other metrics, controls or program safeguards. Major General (MG) (Retired) Sean Byrne (Director of Military Personnel Management (DMPM), Army G-1, October 2003 to October 2006) testified that senior leaders "were happy as long as the numbers were good." In nearly all cases, the focus was on the end result and failed to review processes and procedures to address potential problems and prevent fraud.

c. Similarly, USARC leaders relied on the same metrics as described above. Much of the senior leader engagement was focused on increasing awareness and participation in AR-RAP to increase accessions. Although senior USARC leaders

<sup>47</sup>These failures are discussed in the annexes of this report and in the subject analysis below.

<sup>48</sup>The SA, Chief of Staff, Army, Vice Chief of Staff, Army and ASA (M&RA).

<sup>49</sup>Oversight is a general term that can be broadly defined as monitoring to prevent systemic weaknesses and organizational failure as opposed to staff supervision which entailed reviewing and rationalizing programs proposed by all Components for legal sufficiency to ensure they do not conflict with other Army and DoD policies; and with the execution and daily management of programs, which is a command responsibility.

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routinely received updates on AR-RAP participation, PS nominations and accessions, they were not receiving any information on indicators of fraud identification, nor did they ask for it. This was in part due to their knowledge and understanding of the mission of USAREC RSD pertaining to monitoring and investigating recruiter behavior.

d. USAREC leaders treated ARAP like any other recruiting program and did not appear to place any additional emphasis on this program over others. USAREC, like the ARNG and USARC, placed little to no RAP specific emphasis on fraud prevention policies and procedures. However, there was a belief that the existing recruiting ethics policies and training combined with the USAREC RSD were sufficient.<sup>50</sup>

**3. Poor Contracting.**

a. The Deputy Assistant Secretary of the Army for procurement (DASA (P)) PMR determined that RAP contracting actions were not fully developed when submitted to the KO for action. These actions were forwarded with short lead times and lacked well-defined performance criteria, reporting requirements and assessment metrics. In many cases, this resulted in poorly written contracts, insufficient reviews, abbreviated solicitation timelines and ultimately the failure of the government to obtain the best value for a service.

b. Evidence reflected that there was a lack of adequate performance metrics: RAP contracts focused on the number of RAs and accessions, but did not include specific methods to assess program effectiveness and to identify and prevent fraud. These factors limited the ability of leaders to determine the efficiency and effectiveness of the process or to accurately assess the impact of RAP in comparison to other recruiting programs. Additionally, GRAP contracts failed to include Quality Assurance Surveillance Plans (QASPs).<sup>51</sup> AR-RAP and ARAP did use QASPs; however, they did not provide specific actions required to conduct contract surveillance. No RAP contracts identified reporting requirements for potential fraud.

c. Service contract oversight requires technical expertise to determine whether the contract has been fulfilled. It often takes time to properly oversee a contract and

<sup>50</sup>The evidence indicated that RAP was credited for all increases in accessions. In many cases throughout the period, RAP was touted as the sole program that achieved accession requirements. Several other concurrent factors and initiatives may have contributed to the increase in recruits. This included RBP, advertising campaigns, enlistment bonuses, the Army College Fund and Loan Repayment Program and others. The use of the single metric of accessions did not accurately provide proof of program health or success over the long term. Closer examination of recruiting statistics indicate that, as a result of too much emphasis on the program, more credit may have been attributed to RAP, which, in turn hindered a more objective assessment of program success.

<sup>51</sup>A QASP is the key Government-developed surveillance process document that is applied to Performance-Based Service Contracting (PBSC). A QASP is used to manage contractor performance assessment by ensuring that systematic quality assurance methods are used to validate that the contractor's quality control efforts are timely, effective, and are delivering the results specified in the contract or task order. The QASP directly corresponds to the performance objectives and standards (i.e., quality, quantity, timeliness) specified in the Performance Work Statement (PWS) and details how, when and by whom the Government will survey, observe, test, sample, evaluate and document contractor performance results to determine whether the contractor has met the required standards for each objective in the PWS.

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evaluate the service provided. In every Component, COR duties were treated as an additional duty that an officer or non-commissioned officer (NCO) had to perform. Additionally, these jobs were routinely assigned to a more junior individual. The ASM CORs were typically NCOs who were assigned COR duties for approximately five different contracts, none of which had their own dedicated COR. Given the importance, visibility and value of GRAP, a more experienced individual, dedicated specifically to GRAP could have provided more input during contract development and executed more effective management of RAP contracts. The lack of a dedicated COR also negatively impacted the USARC. USAREC failed to nominate a COR and the KO then failed to appoint a COR for ARAP; however, USARC did have a person managing the program.<sup>52</sup>

d. The lack of an integrated documentation and oversight mechanism for contracting created problems for all RAP programs. There were no standard formats, documents were often ad hoc and separate forms/memoranda were not automatically included with the contract file. Although review requirements were outlined in the Army Federal Acquisition Regulation Supplement (AFARS), RAP KOs generally appeared to execute contracts without the reviews, as long as the contract was within their warrant.

**4. Insufficient contracting and oversight personnel:**

a. The DoD acquisition workforce decreased from about 500,000 in the 1990s to 200,000 by 2006. Between 2001 and 2008, the number and value of contracts doubled. The FY 2007 Department of the Army (DA) Contracting Operations Review Summary Health Report found that the Army contracting capability was significantly understaffed and only moderately trained. As a result, the Army contracting enterprise was rated as high risk.<sup>53</sup> The shortage of qualified contracting personnel had a negative impact on the contracting of RAP programs. During the RAP period (2005 to 2012), contracting requirements increased without a corresponding increase in contracting support personnel. Shortages of qualified KOs limited the ability of experienced KOs to mentor and oversee new or inexperienced KOs and to provide guidance to CORs.

b. There were also acquisition personnel shortages within the DASA (P)<sup>54</sup> to provide oversight of the Army wide contracting program. Upon re-establishing a PMR capability

<sup>52</sup> DAIG failed to find any record of a COR for the ARAP task orders. During (b) interview, (b)(6),(b)(7)(C) stated (b) was not the COR for ARAP but managed the program. (b) oversaw the program and provided information to USAREC leadership (DOCUPAK oversaw the RAs and provided (b) information). Though not appointed as the COR, her description of (b) duties indicated (b) was filling the role of the COR for USAREC.

<sup>53</sup> The Government Accountability Office (GAO) noted DoD contract management was a high risk area from 1992 through the date of this report. In the 2013 report, GAO found DoD lacked an adequate number of trained acquisition and contract oversight personnel.

<sup>54</sup> The DASA (P) is a subordinate of the ASA (ALT) and serves as the senior Army Enterprise staff for providing management, oversight, and evaluation of the Army procurement and contracting mission. The DASA (P) supports Senior Procurement Executive functions across the Army (policies, procedures, and approvals) and provides HQDA Oversight and Policy for Army Services Acquisitions; Improves Services Acquisition efficiency and effectiveness while reducing costs; Executes and manages Army-wide Procurement Management Review Program; ensures compliance with procurement and contracting responsibilities established by statute and regulation (U.S. Code, FAR, DFARS, AFARS and Army Regulations); and is the proponent for Army Federal Acquisition

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in 2006,<sup>55</sup> DASA (P) could only allocate one individual full-time to conduct procurement management reviews.<sup>56</sup> Due to these resource limitations, DASA (P) could not conduct a PMR bi-annually on every contracting organization with a Principal Assistant Responsible for Contracting (PARC), or each contract within every organization. To mitigate this shortfall, ASA (ALT) required the Heads of Contracting Activities (HCAs) to conduct internal PMRs on subordinate organizations and report the results back to DASA (P). While this mitigated a DASA (P) personnel shortage, it created an inherent risk by having HCAs conduct reviews of their own programs. Late in the RAP timeframe, DASA (P) was also constrained by its travel budget, which resulted in fewer reviews and/or reduced PMR team visits. This was somewhat mitigated by reviewing documents electronically, but ultimately resulted in a less rigorous oversight program. Additionally, personnel shortfalls combined with support for wartime requirements often slowed or superseded policy development in DASA (P). Evidence indicated that from the time a law was enacted, it took greater than 18 months to two years to institute new policies.

c. The NGB acquisition community was similarly impacted by increased requirements without a corresponding increase in manpower. The NGB PARC office had oversight responsibilities for over 140 contracting activities in the 54 States and territories. The PARCs testified they were not adequately manned to support their mission requirements. Many of the States had significant turnover in contracting personnel, and, as a result, the PARC office conducted reviews of contracts to support State requirements that would not normally have been required at the PARC-level. Additionally, the legal office was not adequately staffed with contract and fiscal lawyers to review the number of contract actions coming from the PARC office and NGB-AQ.<sup>57</sup> The NGB-AQ personnel also testified that their office lacked personnel to process all the contract requirements processed through their office. The shortfall of both contracting and legal personnel appears to have resulted in shortcuts being taken in the area of oversight, including skipping or waiving reviews that could have led to the discovery of failures in contracting.

d. Testimony indicated that the ASA (M&RA)'s ability to oversee recruiting programs was hampered by insufficient personnel resources. In 2001, the SA directed the reorganization of the Army Staff and Secretariat; the ASA (M&RA) lost some of its analytical capability when personnel and functions were transferred to the Army G-1

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Regulation Supplement, Army Regulation (AR) 70-13 (Management and Oversight of Service Acquisitions), AR 715-30 (Secure Environment Contracting) and AR 715-31 (Army Competition Advocacy Program).

<sup>55</sup>The DAIG could not determine why the PMR program stopped between 2001 and 2006. ASA (ALT) transferred the oversight requirements to the HCAs during this period. Testimony indicated contracting fraud and accountability incidents in Iraq resulted in the decision to re-start the PMR program. Additionally, testimony indicated the reduction in the workforce and ASA (ALT) reorganization may have contributed to the decision to halt the PMR program at the ASA (ALT)/DASA (P) level.

<sup>56</sup>Testimony indicated the DASA (P) policy and oversight divisions were providing KOs to support wartime augmentation requirements and reviewing high value (in excess of \$500M) contracts.

<sup>57</sup>NGB-AQ provides oversight and administration of the National Guard contracting function to include all contracting policy and procedure throughout the 50 states, 3 territories, District of Columbia, Army National Guard Directorate, Air National Guard Directorate and the National Guard Bureau Joint Staff.

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and other organizations. The ASA (M&RA) had one person assigned who was responsible for monitoring and developing recruiting and retention policies and activities for the Army Components. This person was also responsible for officer programs, such as the Reserve Officer Training Program. Much of the recruiting and retention analysis was done by the Army G-1, ACC and USAREC; however, none of these organizations had permission, authority or the responsibility to oversee ARNG recruiting. These limitations likely hampered the ASA (M&RA)'s ability to gain a complete picture of the recruiting environment.

e. The AFARS paragraph 5137.590-2 states oversight of service acquisition is a shared responsibility of the requiring activity, contracting activities and the ASA (ALT). All Army Components exhibited an unauthorized and inappropriate over-reliance on DOCUPAK for quality control and program oversight. Additionally, there was a general lack of understanding of the government's role in contract oversight.<sup>58</sup> The requirement to oversee a contractor's performance in order to prevent or mitigate fraud is an inherently governmental function. AAA audits and DASA (P) PMRs noted QASPs were weak, absent or not used for the RAP contracts. The Director, ARNG and Chief, ASM, among others, testified that the KO was responsible for providing oversight of the contractor, implying that the ARNG, as the requiring activity, had no responsibility. While it was reasonable for DOCUPAK to establish and implement its own internal controls, RAP stakeholders failed to implement controls at their respective levels to fulfill their inherently governmental functions.

f. The RAP PMR outlined the absence or inconsistencies of KO appointment of CORs across all responsible contracting offices. There was also a general failure to ensure that CORs were appointed, properly trained and provided with detailed guidance on how to oversee the contract.<sup>59</sup> Evidence reflected that the failure of the CORs to conduct proper contracting oversight contributed to the occurrence of fraudulent activity associated with RAP.

g. DOCUPAK's oversight of RAs constituted only one aspect of required program oversight. RAP stakeholders did not provide specific instructions or additional measures to ensure there was appropriate oversight of recruiters and recruiting activities associated with RAP.<sup>60</sup> Testimony indicated specific guidance was not provided by the USARC G-1 to USAREC for the AR-RAP program, nor did USAREC

<sup>58</sup>Memorandum, ASA (M&RA), SAMR-FM, 16 May 2012, subject: Review, Investigation and Correction Action – Active Army and Army Reserve component Recruiting Assistance Programs: the DASA (FMMR) reported RAP contracts were "closely associated with inherently governmental" as opposed to "inherently governmental" and required special management oversight since their functions could potentially become "inherently governmental" during performance.

<sup>59</sup>The GAO high risk series is a biannual report. There was no indication that the DoD contracting problems GAO found in 2013 would be remedied any time soon. DoD contracting should be considered "high risk" until GAO produces a 2015 report. Additionally, from 1992 through the date of this report, the GAO noted that DoD contract management was a high risk area, citing lack of an adequate number of trained acquisition and contract oversight personnel as one of the factors.

<sup>60</sup>Recruiters" will be used to represent recruiters (ARAP and AR-RAP) and recruiting and retention non-commissioned officers (NCOs) (GRAP). Note: The NG uses recruiting and retention NCOs to perform the recruiting function. These NCOs work for the States, not for ARNG.

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develop additional guidance for recruiters when the Regular Army adopted the program. USAREC believed its systems and training already in place<sup>61</sup> were sufficient to prevent recruiter program abuse within both AR-RAP and ARAP.<sup>62</sup> According to testimony, although NG recruiters were assigned to the States and not the ASM, the ASM was ultimately responsible for oversight of GRAP. Measures and safeguards were not implemented to support the oversight of NG recruiters (the NG has never had and still does not have an equivalent to USAREC's RSD). The program required RAs to interact with the recruiters, which created an opportunity for collusion. The lack of supervisory leadership on the execution and conduct of the program provided the opportunity for fraud.

h. At the Army Secretariat-level, ASA (M&RA) provided strategic oversight to recruiting and retention programs through the RR&S<sup>63</sup> briefings, Monthly Military Personnel Resources briefings,<sup>64</sup> and the POM<sup>65</sup> development process. As discussed earlier, the RR&S was not intended to be the forum for in-depth discussion or evaluation of programs. Senior leaders (SA, ASA (M&RA), etc.) reasonably expected that the required detailed staff work had been completed in accordance with established policies and procedures prior to information/updates being briefed at the RR&S. While the POM development process was considered another level of "review," the annual RAP reviews within the POM process crossed Component lines and were lesser dollar value programs which were not raised as issues for senior Army leadership visibility.

<sup>61</sup> AR 601-45, Recruiting Improprieties Policies and Procedures, 13 July 2009, chapter 2, defines and gives examples of recruiting improprieties (RIs). It applies to all military and civilian employees assigned, attached, or detailed to USAREC. Failure to comply with this chapter could subject Soldiers to adverse administrative action or disciplinary action under the Uniform Code of Military Justice and civilian employees to disciplinary action or adverse action under Federal laws. Specific recruiter prohibitions are listed in section 2-3. This regulation does not apply to the ARNG recruiters who are not assigned to USAREC.

<sup>62</sup> Army Reserve recruiting was not under the control of USARC, but was the responsibility of USAREC. The AR-RAP was a USARC initiative. USAREC had a robust ethics training program for recruiters. Its RSD continually inspected recruiting stations. USAREC believed these inspections would detect abuse or any reported abuse would be investigated. The USARC had a reasonable expectation that USAREC would oversee the recruiters supporting AR-RAP. Lieutenant General (LTG) Bostick's (Commanding General, USAREC from 2005 to 2009) testified that he had already taken measures to improve the recruiting environment and raise and enforce ethical standards. LTG Bostick believed the measures in place were sufficient to account for any RAP-related irregularities.

<sup>63</sup> From December 2005 until the program was terminated in February 2012, the briefings occurred on monthly basis and then shifted to a quarterly basis once the Components began achieving end strength and recruiting goals and objectives.

<sup>64</sup> These were colonel-level meetings designed to review program execution, conduct functional analysis and identify current and long-term issues requiring senior leader intervention.

<sup>65</sup> The ASA (M&RA)'s input to the POM process was through its Program Execution Groups (PEGs). The RAP was included in one of the Management Decision Evaluation Package (MDEP) (each Component had RAP in one of its MDEPs) included in the Military Manpower PEG (MMPEG) (the MMPEG included between 57 and 59 MDEPs). Each MDEP submission included a description, a table with execution history, capability required, any critical requirement growth, current capability, shortfalls and mitigation analysis. Each submission was reviewed at an action officer-level, briefed to the MMPEG co-executives (colonel-level), and then to the MMPEG co-chairs (Army Deputy G-1 and Deputy Assistant Secretary of the Army (Manpower and Policy)). This process occurred annually, so although RAP was reviewed annually, it was reviewed as a component of a larger grouping of projects by senior leaders. The MDEP, PEG and POM reviews did not appear to include any review of performance metrics. The performance metrics in place were accessions based and did not include any cost-benefit metrics or metrics that would measure fraud or other types of malfeasance.

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**5. Lack of Risk Management:**

a. Evidence indicated that Army Components and the Army Staff and Secretariat understood that RAP was at risk for fraud during the early stages of the program. The ARNG identified risks in its operations order. However, there was no indication that any individual or organization took any specific action to mitigate the risks associated with RAP. There was a pervasive assumption that DOCUPAK was responsible for ensuring that fraud did not occur with the RAs. DOCUPAK established internal controls for RAP; however, there was no evidence that USARC, ARNG or USAREC had a system in place to ensure that governmental controls were sufficient to manage risk. All RAP stakeholder systems<sup>66</sup> failed to include fraud indicators and prevention metrics. Had these indicators been employed, it may have created increased emphasis on identifying potential risks associated with RAP. This critical failing was a root cause for shortcomings the DAIG investigators observed.

b. The ARNG initially began GRAP as a pilot program in five States.<sup>67</sup> Evidence reflected, however, that GRAP moved to full implementation soon after (~80 days) the initiation of the pilot program. There was no indication of any formal analysis of the pilot program. While the ARNG conducted the pilot, they failed to properly assess it.<sup>68</sup> A thorough analysis of the program could have afforded the opportunity to identify potential risks and shortfalls associated with the program and may have led to significantly improved risk management procedures.

Part Two - Summary. The investigation identified five systemic issues that contributed to the overall weaknesses of RAP. These issues started in the early stages and continued until RAP termination. Policies were ill-defined and procedure and guidance to implement programs were absent. Poor contract management provided opportunities for fraud. Army leaders at all levels were overly focused on RAP accessions and did not adequately emphasize fraud identification and prevention. These systemic weaknesses contributed to the issues associated with RAP and provide an adequate backdrop for the investigations of the responsible officials.

**PART THREE - RESPONSIBLE OFFICIALS:**

1. DAIG investigated actions of each Component's RAP (ARAP, AR-RAP and GRAP) to determine any instances of senior official impropriety. This investigation was complex: the RAP programs operated over seven years, involved multiple organizations and Components and experienced numerous changes in regulations,

<sup>66</sup>The stakeholders were the Components, the Army Staff and Secretariat, DOCUPAK, USAREC, and Army Accessions Command.

<sup>67</sup>The second phase of the pilot was to test the program in 11 additional States. From first pilot to full implementation was less than 90 days and there was no evidence any analysis was done on the pilot prior to full implementation.

<sup>68</sup>Pilot programs are conducted as a test to gauge whether a larger program should be executed. A pilot is not required by regulation but could be considered a best practice.

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directives, and staff re-organizations. During our preliminary analysis, we determined that the issues associated with RAP started at program inception and continued throughout the duration of the program. We determined that it was reasonable for senior officials inheriting responsibility to maintain RAP programs and to assume that those programs were properly authorized and operating efficiently unless otherwise informed. We considered potential senior official subjects from the Regular Army, the USAR, and the ARNG. DAIG interviewed 82 people and reviewed hundreds of documents (over 130 are included as exhibits to this report) from across all Components during the investigation. Many of the subjects and witnesses were no longer serving or have since retired.

2. As part of the ARAP investigation, we considered the ASA (M&RA); Army, G-1; Commanding General, Army Accessions Command; and the Commanding General, USAREC, as potential senior official subjects. Evidence showed ARAP was formally staffed through an established process, legally reviewed and approved at the required levels.<sup>69</sup> ARAP operated from March 2008 to June 2009 and had a total contract value of \$7.9M. Controls were in place for the recruiting force and there was a designated organization required to monitor the controls (although the controls were not RAP-specific). Additionally, the program was reviewed and terminated once it was no longer required. While there were issues associated with ARAP, they were primarily systemic and were associated with contracting operations and the absence of assigned CORs.

3. As part of the AR-RAP investigation, we considered the Chief, Army Reserve (CAR); Deputy Commanding General, USARC (named subject below) and the Chief of Staff (CofS), USARC, as potential senior official subjects. The CAR directed a review of GRAP to determine its applicability to the USAR and he was briefed that the program had potential benefits for the USAR by the USARC G-1. The CAR tasked the USARC staff to execute the program. The CofS focused on the internal operations of the headquarters and was only involved with RAP from a funding authorization perspective and did not have a role in the operation and oversight of AR-RAP. AR-RAP operated from May 2007 to February 2012 and had a total contract value of \$44.1M. The USARC took numerous actions in managing AR-RAP as outlined below and, once they met their recruiting objectives, de-emphasized the program, focusing it on specific MOSs. Based on all available documentary evidence, only MG Bell was determined to be an AR-RAP subject as analyzed below.

4. GRAP was the first RAP program and served as the basis for all others. We considered all of the Chiefs, NGB (CNGBs), Directors, ARNG (DARNGs) and Deputy DARNGs (DDARNGs) serving during the period of GRAP's creation and operation as potential subjects. Our preliminary analysis eliminated all except those below. GRAP

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<sup>69</sup>USAREC followed the standard staffing practice found on the Army Staff; there was no policy requiring them to follow a specific process to gain approval of new recruiting initiatives. There was no evidence of a rigorous review by the Army staff of the program outside of the legal review.

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operated from December 2005 to February 2012 and had a total contract value of \$402.6M. In 2011, the ARNG initiated actions to reduce the program based on internal reviews, but the program was cancelled prior to implementation. Based on the preponderance of evidence, the NG personnel below were considered as subjects.

5. The NGB PARCs were considered senior officials for the purposes of this investigation. PARC positions are usually Senior Executive Service positions due to the breadth and depth of their responsibilities and due to the level of expertise required to fulfill the required duties. The PARC was the first line of contract supervision below the HCA and, in that role, was responsible for oversight, policy development and execution for the entire NG.

6. Based on the investigation into these matters, we identified and investigated eight responsible senior officials:

**NAME/POSITION:** Mr. Daniel B. Denning, Senior Executive Service (SES), United States Army, Retired, Former Acting ASA (M&RA) from early 2005 to October 2006 and Principal Deputy ASA (M&RA) from August 2002 to February 2007. (b)(6).

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

**NAME/POSITION:** Lieutenant General (LTG) H. Steven Blum, United States Army National Guard, Retired, Former CNGB, from April 2003 to November 2008. The allegation against LTG Blum was that he failed to review and approve a contract (W9133L-07-D-000728) as the HCA of the NGB in violation of the AFARS.

**NAME/POSITION:** LTG Clyde A. Vaughn, United States Army National Guard (USARNG), Retired, Former DARNG, from June 2005 to November 2009. The allegation against LTG Vaughn was he failed to conserve government resources.

**NAME/POSITION:** MG Alan D. Bell, USAR, Retired, Former Deputy Commanding General (DCG) and Deputy Chief of Army Reserve for Operations, Readiness, Training and Mobilization, USARC, from August 2006 to August 2009. The allegation against MG Bell was that he failed to conserve government resources.

**NAME/POSITION:** MG James W. Nuttall, USARNG, Retired, Former DDARNG, from July 2006 to May 2009. The allegation against MG Nuttall was that he failed to conserve government resources.

**NAME/POSITION:** (b)(6), (b)(7)(C), Former PARC, NGB, from (b)(6), (b)(7)(C). The allegation against (b)(6), (b)(7)(C) was that he failed to perform his duties as the PARC of the NGB.

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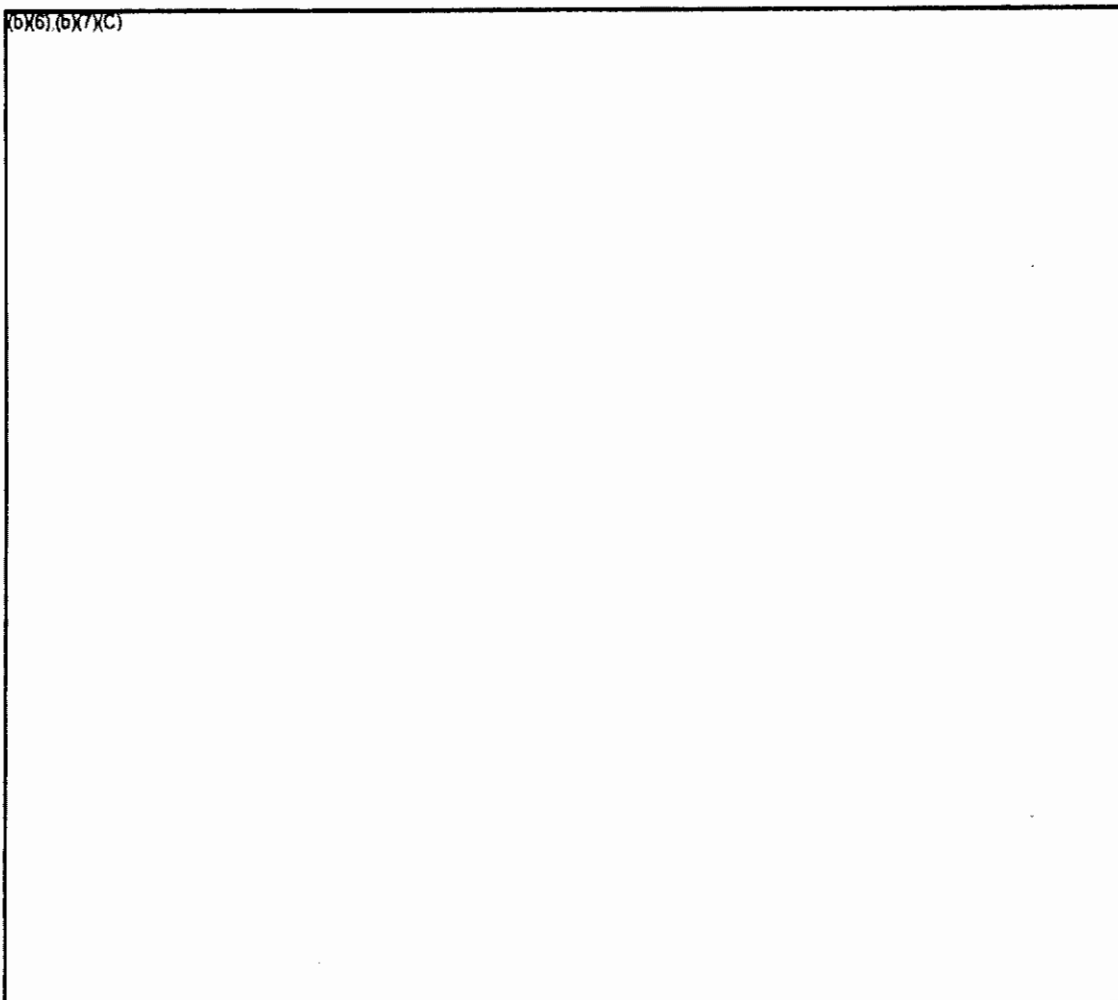
**NAME/POSITION:** (b)(6),(b)(7)(C), ARNG (Retired), Former PARC, NGB, from (b)(6),(b)(7)(C). The allegation against (b)(6),(b)(7)(C) was that he failed to perform his duties as the PARC of the NGB.

**NAME/POSITION:** (b)(6),(b)(7)(C), GS-15 (Retired), Former PARC, NGB, from (b)(6),(b)(7)(C). The allegation against (b)(6),(b)(7)(C) was that he failed to perform his duties as the PARC of the NGB.

The paragraphs below provided the analysis and conclusions of the investigations on the listed subjects.

**ANALYSIS OF SUBJECTS**

(b)(6),(b)(7)(C)



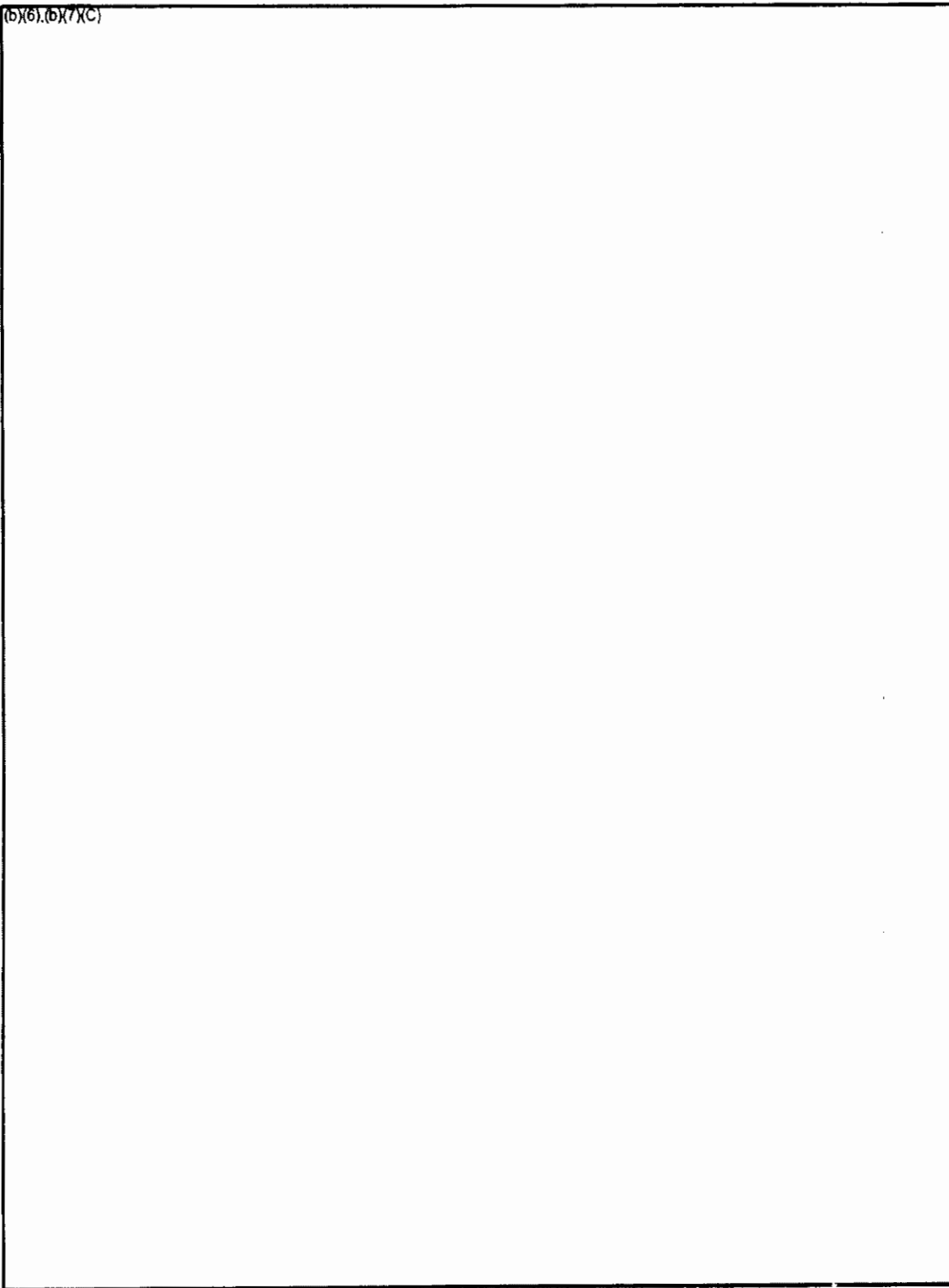
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(b)(6), (b)(7)(C)



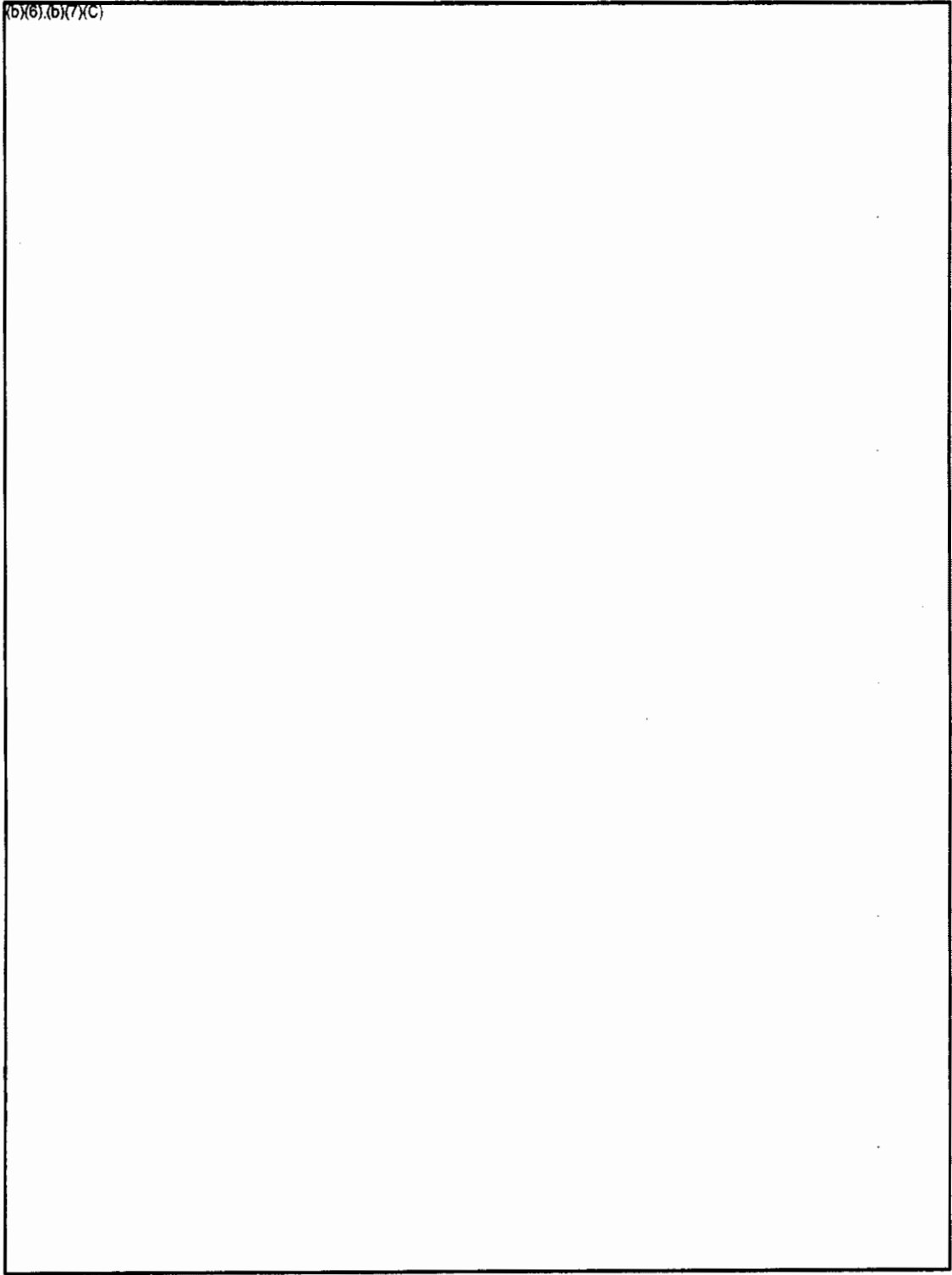
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(b)(6), (b)(7)(C)



SAIG-IN (RAP)

(b)(6),(b)(7)(C)



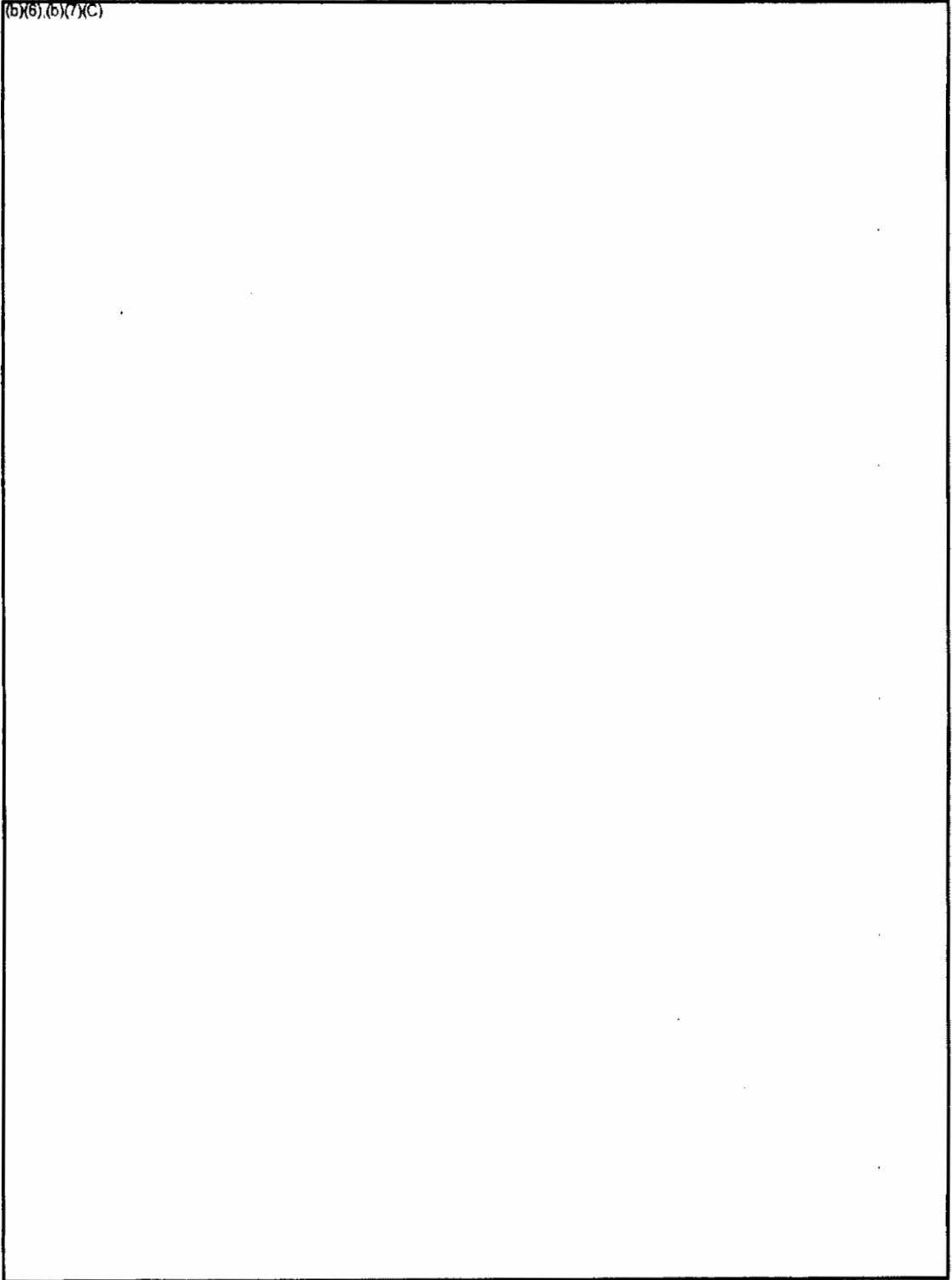
SAIG-IN (RAP)

(b)(6),(b)(7)(C)



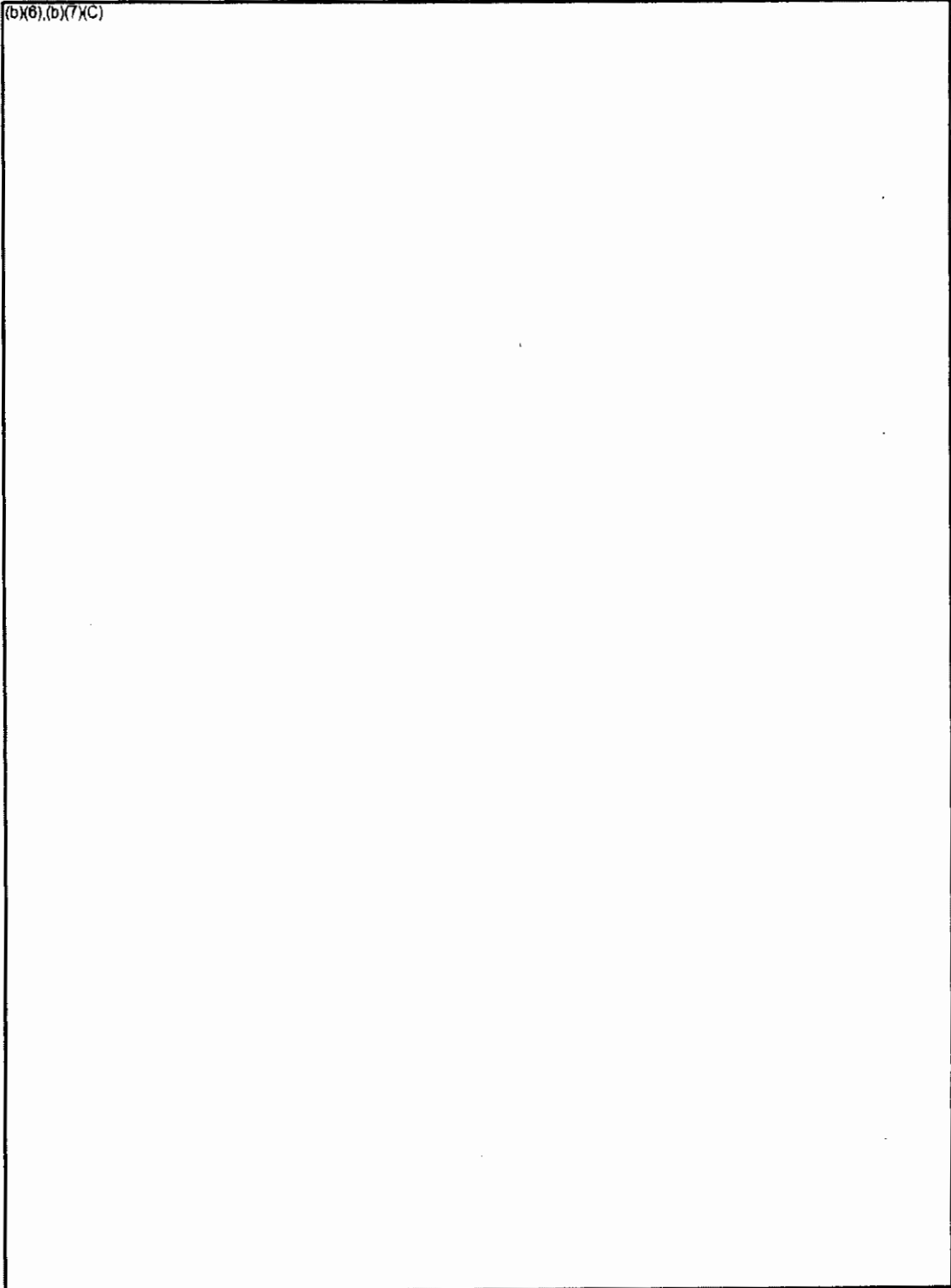
SAIG-IN (RAP)

(b)(6),(b)(7)(C)



SAIG-IN (RAP)

(b)(6), (b)(7)(C)



SAIG-IN (RAP)

(b)(6), (b)(7)(C)

**NAME/POSITION:** LTG H. Steven Blum, United States Army National Guard, Retired, Former CNGB, from April 2003 to November 2008.

**ALLEGATION/FINDING #1:** The allegation that LTG Blum, as the HCA of the NGB, failed to review and approve contract (W9133L-07-D-000728) in violation of the AFARS was SUBSTANTIATED.<sup>97</sup>

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<sup>97</sup>Initially, DAIG notified LTG Blum of two allegations: that he failed to review and approve a contract (W9133L-07-D-000728) as the HCA of the NGB and that he failed to protect and conserve government resources. During the investigation, DAIG determined that the allegation that LTG Blum failed to protect and conserve government resources was not appropriate given that his actions pertaining to GRAP were best assessed in his capacity as the HCA (allegation #1), and that the failure to protect and conserve government resources was better addressed as an allegation against LTG Vaughn, not LTG Blum. Therefore, the allegation that LTG Blum failed to protect and conserve government resources was dropped.

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**SYNOPSIS:**

1. Standards:

a. The Federal Acquisition Regulation, March 2005, states:

(1) In Subpart 37.503, Management Oversight of Service Contracts:

The agency head or designee should ensure that: (a) Requirements for services are clearly defined and appropriate performance standards are developed so that the agency's requirements can be understood by potential offerors, and that performance in accordance with contract terms and conditions will meet the agency's requirements; (b) Service contracts are awarded and administered in a manner that will provide the customer its supplies and services within budget and in a timely manner; (c) Specific procedures are in place before contracting for services to ensure that inherently governmental functions are performed by Government personnel; and (d) Strategies are developed and necessary staff training is initiated to ensure effective implementation of the policies in 37.102.<sup>98</sup>

(2) In Subpart 37.504, Contracting Officials: "Contracting officials should ensure that 'best practices' techniques are used when contracting for services and in contract management and administration (see OFPP Policy Letter 93-1)."<sup>99</sup>

<sup>98</sup>FAR 37.102 States in relevant part: When acquiring services, including those acquired under supply contracts or orders, agencies must: (1) Use performance-based acquisition methods to the maximum extent practicable (with limited exceptions); (b) Agencies shall generally rely on the private sector for commercial services . . . (c) Agencies shall not award a contract for the performance of an inherently governmental function . . . (d) Non-personal service contracts are proper under general contracting authority; (e) Agency program officials are responsible for accurately describing the need to be filled, or problem to be resolved, through service contracting in a manner that ensures full understanding and responsive performance by contractors and, in so doing, should obtain assistance from contracting officials, as needed . . . (f) Agencies shall establish effective management practices in accordance with Office of Federal Procurement Policy (OFPP) Policy Letter 93-1, Management Oversight of Service Contracting, to prevent fraud, waste and abuse in service contracting; (g) Services are to be obtained in the most cost-effective manner, without barriers to full and open competition, and free of any potential conflicts of interest; (h) Agencies shall ensure that sufficiently trained and experienced officials are available within the agency to manage and oversee the contract administration function.

<sup>99</sup>Office of Federal Procurement Policy (OFPP) Policy Letter 93-1 states in relevant part: "[Best Practices are] techniques that agencies may use to help detect problems in the acquisition, management and administration of service contracts. Best practices are practical techniques gained from experience that agencies may use to improve the procurement process."

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b. The AFARS, 1 October 2001:<sup>100</sup>

(1) AFARS Revision #10, April 30, 2004:<sup>101</sup>

Review Thresholds, Subpart 5137.5-3, Program Executive Office (PEO)s, Direct Reporting Program Managers (PM)s, and HCAs will, at a minimum, review and approve service acquisitions not already supported in an approved program acquisition strategy under their cognizance with a total planned dollar value greater than \$100M and less than \$500M and any service acquisition identified by the PEO/PM/HCA as special interest. HCAs may, at their discretion, delegate review and approval authority for service acquisitions with a total planned dollar value less than \$500M to a level no lower than the PARC.

(2) AFARS Revision #21, May 22, 2007.<sup>102</sup>

(a) In Subpart 5137.590-4 (e), Review Thresholds:

HCAs will, at a minimum, review and approve service acquisitions not already supported in an approved program acquisition strategy under their cognizance with a total planned dollar value of \$250M but less than \$500M and any service acquisition identified by the PEO/Direct Reporting PM/HCS as special interest.<sup>103</sup>

(b) Subpart 5137.590-4(f): PARCs, PEOs and Direct reporting PMs will review and approve service acquisitions with a total planned dollar value of \$10M or more, but less than \$250M.

2. Analysis/Discussion:

a. As previously outlined, the GRAP program operated from December 2005 until February 2012 to address end strength shortfalls. The ARNG developed a task order to an already existing marketing indefinite delivery, indefinite quantity (IDIQ) contract to pay individuals (primarily ARNG Soldiers in their civilian status) for referring PSs to join

<sup>100</sup>The base regulation is the 1 October 2001 AFARS. The subsequent sub standards are revisions to the base regulation that applied across time.

<sup>101</sup>The following GRAP contracts applied to this revision of AFARS: W9133L-05-D-0011-0015, 23 September 2005, \$18,472,944.20; W9133L-05-D-0011-0039, 5 July 2006, \$16,500,000.00 and W9133L-05-D-0011-0039/MOD 01 dated 26 August 2006, \$34,000,000.00. These contracts, however, did not meet the threshold for HCA review and approval.

<sup>102</sup>There was no change in the relevant AFARS review thresholds from 2007 to February 2012 (the remaining years of GRAP). Subsequent GRAP contracts and task orders applied to this and subsequent revisions of the AFARS.

<sup>103</sup>RAP was one of several recruiting initiatives in place at the time. It was a focus of LTG Vaughn but not a focus for LTG Blum as the HCA (it was not an acquisition or contracting focus).

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the NG.<sup>104</sup> The initiative that became GRAP was originally designated as a "lead generation" program.<sup>105</sup> In June 2007, NGB solicited a new IDIQ contract for GRAP, which met the threshold for review and approval by the HCA.<sup>106</sup> LTG Blum served as the CNGB, and was also the NGB HCA, from April 2003 to November 2008.<sup>107</sup> The contract's planned dollar amount was in excess of \$250M and less than \$500M; therefore, under the applicable AFARS, LTG Blum was required to review and approve this GRAP contract. However, LTG Blum neither reviewed nor approved the GRAP contract

b. LTG Blum failed to review and approve a contract (W9133L-07-D-000728) as the HCA of the NGB.

(1) In accordance with the AFARS, as of 22 May 2007, the HCA was required to review and approve any contract with a total planned dollar value of \$250M or more, but less than \$500M. The ASA (ALT) designates the HCA, who has overall responsibility for managing the contracting activity.<sup>108</sup>

(2) The 4 December 2012, DASA (P) RAP PMR concluded that a breakdown in oversight and accountability occurred within the procurement authority chain at all levels of the NGB. The ultimate responsibility for the integrity of the contracting function rested with the HCA, LTG Blum. The 1 August 2013, AAA audit of GRAP contracts found NGB did not meet most FAR requirements for solicitation, award and oversight of the three contracts used for GRAP.<sup>109</sup> Both the AAA audit and the PMR found that the NGB mismanaged the development and execution of the GRAP contracts and task orders during the contracting process. The audit also found the HCA did not approve the 2007 GRAP contract prior to its award.<sup>110</sup>

(3) The 1 August 2013 AAA audit of the contracts for the GRAP found NGB failed to select a competition advocate as required by the Army Competition Advocacy

<sup>104</sup>Contract includes contracts, task orders against an existing contract and modifications to an existing contract or task order.

<sup>105</sup>Lead generation is the purpose of most advertising programs. A traditional lead generation program would work to get increased traffic to the recruiter in order for the recruiter to begin the recruiting process. GRAP as proposed in the original and subsequent task orders and contracts went further. Not only would RAs generate the lead, they would sponsor/guide the PS through the contracting, initial training process and preparation and introduce the PS to the unit of assignment.

<sup>106</sup>GRAP contract W9133L-07-D-000728 June 2007. The contract had a planned value of between \$500K and \$472.5M.

<sup>107</sup>General McKinley was the HCA after LTG Blum. No GRAP contracts over \$250M were proposed during General McKinley's tenure.

<sup>108</sup>DAIG investigators were not able to locate ASA (ALT)'s appointment of LTG Blum as the HCA. NG Regulation 130-6/Air NG Instruction 36-2 (United States Property and Fiscal Officer Appointment, Duties, and Responsibilities), 1 July 2007 states that NGB is a contracting activity for the Department of the Army and the HCA is the CNGB. LTG Blum and other witnesses testified LTG Blum understood that as the CNGB he was the HCA.

<sup>109</sup>The primary GRAP contracts for GRAP were W9133L-05-D-0011-0015, 23 September 2005, \$18,472,944.20; W9133L-07-C-0025, 6 June 2007, \$5,147,918.00; W9133L-07-D-0007, 27 June 2007, minimum \$500,000.00 to maximum \$472,500,000.00.

<sup>110</sup>The NGB derives its contracting authority from the Army. ASA (ALT) has the authority to direct corrective action, and can revoke warrants up to and including suspension of HCA authority.

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Program.<sup>111</sup> As a result, NGB did not solicit offers for a new contract when GRAP began in 2005, but instead, inappropriately placed a task order on an existing marketing contract.<sup>112</sup> Subsequently, AAA reported NGB paid about \$9.3M for fees that were not included in or authorized by the contract. In 2007, because the NGB did not allow enough time to compete and complete the new GRAP contract,<sup>113</sup> NGB-AQ improperly awarded a sole-source "bridge" contract to continue the program.<sup>114</sup>

(4) (b)(6),(b)(7)(C) (NGB-AQ) and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) (NGB-AQ) testified LTG Blum was the HCA and the approving authority for high dollar value contracts.<sup>115</sup> (b)(6),(b)(7)(C) believed LTG Blum had to review the contract, but (b) did not know if he actually did. (b)(6),(b)(7)(C) was not familiar with LTG Blum having any oversight on, or review of, the GRAP contracts.

(5) (b)(6),(b)(7)(C) (NGB-AQ) and (b)(6),(b)(7)(C)<sup>116</sup> (NGB-AQ) testified they were told that LTG Blum delegated his responsibilities for contract reviews and approvals to the PARC office. (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) did not recall who informed them that LTG Blum delegated his responsibilities. Evidence indicated, however, that LTG Blum did not delegate any of his contracting review and approval responsibilities. Further, in the 4 December 2012 PMR outlined above, the DASA (P) opined that while not strictly prohibited by the AFARS, delegation below the prescribed levels was inconsistent with the policies and procedures at other Army PARC offices.<sup>117</sup> (b)(6),(b)(7)(C) testified (b) believed LTG Blum did not want to be involved with contracting and therefore was not part of the review and approval process. (b)(6),(b)(7)(C) testified (b) did not think LTG Blum approved the June 2007 GRAP contract.

(6) (b)(6),(b)(7)(C), testified that if a contract required HCA approval, a packet would be prepared and taken directly to LTG Blum for signature. (b)(6),(b)(7)(C) testified LTG Blum had the authority to approve a contract over a certain dollar threshold. (b)(6),(b)(7)(C) testified he referred to the National Guard Federal Acquisition Supplement (NGFARS) to determine the contract threshold

<sup>111</sup> Competition advocates ensure competition is not precluded by restrictive statements, restrictive specifications, purchase descriptions or arbitrary actions. The Army Competition Advocacy Program is intended to promote and maximize efficient and effective competition for Army procurement by using the pressures of an open market.

<sup>112</sup> GRAP was let under Task Order 15 of contract (W9133L-05-D-0011), an already established IDIQ marketing contract.

<sup>113</sup> The June 2007 GRAP contract (W9133L-07-D-0007). The 1 August 2013 AAA report stated the source selection evaluation board did not hold meaningful discussions with the other offeror who was determined to be within the competitive range for GRAP. The report further stated DOCUPAK had an unfair advantage in the selection process based on the wording of the evaluation criteria. Evidence indicated DOCUPAK assisted in the development of the solicitation.

<sup>114</sup> Both the DASA (P) RAP PMR and the AAA audit of Contracts for the Guard Recruiting Assistance Program stated the NGB GRAP sole source "bridge" contract (W9133L-07-C-0025) was not justified and did not meet the criteria for a sole source contract as outlined in the AFARS.

<sup>115</sup> Ratification is the authority of an HCA to validate an unauthorized commitment made to contractors or prospective contractors by persons to whom acquisition authority has not been delegated.

(b)(6),(b)(7)(C) was promoted to (b)(6) during (b) tenure with NGB-AQ. We used (b) throughout the report for ease of reading. (b)(6),(b)(7)(C) is no longer an Active Guard and Reserve (AGR) Soldier with the NGB and was interviewed in (b) civilian capacity.

<sup>116</sup> NGB was obligated to follow Army practices and policy since NGB contracting authority is derived from the Army.

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for review and approval by the HCA and PARC.<sup>118</sup> He did not recall presenting any GRAP contract to LTG Blum for review and approval.

(7) Mr. (b)(6),(b)(7)(C) former NGB PARC, (b)(6),(b)(7)(C) testified he reviewed and approved all contracting actions above a certain dollar threshold.<sup>119</sup> If anything required LTG Blum's review and approval, he presented it to LTG Blum through the comptroller.<sup>120</sup> Prior to testifying, Mr. (b)(6),(b)(7) reviewed the June 2007 GRAP contract.<sup>121</sup> Mr. (b)(6),(b)(7) testified he did not recall presenting any GRAP contracts to LTG Blum that met the threshold for HCA review and approval. Generally, if he had a contract requiring HCA review, he would route it through the Comptroller to the HCA for approval and, if necessary, he would answer any questions about the document.

(8) Mr. (b)(6),(b)(7)(C) Acting NGB Comptroller from (b)(6),(b)(7)(C) and Mr. (b)(6),(b)(7)(C) former Comptroller from (b)(6),(b)(7)(C) testified they had no acquisition or contracting authority as the Comptroller. If contracting actions reached the threshold for HCA approval, Mr. (b)(6),(b)(7) and Mr. (b)(6),(b)(7) both testified they would have provided a memorandum to LTG Blum for signature. The memorandum would be filed with the contract documentation, as required.<sup>122</sup> Mr. (b)(6),(b)(7) testified he believed the GRAP planned dollar amount would have required HCA review and approval. Mr. (b)(6) and Mr. (b)(6),(b)(7) did not recall signing any contracting actions or forwarding any GRAP contracts to LTG Blum. Mr. (b)(6),(b)(7) testified LTG Blum did not delegate any HCA or other contractual authorities to him, to include any associated with GRAP.

(9) LTG Blum testified he read the U.S. Code as it applied to his appointment as the CNGB, and he understood his HCA responsibilities. He did not recall when he was briefed on the acquisition approval chain requirements, or who briefed him. He delegated everything he could, in writing, to his Comptroller (Mr. (b)(6),(b)(7)) with the exception of actions requiring his approval.<sup>123</sup> LTG Blum testified he was not sure of the threshold limit for contracts requiring his review and approval, and he did not recall seeing or having a GRAP contract presented to him.<sup>124</sup> Additionally, he believed the GRAP contract may have been part of an existing marketing contract, and had some

<sup>118</sup>The NGFARS was the regulation used by NGB acquisition personnel. The NGFARS was more restrictive than the AFARS for review threshold for PARC and HCA review and approval.

<sup>119</sup>The 30 April 2004, AFARS permitted Mr. (b)(6),(b)(7) to review and approve service acquisitions valued between \$100M to \$500M, if delegated by HCA. The 22 May 2007, AFARS required Mr. (b)(6),(b)(7) to review and approve service contracts valued between \$10M to \$250M. It was silent about permissions for the HCA to delegate any authority.

<sup>120</sup>Mr. (b)(6),(b)(7) was the NGB comptroller from August 2000 to January 2008. Mr. (b)(6),(b)(7) was the NGB comptroller from January 2008 until December 2008.

<sup>121</sup>Mr. (b)(6),(b)(7) was the PARC when NGB let the 2007 GRAP contract.

<sup>122</sup>As of the 22 May 2007 AFARS, the HCA was required to review and approve service contracts valued between \$250M to \$500M.

<sup>123</sup>LTG Blum thought he delegated the responsibilities in writing. Extensive searches produced no documentation of the delegation, and Mr. (b)(6),(b)(7) testified he had not been delegated any contracting or HCA authorities.

<sup>124</sup>The GRAP contract W9133L-07-D-0007 required HCA review and approval in accordance with the AFARS because the contract was valued between \$500K and \$472.5M.

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doubt whether he was required to approve the contract or not.<sup>125</sup> LTG Blum testified that, at the time, he was never given the opportunity to review or approve the 2007 GRAP contract in question.

(10) Evidence established LTG Blum was the HCA for NGB. As the HCA, he was responsible for contracting oversight to ensure compliance with applicable statutes and regulations and to ensure the use of sound business practices. Evidence indicated LTG Blum understood the requirements for HCA review and approval for contracts in excess of \$250M; however, the evidence did not indicate LTG Blum reviewed or approved the June 2007 GRAP IDIQ contract. Evidence established that, the 2007 GRAP contract had a planned value of over \$250M but less than \$500M and required his approval as HCA. LTG Blum did not recall if he saw a GRAP contract review and approval. However, LTG Blum knew about the GRAP program and knew it was a contract-based program. Given his position, his knowledge of GRAP, and the cost of the program, proper execution of his duties required a thorough review and approval of the contract. LTG Blum should have been involved in high dollar value and high visibility contracts from the beginning of the contracting process.

3. Conclusion: Although the breakdown in oversight and accountability occurred throughout the NGB procurement approval chain, the responsibility for the integrity of the contracting function ultimately rested with LTG Blum. Although LTG Blum testified he delegated certain contractual responsibilities to Mr. (b)(6), (b)(7) documentary evidence did not indicate LTG Blum ever delegated his HCA authorities, something Mr. (b)(6), (b)(7) confirmed. Since the HCA was responsible to ensure sound business practices were used, the lack of adherence to contracting requirements by NGB acquisition personnel was a failure of LTG Blum as the HCA. The preponderance of evidence indicated LTG Blum violated the AFARS by failing to review and approve the 2007 GRAP contract. The allegation that LTG Blum, as the NGB HCA, failed to review and approve contract (W9133L-07-D-0007) in violation of the AFARS was substantiated.

**NAME/POSITION:** LTG Clyde A. Vaughn, United States Army National Guard (USARNG), Retired, Former Director, ARNG, from June 2005 to November 2009.

**ALLEGATION/FINDING:** The allegation that LTG Vaughn failed to conserve government resources is **SUBSTANTIATED**.

**SYNOPSIS:**

1. Standard: Title 5, CFR, Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch, 1 January 2005, states in paragraph 2635.101(b)(9) that

<sup>125</sup>The marketing contract LTG Blum referred to was DAHA 90-01-D-0003-0109, valued at \$5,902,178.20. The contract used as evidence was IDIQ contract W9133L-07-D-0007, valued between \$500K and \$472.5M.

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employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

2. Analysis/Discussion:

a. In July 2005, the ARNG's personnel strength was approximately 330,000; substantially short of its congressionally-directed end strength of 350,000. The ARNG developed GRAP as a strategy to increase accessions. The ARNG eventually met its required end strength in 2007, attributing this to the success of GRAP.<sup>126</sup> At LTG Vaughn's request, LTG Blum gave LTG Vaughn responsibility for GRAP and as its proponent, LTG Vaughn invested considerable personal time and effort in propagating GRAP throughout the ARNG, the States and DoD.

b. In January 2005, MG Hack Cross, The Adjutant General (TAG), Mississippi NG, conceived the idea that evolved into GRAP at an ARNG Commanders conference in Little Rock, Arkansas. GRAP was based on a "strength from within" concept; using the unique individual strengths and values of ARNG Soldiers to recruit their peers. In August 2005, ARNG established a Process Action Team comprised of sergeants major (SGMs) and Recruiting and Retention Commanders (RRCs) from several States to further develop and refine the GRAP concept.<sup>127</sup> LTG Vaughn testified he approved the initial GRAP concept and informed LTG Blum, who did not object. Additionally, LTG Vaughn testified, he briefed the GRAP concept to numerous senior officials in OSD and the Army, including the ASA (M&RA).<sup>128</sup> LTG Vaughn stated he, with LTG Blum's consent, approved the launch of GRAP, contingent on approval of the NGB attorneys and contract personnel.<sup>129</sup>

c. On 22 November 2005, with the approval of LTG Vaughn, ASM released the ARNG GRAP operations order (OPORD). The OPORD initiated GRAP and divided the program into two phases. Phase 1 consisted of a "pilot" program, including an initial test, beginning on 1 December 2005, with five States, (Iowa, West Virginia, Nevada, Kentucky and Missouri); followed by the implementation of GRAP in 11 more "test" States on 31 December 2005. Phase 2 consisted of the DARNG, ARNG senior leaders, ASM leadership and select pilot State TAGs assisting the remaining 38 States and

<sup>126</sup>There were several factors that appeared to influence recruiting. The NG increased the number of recruiters from approximately 2,400 at the end of 2004 to more than 5,100 at the end of 2005, the economy went into recession at the end of FY 2007 (ARNG met strength goals in 2007 and enlisted recruiting goals in 2008), and there were numerous other initiatives, in addition to GRAP, that may have contributed to the increase in recruiting. Unfortunately, there were no metrics outlining the effectiveness of initiatives and specifically measuring each factor's contribution to the NG recruiting effort. It appears that credit was ascribed to GRAP for nearly all NG enlistments.

<sup>127</sup>There was no evidence available to indicate specifically what the Process Action Team developed, what was briefed to senior leadership at the ARNG or who the specific members of the team were.

<sup>128</sup>LTG Vaughn did not specify which ASA (M&RA) he briefed, but Mr. Denning was the acting ASA (M&RA) at the time GRAP was initiated. He stated he briefed Thomas F. Hall, Assistant Secretary of Defense for Reserve Affairs, and Mr. Bill Carr, Deputy Undersecretary Military Personnel Policy, Office of the Secretary of the Department of Defense.

<sup>129</sup>DAIG found no proof that a comprehensive legal review of the GRAP program was completed. There were legal reviews of the contract and of whether GRAP payments constituted a bounty.

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territories in implementing GRAP no later than 28 February 2006.<sup>130</sup> Although the OPORD delineated when GRAP was scheduled to move from the Pilot Program to full implementation, it did not describe or provide any analytical framework or assessment/decision criteria to move from Pilot to full implementation.<sup>131</sup> Additionally, it did not identify metrics to measure the Pilot Program's efficiency and effectiveness.<sup>132</sup>

(1) The OPORD tasked State RRCs, SGMs, Recruiting and Retention Non-Commissioned Officers in Charge, Recruiting and Retention NCOs (RRNCOs) and RAs with conducting State-level oversight, providing monthly program updates to State senior leaders, conducting continuous risk assessments, investigating allegations of fraud, conducting after action reviews, providing lessons learned to ASMs, identifying program-related risks or fraud, taking immediate corrective action and notifying the chain of command. However, the OPORD did not provide any guidance, direction or instructions regarding the execution of those important tasks. The States were not required to report progress or provide details on program implementation. Most importantly, although the OPORD directed the States to identify program risks related to fraud, there was no guidance to report and resolve instances of fraud.

(2) The OPORD stated TAGs were responsible to embrace the program, ensure comprehensive awareness, provide State Public Affairs Offices with a "command message" to respond to potential media inquiries, promote GRAP at every opportunity, conduct a potential fraud/risk assessment with subordinates, monitor State progress and conduct follow up and include reports on the positive economic impact on communities. The OPORD did not delineate a requirement for an internal control plan, did not hold individual TAGs or the State's United States Property and Fiscal Officer (USPFO) responsible for GRAP oversight and did not outline reporting requirements to ARNG.

(3) The OPORD did not include a risk assessment, but did provide four examples of potential areas of risk and provided recommended courses of action for each risk identified. Examples of risks in the OPORD included: (1) if the RRNCO took an enlistment and gave credit to an RA who had no active involvement with the PS and then split the \$1,000 payment; (2) if an RRNCO failed to actively respond to an RA's request to establish an initial meeting with a PS; (3) if an RRNCO had consecutive poor conversion rates among PSs brought to him by an RA; and (4) negative media. The list was far from complete, and the examples provided proved ineffective in reducing the risks identified. Failure to provide a programmatic risk assessment for GRAP

<sup>130</sup>Evidence indicated the full implementation in all 54 States and Territories was actually quicker; the contract was adjusted on 13 February 2006 to expand the program to all 54 States and Territories.

<sup>131</sup>LTG Vaughn stated in his response to the interrogatory questions that he and his immediate staff reviewed the Pilot Program data daily. The data projected a high degree of success by February 2006, so he decided to expand the program to the 54 States and Territories. LTG Vaughn stated there were no reported cases of fraud from the Pilot program, no major problems were identified and no modifications were made as a result of the Pilot Program.

<sup>132</sup>GEN Grass testified LTG Vaughn made the decision to move from the Pilot to Full implementation and LTG Blum approved his decision.

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contributed to the ARNG's failure to recognize, mitigate and control the multiple risks associated with the program. The OPOD provided only minimal controls to counter the risks.

(4) The OPOD provided seven fraud prevention measures: (1) the Web portal<sup>133</sup> was the key in starting the accounting process; (2) no payment would be made until the accession was loaded into the Army's primary personnel database, the Standard Installation/Division Personnel System (SIDPERS); (3) no Active Guard and Reserve Soldier (AGR), Military Technician or individual on Active Duty for Special Work orders was eligible to receive payment in the program; (4) no member or family member of the Full Time Recruiting and Retention Force was eligible to receive payment from GRAP; (5) DOCUPAK would provide weekly program updates; (6) quarterly In-Progress Reviews (IPRs) to ARNG Leadership would be conducted; and (7) monthly IPRs with participating States and key NGB staff would be conducted.<sup>134</sup>

(5) Although the OPOD identified the fraud prevention measures above, it did not require or task any agency to report information regarding fraud prevention strategies or internal controls. It did not describe how these measures would be used to prevent fraud, nor did it task any agency to develop internal prevention procedures. The prevention measures were inadequate for the size and complexity of GRAP, and the OPOD did not designate any specific individual or agency to oversee and enforce compliance with the seven fraud prevention measures.

(6) Testimony indicated that the DARNG did not have the authority to task individual State TAGs or Title-32 personnel. Section 10506 of Title 10 United States Code (Other senior NGB Officers) did not grant or provide tasking authority to the ARNG or NGB over Title-32 personnel. While the ARNG could have withheld GRAP resources from the States to gain compliance or could have required an "opt-in" agreement prior to authorizing DOCUPAK to hire RAs within the individual States, they did not.<sup>135</sup> The "opt in" agreement could have included requirements for oversight,

<sup>133</sup>RAs used the Web Portal Mission Zone to input accessions. DOCUPAK developed "Mission Zone," which was an on-line catalog in which promotional items (items provided to PS to induce them to join and to advertise the ARNG) were managed through a website. It was available to all RRNCOs and RAs.

<sup>134</sup>Although Tasks 6 and 7 did not specifically direct anyone to accomplish the task, evidence indicated ARNG chaired the weekly video teleconference IPRs.

<sup>135</sup>Testimony, including LTG Vaughn's, indicated the ARNG did not have tasking authority over the States; while true, there were other mechanisms available to the ARNG, such as opt-in or opt-out agreements to ensure the States applied appropriate controls. The opt-in/opt-out agreement to participate or not participate in a program voluntarily could have been used since the ARNG had no authority to order or direct the States. If a State agreed to participate (opt in), it had to follow a specified set of rules. If a State did not want to participate in the program, it would opt out and the program would not be used in the State. The ARNG and LTG Vaughn could have initiated an omnibus contract that required the states to "opt in" to the program and require compliance with control measures and reporting requirements in order to participate in the program. The analysis of the OPOD identifies shortfalls/weaknesses in the OPOD that if addressed in conjunction with some type of binding agreement could have provided greater control of GRAP and could have prevented fraud or at least caught it earlier in the program.

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controls on recruiters, reporting requirements and other controls as a condition for participating in the program.<sup>135</sup>

d. The OPOD tasked ASM to oversee and manage GRAP. From planning through GRAP implementation, (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C)<sup>37</sup> were the key action personnel within ASM and were considered the "point men" for LTG Vaughn for GRAP. Witness testimony reflected that (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) had direct access to LTG Vaughn. It was not uncommon for LTG Vaughn to coordinate directly with (b)(6),(b)(7)(C) on matters directly affecting ARNG. DOCUPAK provided daily updates to ASM on the status of accessions. (b)(6),(b)(7)(C) used this information to develop a daily report that was provided to LTG Vaughn and ARNG leadership. Evidence did not indicate whether LTG Vaughn directed ASM to provide updates regarding the program's implementation or to report any problems associated with GRAP. No Fragmentary Orders (FRAGOs) were issued after the initial GRAP OPOD. Other than the daily GRAP accession reports and the limited number of Strength Maintenance Operations Messages (SMOMs), there was no evidence that ASM provided additional guidance on the execution of GRAP. Although ASM provided CORs for GRAP, evidence indicated that (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) failed to provide guidance and did not oversee the actions of the GRAP CORs, which contributed to ARNG's failure to conserve resources.

e. LTG Vaughn was the proponent and personally championed GRAP from inception through implementation. He testified that prior to initiating the program, he put together a "red team" to determine risks with the program and to develop strategies to counter those risks.<sup>138</sup> MG Nuttall testified GRAP was LTG Vaughn's program. LTG Vaughn personally conducted weekly Strength Maintenance video teleconferences (VTCs) and travelled to multiple States to provide information about GRAP. (b)(6),(b)(7)(C)<sup>39</sup> testified LTG Vaughn saw GRAP as an essential program and the future of the ARNG's recruiting effort. LTG Vaughn wanted it known he was personally "watching out" for the program. She thought he believed he could mitigate fraud by placing his personal emphasis on the program.

f. (b)(6),(b)(7)(C) President, DOCUPAK, stated GRAP was LTG Vaughn's brainchild and that he met with LTG Vaughn monthly to discuss the program during

<sup>135</sup>The NGB website stated the DARNG guided the formulation, development and implementations of all programs and policies affecting the ARNG. It did not provide any tasking authority. Likewise section 10506 of title 10, United States Code did not provide the DARNG any tasking authority.

<sup>137</sup>(b)(6),(b)(7)(C) was promoted to (b)(1) during the RAP program; he is referred to (b)(6),(b)(7)(C) or (b)(6),(b)(7)(C) based on his rank at the time of the event.

<sup>138</sup>The Defense Science board states "red teams are established by an enterprise to challenge aspects of that very enterprise's plans, programs, assumptions, etc."

<sup>139</sup>(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

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GRAP's first year.<sup>140</sup> LTG Vaughn, (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) were significantly involved in the planning and implementation of GRAP. LTG Vaughn participated in many meetings on GRAP and viewed GRAP as a commercial product and services program. Members of LTG Vaughn's staff indicated they were concerned about identifying fraud and ensuring it was appropriately punished; however, none of the GRAP contracts included requirements for internal controls. Further, the ARNG did not provide any direction or guidance concerning controls, often stating it was DOCUPAK's responsibility.<sup>141</sup>

g. (b)(6),(b)(7)(C) also stated that on 22 May 2007, DOCUPAK personnel attended a meeting with representatives from CID, Defense Criminal Investigative Service (DCIS), Air Force Office of Special Investigations (AFOSI) and US Department of Justice. The meeting included a discussion regarding how DOCUPAK would handle cases involving potential fraud associated with the RAPs. During the meeting, the attendees decided DOCUPAK would submit information of any suspected fraudulent activity directly to the CID/DCIS/AFOSI work group and not to the customer, COR or KO.<sup>142</sup> The ARNG was invited to the meeting, but did not attend. (b)(6),(b)(7) stated (b)(6),(b)(7)(C) had been back-briefed on the meeting and did not express any concern). Testimony indicated DOCUPAK implemented the guidance from the CID/DCIS/AFOSI work group (chaired by DCIS) across all the RAPs. The decision not to notify ARNG of any fraud discovered undermined the ARNG's ability to make corrections, particularly since the ARNG had not established sufficient internal controls as part of their effort.<sup>143</sup>

h. As mentioned earlier, LTG Vaughn chaired weekly Strength Management VTCs focused on informing the States about the progress of GRAP and emphasizing the need for the States to keep their focus on production. In LTG Vaughn's testimony to the Senate Homeland Security and Governmental Affairs Subcommittee on 14 February 2014, he testified the ultimate responsibility for GRAP rested with the individual State TAGs. Although the VTCs emphasized the need to review the program

<sup>140</sup>Only one other Senior Official met with DOCUPAK. MG Lesniak testified he met with DOCUPAK once during his first month as the AR-RAP task force lead. He met with DOCUPAK to view how they tracked referrals and get an overview of how DOCUPAK managed the program.

<sup>141</sup>DOCUPAK had the responsibility to oversee the RAs (DOCUPAK's sub-contractors) in the execution of the program. The ARNG (and subsequently the USARC and USAREC) had the responsibility, in coordination with the KO, to ensure fraud prevention was part of the contract, to oversee DOCUPAK's execution and ensure DOCUPAK's fraud prevention measures were sufficient. AFARS paragraph 5137.590-2 required the government to provide oversight to the contractor.

<sup>142</sup>Exhibit C-121 lists Special Agent (SA) (b)(6),(b)(7) from AFOSI, SAs (b)(6) and (b)(6),(b)(7) from DCIS and SA (b)(6),(b)(7) from CID were part of the work group. SA (b)(6),(b)(7) notes state DCIS did not want DOCUPAK to report potential fraud to NGB before coordinating with the work group. DCIS, as the lead agency, did not want interference from the NGB Headquarters for fear of compromising an investigation. (b)(6),(b)(7) testified that during the meeting it was decided that DOCUPAK would turn-over any suspected occurrences of fraud directly to CID. He further added that CID instructed DOCUPAK not to share any information concerning potential fraud with any other agency. It is clear that there was confusion on the part of meeting attendees with respect to fraud reporting procedures.

<sup>143</sup>Exhibit C-128 Information Paper, NGB-ASM, 28 October 2009, subject: Guard Recruiting Assistance Program indicates ASM was aware of at least 13 incidents of fraud from 10 states. DAIG was unable to determine if LTG Vaughn was given this information paper.

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for fraud, there was no evidence that LTG Vaughn ever tasked or required the TAGs<sup>144</sup> or USPFOs with any oversight of GRAP, required any updates on State plans for oversight or fraud mitigation, or required any type of reporting back to ARNG on any issues with GRAP.<sup>145</sup> This oversight failure potentially resulted in LTG Vaughn not knowing about program malfeasance, taking action to correct the issue identified and contributed to the weak controls that led to a failure to conserve government resources.

(1) Seven of eight TAGs interviewed did not recall receiving any specific guidance or tasks concerning GRAP. All remember briefings and discussions concerning the program, and two stated it would have been difficult for the States to audit because the money did not go to the States but to a contractor.

(2) MG Nuttall testified he never saw any documentation or heard LTG Vaughn direct the TAGs with oversight responsibility of GRAP.<sup>146</sup> MG Nuttall was not aware of any follow-up actions conducted with TAGs to ensure fraud mitigation and oversight of GRAP occurred.

i. Testimony indicated LTG Vaughn aggressively pressed his subordinates to make GRAP work. The ARNG end strength shortfalls and LTG Vaughn's personal involvement in GRAP resulted in ARNG personnel and NGB's contract personnel rushing GRAP through the contracting and implementation process. Witness testimony cited the pressure applied by both LTG Vaughn and ASM's leadership--specifically (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C)--resulted in expediting the required processes to implement as quickly as possible.

(1) The AAA Audit Report, 1 August 2013, Audit of Contracts for the Guard Recruiting Assistance Program, found that the primary cause of the breakdowns was attributable to ASM leadership's undue influence on NGB-AQ to implement and continue GRAP. Pressure stemmed from the urgent need to increase the ARNG's end strength. As the program progressed, the pressure from ARNG ASM's leadership continued. The contracting specialist<sup>147</sup> for the sole-source bridging contract and the 2007 GRAP contract stated NGB-AQ issued the sole-source contract because "the [ARNG] generals did not want work to stop." When she expressed concern about meeting acquisition requirements, the response from the ASM leadership was "get it done."

<sup>144</sup>The OPORD stated the TAGs were responsible to address potential fraud/risk assessment with their subordinates and to monitor State progress; however, it did not task or assign responsibility for oversight of GRAP to the TAGs. A task to back-brief ARNG on the TAG's strategy, to conduct oversight and mitigate fraud would have shown more appropriate and responsible oversight.

<sup>145</sup>(b)(6),(b)(7) stated NGB-AQ had the option of an Omnibus contract when multiple states required a similar type of service. NGB-AQ would control the contract and States could opt-in to the contract by placing a Task Order on the contract. This would make the States and the USPFO responsible for the oversight of the contractor and the contract deliverables.

<sup>146</sup>The DARNG did not have command and control authorities over the TAGs, so it is not clear how the ARNG would have directed the TAGs to oversee the program. TAGs working in their Title 32 status are under the command and control of the State governor.

<sup>147</sup>The AAA report did not provide the names of contracting specialists; however, the KO for the bridging contract and the 2007 GRAP contract was (b)(6),(b)(7)(C)

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(a) Additionally, the AAA Audit noted that ARNG ASM did not implement a QASP for any of the GRAP contracts. CORs did not perform oversight of DOCUPAK's program performance or verify the accuracy and validity of GRAP invoices. DOCUPAK provided a QASP for the 2007 GRAP contract, but NGB did not accept or implement it.

(b) ARNG CORs only received limited training and did not sufficiently oversee the GRAP contracts and task orders. Because there was no QASP in place, there were no documented contract surveillance procedures or methods defined that CORs could follow. (b)(6),(b)(7)(C) testified that ASM was responsible for the GRAP CORs and the ASM leadership considered COR duty as an additional duty. The ASM CORs were only processing payments with DOCUPAK, not conducting actual oversight.

(2) (b)(6),(b)(7)(C) former (b)(6),(b)(7)(C) G-1, testified LTG Vaughn applied significant pressure to get GRAP up and running. During a meeting, LTG Vaughn angrily stated that contracting personnel were slowing the process down. (b)(6),(b)(7)(C)<sup>148</sup> former KO for NGB-AQ, testified ASM brought pressure on contracting personnel because LTG Vaughn, LTG Blum and MG Nuttall wanted GRAP done. Col (b)(6),(b)(7)(C) testified (b)(6),(b)(7)(C) was the "pointy end of the spear" bringing pressure to implement GRAP.

(3) Evidence indicated ASM's leadership<sup>149</sup> had a direct connection to LTG Vaughn and, based upon that, were seen as LTG Vaughn's agent/proponents for GRAP at the ARNG staff-level. The pressure brought upon NGB-AQ by the ASM leadership (in general and by LTG Vaughn specifically) was a primary cause of the breakdowns in processing the GRAP contracts. Contracting shortcuts were taken to complete the contracts as quickly as possible based on the guidance of the ARNG leadership.<sup>150</sup> Although the majority of issues with GRAP were associated with a lack of oversight and direction, the pressure LTG Vaughn applied on ASM and the pressure ASM subsequently applied on the contracting personnel also contributed to the problems with the program.

j. Under LTG Vaughn's aegis, ARNG failed to establish or implement adequate policy and procedures to effectively manage GRAP, provide oversight and mitigate fraud. The ARNG primarily used the GRAP OPORD,<sup>151</sup> SMOMs and senior leader VTCs to provide procedures and guidance for GRAP. DOCUPAK established internal controls for its processes; however, ARNG did not implement adequate processes to

(b)(6),(b)(7)(C)

<sup>149</sup> (b)(6),(b)(7)(C) was the ASM Division Chief and (b)(6),(b)(7)(C) was the ASM Branch Chief during GRAP implementation (2005).

<sup>150</sup> LTG Vaughn stated in his response to interrogations that he had no involvement with the acquisition, procurement or contracting processes of GRAP, other than to ensure all appropriate approvals were obtained.

<sup>151</sup> MG Nuttall testified that the GRAP OPORD was the only OPORD he had seen between the ARNG and the states.

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ensure that DOCUPAK's measures were sufficient to prevent or mitigate fraud associated with GRAP. DOCUPAK's establishment of control measures did not absolve the ARNG leadership of its inherent governmental function to oversee the contractor.<sup>152</sup> ARNG's failure to exercise its responsibilities contributed to the failure to conserve government resources by not ensuring the contractor met its contract obligations and provided the best value for the services rendered.

k. LTG Vaughn was highly engaged with GRAP throughout his tenure as the DARNG. While ASM was tasked with oversight responsibility, LTG Vaughn's personal emphasis and excessive focus on accessions made him ultimately responsible for ensuring policies and procedures necessary to safeguard and conserve government resources were in place.

(1) The lack of oversight was apparent in the failure of the ARNG to ensure appropriate fraud mitigation and follow-up. LTG Vaughn knew and testified there were risks associated with GRAP. However, the review of evidence and testimony determined he failed to act on that knowledge to ensure appropriate controls and assessments were developed and implemented. Sufficient fraud prevention measures were not identified in the OPOD or addressed in the weekly VTCs with TAGs. The ARNG relied on DOCUPAK to execute and oversee GRAP, including identifying and implementing risk mitigation measures; however, ARNG did not include those requirements in the contract.

(2) While DOCUPAK could reasonably be expected to oversee and identify and mitigate risk for the RAs, DOCUPAK should not have been expected to, or tasked with, monitoring the actions of the RRNCOs—inherently a governmental function. Failure to ensure controls were in place to monitor the RRNCOs and recruiting and retention organizations was a major oversight and resulted in significant fraud by the RRNCOs. Evidence provided by CID reflected that as of 24 April 2014, 87 RAs and 27 RRNCOs were found to have committed some type of fraud associated with GRAP. The cost of this fraud was \$3,212,285 (92.8 percent of fraud founded to date and 0.79 percent of the total value of the program). LTG Vaughn's personal involvement, which he believed would mitigate fraud, along with limited fraud prevention measures and oversight tasked in the OPOD, were inadequate based on the size and complexity of the program.

(3) LTG Vaughn testified there was no place or time to make a midcourse correction to GRAP. There was no evidence that anyone performed a review or analysis of the pilot prior to moving GRAP into the implementation phase. The ARNG focused more on total accession numbers than on verifying whether or not GRAP truly influenced changes in accessions. There is no evidence to support that ARNG required any analytical updates or follow-up on GRAP accessions procedures, nor is there any

<sup>152</sup>The AAA RAP PMR found that neither the ASM Division nor the NGB Contracting Office (AQ) provided contract oversight for any G-RAP vehicle and the report further stated there were no documented contractor performance reports.

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evidence depicting any plans from the TAGs to measure GRAP success or to prevent fraud. The overarching focus and priority were to increase the end strength of the ARNG, and it appeared that the ARNG assumed unacceptable risk to accomplish this objective. The policies or procedures to oversee GRAP and prevent or mitigate fraud were insufficient.

(4) LTG Vaughn stated he was recently notified that CID failed to report cases of potential fraud to any responsible official in the ARNG or the States. The ARNG's ability to prevent any potential fraud was compromised by the failure to report incidents of fraud to responsible commanders. While requiring such reporting to appropriate ARNG leadership for corrective action would have enabled LTG Vaughn to better serve the organization, it remains that LTG Vaughn had a requirement to conserve and protect government resources, and the fact that inadequate internal controls were established by him or his staff provided a fertile environment for fraud. Additionally, testimony indicated that on at least one occasion fraud was reported to LTG Vaughn and he took no action to review the program to ensure the appropriate controls were in place.

3. Conclusion:

a. As DARNG and a senior Army leader who was responsible for good stewardship and protection of Army resources, LTG Vaughn was responsible for ensuring ARNG had adequate systems in place to develop and implement GRAP with appropriate controls and safeguards. LTG Vaughn's pressure and personal involvement with GRAP, his lack of guidance regarding fraud prevention measures, his inability to leverage the States to provide oversight and management of the program and recruiting and retention organizations at their level and his failure to follow-up to ensure that procedures were in place to prevent or mitigate fraud directly contributed to his failure to conserve government resources. Additionally, the pressure ASM placed on NGB-AQ, in LTG Vaughn's name or at his direction, contributed to contracting irregularities and the failure to provide adequate oversight, including failure to develop a QASP to the GRAP contracts and contributed to the failure to conserve government resources.

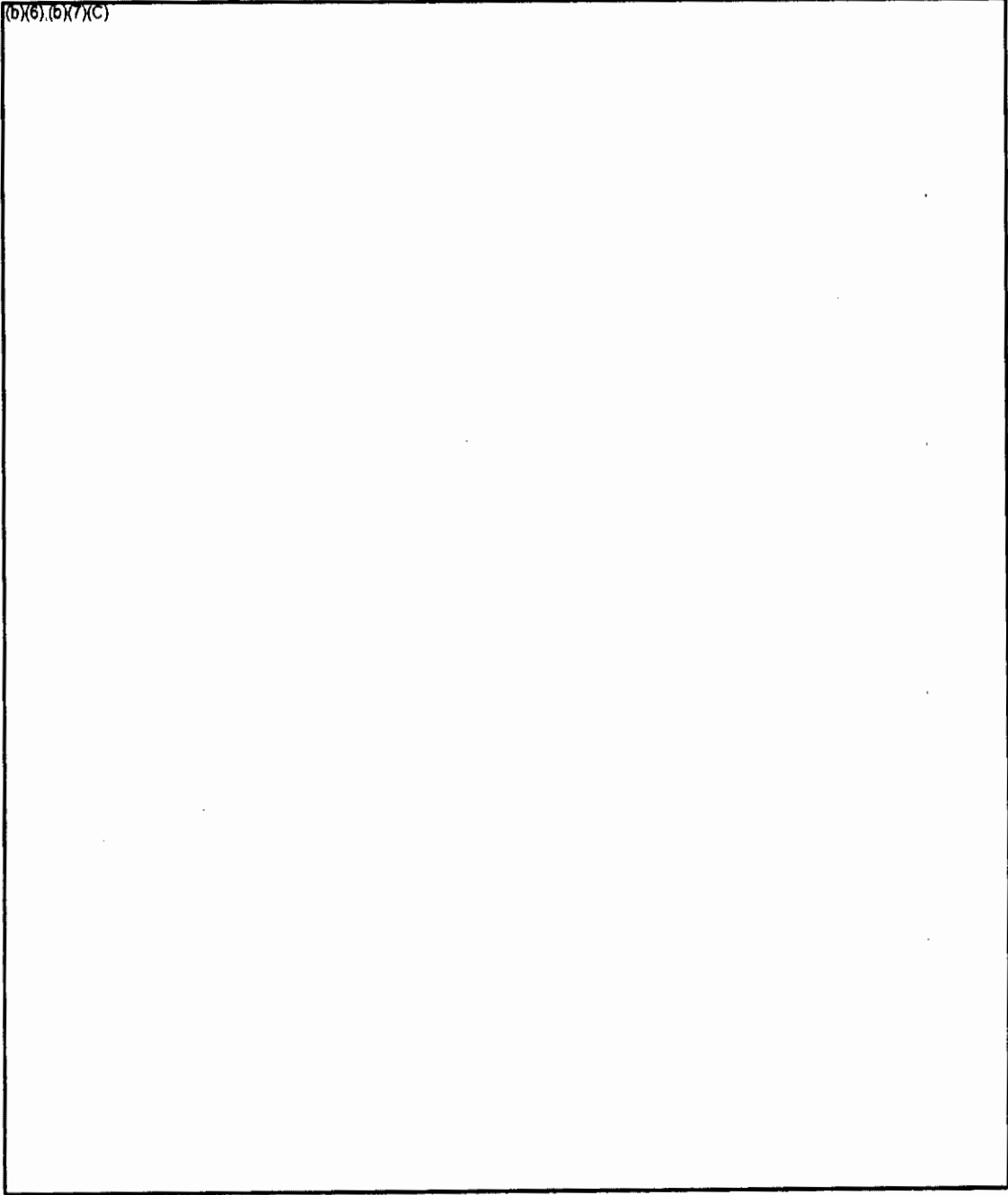
b. As the champion for GRAP, LTG Vaughn personally ensured GRAP evolved from a concept into full implementation with no predetermined methodology to adequately measure program success (other than the number of RAs and number of ARNG accessions), efficiency and to access risk. Although LTG Vaughn focused considerable personal time and effort into ensuring GRAP was successful, his personal involvement did not ensure adequate oversight to prevent fraud.<sup>153</sup> LTG Vaughn had the ability to regulate which States were involved in GRAP, and he could have used that leverage to ensure TAGs, leadership or USPFOs provided adequate oversight and fraud mitigation. LTG Vaughn was in a position to ensure that appropriate measures and safeguards

<sup>153</sup>LTG Vaughn's direct and personal involvement may have inhibited his subordinates from conducting more rigorous analysis, oversight, and program reviews because they would not have wanted to interfere with "his" program.

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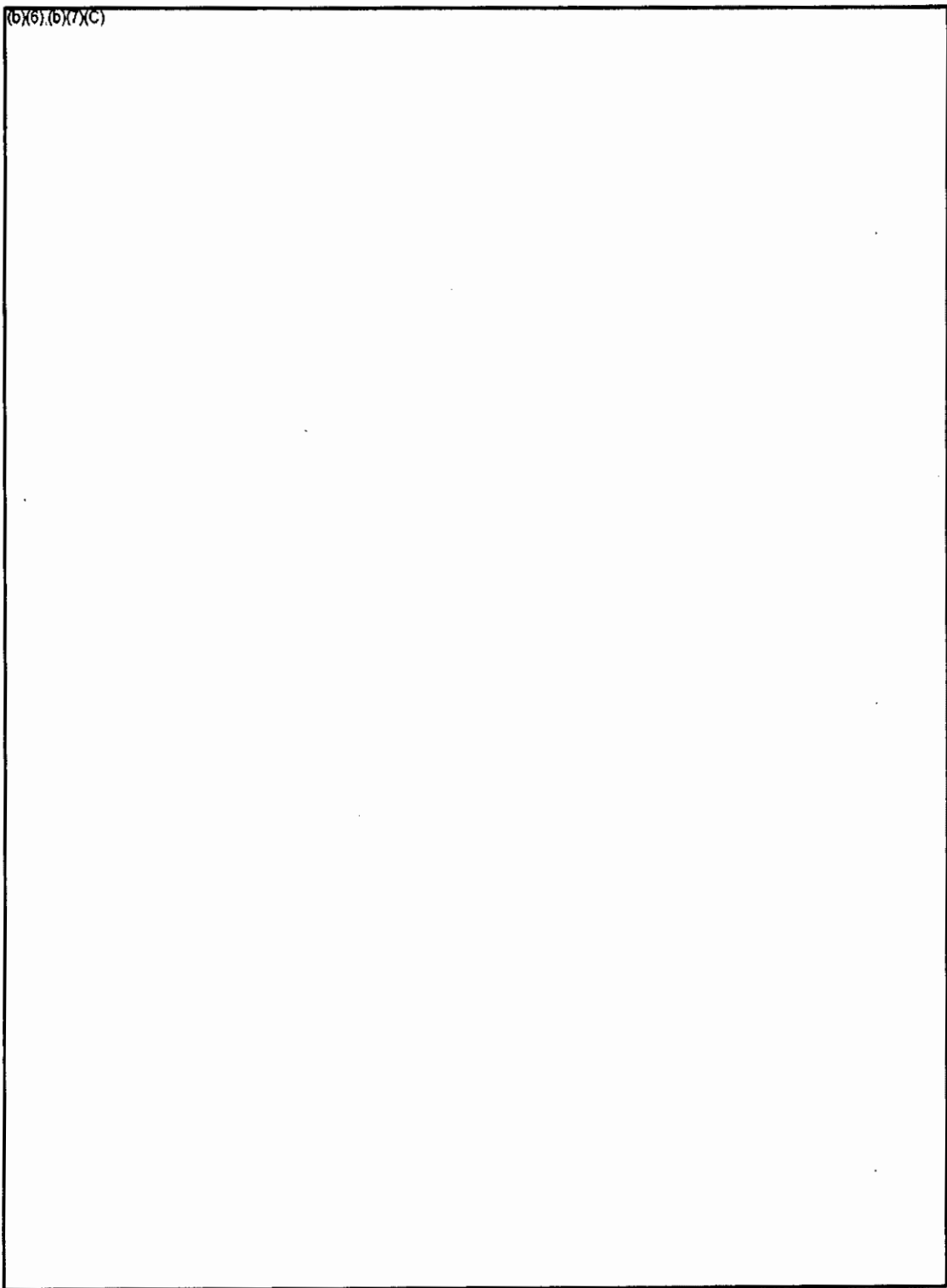
were in place to conserve government resources expended under GRAP, but he failed to do so. The allegation that LTG Vaughn failed to conserve government resources is substantiated.

(b)(6),(b)(7)(C)



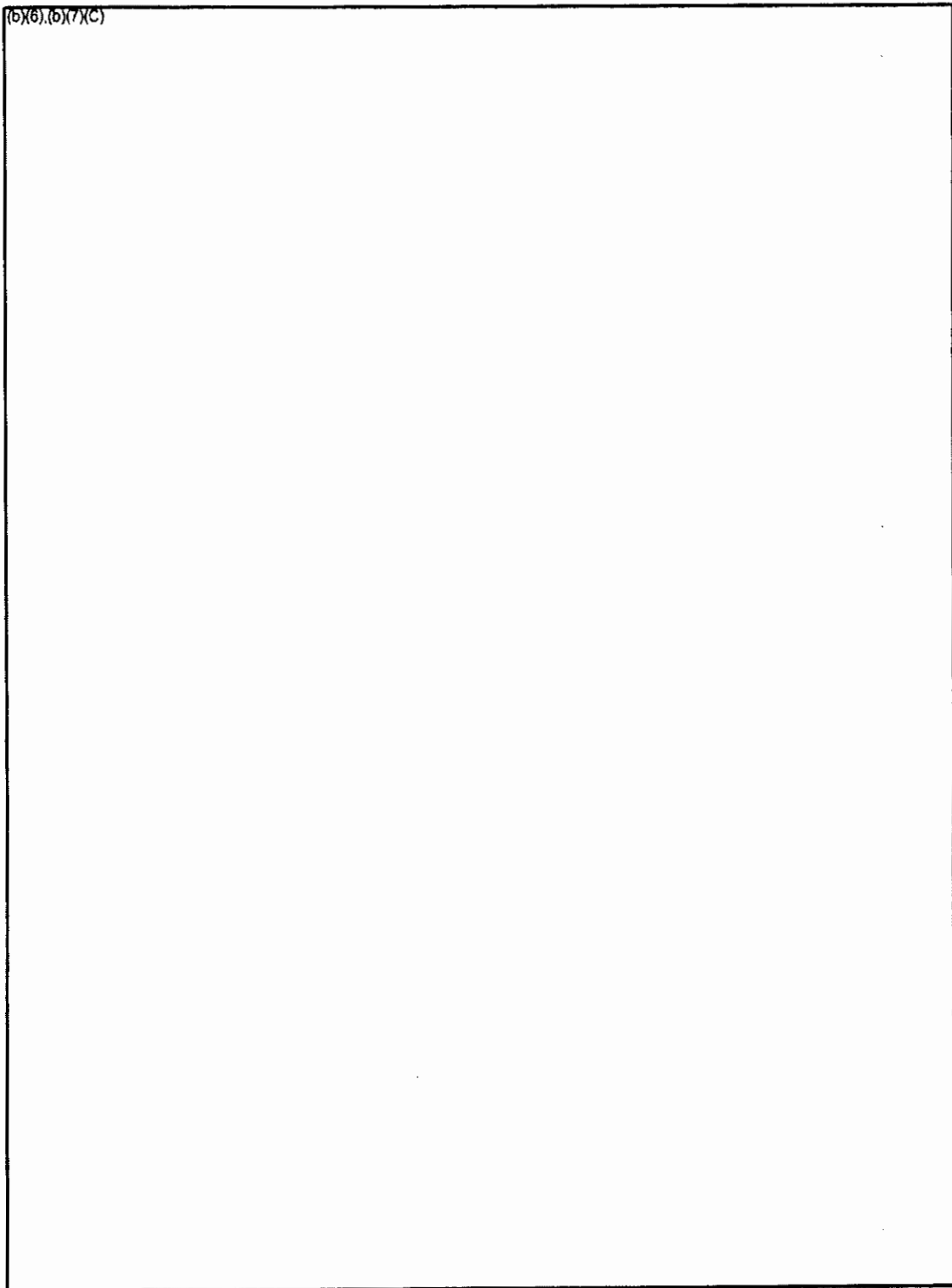
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SAIG-IN (RAP)

(b)(6),(b)(7)(C)



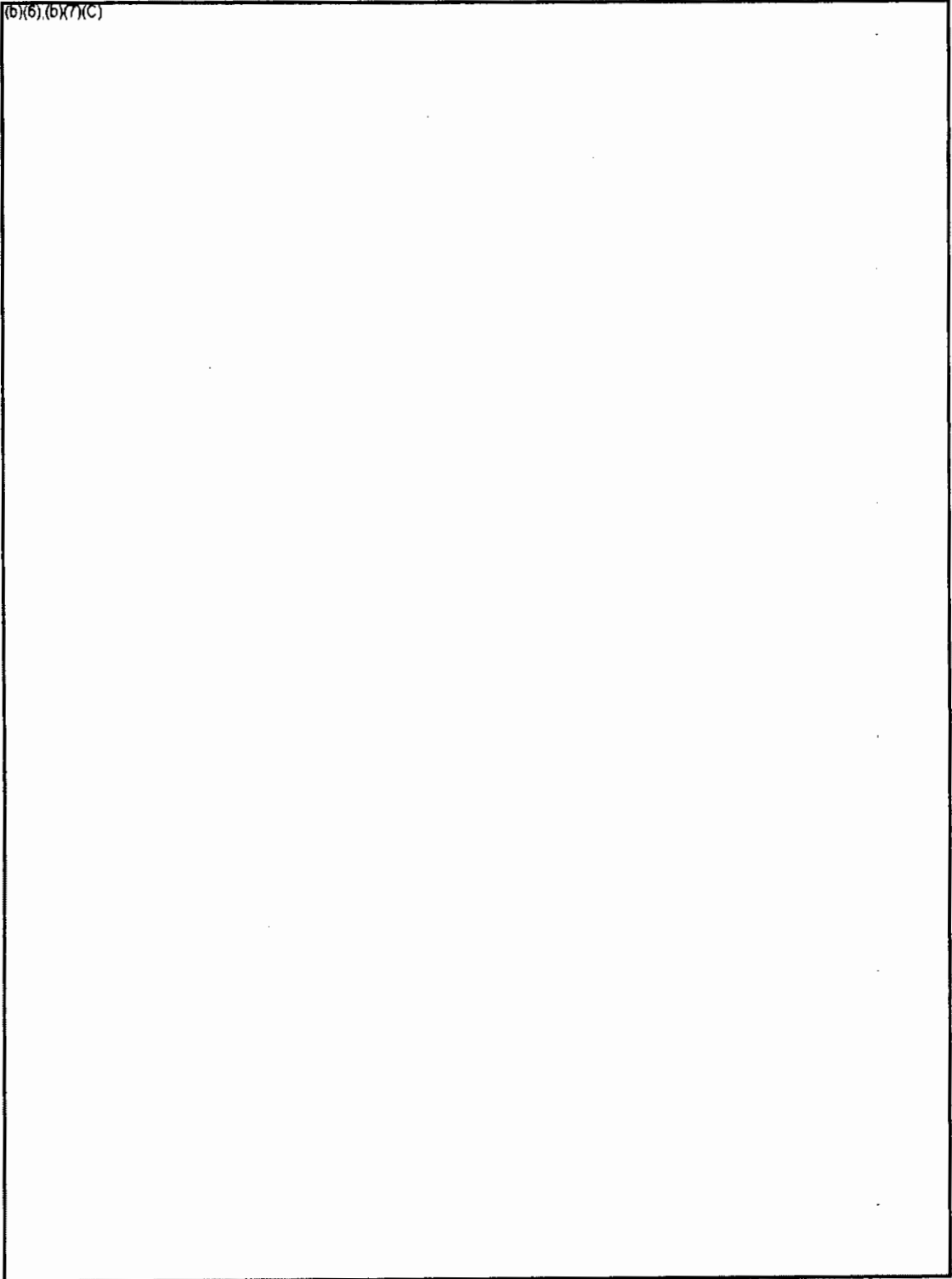
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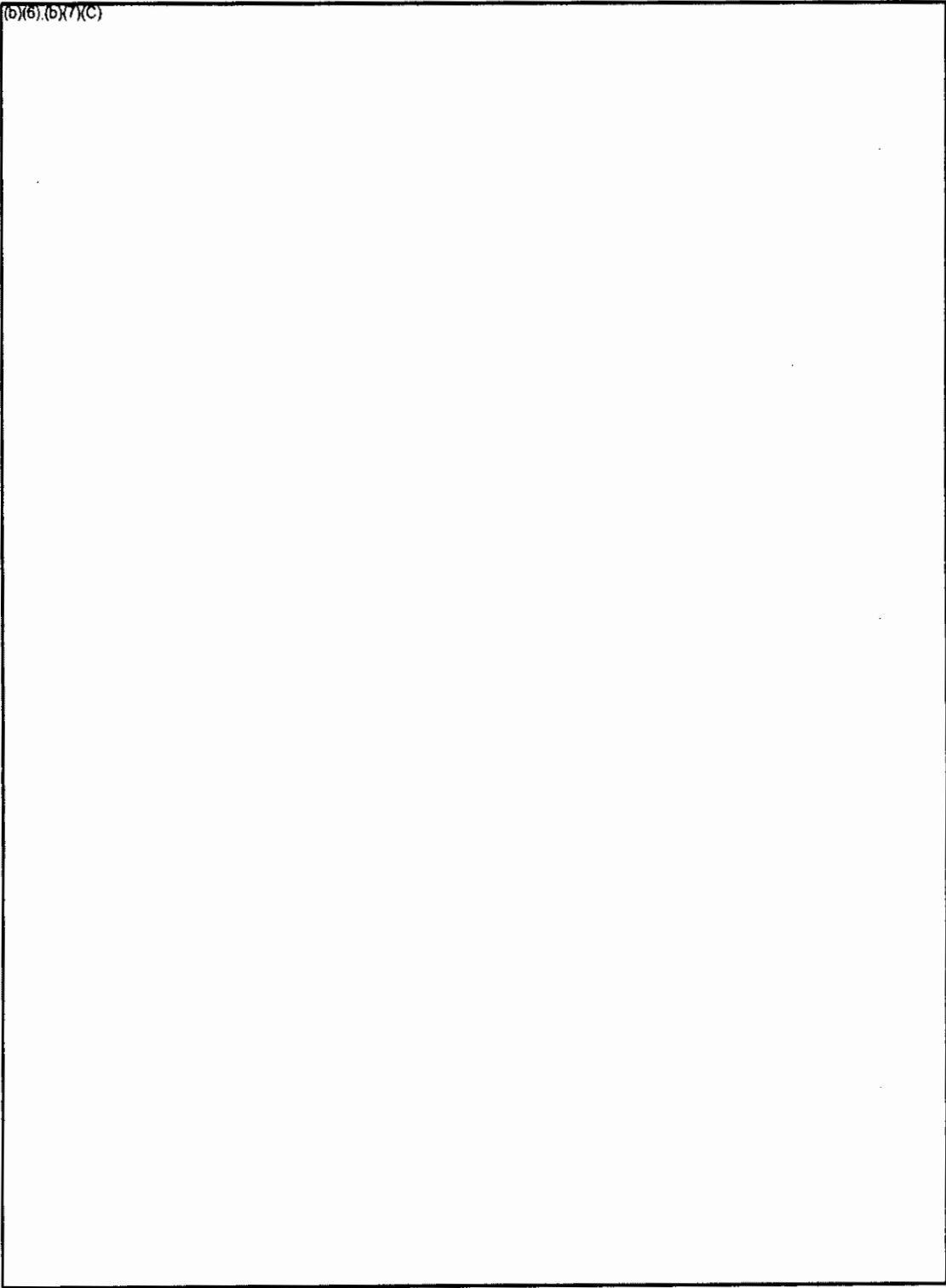
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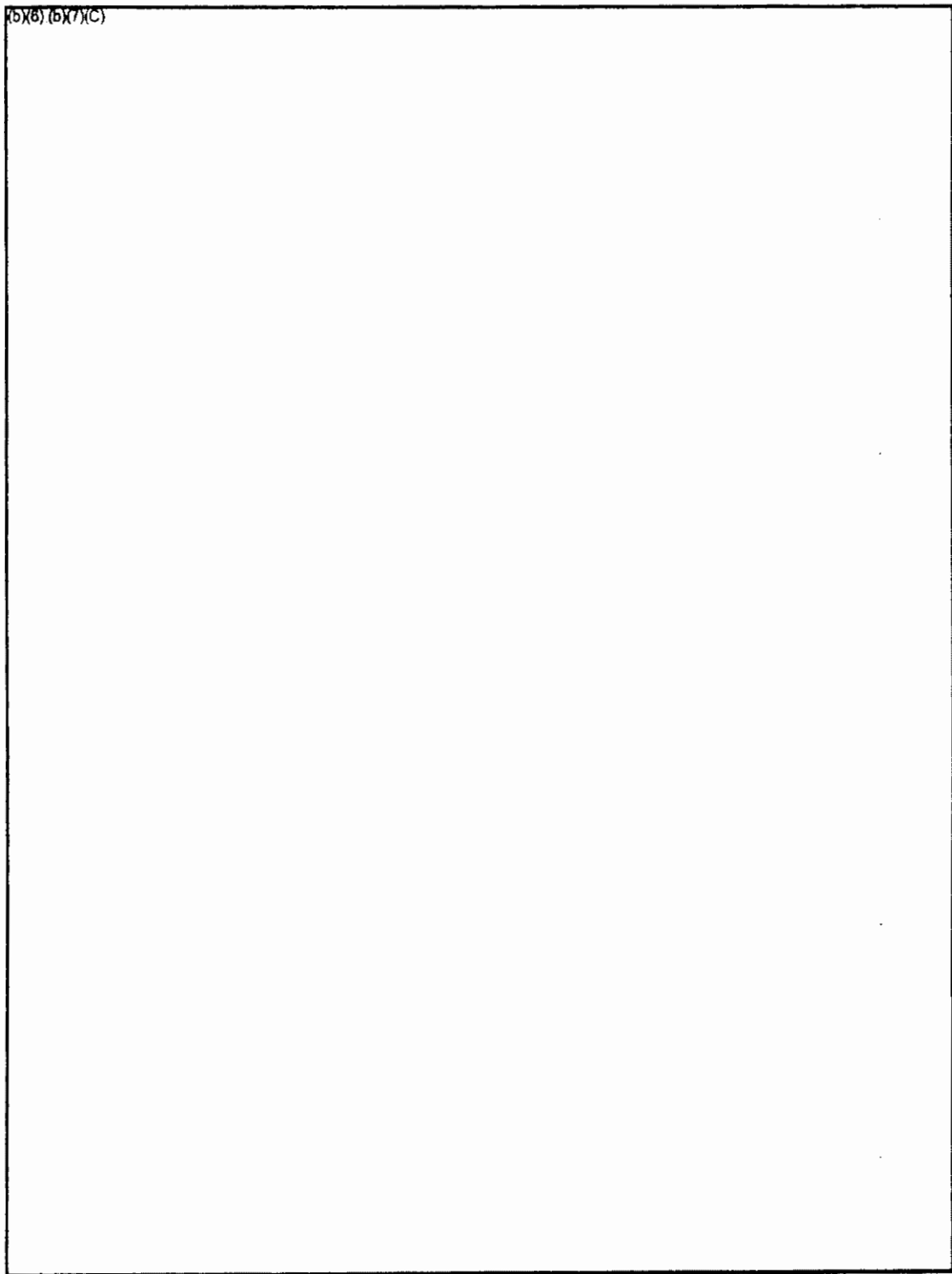
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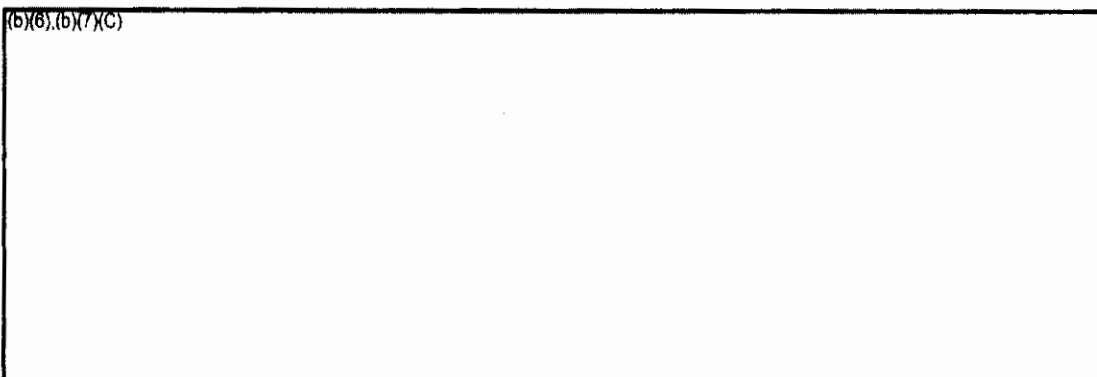
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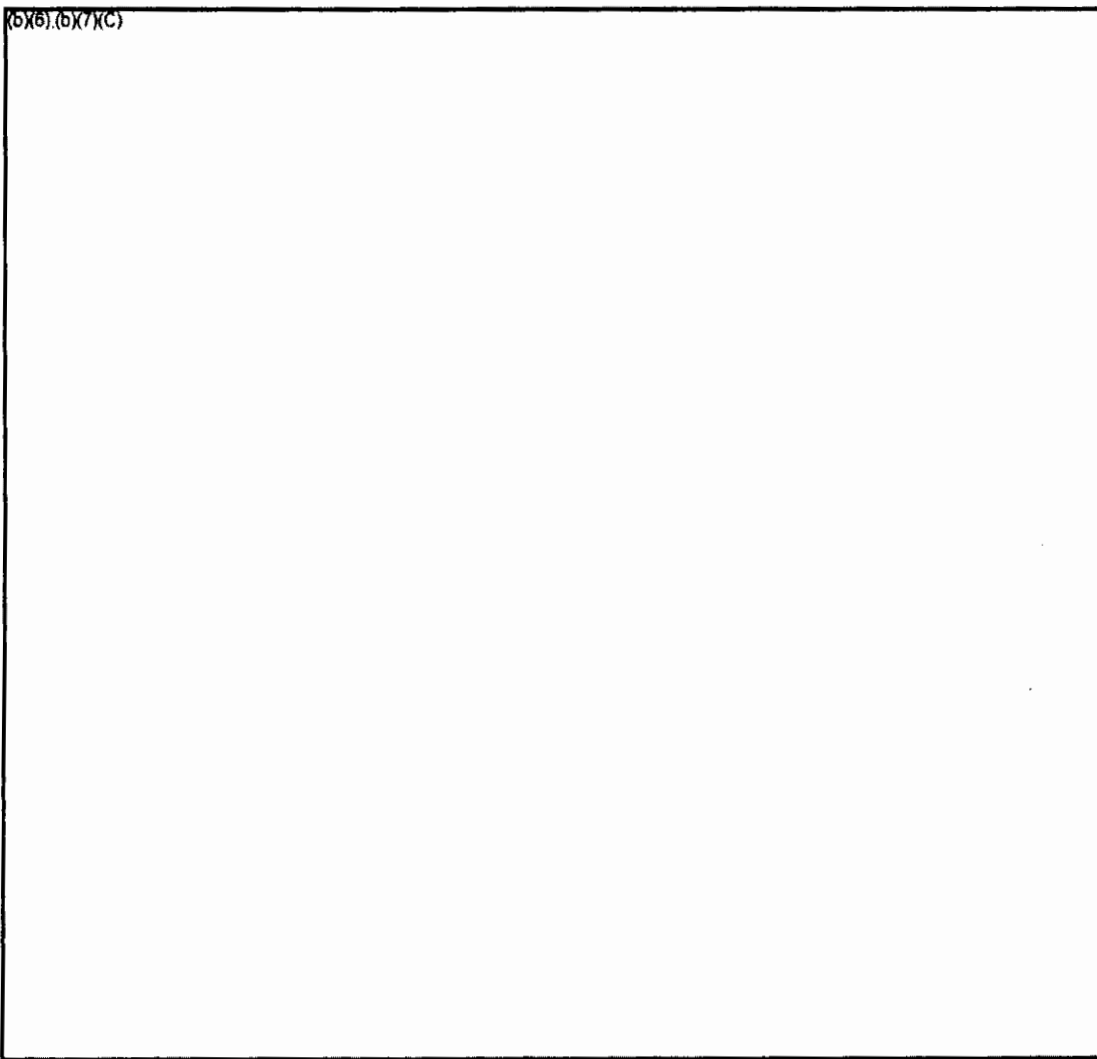


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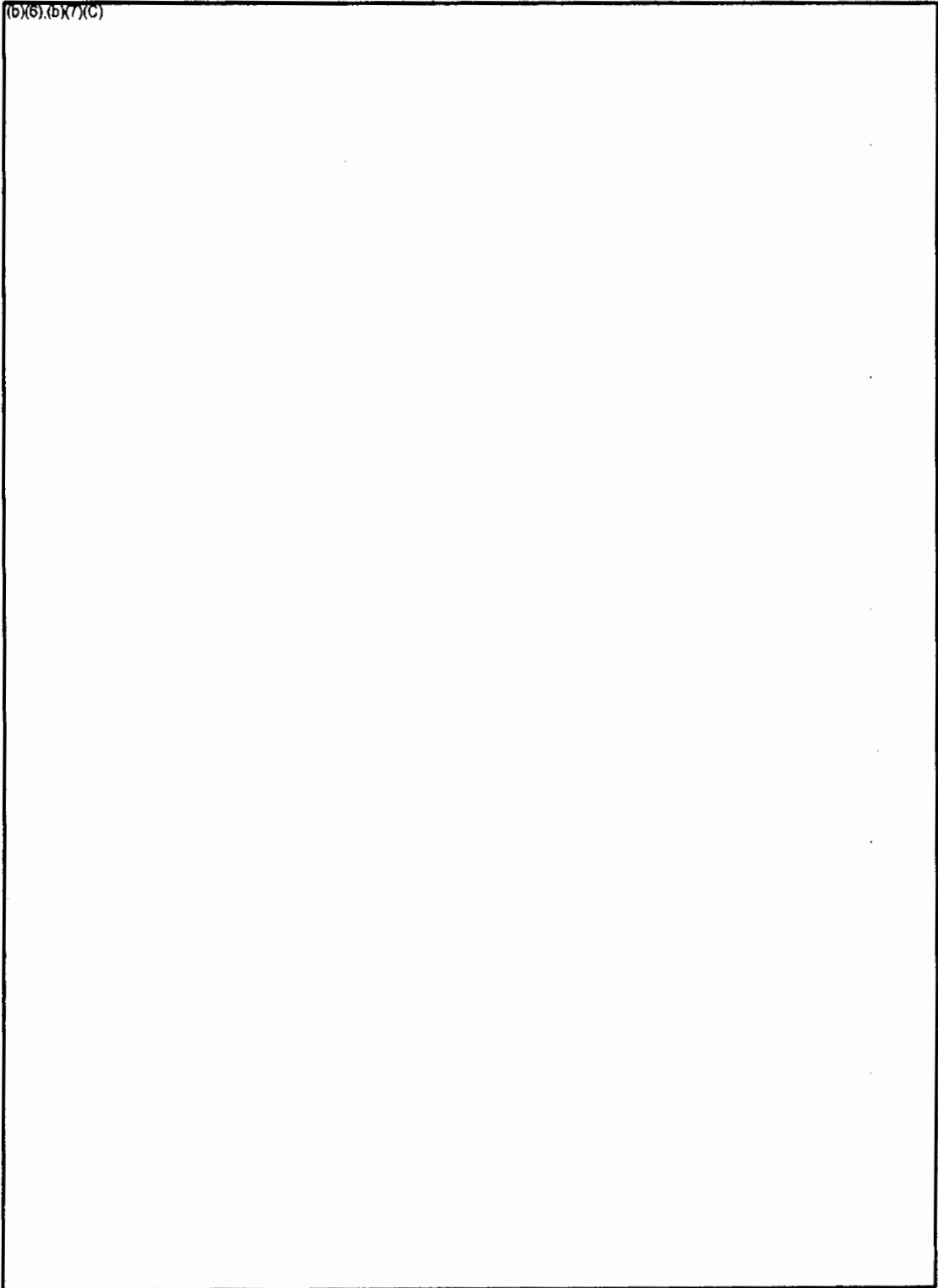
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(b)(6),(b)(7)(C)

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SAIG-IN (RAP)

(b)(6),(b)(7)(C)



SAIG-IN (RAP)

(b)(6),(b)(7)(C)

**NAME/POSITION:** (b)(6),(b)(7)(C) GS-15 (Retired), Former PARC, NGB, from (b)(6),(b)(7)(C)

**NAME/POSITION:** (b)(6),(b)(7)(C) ARNG (Retired), Former PARC, NGB, from (b)(6),(b)(7)(C)

**NAME/POSITION:** (b)(6),(b)(7)(C) GS-15 (Retired), Former PARC, NGB, from (b)(6),(b)(7)(C)

**ALLEGATION/FINDING:** The allegation that (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) failed to perform their duties as the PARC of the NGB was **SUBSTANTIATED.**

**SYNOPSIS:**

1. Standards.

a. The Federal Acquisition Regulation, March 2005, states:

(1) In Subpart 37.503, Management Oversight of Service Contracts:

The agency head or designee should ensure that: (a) Requirements for services are clearly defined and appropriate performance standards are developed so that the agency's requirements can be

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understood by potential offerors and that performance in accordance with contract terms and conditions will meet the agency's requirements; (b) Service contracts are awarded and administered in a manner that will provide the customer its supplies and services within budget and in a timely manner; (c) Specific procedures are in place before contracting for services to ensure that inherently governmental functions are performed by Government personnel; and (d) Strategies are developed and necessary staff training is initiated to ensure effective implementation of the policies in 37.102.

(2). In Subpart 37.504, Contracting Officials: "Contracting officials should ensure that 'best practices' techniques are used when contracting for services and in contract management and administration (see OFPP Policy Letter 93-1)."<sup>165</sup>

b. The AFARS, 1 October 2001, states:

(1). In AFARS Revision #10, dated April 30, 2004:<sup>166</sup>

Review Thresholds, Subpart 5137.5-3, Program Executive Office (PEO)s, Direct Reporting Program Managers (PM)s, and HCAs will, at a minimum, review and approve service acquisitions not already supported in an approved program acquisition strategy under their cognizance with a total planned dollar value greater than \$100M and less than \$500M and any service acquisition identified by the PEO/PM/HCA as special interest. The HCAs may, at their discretion, delegate review and approval authority for service acquisitions with a total planned dollar value less than \$500M to a level no lower than the PARC.

(2) In AFARS Revision #21, May 22, 2007.<sup>167</sup>

(a) In Subpart 5137.590-4 (e), Review Thresholds:

The HCAs will, at a minimum, review and approve service acquisitions not already supported in an approved program acquisition strategy under their cognizance with a total planned dollar value of \$250M but

<sup>165</sup>Office of Federal Procurement Policy (OFPP) Policy Letter 93-1 states in relevant part: "[Best Practices are] techniques that agencies may use to help detect problems in the acquisition, management, and administration of service contracts. Best practices are practical techniques gained from experience that agencies may use to improve the procurement process."

<sup>166</sup>The following GRAP contracts applied to this revision of AFARS: W9133L-05-D-0011-0015, 23 September 2005, \$18,472,944.20; W9133L-05-D-0011-0039, 5 July 2006, \$16.5M; W9133L-05-D-0011-0039 / MOD 01, 26 August 2006, \$34M

<sup>167</sup>There was no change in the language to review thresholds in subsequent AFARS revisions to the termination of GRAP. Subsequent GRAP contracts and task orders applied to this and subsequent revisions of the AFARS.

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less than \$500M and any service acquisition identified by the PEO/Direct Reporting PM/HCS as special interest.

(b) In Subpart 5137.590-4 (f): PARCs, PEOs and Direct reporting PMs will review and approve service acquisitions with a total planned dollar value of \$10M or more, but less than \$250M.

2. Analysis/Discussion.

a. Memorandum, ASA (ALT), SAAL-PB, 26 June 2009, subject: Department of the Army (DA) Procurement Management Review (PMR) of NGB PARC and the Operational Contracting Division, 30 March to 8 April 2009. The PMR resulted in NGB receiving a medium risk rating<sup>168</sup> to the organization. Specifically, the NGB received a medium risk rating in the areas of management and control processes, contingency contracting operations, workforce capabilities, automation and contract execution. The PMR also stated contract administration and documentation was the "least of everyone's concern" and included deficiencies related to COR training and contractor performance documentation. The results of the PMR were briefed and provided to NGB, who submitted a corrective action plan (CAP) in response to observations, findings and recommendations from the PMR. DASA (P) determined that the CAP needed to be revised. In response, NGB resubmitted the CAP to DASA (P) which was approved on 10 December 2009. DASA (P) tentatively planned to conduct a PMR during FY11 to reassess contracting operations. Evidence indicated that not all the deficiencies had been corrected in accordance with the CAP and deficiencies remained at the time of the RAP PMR outlined below.

b. Memorandum, ASA (ALT), SAAL-PR, 20 October 2013, subject: Department of the Army, Procurement Management Review (PMR) of RAP. The DASA (P) found there was a general failure to use sound business processes and a failure to follow statutory, regulatory and policy requirements. While the breakdown in oversight and accountability occurred throughout the NGB procurement approval chain, the responsibility for the integrity of the contracting function rested primarily with the HCA and PARC. There were three PARCs while GRAP was operational who did not execute their responsibilities to standard: (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C).

c. Memorandum, ASA (ALT), SAAL-PR, 24 April 2013, subject: Department of the Army, Procurement Management Review (PMR) of the National Guard Bureau (NGB),

<sup>168</sup>DASA (P) defined Medium risk: The organization is at risk of receiving moderate negative criticism or experiencing moderate adverse impact to contracting operations or customer mission requirements; Low Risk: Normal operations, the organization is at risk of receiving only minor criticism or experiencing only slight adverse impact to contracting operations or customer mission requirements; and high risk: The organization is at risk of receiving severe criticism or may suffer serious adverse impact to contracting operations or customer mission requirements. Recommendations will be addressed and high risks mitigated immediately or a waiver must be obtained by the DASA (P) MILDEP.

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27 November 2012 – 7 December 2012. This PMR was not GRAP-specific, but many of the faults found in the RAP PMR were systemic within the NGB contracting community and would likely have impacted GRAP. The PMR assigned an overall high risk rating to the NGB because of high risk ratings in Contract Execution and Management Controls. The PMR found the NGB had systemic weaknesses in the implementation of regulations, policies and applicable procedures. Contract files lacked documentation in a majority of areas, and 10 of 12 files reviewed did not have the required HCA/PARC reviews and signatures. Policy development was the responsibility of the PARC, as was the review and approval of contracts over a specified threshold. Had the required reviews been conducted, many of the contract irregularities could have been caught and corrected.<sup>169</sup>

d. Audit Report: A-2013-0128-MTH, The US Army Audit Agency (AAA), 1 August 2013, Contracts for the Guard Recruiting Assistance Program, found: (1) The NGB did not meet most requirements of the FAR for the three contracts used to execute GRAP; (2) The NGB inappropriately used an existing contract; (3) The PARC did not sufficiently perform his duties; and (4) The contracting organizational structure did not promote proper contracting operations. Appropriate reviews by any of the PARCs may have led to a discovery of at least some of the many contracting irregularities and allowed them to be corrected prior to execution.

e. (b)(6),(b)(7)(C) testified he served as the NGB PARC from (b)(6),(b)(7)(C) (b)(6),(b)(7)(C), when he retired. As the PARC, he was the senior acquisition official, other than the HCA, for NGB. He referred to the NGFARS to determine the threshold for review and approval of an acquisition.<sup>170</sup> Contract reviews were documented by letter and signed by (b)(6),(b)(7)(C) NGB PARC Policy Office, who did most of the reviews. (b)(6),(b)(7)(C) testified he reviewed and approved all contracting actions above a certain dollar threshold.<sup>171</sup> (b)(6),(b)(7)(C) gave periodic briefings regarding contracting activities to the comptroller and LTG Blum. (b)(6),(b)(7)(C) did not recall reviewing or approving any GRAP contracts that required PARC review during his tenure. Evidence indicated that neither LTG Blum nor (b)(6),(b)(7)(C) reviewed the 2007 GRAP contract (W9133L-07-D-0007). It was (b)(6),(b)(7)(C) responsibility to review the contract and then ensure LTG Blum reviewed and approved the contract.

The DAIG found no evidence to indicate (b)(6),(b)(7)(C) reviewed or approved any GRAP contract meeting the threshold for PARC review and approval, as required by the

<sup>169</sup>Such irregularities included QASPs not included as part of the contract, COR appointments absent or missing, contract out of scope, etc.

<sup>170</sup>The May 2005 NGFARS required the PARC to review contracts with a lower dollar amount than the AFARS required. The May 2005 NGFARS contract review and approval threshold for the PARC was over \$3M. The 18 July 2007 NGFARS contract review and approval threshold was lowered to over \$2M.

<sup>171</sup>The 30 April 2004, AFARS permitted (b)(6),(b)(7)(C) to review and approve service acquisitions valued between \$100M to \$500M dollars, if the HCA delegated that authority. The 22 May 2007, AFARS required (b)(6),(b)(7)(C) to review and approve service contracts valued between \$10M to \$250M. As noted previously, the May 2005 NGFARS required PARC review and approval for contracts with values starting at over \$3M.

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AFARS. (b)(6),(b)(7)(C) failed to perform the required PARC review and approval on the following contract actions:

Contract/Task Order Number	Date or Order Call	Type	Value	Remarks
W9133L-07-D-0007	27-Jun-07	IDIQ CONTRACT	\$500,000 - \$472,000,000	The purpose of this performance-based Indefinite Delivery, Indefinite Quantity (IDIQ) contract is to provide a single award contract to a contractor capable of providing management, supervision, personnel, material and equipment to plan, create, design, produce, place, evaluate and measure the effectiveness of the Guard Recruiting Assistance Program (GRAP).
W9133L-07-D-0007-0002	22-Aug-07	Task Order (TO) 0002	\$ 13,997,666.00	Provide non personal GRAP services
W9133L-07-D-0007-000204	29-Sep-07	MOD 4 to TO 0002	\$ 11,148,725.00	MOD adds amount shown to increase accessions from 9978 to 14633

f. (b)(6),(b)(7)(C) testified he was appointed as the acting PARC in (b)(6),(b)(7)(C) (b)(6),(b)(7)(C). As the PARC, (b)(6),(b)(7)(C) was responsible for all contracting for NGB. He referred to the NGFARS to determine the contract threshold for review and approval by the HCA and PARC.<sup>172</sup> (b)(6),(b)(7) testified that when a contract met the threshold for PARC review, someone in the PARC office would review and approve the contract, not necessarily the PARC. (b)(6),(b)(7)(C) did not recall any GRAP contracts during his tenure as PARC.

The DAIG found no evidence that indicated (b)(6),(b)(7)(C) reviewed or approved any GRAP contract meeting the threshold for review and approval by the PARC in accordance with the AFARS. (b)(6),(b)(7)(C) failed to perform the required PARC review and approval on the following contract actions:

Contract/Task Order Number	Date or Order Call	Type	Value	Remarks
W9133L-07-D-0007-0007	4-Jan-08	TO 0007	\$ 28,740,000.00	To provide Non-personal Guard Recruiting Assistance Program (GRAP) Services.
W9133L-07-D-0007-0009	3-Mar-08	TO 0009	\$ 28,140,000.00	The Contractor shall provide Non-personal Guard Recruiting Assistance Program (GRAP) Services.
W9133L-07-D-0007-000903	3-Sep-08	MOD 3 to TO 0009	\$ 13,999,650.00	Increase accessions funds to help fully fund the period of performance
W9133L-07-D-0007-0023	11-Feb-09	TO 0023	\$ 11,725,000.00	To provide Non-personal Guard Recruiting Assistance Program (GRAP) Services
W9133L-07-D-0007-0024	12-Feb-09	TO 0024	\$ 22,001,795.00	To provide Non-personal Guard Recruiting Assistance Program (GRAP) Services. Accessions

g. (b)(6),(b)(7)(C) testified he was appointed as the PARC for NGB in (b)(6),(b)(7)(C) (b)(6),(b)(7)(C). As the PARC, he was responsible for the administration of the contracting function of NGB. (b)(6),(b)(7)(C) testified acquisition authority started with a contracting specialist, and, depending on the value of the

<sup>172</sup>The 18 July 2007 NGFARS' PARC review and approval threshold was over \$2M. The NGFARS required the PARC to review contracts with a significantly lower dollar amount than the AFARS required.

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contract, it was forwarded to the PARC for review and approval. (b)(6),(b)(7) delegated contracting responsibilities down to his subordinates that were within the thresholds for PARC review and approval established in the FAR, the AFAR and the NGFARS. (b)(6),(b)(7)(C) could not recall which responsibilities he delegated to his subordinates. He did not recall reviewing any GRAP contracts during his tenure as the PARC.

The DAIG found no evidence that indicated (b)(6),(b)(7) reviewed or approved any GRAP contract meeting the threshold for review and approval by the PARC in accordance with the AFARS. (b)(6),(b)(7)(C) failed to perform the required PARC<sup>173</sup> review and approval on the following contract actions:

Contract/Task Order Number	Date or Order Call	Type	Value	Remarks
W9133L-07-D-0007-0030	12-Feb-10	TO 0030	\$ 29,416,852.50	To provide Non-personal Guard Recruiting Assistance Program (GRAP) Services. (Note: SFC (b)(6),(b)(7)(C) listed as POC not COR)
W9133L-07-D-0007-003003	29-Oct-10	MOD 3 to TO 0030	\$ 21,675,205.00	Increased funding on Task Order

h. Testimony by all three PARCs indicated PARC-required reviews were often done by the PARC policy staff and they, the PARCs themselves, did not review the contracts personally. All the PARCs stated the HCA appointed them as the PARC. The AFARS refers to the PARC as a specific person, and a specific person was appointed as the PARC in the NGB. If the PARC<sup>174</sup> is required to conduct a review for a contract above a specific threshold, the PARC must personally review and approve the contract. Although it is understandable for the PARC to have his staff prepare a review, the PARC still retains personal signature authority. DAIG could find no evidence the PARC's ever saw the contracts valued greater than \$10M. Under the 30 April 2004 AFARS, PARCs could review and approve service acquisitions with a total planned value of \$100M to \$500M if delegated by the HCA. Under the 22 May 2007 AFARS, PARCs were required to review and approve contracts valued greater than or equal to \$10M but less than \$250M. While the DASA (P) determined the NGFARS was not a valid document in accordance with the AFARS, the NGB PARC and KOs used the NGFARS as their guiding regulation. The NGFARS required PARC review for service contract actions greater than \$2M; which placed even greater responsibility on the PARCs. Evidence indicated the NGB PARCs and KOs did not follow their own regulation.

3. Conclusion: The preponderance of credible evidence reflected that (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) failed to perform their duties as the NGB PARC in violation of

<sup>173</sup>The 18 July 2007 and 20 August 2010 NGFARS review and approval threshold was over \$2M. The NGFARS required the PARC to review contracts with a lower dollar amount than the AFARS required.

<sup>174</sup>AFARS Part 5102 states: "Principal Assistant Responsible for Contracting" (PARC) means the individual assigned to a position, the Head of the Contracting Activity (HCA) has established at the contracting activity level to accomplish contracting functions which FAR, DFARS, DFARS PGI, AFARS, or other directive does not require the HCA to perform personally." AFARS 5137.590-4 (f) states: "PARCs, PEOs and Direct Reporting PMs will review and approve service acquisitions with a total planned dollar value of \$10 million or more, but less than \$250 million."

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the AFARS. Additionally, they failed to conduct the more expansive reviews required by the NGFARS, a document they were responsible for producing and maintaining. The preponderance of credible evidence showed the allegation that (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) failed to perform their duties as the PARC of the NGB was substantiated.

We investigated eight senior officials for allegations related to RAP. Five of the eight officials had substantiated allegations related to failures to perform duties as senior contracting officials and/or failure to conserve government resources. During our investigation, we also found other issues that may need to be address by other agencies, including potential allegations against non-senior officials, which were outside the scope of this investigation. These issues are addressed below as Other Matters.

**PART FOUR - OTHER MATTERS:**

1. Referral Bonus Program (RBP) – Recruiter Assistance Program (RAP) Confusion.

a. The near-simultaneous execution of similar programs led to confusion across the Army. Failure to distinguish between the programs may have resulted in senior leaders not fully understanding program requirements and not understanding which authorizations were for RBP versus RAP. This was evident in the fact that witnesses often confused the RBP with the various RAPs.<sup>175</sup> The lack of clarity and inability to distinguish between programs may have created confusion in the field. A clear delineation between the programs could have led to a better understanding of oversight requirements and program execution.

(1) RBP was a temporary Congressionally-authorized bonus program that authorized payment for the referral of individuals without prior military service for potential recruitment into the Army. The program was initially open to a member of any of the Army Components and paid \$1K in one lump sum when the referred individual completed basic training and advanced individual training. The program was later expanded to include referrals from military retirees and DA Civilians. Additionally, the payment schedule was changed to \$1K paid upon commencement of basic training, and a second \$1K paid upon the completion of individual advanced training by the person referred. In all cases, recruiting personnel were not eligible to participate and payments were made by the Defense Finance and Accounting Service.

(2) RAP was a contracted program that paid a contractor to hire RAs to provide referrals and included a sponsorship component. The program allowed, depending upon the Component, payment for prior service and non-prior service referrals and was open to anyone who met the contractor's RA qualifying requirements (except Title 10

<sup>175</sup>As outlined earlier, the first RAP program, GRAP, pre-dated the 2006 NDAA by just over a month.

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officers, Department of the Army Civilians and any Soldier involved in recruiting and retention). The payment schedule was \$1K when the referred PS signed a contract and \$1K when the referred PS departed for basic training. The contractor managed the RAs.

2. Confusion with ARNG, NGB, Army Secretariat and Army Staff relationships.

Testimony from multiple organizations highlighted uncertainty with the regulatory responsibilities and authorities governing the relationship between the ARNG, NGB, Army Staff and the Army Secretariat. The addition of unclear recruiting and retention program requirements and ill-defined reporting requirements between the Army G-1, ASA (M&RA) and the ARNG contributed to inadequate staffing and analysis during the approval and execution of RAP. Based upon key leader witness testimony, governance, standards applicability, and RAP decision authorities were unknown, conflicting, or misunderstood as discussed in the following paragraphs.

a. DoD Directive 5105.77 (National Guard Bureau (NGB)), 21 May 2008, states that for NGB matters pertaining to the responsibilities of the Departments of the Army and Air Force in law or DoD policy, the Secretary of Defense normally exercises authority, direction and control over the NGB through the Secretaries of the Army and the Air Force. However, the directive goes on to say the NGB is not under the authority or direction of the Service Secretaries.<sup>176</sup> For example, until recently, the ARNG/NGB was under no obligation to provide recruiting and retention numbers to the Army G-1 for review. However, the Army G-1 was held responsible for reporting the ARNG numbers as part of the Army's overall strength.

b. Section 10503 of Title 10, United States Code and General Order #2012-1, states the NGB will issue regulations consistent with approved service policies and provide them for consultation as required. Although there are understandable reasons these documents state broad, general requirements, this creates difficulty for staffs involved to understand required coordination and approval processes. At times, this confusion resulted in an "I do not work for you" response to queries and blurred lines of authority and responsibility. Delineating clear lines of responsibility in policy or in law would reduce the staff level confusion and allow a better understanding of oversight and staffing requirements.

3. Documentation of SA, Army Staff and Secretariat Principal decisions.

Testimony indicates that the SA, Army Staff and Secretariat met and discussed RAP. It was reported that decisions were made during these meetings, but there is little documentation of the topics discussed, those who attended or the decisions reached.

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<sup>176</sup>DODD 5105.77 paragraph 4.2.

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The lack of documentation made the identification of responsible officials more challenging. Testimony indicated that since the arrival of the current SA, a more formal system had been implemented to document the results of meetings that included decisions on policies and plans. It would benefit the Army Staff and Secretariat to document all Secretariat-level and Primary Army Staff-level decision briefings.

4. Automation to assist with process tracking and archiving contracting products.

The absence of a system for electronic routing and approval of contract actions made it difficult for ASA (ALT) and DASA (P) to conduct proper oversight. The use of automation would have assisted the KO to write the contract and to obtain legal and supervisory reviews (including PARC and HCA reviews), thus helping to ensure compliance with the AFARS and other contracting rules and regulations. Such a system would also have helped to archive contract files, to track management overrides to AFARS and to generate management reports based on ASA (ALT), DASA (P), PARC and HCA-required performance metrics. Such a system may have identified some of the contracting irregularities that were associated with RAP.

5. Fraud reporting.

During a meeting to discuss potential fraud associated with RAP, representatives from CID, DCIS, and AFOSI decided that DOCUPAK would submit information of any suspected fraudulent activity directly to their work group and not to the customer, COR or KO. The CID/DCIS/AFOSI work group did not want the information reported to prevent interference with any ongoing investigation. This decision may have prevented the Components from being appraised of fraud and then taking appropriate action to address it earlier. A result of the RAP audits and investigations is that ASA (ALT) has modified contracting requirements to require that any fraud or malfeasance detected by the contractor be reported to the COR, KO and appropriate agencies (e.g., DAIG, CID).

6. Evolution of the DASA (P) PMR program.

a. Consistent progress has been shown with the DASA (P) PMR program since its re-establishment in 2006. Previous PMRs were general, relied heavily on internal HCA reviews, and were limited by inadequate manning. Three years after establishment, the PMRs went into greater depth during the inspections and required inspected organizations to provide CAPs for areas with medium or high risk ratings. However, the follow-up on the CAPs was incomplete. For example, in 2009 a CAP was completed on the NGB, but evidence indicated that corrective actions were only tracked for a short time and most actions were never closed out at the DASA (P) level. In 2013, the DASA (P) established the Directorate for Review and Oversight to place increased emphasis on contracting oversight. This directorate oversees and executes the Army's PMR program, which monitors corrective action and follow-up with contracting activities.



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d. Evidence reflected that a number of persons in the USARC G-1, including, but not limited to, the G-1<sup>181</sup> may have failed in their duties regarding the management and oversight of AR-RAP.

8. CID RAP TF Investigations.

CID is projected to complete preliminary investigations into potential fraud during the fall of 2016.<sup>182</sup> The extent of the alleged fraud is not known. Should CID identify potential senior official misconduct, they should inform DAIG for appropriate monitoring and additional investigation if required.

<sup>181</sup> (b)(6),(b)(7)(C) was the (b)(6),(b)(7) at the inception of AR-RAP. Additionally, (b)(6),(b)(7)(C) and the CORs may have failed in their duties regarding the management of AR-RAP.

<sup>182</sup> As of 24 April 2014, CID had founded allegations against 104 RAs, 33 recruiters, 8 others, and 3 senior officers were founded for a total value of approximately \$3.45M. GRAP related fraud accounted for 92.8%; AR-RAP for 6.3%; and ARAP for 0.78% of that \$3.4M.

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**PART FIVE - RECOMMENDATIONS:**

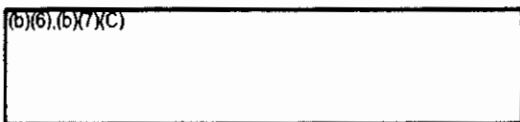
1. This report be approved and the case closed.
2. Refer military personnel substantiated in this report to the Office of The Judge Advocate General for action as appropriate.
3. Refer civilians substantiated in this report to the Office of the General Counsel for action as appropriate.
4. Refer Other Matters, paragraph one, to ASA (M&RA) for action and future use.
5. Recommend the SA request that the Secretary of Defense convene a working group to review and revise DoD Directive 5105.77 to address any inconsistencies and clearly define authorities and responsibilities for the ARNG (Other Matters, paragraph two).
6. Refer Other Matters, paragraph three, to the Administrative Assistant to the Secretary of the Army for action.
7. Refer Other Matters, paragraphs four and six, to the ASA (ALT) for action as appropriate.
8. Refer Other Matters, paragraph five, to DCIS and CID for action. Law enforcement officials must always maintain effective working relationships with commanders and responsible officials. Recommend a review of current law enforcement investigation procedures to ensure that routine progress updates are provided to the appropriate commanders/responsible officials.
9. Refer Other Matters, paragraph seven, to the appropriate command or agency. As directed by the SA, more than 20 non-senior officials have been referred to their respective agencies for further investigation.
10. DAIG monitor the results of the CID RAP TF investigations and initiate senior official investigations as required (Other Matters, paragraph eight).
11. SA direct the TIG to re-inspect and provide an update on the CAPs as a result of this investigation no later than 18 months from the approval of this report of investigation.
12. Recommend that OSD direct Chief, NGB to establish and appropriately man a functional Recruiting Standards Directorate (RSD) to ensure effective oversight and fraud prevention for all ARNG recruiting programs. The USAREC RSD organization

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provides a suitable start point and model for roles, missions, responsibilities and manning authorization development.

13. Refer the report to the United States Senate Subcommittee on Contracting Oversight Committee on Homeland Security and Governmental Affairs.

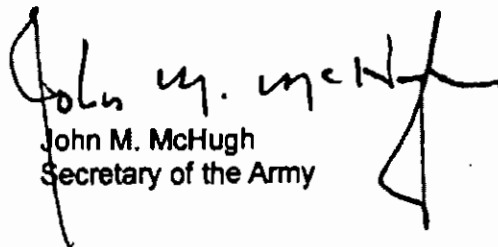
(b)(6),(b)(7)(C)



Colonel, IG  
Division Chief

A handwritten signature in cursive script, reading "Peter M. Vangjel".

PETER M. VANGJEL  
Lieutenant General, U.S. Army  
The Inspector General

A handwritten signature in cursive script, reading "John M. McHugh".

John M. McHugh  
Secretary of the Army

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**LIST OF EXHIBITS**

**EXHIBIT    ITEM**

**A            Authority/Complaint**

- A-1: Directive
- A-2: Legal Review(s)

**B            Standards**

- B-1: HQDA General Order #3 (Assignment of Functions and Responsibilities within Headquarters, Department of the Army), 9 July 2002
- B-2: HQDA General Order #2012-01 (Assignment of Functions and Responsibilities within Headquarters, Department of the Army), 11 June 2012
- B-3: AR 27-40 (Litigation), 19 September 1994
- B-4: AR 70-13 (Management and Oversight of Service Acquisitions), 30 July 2010
- B-5: AR 25-30 (The Army Publishing Program), 27 April 2006
- B-6: Title 10 United States Code, Section 3016 (b)(2)
- B-7: AR 70-1 (Army Acquisition Policy), 31 December 2003
- B-8: AR 601-210 (Regular Army and Army Reserve Enlistment Program), 7 July 2007
- B-9: AR 135-7 (Army National Guard and Army Reserve Incentive Programs), 15 May 1996
- B-10: National Defense Authorization Act for Fiscal Year 2006, Public Law No. 109-163, Section 645 (6 January 2006)
- B-11: Title 5, Code of Federal Regulations (CFR), Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch (1 January 2007)
- B-12: The Federal Acquisition Regulation, March 2005
- B-13: AFARS, 1 October 2001 (Revision #10 dated 30 April 2004) subpart 5137.5-3, Review Thresholds
- B-14: AFARS, 1 October 2001 (Revision #21 dated 22 May 2007) subpart 5137.590-4, Review Thresholds
- B-15: The Army Federal Acquisition Regulation Supplement, 1 October 2001, (with revision #25 dated 1 April 2010)
- B-16: NGR 601-1 (Army National Guard Strength Maintenance Program), 28 April 2006
- B-17: AR 601-45 (Recruiting Improprieties Policies and Procedures), 13 July 2009

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**C Documents**

C-1: Memorandum, Secretary of the Army, 9 February 2012, subject: Review, Investigation and Corrective Action – Active Army and Army Reserve Component Recruiting Assistance Programs

C-2: Memorandum, Office of the Army Chief of Staff, DACS-ZD, 1 July 2013, subject: Report on the Review, Investigation and Corrective Action- Active Army and Army Reserve Component Recruiting Assistance Programs (RAP)

C-3: Memorandum, Secretary of the Army, 25 September 2013, subject: Active Army and Army Reserve Component Recruiting Assistance Programs

C-4: Memorandum, Office of the Assistant Secretary of the Army, Acquisition, Logistics and Technology, SAAL-PR, 17 December 2013, subject: ASA (ALT) Response to Secretary of the Army Recruiting Assistance Programs (RAP) Taskings

C-5: Memorandum, Office of the Assistant Secretary of the Army, Manpower and Reserve Affairs, SAMR, 25 November 2013, subject: Recruiting Assistance Program (RAP) Investigation Update and Request for Assistance

C-6: Memorandum, US Army Audit Agency, SAAG-ZBZ, 4 June 2012, subject: Audit of Recruiting Assistance Programs – Reserve Components (Project Number A-2011-ZBT-0404.000), Report: A-2012-0115-IEF

C-7: Audit Report: A-2013-0128-MTH, The US Army Audit Agency (AAA), 1 August 2013, Contracts for the Guard Recruiting Assistance Program

C-8: Memorandum, US Army Audit Agency, SAAG-IEZ, 3 October 2012, subject: Audit of Recruiting Assistance Programs – Active Component (Project Number A-2012-IEF-0319.000), Report: A-2013-0001-IEF

C-9: Regulation, ASA (ALT), 1 April 2010, AFARS, part 5137.590-4 and appendix CC

C-10: Report, DODIG, 31 January 2007, subject: Audit of National Guard and Reserve Controls over Recruitment Incentives, dated

C-11: Report, GAO, February 2013, subject: High-Risk Series: An Update

C-12: Memorandum, SA, 29 August 2006, subject: Fiscal Year (FY) 2006 Statement of Assurance on Management Controls as Required under the Federal Managers Financial Integrity Act (FMFIA) of 1982

C-13: Memorandum, SA, 27 August 2007, subject: FY 2007 Statement of Assurance on Management Controls as Required under the FMFIA of 1982

C-14: Memorandum, SA, 13 August 2008, subject: FY 2008 Statement of Assurance on Management Controls as Required under the FMFIA of 1982

C-15: Memorandum, SA, 17 August 2009, subject: FY 2009 Statement of Assurance on Management Controls as Required under the FMFIA of 1982

C-16: Memorandum, SA, 24 August 2010, subject: FY 2010 Statement of Assurance on Management Controls as Required under the FMFIA of 1982

C-17: Memorandum, SA, 29 August 2011, subject: FY 2011 Statement of Assurance on Management Controls as Required under the FMFIA of 1982

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- C-18: Memorandum, SA, 8 August 2012, subject: FY 2012 Statement of Assurance on Management Controls as Required under the FMFIA of 1982
- C-19: Memorandum, SA, 26 August 2013, subject: FY 2013 Statement of Assurance on Management Controls as Required under the FMFIA of 1982
- C-20: Report, Commission on Army Acquisition and Program Management in Expeditionary Operations, 31 October 2007, subject: Urgent Reform Required: Army Expeditionary Contracting
- C-21: Report, Naval Postgraduate School, 10 January 2014, subject: Services Supply Chain in the DoD: Drivers of Success in Services Acquisition
- C-22: Report, DODIG, 30 September 2013, subject: Semiannual Report to the Congress
- C-23: Briefing; DASA (P), 27 July 2007, subject: COR of NGB
- C-24: Memorandum, ASA (ALT), 26 June 2009, subject: Department of the Army (DA) PMR of NGB PARC and the Operational Contracting Division, 30 March – 8 April 2009
- C-25: Memorandum, ASA (ALT), 20 October 2013, subject: Department of the Army, Procurement Management Review (PMR) of Recruiting Assistance Programs (RAP)
- C-26: Memorandum, ASA (ALT), 24 April 2013, subject: DA PMR of NGB, 27 November – 7 December 2012
- C-27: Memorandum, ASA (ALT), 21 July 2008, subject: DA COR Summary Health Report for FY 2007
- C-28: E-mail, DASA (P), Ms. (b)(6),(b)(7)(C), 28 January 2014, subject: ASA(ALT) Answers to Questions
- C-29: E-mail, DASA (P), Ms. (b)(6),(b)(7)(C), 6 February 2014, subject: Answers to DAIG Questions, dated
- C-30: E-mail, DASA (P), Ms. (b)(6),(b)(7)(C), 14 March 2014, subject: DAIG RAP Questions – ASA (ALT) Response
- C-31: Memorandum, ASA (ALT), 14 April 2010, subject: NGB Resubmission of CAP dated 10 December 2009
- C-32: Briefing, Secretary of the Army, Executive Office of the Headquarters Department of the Army (EOH), 2 December 2005, slide 9: FY06 ARNG Programs and Initiatives
- C-33: Memorandum, Office of the Deputy Chief of the Staff, G-1, DAPE-MP, 12 January 2006, subject: Referral Bonus Pilot Program
- C-34: Briefing, Secretary of the Army, Executive Office of the Headquarters Department of the Army (EOH), 7 February 2006, slide 8: FY06 ARNG Flow
- C-35: Memorandum, Office of the Deputy Chief of the Staff, G-1, DAPE-MP, 16 February 2006, subject: Referral Bonus Pilot Program (Change 1)
- C-36: Briefing, Secretary of the Army, Executive Office of the Headquarters Department of the Army (EOH), 6 March 2006, slide 7: FY06 Marketing Concerns
- C-37: Memorandum, Office of the Deputy Chief of the Staff, G-1, DAPE-MP, 1 April 2006, subject: Referral Bonus Pilot Program (Change 2)

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- C-38: E-mail, Office of the Deputy of Chief of Staff, G-1, DAPE-MP, MG Sean Byrne, 27 April 2006, subject: GRAP Across the Board
- C-39: Briefing, Secretary of the Army, Executive Office of the Headquarters Department of the Army (EOH), 17 May 2006, slide 8: RA Programs and Initiatives
- C-40: Memorandum, Office of the Deputy Chief of Staff, G-1, DAPE-MP, 1 June 2006, subject: Referral Bonus Pilot Program (Change 3)
- C-41: Meeting Summary, Executive Office of the Headquarters Department of the Army (EOH), 7 September 2006, subject: Recruiting Buddy System / Monthly Recruiting and Retention Meeting
- C-42: Briefing, Secretary of the Army, Executive Office of the Headquarters Department of the Army (EOH), 16 November 2006, slide 12: ARNG Initiatives / Concerns
- C-43: E-mail, ASA (M&RA), John P McLaurin, 7 November 2006, subject: RE: G-RAP Active Component (AC) Pilot Program
- C-44: E-mail, ARNG DCS, G-1, COL (b)(6),(b)(7)(C) 28 November 2006, subject: G-RAP
- C-45: Briefing, Secretary of the Army, Executive Office of the Headquarters Department of the Army (EOH), 7 January 2007, slide 16: ARNG Initiatives / Concerns
- C-46: Briefing, Secretary of the Army, Executive Office of the Headquarters Department of the Army (EOH), 20 March 2007, slide 10: FY06 Programs Approved
- C-47: Memorandum, Office of the Chief, Army Reserve (CAR), DAAR-RT, 11 April 2007, subject: Army Reserve Recruiting
- C-48: Memorandum, HQ USARC, 4 May 2007, subject: Army Reserve Recruiting Assistance Program (AR-RAP)
- C-49: OPERATION PLAN 07-088, 29 May 2007, subject: Implementation of the Army Reserve Recruiting Assistance Program (AR-RAP)
- C-50: Memorandum, HQ USAREC, RCCG, 11 Jun 07, subject: 2K Referral Programs
- C-51: Memorandum, DCS, G-1, DAPE-MPA, 18 June 2007, subject: Army Reserve Recruiting
- C-52: Memorandum, DCS, G-1, DAPE-MPA 27 August 2007, subject: 2K Referral Programs
- C-53: Memorandum (Legal Review), Office of the Judge Advocate General, DAJA-AL 2007 / 1787, 29 Nov 07, subject: Army Recruiter Assistance Program (ARAP)
- C-54: HQDA Form 5, 7 April 2008, subject: Army Recruiter Assistance Program (ARAP)
- C-55: E-mail, Office of the General Counsel, Ms. (b)(6),(b)(7)(C) 12 June 2008, subject: RE: Revised ARAP Documents
- C-56: Memorandum, ASA (M&RA), SAMR-RR, 17 Jun 08, subject: Army Recruiter Assistance Program
- C-57: ALARACT Message, 14 Jun 08, subject: Army Recruiter Assistance Program

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- C-58: Briefing, Secretary of the Army, Executive Office of the Headquarters Department of the Army (EOH), 16 January 2009, slide 1: Recruiting and Retention Update
- C-59: E-mail, HQ USAREC, MG Bostick, 6 Mar 09, subject: A-RAP Funding
- C-60: Information Paper, DAPE-MPA, 28 September 2011, subject: ARNG Tier Data Analysis
- C-61: Memorandum, ASA (M&RA), 7 February 2012, subject: Memorandum for Record Concerning Disestablishment of US Army Accessions Command (USACC) and MOA Between ASA (M&RA), ODCS, G-1, and TRADOC
- C-62: Memorandum, ASA(M&RA), 6 June 2012, subject: Recruiting, Retention & Strength (RR&S) Committee
- C-63 E-mails, Office of the DCS, G-1, Mr. (b)(6)(D)  
79C1, 28 November 2006, subject: G-RAP
- C-64: Memorandum, ASA (M&RA), SAMR, 15 May 2012, subject: Department of the Army Investigation into the Recruiting Assistance Program (RAP)
- C-65: Memorandum, ASA (M&RA), SAMR, 15 May 2012, subject: National Guard Support of Department of the Army Investigation into the Recruiting Assistance Program (RAP)
- C-66: Memorandum, ASA (M&RA), SAMR, 17 September 2012, subject: Department of the Investigation into the Recruiting Assistance Program (RAP)
- C-67: Memorandum, ASA (M&RA), SAMR, 12 October 2012, subject: Review of Army Recruiting and Retention Incentives
- C-68: Memorandum, ASA (M&RA), SAMR, 20 March 2013, subject: AR 15-6 Investigations Into the Administration of Recruiting Assistance programs (RAPs) and the Low-Risk Group of Recruiting Assistants
- C-69: Memorandum, US Army Audit Agency, 28 March 2013, subject: Audit of Referral Bonus Programs (Project Number A-2012-IEF-0379.000), Report: A-2013-0064-IEF
- C-70: Memorandum, (ASA (ALT)), SAAL-PR, 29 October 2013, subject Department of the Army, PMR of NGB PARC and AQ
- C-71: The National Guard Federal Acquisition Regulation Supplement (NGFARS), Ma7 2005, (with 16 August 2004 revision, change #2)
- C-72: Memorandum, NGB-ZC-AQ-AR, subject Review of Contract Documents, 21 September 2005, 03 January 2008, 16 June 2009
- C-73: The National Guard Federal Acquisition Regulation Supplement (NGFARS), 20 August 2010, (with 18 July 2007 revision, change #3)
- C-74: National Guard Bureau (NGB), Contract Task Order W9133L-05-D-0011-0015, 23 September 2005
- C-75: National Guard Bureau (NGB), Contract Task Order W9133L-05-D-0011-0039, 5 July 2006.
- C-76: National Guard Bureau (NGB), Contract W9133L-05-D-0011-0039 / MOD 01, 26 August 2006
- C-77: National Guard Bureau (NGB), Contract W9133L-07-D-0007, 28 June 2007

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- C-78: National Guard Bureau (NGB), Contract Task Order W9133L-07-D-00070002, 9 August 2007
- C-79: National Guard Bureau (NGB), Contract Task Order Modification W9133L-07-D-00070002 / MOD 04, 29 September 2007
- C-80: National Guard Bureau (NGB), Contract Task Order W9133L-07-D-00070007, 4 January 2008
- C-81: National Guard Bureau (NGB), Contract Task Order W9133L-07-D-000700093, March 2008
- C-82: National Guard Bureau (NGB), Contract Task Order Modification W9133L-07-D-00070009 / MOD 03, 2 September 2008
- C-83: National Guard Bureau (NGB), Contract Task Order W9133L-07-D-00070023, 11 February 2009
- C-84: National Guard Bureau (NGB), Contract Task Order W9133L-07-D-00070024, 12 February 2009.
- C-85: National Guard Bureau (NGB), Contract Task Order W9133L-07-D-00070030, 12 February 2010
- C-86: National Guard Bureau (NGB), Contract Task Order Modification W9133L-07-D-00070030 / MOD 03, 29 October 2010
- C-87: Memorandum, NGB-JA, undated, subject: Statutory Prohibition on Bounties
- C-88: E-mail, NGB-JA, (b)(6),(b)(7)(C) 25 November 2005, subject: Recruiter Assistance Program
- C-89: E-mail, NGB-JA, MAJ (b)(6),(b)(7)(C) 11 January 2006, subject: GRAP
- C-90: Memorandum, NGB-JA, 20 January 2006, subject: Restricting Contractor's Hiring Practices in the GRAP contract. (Unsigned)
- C-91: E-mail, NGB-JA, MAJ (b)(6),(b)(7)(C) 11 October 2007, subject: GRAP
- C-92: Memorandum, NGB-JA, MAJ (b)(6),(b)(7)(C), 20 February 2009, subject: Legal Review of Plan to Expand GRAP to Allow AGR's and Technicians to Act as Recruiting Assistants
- C-93: Memorandum, NGB-JA, COL (b)(6),(b)(7)(C), 6 February 2012, subject: Comments Regarding Army Directive 2012-OX (Investigation, Inspection and Oversight of Active Army and Army Reserve Component Recruiting Assistance Programs.)
- C-94: Memorandum, NGB-JA, MAJ (b)(6),(b)(7)(C) 1 March 2012, subject: Input to the Army Office of General Counsel regarding GRAP
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- C-96: Audit Report, US Army Audit Agency, 1 August 2013, subject: Audit of Contracts for the Guard Recruiting Assistance Program.
- C-97: Memorandum, NGB-ZC-AQ, 15 February 2007, subject: National Guard Service Strategy Panel (NGSSP)
- C-98: Information Briefing, ASM, November 2005, Unit Recruiting Assistance Programs
- C-99: Operation Order (OPORD), ANGRC, 18 November 2005, OPORD GRAP

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C-100: Draft Information paper, NGB-ASM, 7 December 2005, (b)(6),(b)(7)(C) subject: GRAP

C-101: E-mail, ARNG Recruiting and Retention, (b)(6),(b)(7)(C) 17 March 2008, subject: GRAP-CID Inquiries

C-102: Executive Summary, NGB-ASM, 26 October 2009, GRAP.

C-103: Strength Maintenance Operations Messages 06-082, 13 February 2006, subject: Expansion of the Guard Recruiting Assistant Program (G-RAP)

C-104: Strength Maintenance Operations Messages 06-189, 29 August 2006, subject: Exclusion of Civilian Contractor Personnel assigned to Recr

C-105: Strength Maintenance Operations Messages 07-082, 2 April 2007, subject: GRAP-Recruiting Assistant Awareness

C-106: Memorandum, National Guard Bureau, NGB-ASM 08-121, 9 June 2008, subject: GRAP State Level Access Version 2.0

C-107: Memorandum, National Guard Bureau, NGB-ASM 08-163, 18 August 2008, subject: GRAP Nominee Shipping Requirements

C-108: Memorandum, National Guard Bureau, NGB-ASM 09-068, 3 February 2009, subject: Point of Contact (POC) Change for Guard Recruiting Assistance Program Officer (GRAP-O), Recruiter Incentive Program Officer (RIP-O), and Mission Zone

C-109: Memorandum, National Guard Bureau, NGB-ASM, 09-193, 31 August 2009, subject: Guard Recruiting Assistant Program (GRAP) and Guard Recruiting Assistant Program Officer (GRAP-O)

C-110: Memorandum, National Guard Bureau, NGB-ASM 09-196, 2 September 2009, subject: Guard Recruiting Assistance Program for Officers (GRAP-O) Eligibility Change

C-111: Memorandum, National Guard Bureau, NGB-ASM 09-210, 29 September 2009, subject: Point of Contact (POC) Change for Guard Recruiting Assistance Program - Officer (GRAP-O), Recruiter Incentive Program - Officer (RIP-O) Closeout [sic]

C-112: Memorandum, National Guard Bureau, NGB-ASM 10-063, 15 January 2010, subject: G-RAP Challenge

C-113: Memorandum, National Guard Bureau, ARNG-GSS Operations Management, 13 October 2010 subject: Guard Recruiting Assistant Program (GRAP) Accession Payments (DRAFT)

C-114: Memorandum, National Guard Bureau, NGB-ASM 12-017, 12 December 2011, subject: Changes to Guard Recruiting Assistant Program (GRAP) Payment

C-115: Memorandum, National Guard Bureau, NGB-ASM 12-028, 24 January 2012, subject: Guard Recruiting Assistant Program (GRAP) Suspension

C116: Transcript, LTG Stultz, testimony to the Senate Armed Services Committee, 15 March 2007

C117: MOA between the USARC G-1; CofS, USAREC and Chief, Army Reserve RTD, July 2007

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C118: FRAGOs 001 through 006 to OPLAN 07-088, from 17 July 2007 to 3 January 2008

C119: AR-RAP PWS/QASP

C120: Documents provided by DOCUPAK

C121: A chain of e-mails, 11 and 12 March 2014, from Special Agent (b)(6),(b)(7)(C) Headquarters, RAP Fraud TF

C122: Memorandum, United States Army Reserve Command, DAAR RMC, 12 December 2012, subject: Findings and Recommendations – Army Regulation 15-6 Investigation into Conduct of the AR-RAP

C123: E-mail, HQ USARC, Mr. (b)(6),(b)(7)(C) Deputy G-8, 13 March 2014, subject: AR-RAP Contract Closeout, with Attachment

C124: Officer Evaluation Reports for MG Bell

C125: Memorandum, ASA (M&RA), SAMR-FM, 16 May 2012, subject: Review, Investigation and Corrective Action – Active Army and Army Reserve Component Recruiting Assistance Programs

C126: Memorandum, ASA (M&RA), SAMR-FM, 13 July 2012, subject: Review, Investigation and Corrective Action – Active Army and Army Reserve Component Recruiting Assistance Programs

C127: Briefing, Under Secretary of the Army, 17 April 2006, subject: Recruiting

C-128: Information Paper, NGB-ASM, 28 October 2009, subject: Guard Recruiting Assistance Program

C-129: Briefing, NGB PARC, 12-16 February 2007, subject: Contacting Operations Review (COR) on NGB-AQ

C-130: Briefing, NGB-PARC, 11 May 2012, subject: PMR on NGB-AQ

C-131: Email, Mr. (b)(6),(b)(7)(C) 11 May 1994, subject: Re: RBP Multiprogram Recoupment Confirmation of DFAS Process.

C-132: Memorandum, US Army Audit Agency, SAAG-AMA, 6 February 2003, subject: Tracking Resources for HQDA Realignment, Office of the Administrative Assistant (Project Code A-2002-AMA-0164.000), Consulting Report: A-2003-0090-AMA

**D Testimony (chronological order)**

- D-1: COL (Retired) (b)(6),(b)(7)(C)
- D-2: Mr. (b)(6),(b)(7)(C)
- D-3: Dr. (b)(6),(b)(7)(C)
- D-4: Mr. (b)(6),(b)(7)(C)
- D-5: COL (b)(6),(b)(7)(C)
- D-6: LTC (b)(6),(b)(7)(C)
- D-7: COL (Retired) (b)(6),(b)(7)(C)
- D-8: Mrs. (b)(6),(b)(7)(C)
- D-9: Ms. (b)(6),(b)(7)(C)
- D-10: Ms. (b)(6),(b)(7)(C)
- D-11: Mr. (b)(6),(b)(7)(C)

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- D-12: Ms. (b)(6),(b)(7)(C)
- D-13: Mr. (b)(6),(b)(7)(C)
- D-14: Ms. (b)(6),(b)(7)(C)
- D-15: Ms. (b)(6),(b)(7)(C)
- D-16: Mr. (b)(6),(b)(7)(C)
- D-17: Mr. (b)(6),(b)(7)(C)
- D-18: COL (Retired) (b)(6),(b)(7)(C)
- D-19: Mr. (b)(6),(b)(7)(C)
- D-20: COL (b)(6),(b)(7)(C)
- D-21: LTC (b)(6),(b)(7)(C) and MAJ (b)(6),(b)(7)(C)
- D-22: COL (b)(6),(b)(7)(C)
- D-23: Mr. (b)(6),(b)(7)(C)
- D-24: Mr. (b)(6),(b)(7)(C)
- D-25: COL (Retired) (b)(6),(b)(7)(C)
- D-26: Ms. (b)(6),(b)(7)(C)
- D-27: Mr. (b)(6),(b)(7)(C)
- D-28: Mr. (b)(6),(b)(7)(C)
- D-29: LTG (Retired) Michael D. Rochelle
- D-30: Mr. (b)(6),(b)(7)(C)
- D-31: COL (Retired) (b)(6),(b)(7)(C)
- D-32: Ms. (b)(6),(b)(7)(C)
- D-33: LTC (b)(6),(b)(7)(C)
- D-34: Ms. (b)(6),(b)(7)(C)
- D-35: COL (b)(6),(b)(7)(C)
- D-36: Mr. (b)(6),(b)(7)(C)
- D-37: Ms. (b)(6),(b)(7)(C)
- D-38: Mr. (b)(6),(b)(7)(C)
- D-39: MG (Retired) Jeffery L. Arnold
- D-40: Mr. (b)(6),(b)(7)(C)
- D-41: MG (Retired) Regina S. Farnisee
- D-42: COL (Retired) (b)(6),(b)(7)(C)
- D-43: COL (b)(6),(b)(7)(C)
- D-44: COL (Retired) (b)(6),(b)(7)(C)
- D-45: MSG (b)(6),(b)(7)(C)
- D-46: LTG Thomas Bostick
- D-47: MG Glenn J. Lesniak
- D-48: Mr. (b)(6),(b)(7)(C)
- D-49: Mr. (b)(6),(b)(7)(C)
- D-50: BG (Retired) Anne F. MacDonald
- D-51: LTG (Retired) Benjamin C. Freakley
- D-52: COL (Retired) (b)(6),(b)(7)(C)
- D-53: Mr. (b)(6),(b)(7)(C)
- D-54: MG (Retired) Sean J. Byrne

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D-55: Mr. (b)(6),(b)(7)(C)  
 D-56: Mr. Daniel B. Denning  
 D-57: LTC (b)(6),(b)(7)(C)  
 D-58: Mr. (b)(6),(b)(7)(C)  
 D-59: Mr. (b)(6),(b)(7)(C)  
 D-60: CPT (b)(6),(b)(7)(C)  
 D-61: MG (Retired) Raymond William Carpenter  
 D-62: Mr. (b)(6),(b)(7)(C) (Subject)  
 D-63: MG (Retired) Alan D. Bell (Subject)  
 D-64: COL (Retired) (b)(6),(b)(7)(C)  
 D-65: COL (Retired) (b)(6),(b)(7)(C) (Subject)  
 D-66: LTG (Retired) H. Steven Blum (Subject)  
 D-67: Mr. (b)(6),(b)(7)(C) (Subject)  
 D-68: BG Renwick L. Payne  
 D-69: GEN Frank J. Grass  
 D-70: MG (Retired) Charles Rodriguez  
 D-71: MG (Retired) Allen E. Tackett  
 D-72: MG (Retired) Donald C. Storm  
 D-73: MG (Retired) Larry W. Shellito  
 D-74: MG (Retired) Raymond F. Rees  
 D-75: MG (Retired) James W. Nuttall (Subject)  
 D-76: MG (Retired) Randal E. Thomas  
 D-77: LTG (Retired) Clyde Vaughn  
 D-78: LTC (Retired) (b)(6),(b)(7)(C) – declined interview  
 D-79: MSG (Retired) (b)(6),(b)(7)(C) – declined interview  
 D-80: COL (Retired) (b)(6),(b)(7)(C) – declined interview  
 D-81: MG (Retired) Randal E. Thomas  
 D-82: MG (Retired) Stanhope S. Spears  
 D-83: MG (Retired) R. Martin Umbarger  
 D-84: LTG (Retired) Clyde Vaughn (Subject)  
 D-85: Mr. Daniel B. Denning (Subject)  
 D-86: Mr. (b)(6),(b)(7)(C)

**E Notifications**

E-1: LTG (Retired) H. Steven Blum (Subject)  
 E-2: LTG (Retired) Clyde A. Vaughn (Subject)  
 E-3: MG (Retired) Alan D. Bell (Subject)  
 E-4: MG (Retired) James W. Nuttall (Subject)  
 E-5: COL (Retired) (b)(6),(b)(7)(C) (Subject)  
 E-6: Mr. (b)(6),(b)(7)(C) (Subject)  
 E-7: Mr. (b)(6),(b)(7)(C) (Subject)  
 E-8: Mr. Daniel B. Denning (Subject)

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**F Annexes**

- F-1: ASA (ALT)
- F-2: ASA (M&RA)
- F-3: NGB
- F-4: ARNG
- F-5: USAR

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**ROI Abbreviations and Acronyms**

<b>Acronym</b>	<b>Full Title</b>
AAA	US Army Audit Agency
AAR	After Action Review
AASA	Administrative Assistant to the Secretary of the Army
ACA	Army Contracting Agency
ACAT	Acquisition Category
ADA	Anti-Deficiency Act
ADSW	Active Duty for Special Work
AFARS	Army Federal Acquisition Regulation Supplement
AFOSI	Air Force Office of Special Investigations
AGR	Active Guard and Reserve Soldier
AR	Army regulation
ARAP	(Active) Army Recruiting Assistance Program
ARFORGEN	Army Force Generation
ARIMS	Army Records Information Management System
ARNG	Army National Guard
AR-RAP	Army Reserve Recruiting Assistance Program
ASA (ALT)	Assistant Secretary of the Army for Acquisition, Logistics, and Technology
ASA (FM&C)	Assistant Secretary of the Army, Financial Management and Comptroller
ASA (M&RA)	Assistant Secretary of the Army for Manpower and Reserve Affairs
ASM	Army National Guard Army Strength Maintenance Division
BBP	Better Buying Power
BG	Brigadier General
CAP	Corrective Action Plan
Capt	Captain – United States Air Force
CAR	Chief, Army Reserve
CER	Contracting Enterprise Review
CFR	Code of Federal Regulations
CID	US Army Criminal Investigation Command
CNGB	Chief, National Guard Bureau
CofS	Chief of Staff
Col	Colonel – United States Air Force
COL	Colonel – United States Army
COR	Contracting Officer's Representative
CPT	Captain – United States Army
DA	Department of the Army
DAC	Department of the Army Civilian

## SAIG-IN (RAP)

Acronym	Full Title
DAIG	Department of the Army Inspector General
DARNG	Director, Army National Guard
DAS	Director, Army Staff
DASA (P)	Deputy Assistant Secretary of the Army for Procurement
DCIS	Defense Criminal Investigative Service
DCS	Deputy Chief of Staff
DDARNG	Deputy Director, Army National Guard
DFARS	Defense Federal Acquisition Regulation Supplement
DMPM	Director Military Personnel Management
DOCUPAK	Document and Packaging Inc.
DoD	Department of Defense
DODIG	Department of Defense Inspector General
ESAR	Every Soldier a Recruiter
FAR	Federal Acquisition Regulation
FRAGO	Fragmentary Order
FY	Fiscal Year
GAO	Government Accountability Office
Gen	General – United States Air Force
GEN	General – United States Army
GRAP	National Guard Recruiting Assistance Program
HCA	Head of Contracting Activity
HQDA	Headquarters, Department of the Army
IDIQ	indefinite delivery, indefinite quantity
IPR	In-progress review
IT	Information Technology
JA	Judge Advocate
JAG	Judge Advocate General
KO	Contracting Officer
LTC	Lieutenant Colonel – United States Army
Lt Col	Lieutenant Colonel – United States Airforce
LTG	Lieutenant General – United States Army
M-Day	Mobilization Day
Maj	Major – United States Air Force
MAJ	Major – United States Army
MDAP	Major Defense Acquisition Programs
MG	Major General – United States Army
MICC	Mission Installation Contracting Command
MILTECH	Military Technician
MOA	Memorandum of Agreement
MOS	Military Occupation Specialty
NCO	Non-Commissioned Officer

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<b>Acronym</b>	<b>Full Title</b>
NCOIC	Non-Commissioned Officer in Charge
NDAA	National Defense Authorization Act
NG	National Guard
NGB	National Guard Bureau
NGB-AQ	National Guard Bureau Acquisition Division
NGFARS	National Guard Federal Acquisition Regulation Supplement
NGSSP	National Guard Service Strategy Panel
OGC	Office of the General Counsel
OPORD	Operations Order
OTJAG	Office of the Judge Advocate General
PS	Potential Soldier
PARC	Principal Assistant Responsible for Contracting
PDC	Panel for Documentation of Contractors
PMR	Procurement Management Review
POM	Program Objective Memorandum
PWS	Performance Work Statement
QA/QC	Quality Assurance/Quality Control
QASP	quality assurance and surveillance plan
QCP	Quality control plan
RA	Recruiting Assistant
RAP	Recruiting Assistance Program
RBP	Referral Bonus Pilot Program
ROI	Report of Investigation
RR&S	Recruiting, Retention and Strength
RRC	Recruiting and Retention Commanders
RRNCO	Recruiting and Retention Non-Commissioned Officers
RTD	Retention and Transition Division
SA	Secretary of the Army
SES	Senior Executive Service
SGM	Sergeants Major
SIDPERS	Standard Installation/Division Personnel System
SMOM	Strength Maintenance Operations Message
SOP	Standard Operating Procedure
SOW	Statement of Work
SSM	Senior Services Manager
TAG	The State Adjutant General
TF	Task Force
TIG	The Inspector General
TRADOC	Training and Doctrine Command
USAAC	USAAC
USAR	United States Army Reserve

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<b>Acronym</b>	<b>Full Title</b>
USARC	United States Army Reserve Command
USAREC	United States Army Recruiting Command
U.S.C.	United States Code
USD (AT&L)	Under Secretary of Defense for Acquisition, Technology, and Logistics
USPFO	United States Property and Fiscal Officer
VCE	Virtual Contracting Enterprise
VTC	Video Teleconference





DEPARTMENT OF THE ARMY  
OFFICE OF THE INSPECTOR GENERAL  
1700 ARMY PENTAGON  
WASHINGTON DC 20310-1700

JUN 19 2007

US ARMY INSPECTOR GENERAL AGENCY  
REPORT OF INVESTIGATION  
(Case 07-009)

**NAME/POSITION:** Brigadier General (BG) Anthony J. Tata, US Army, Deputy Director, Operations, Joint Improvised Explosive Device Defeat Organization, Arlington, Virginia and former Deputy Commanding General (Support), Combined Joint Task Force-76 (CJTF-76), Afghanistan

**AUTHORITY:** Vice Chief of Staff, Army, directive dated 16 February 2007 (Annex 1)

**BACKGROUND:** On 29 December 2006, the Department of the Army Inspector General (DAIG) received notification of allegations against BG Tata from the Inspector General, Department of Defense (DOD). BG Tata's (b)(6), (b)(7)(C) alleged:

1. BG Tata committed adultery and fathered an out-of-wedlock child.
2. BG Tata improperly used government resources.
3. BG Tata failed to provide required financial support to his dependent. (EXHIBIT A)

**SUBSTANTIATED ALLEGATION:** BG Tata committed adultery.

**SYNOPSIS:**

1. Article 134, Adultery, UCMJ, stated the elements of adultery were that the accused wrongfully had sexual intercourse with a certain person; that, at the time, the accused or the other person was married to someone else; and that, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces. A marriage existed until it was dissolved in accordance with the laws of a competent state. A mistake of fact existed if the accused had an honest and reasonable belief that the accused and co-actor were both unmarried.

2. (b)(6), (b)(7)(C) alleged that BG Tata had extra-marital affairs and fathered an out-of-wedlock child. (b)(6), (b)(7)(C) In 1992, a female former Army lieutenant (LT) came to her house at Fort Leavenworth to tell her (b)(6), (b)(7)(C) of an affair she had with BG Tata in 1985. The female former LT prepared an affidavit regarding the affair. BG Tata also had an affair with a female civilian during the time that (b)(6), (b)(7)(C) and BG Tata) were separated but still married. Additionally, BG Tata fathered an out-of-wedlock child with a second female civilian. That same female became pregnant in January 1993, approximately three months before (b)(6), (b)(7)(C) BG Tata's (b)(6), (b)(7)(C) divorce became final.

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3. Documentary evidence established that BG Tata was married on 16 July 1983. In an affidavit, the female former LT stated she had sexual intercourse with BG (then Captain) Tata on 12 January 1985 at Fort Benjamin Harrison, Indiana. She was a student officer at the time. BG Tata did not wear a wedding ring. After the sexual intercourse, BG Tata informed her that he was married. BG Tata testified that he had sexual intercourse with the former LT during a period of temporary duty (TDY) at Fort Benjamin Harrison in January 1985. He met her in a group setting at the Officers' Club. There was alcohol involved, and he had a one night sexual relationship with the female LT. BG Tata testified that the sexual intercourse was a mistake but was not prejudicial to good order and discipline and was not of a nature to bring discredit upon the US Army. He further testified that he did not attempt to disguise his marital status.

4. The evidence established that BG Tata also had sexual intercourse with a civilian female while he was separated (b)(6), (b)(7)(C) [redacted]. Documentary evidence indicated that (b)(6), (b)(7)(C) [redacted] filed an action for divorce from BG Tata on 24 February 1992. The divorce hearing was on 14 December 1992 and the divorce decree was effective on 16 April 1993. BG Tata testified he met the civilian female in April or May 1992 while he was legally separated. He began a sexual relationship with the civilian female that lasted from May until July 1992. They had sexual intercourse two or three times when BG Tata visited the female in Texas. BG Tata testified that the female visited him in Leavenworth, Kansas (KS), but she stayed with friends of his and they did not have sex. The relationship was brief, and BG Tata testified that he ended the relationship because he knew it was wrong. According to BG Tata, it was a private matter and was not service discrediting.

5. The evidence indicated that BG Tata got a second civilian female pregnant in January 1993, about three months before the effective date of his divorce. Documentary evidence indicated their child, a boy, was born on 26 October 1993. The boy's mother testified that she met BG (then Major) Tata in late 1992. In December 1992, BG Tata told her he had gone through a painful divorce. It was her impression that the divorce was finalized at that time and that BG Tata had the same understanding. She (the boy's mother) had sexual intercourse with BG Tata beginning in January 1993. In February 1993, she unexpectedly became pregnant. BG Tata testified he believed he was divorced when he began a sexual relationship with the boy's mother in January 1993. He testified that it was a private matter with no impact on the Army. He further testified that if there was a technical interpretation that he had a sexual relationship with the boy's mother prior to his divorce being final, it was a mistake of fact.

6. BG Tata provided credible evidence to support his belief that he was divorced prior to his sexual relationship with the boy's mother. The divorce decree reflected the effective date of divorce was 16 April 1993. However, a Qualified Domestic Relations Order, issued by the same court, reflected a divorce date of 14 December 1992. The

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decree of divorce also reflected the date of marriage was 16 July 1983 and the term of marriage was 9.5 years. A divorce date of 14 December 1992 equaled nine years and five months or approximately 9.5 years after the date of marriage. BG Tata also testified that his attorney told him he was divorced at his divorce hearing on 14 December 1992. His attorney's long-time law partner stated it was common perception among the vast majority of his clients that they were divorced when the hearing was done. The preponderance of the evidence indicated BG Tata had an honest and reasonable belief that he was divorced when he had sexual intercourse with the boy's mother and therefore committed a mistake of fact.

[IO Note: BG Tata's divorce attorney was deceased.]

7. The first element of Article 134, Adultery, required that the accused wrongfully had sexual intercourse with a certain person. The evidence indicated BG Tata had sexual intercourse with a female Army officer in 1985, with a civilian female in 1992, and with another civilian female in 1993.

8. The second element required that, at the time, the accused was married to someone else. BG Tata was lawfully married from 16 July 1983 until 16 April 1993. The evidence indicated BG Tata was married for approximately two years when he had sex with the female Army LT, and that he was still legally married, albeit separated, when he had sex with the civilian female in 1992. He had sex with another civilian female (the boy's mother) in 1993, after the divorce hearing but prior to the effective date of the divorce decree.

9. The third element required that, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the Armed Forces or was of a nature to bring discredit upon the Armed Forces.

a. BG Tata testified his sexual conduct was a private matter that was not service discrediting. His military attorney stated that BG Tata's sexual relationships were brief in nature, remote in time, and had no nexus to military service. Further, there was no impact upon BG Tata's ability to perform his duties, and the Army did not know about the sexual relationships until 15 and 22 years had passed.

b. BG Tata's attorney also stated that BG Tata was unaware that the female LT was a service member when they had sex. However, the preponderance of the evidence indicated that BG Tata was aware that the female LT was an Army officer. BG Tata met her at the Officers' Club when they were both students. He took her out for a date and she drove him to his hotel room where they had sex. The next day, BG Tata saw her in the post library. Regardless of whether BG Tata knew her military status or not, he knew his own marital status. BG Tata was an Army officer at the time he had sexual intercourse with the female LT. The evidence indicated that the female LT knew BG Tata's status as an Army officer and that BG Tata did not reveal his marital status to

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her until after he had sexual intercourse with her. That BG Tata engaged in sexual intercourse with a fellow US Army officer while married was therefore prejudicial to good order and discipline.

c. The evidence indicated that BG Tata was separated but still married when he began a sexual relationship with a civilian female in 1992. BG Tata testified that his relationship with the civilian female was discreet and unknown to the Army. However, the civilian female stayed with friends of BG Tata when she visited him in Leavenworth, KS. BG Tata initiated a sexual relationship with the civilian female approximately two to three months after separating from (b)(6),(b)(7)(C). In his own words, BG Tata ended the relationship "because he knew it was wrong." The preponderance of the evidence indicated BG Tata's sexual relationship with the civilian female was prejudicial to good order and discipline.

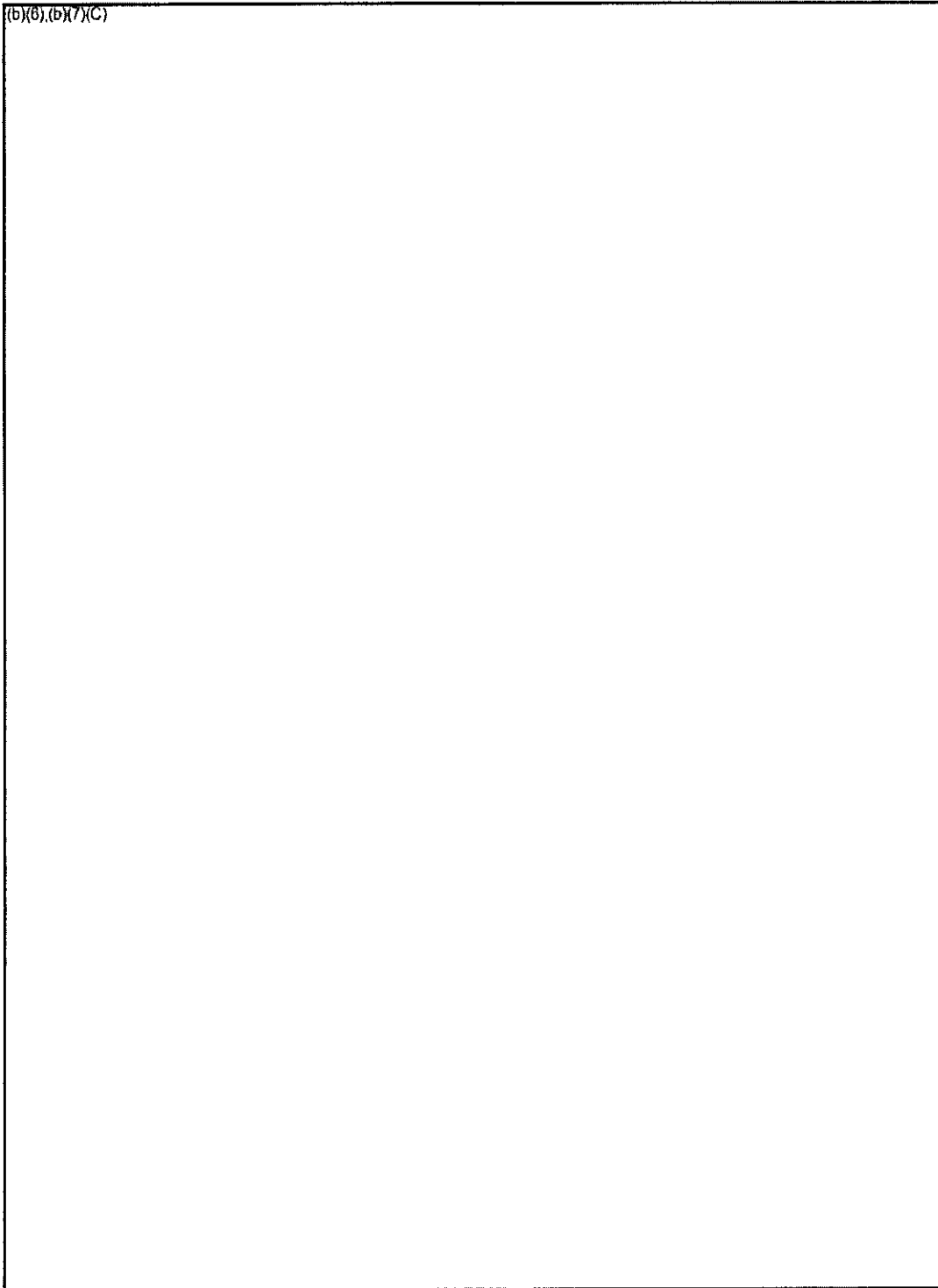
[IO Note: BG Tata vacated the marital residence in Lansing, KS during the separation. He subsequently lived in civilian housing in Leavenworth, KS.]

d. The evidence indicated BG Tata committed a mistake of fact when he initiated a sexual relationship with his boy's mother; however, their relationship produced an out-of-wedlock child. While the preponderance of the evidence indicated that BG Tata did not have sex with the child's mother until January 1993, when he thought he was divorced, he exhibited questionable judgment by initiating a sexual relationship shortly after his divorce hearing. BG Tata testified that he ended his previous relationship in July 1992 because it was "wrong." Even so, he commenced a new relationship in October 1992, and began a sexual relationship in January 1993. He remained legally married until April 1993.

e. There was no credible evidence that any member of BG Tata's chain of command was aware of any sexual impropriety by BG Tata at any time or that any notoriety ensued as a result of the misconduct. However, the evidence indicated that (b)(6),(b)(7)(C) the former LT and her husband, in addition to friends of BG Tata were aware of both his status as an Army officer and of his sexual misconduct. Further, as a senior official, his previous sexual misconduct, if made public, would bring discredit to the US Army. That his conduct appeared to remain unknown by the Army for many years did not diminish the discreditable nature of at least two extra-marital sexual affairs. BG Tata's actions reflected poor judgment and a pattern of misconduct. Under the circumstances, his misconduct was prejudicial to good order and discipline.

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(b)(6),(b)(7)(C)



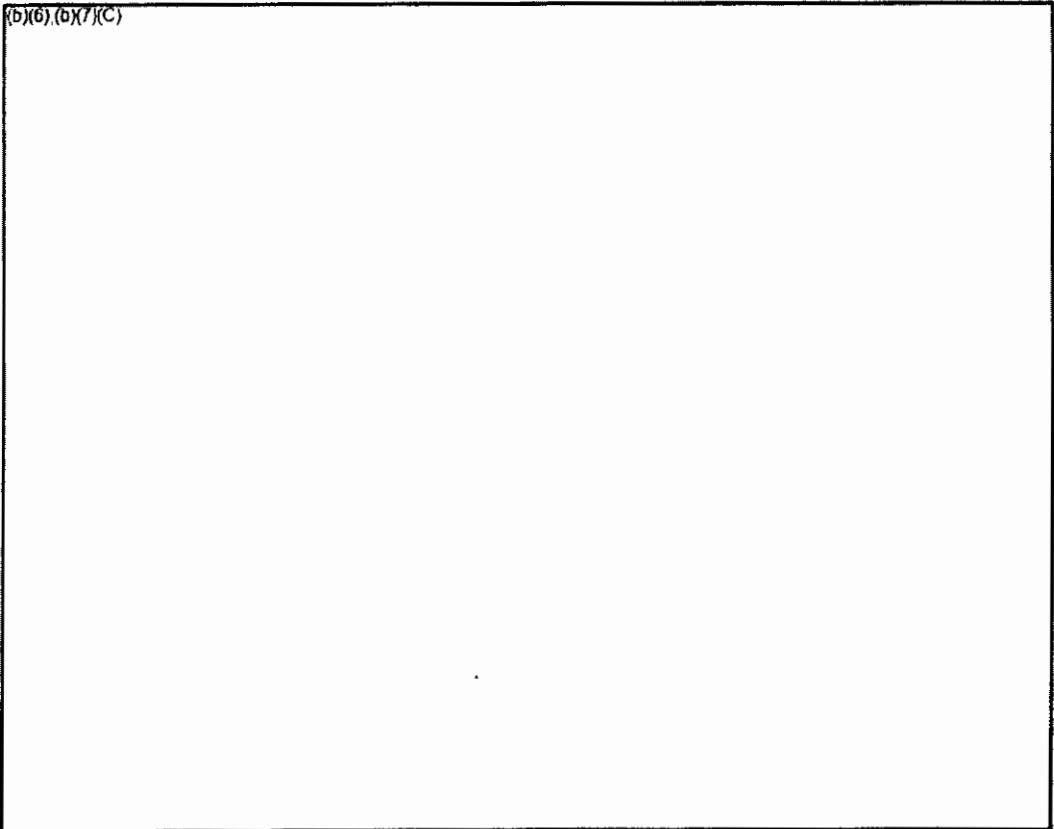
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(b)(6), (b)(7)(C)



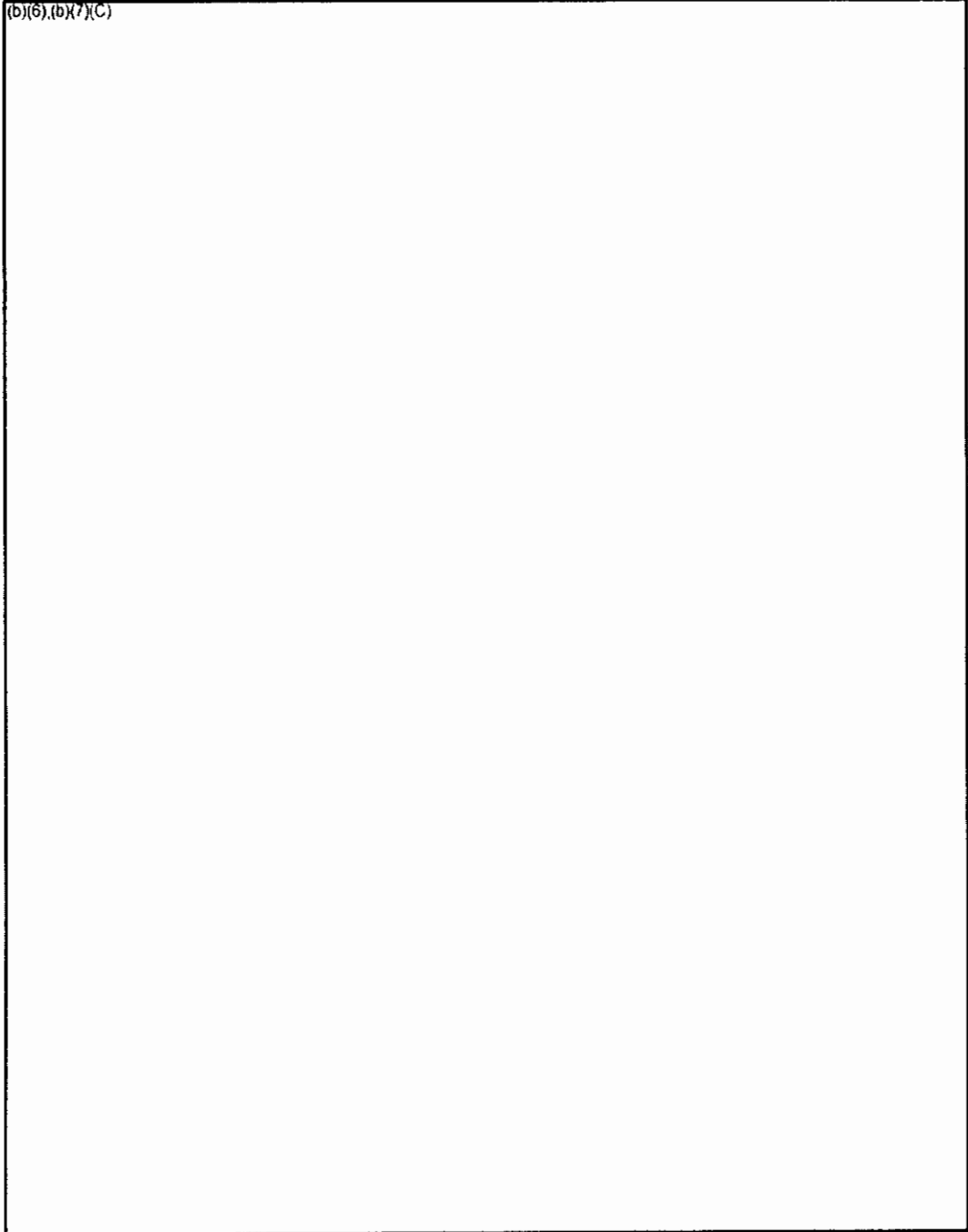
(b)(6), (b)(7)(C)



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(b)(6),(b)(7)(C)



**OTHER MATTERS:** None

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**RECOMMENDATIONS:**

1. This report be approved and the case closed.
2. Refer this report to the Office of The Judge Advocate General.

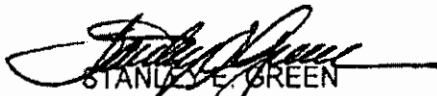
(b)(6),(b)(7)(C)

Inspector General


(b)(6),(b)(7)(C)

COL, IG  
Investigator

CONCUR:

  
STANLEY E. GREEN  
Lieutenant General, USA  
The Inspector General

APPROVED:

  
RICHARD A. CODY  
General, USA  
Vice Chief of Staff

- Encls
- Annex 1: Directive, and Legal Reviews
  - Annex 2: Standards
  - Annex 3: Documents
  - Annex 4: Testimony
  - Annex 5: Analysis
  - Annex 6: Other Matters
  - Annex 7: Exhibits

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ROI Abbreviations and Acronyms

The following abbreviations and/or acronyms appeared in this report:

ACofS	Assistant Chief of Staff
AGOBC	Adjutant General Officer Basic Course
AOL	America Online
AR	Army Regulation
ASD (HA)	Assistant Secretary of Defense (Health Affairs)
BDE	Brigade
BG	Brigadier General
BMS	Bristol-Myers Squibb
CDR	Commander
CFR	Code of Federal Regulations
CGSC	Command and General Staff College
CHAMPUS	Civilian Health and Medical Program Uniformed Service
CJTF	Combined Joint Task Force
CIC	Criminal Investigation Command
CMD	Command
CO	Colorado
CU	Colorado University
DAIG	Department of the Army Inspector General
DCG	Deputy Commanding General
DCIS	Defense Criminal Investigative Service
DEERS	Defense Enrollment Eligibility Reporting System
DOD	Department of Defense
DODD	Department of Defense Directive
EOB	Estimate of Benefits
FL	Florida
GA	Georgia
JER	Joint Ethics Regulation
HI	Hawaii
HQ	Headquarters
IM	Information Management
IMO	Information Management Officer
IO	Investigating Officer
IP	Internet Protocol
IN	Indiana
KS	Kansas
LES	Leave and Earnings Statement
LT	Lieutenant

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MAJ  
MO  
MS  
MTN DIV  
NC  
NY  
POAC  
SAMS  
SGT  
TDY  
TX  
UCCI  
UCMJ  
VA

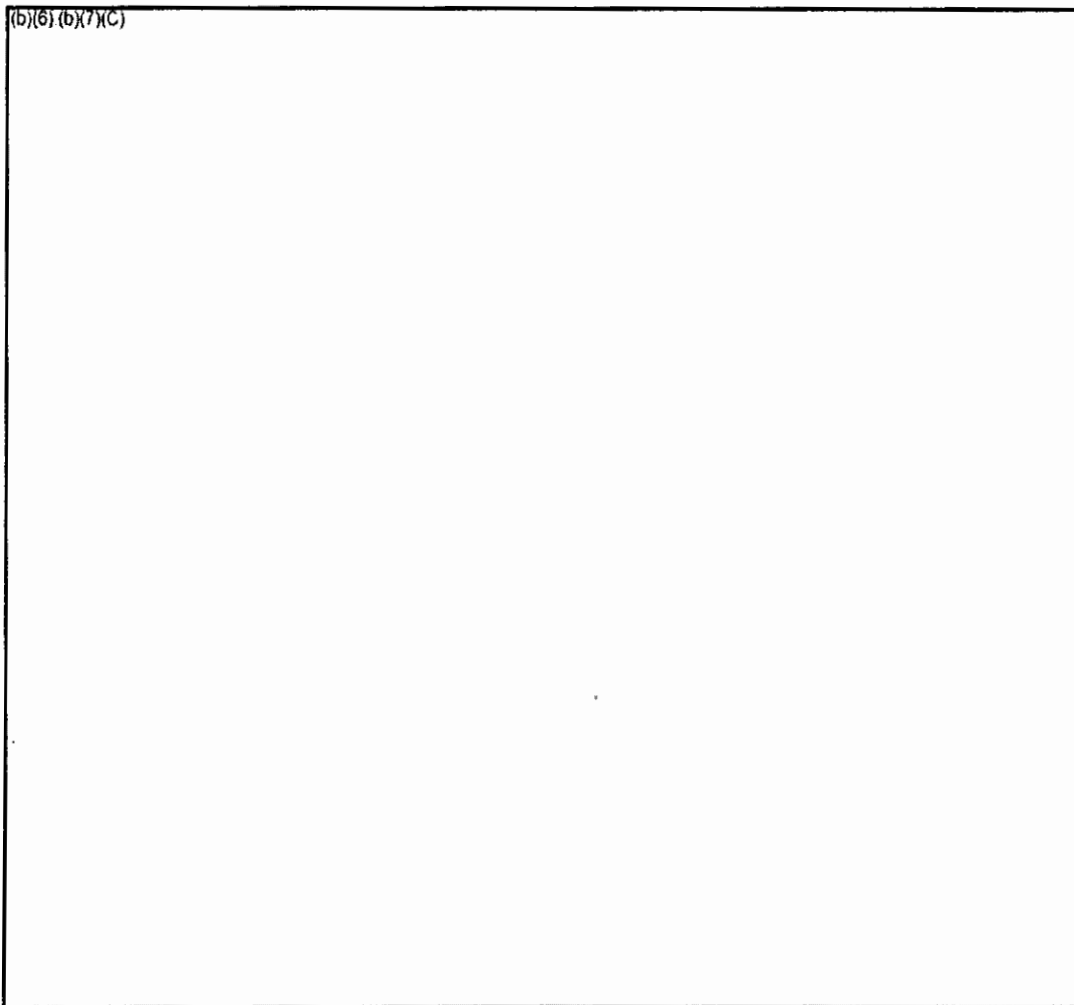
Major  
Missouri  
Mississippi  
Mountain Division  
North Carolina  
New York  
Pentagon Officer's Athletic Club  
School of Advanced Military Studies  
Sergeant  
Temporary Duty  
Texas  
United Concordia Companies, Inc.  
Uniform Code of Military Justice  
Virginia

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ROI Personnel Listing

NAME

(b)(6), (b)(7)(C)



Tata, Anthony J., BG, DCG (Support), 10th MTN DIV

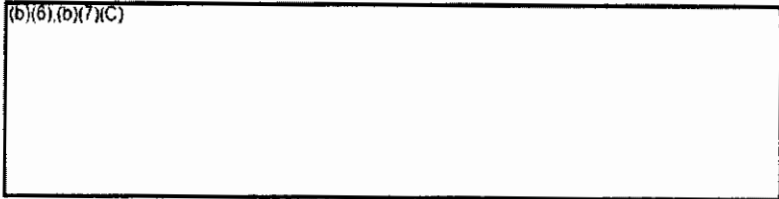
(b)(6), (b)(7)(C)



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Tillotson, John, Mr., Attorney, Murray, Tillotson, and Wiley, Chartered (deceased)

(b)(6),(b)(7)(C)



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DEPARTMENT OF THE ARMY  
OFFICE OF THE INSPECTOR GENERAL  
1700 ARMY PENTAGON  
WASHINGTON DC 20310-1700  
APR 13 2016

US ARMY INSPECTOR GENERAL AGENCY  
REPORT OF INVESTIGATION  
(Case 16-00007)

**NAME / POSITION:**

Major General (MG) David B. Haight, Director, J-3, United States European Command (EUCOM), Stuttgart, Germany

**ALLEGATION / FINDING #1:** The allegation that MG Haight failed to exhibit exemplary conduct when he engaged in an inappropriate sexual relationship with (b)(6),(b)(7)(C), who was not his wife, was substantiated.

**ALLEGATION / FINDING #2:** The allegation that MG Haight misused government resources was substantiated.

**BACKGROUND:**

1. On 10 October 2015, an anonymous complainant alleged in an email to Lieutenant General (LTG) William B. Garrett, Deputy Commander, EUCOM, that (b) was concerned for MG Haight's well-being because of what (b) overheard (b)(6),(b)(7)(C) (b)(6),(b)(7)(C). (b) was also concerned about MG Haight's diminishing physical appearance. On 11 October 2015, LTG Garrett asked MG Haight about the complainant's concerns and found no immediate cause for action.

[Investigating Officer (IO) Note: The term (b) is used for the anonymous complainant but it is unknown whether the complainant was male or female.]

2. On 17 October 2015, the EUCOM IG received an anonymous hotline complaint that made allegations similar to the ones in the email to LTG Garrett. (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) forwarded the complaint to the Department of Defense (DOD) IG (DODIG). On 29 October 2015, the complaint was dismissed by DODIG for lack of credible information.

3. LTG Garrett formally counseled MG Haight verbally on 28 October 2015 and addressed the concerns brought to his attention by the complainant through the EUCOM IG hotline.

4. On 29 October 2015, (b)(6),(b)(7) received another complaint, similar to the 17 October 2015 complaint, through the EUCOM IG hotline and forwarded it to DODIG. On 1 December 2015, DODIG initially dismissed that complaint due to a lack of credible information; however, before receiving DODIG's decision on the complaint, (b)(6),(b)(7)

reached out to the complainant via email on 2 November 2015, to provide an update regarding the email the complainant sent to LTG Garrett on 10 October 2015, and to see if the complainant had additional matters (b) wanted to bring to the command's attention.

5. On 6 November 2015, the complainant responded to (b)(6),(b)(7)(C) email, but did not provide any additional information. The complainant informed (b)(6),(b)(7) in an email dated 9 November 2015 that (b) now believed MG Haight was engaged in an inappropriate sexual relationship with (b)(6),(b)(7)(C). (b)(6),(b)(7)(C) (b)(6),(b)(7) informed LTG Garrett and DODIG of the additional information.

6. On 13 November 2015, LTG Garrett formally counseled MG Haight verbally for the second time. The counseling covered assistance for possible marital problems, MG Haight's personal issues, and the perception of a potential relationship with (b)(6),(b)(7)(C). MG Haight was informed that DODIG determined there was insufficient credible information to warrant an investigation at that time, but could investigate at a later date, if credible information became available.

7. On 4 December 2015, the Department of the Army Inspector General Agency (DAIG) received a referral from DODIG, forwarding the 29 October 2015 inappropriate relationship complaint against MG Haight.

[IO Note: The complaint was submitted with a sexually explicit photo attached. The photo did not contain MG Haight's (b)(6),(b)(7)(C) face, thus, it was not included in the investigation.]

8. On 11 December 2015, DAIG – Assistance Division (AC) received an anonymous complaint that alleged MG Haight had an affair with (b)(6),(b)(7)(C). The complainant further acknowledged that (b) also informed DODIG and the EUCOM IG. DAIG-AC sent the complaint to DAIG – Investigations Division (IN) for review. The complaint has been incorporated into this investigation.

9. On 16 December 2015, the anonymous complainant sent an email to General (GEN) Philip M. Breedlove, Commander, EUCOM and North Atlantic Treaty Organization (NATO) Supreme Allied Commander Europe, and informed him of the IG complaint (b) filed concerning MG Haight's inappropriate relationship with (b)(6),(b)(7)(C). GEN Breedlove responded to the complainant and told (b) that both DODIG and DAIG had been notified and were looking into the matter.

10. On 4 January 2016, The Inspector General directed an investigation.

11. On 21 January 2016, DAIG – AC referred the DOD hotline complaint 20151215-034804-Case-02 (DAIG-AC case DIH169267) to DAIG – IN. The DAIG-AC case contained the same allegations concerning MG Haight included in the 4 December 2015 DODIG referral.

[IO Note: During the conduct of the investigation, evidence indicated that MG Haight may have misused a government cell phone and a computer for a high volume of personal phone calls and personal emails. Therefore, DAIG added the allegation that MG Haight misused government resources.]

**ALLEGATION #1: MG Haight failed to exhibit exemplary conduct when he engaged in an inappropriate sexual relationship with a DAC.** Through a collection of multiple anonymous complaints to various military offices, the complainant alleged MG Haight and (b)(6),(b)(7)(C) had an affair and lived a “swinger lifestyle”. The complainant further alleged that MG Haight’s travel aligned with (b)(6),(b)(7)(C) Facebook posts; MG Haight and (b)(6),(b)(7)(C) had a profile (b)(6),(b)(7)(C) on a dating website (b)(6),(b)(7)(C); and that (b)(6),(b)(7)(C) had (b)(6),(b)(7)(C) (b)(6). The complainant provided the following additional information in his various complaints:

[IO Note: The Oxford English Dictionary defines “swing” as: Being promiscuous, typically by engaging in group sex or swapping sexual partners.]

[IO Note: The evidence suggests that all of the complaints were received from a single anonymous complainant using various email addresses, which included (b)(6),(b)(7)(C)]

(b)(6),(b)(7)(C)

b. In the 29 October 2015 EUCOM IG hotline complaint, the anonymous complainant stated, (b)(6) believed the rumors that MG Haight had a girlfriend could be true and that (b)(6),(b)(7)(C)

c. In the 16 December 2015 email sent to GEN Breedlove, the complainant indicated the inappropriate relationship between MG Haight and (b)(6),(b)(7)(C) went back to at least 2008, and as (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) MG Haight’s ability to lead.

**STANDARDS:**

1. Army Regulation (AR) 600-20 (Army Command Policy), 6 November 2014, paragraph 1-5c(4)(d), states, as a requirement of exemplary conduct (Section 3583, Title 10, United States Code (10 USC 3583)), all commanding officers and others in authority in the Army are required –

a. To show in themselves a good example of virtue, honor, patriotism, and subordination.

b. To guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Army, all persons who are guilty of them.

2. AR 600-100 (Army Leadership), 8 March 2007, paragraph 1-6b(3), states, one of the core leader competencies is to lead by example. Leaders are role models for others. They are viewed as the example and must maintain standards and provide examples of effective behaviors. When Army leaders model the Army Values, they provide tangible evidence of desired behaviors and reinforce verbal guidance by demonstrating commitment and action.

**DOCUMENTS / TESTIMONY:**

1. Defense Manpower Data Center (DMDC), DOD Person Search, MG Haight, 8 January 2016, indicated MG Haight and (b)(6),(b)(7)(C) have been (b)(6),(b)(7)(C) (b)(6),(b)(7)(C)

2. DMDC, DOD Person Search, (b)(6),(b)(7)(C) 15 January 2016, indicated (b)(6),(b)(7)(C) (b)(6),(b)(7)(C)

3. Government cell phone activity log, MG Haight, June 2015 – November 2015, indicated MG Haight called (b)(6),(b)(7)(C) office phone and/or personal cell phone 84 times from his government cell phone for over 1,400 minutes of conversation.

[IO Note: MG Haight's government cell phone number was (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) office phone number was (b)(6),(b)(7)(C), and (b)(6),(b)(7)(C) number was (b)(6),(b)(7)(C).]

4. Personal email accounts, (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) belonged to MG Haight –

a. (b)(6),(b)(7)(C) testified MG Haight regularly told her to go to the "other net" during email conversations. His email address for the "other net" contained the name (b)(6),(b)(7)(C)."

b. An email, 22 July 2015, from (b)(6),(b)(7)(C) stated, "My commandant position was equivalent to a DCG position because I was a deputy commanding general (I) Infantry at the Maneuver Center. Then I was DCG for the Div HQ that had RC-E. I was selected for MG on my first look. BTW, (b)(6),(b)(7)(C) is a stud. (b)(6),(b)(7)(C)"

[IO Note: MG Haight's official officer resume shows that he was Commandant of the U.S. Army Infantry School, United States Army Maneuver Center of Excellence; Deputy Commanding General (DCG) for Regional Command-East (RC-E); and Executive Officer (XO) for 1st Battalion, 75th Ranger Regiment (1/75).]

c. Officer Record Briefs (ORB) for MG Haight and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C), reflected that (b)(6),(b)(7)(C) replaced MG Haight (b)(6),(b)(7)(C).

d. Email, (b)(6),(b)(7)(C) subject: DAIG Investigation, 14 January 2016, indicated that (b)(6),(b)(7)(C) replaced MG Haight (b)(6),(b)(7)(C). (b)(6),(b)(7)(C) replied via email to the DAIG investigator that (b)(6),(b)(7)(C) replaced "MAJ Dave Haight" (b)(6),(b)(7)(C) (b)(6),(C).

e. Email, (b)(6),(b)(7)(C) subject: Department of the Army Inspector General, 14 January 2016, supports that the (b)(6),(b)(7)(C) email address belonged to MG Haight. (b)(6),(b)(7)(C) was asked by the investigator if she knew who the email address belonged to and she replied, (b)(6),(b)(7)(C) (b)(6),(b)(7)(C)"

f. Virginia (VA) Advance Directive for Health Care, (b)(6),(b)(7)(C) 24 February 2012, listed MG Haight's email address as (b)(6),(b)(7)(C).

[IO Note: Part of the email address was cut off. The document reflects MG Haight's email address as (b)(6),(b)(7)(C).]

5. Emails between MG Haight and (b)(6),(b)(7)(C) from 12 October 2010 – 20 August 2015 included the following comments:

SAIG-IN (16-00007)

a. (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C) -

(1) 13 June 2014: This net closely monitored. Other net, please; 14 May 2014: Other net; 13 May 2014: Received messages about call on other net; 27 January 2014: Govt computer won't let me respond on other net; 18 October 2013: other net for this and text messages; 11 September 2013: I appreciate it and forwarded to other net; 14 February 2013: See you other net later; 13 January 2013: Sent note other net; 8 January 2013: Prefer traffic on the other net; 15 August 2012: Reminder, this net monitored; 1 August 2012: Changed out blackberry today and can't access other net; 16 January 2012: Message on other net; 7 January 2012: I really would prefer all this traffic be on other net; 6 December 2011: Changing to other net; 22 September 2011: Need to talk to you other net; 16 June 2011: Really don't like using this net unless absolutely necessary; 28 April 2011: Talk later not on this net; 6 April 2011: Ok, would prefer correspondence on other net.

(2) 27 September 2012: I love hearing about women who like and giggle about BJs.

(3) 12 August 2011: Stopped at your place to see a movie on the way home, but internet not working.

(4) 3 May 2011: The huge, great, seriousness, and depth of our communications are just too much for me right now. This is supposed to be fun and a respite from daily pressures and stress, not the greatest source of it. Enough on this net.

(b)(6),(b)(7)(C)

(1) 19 March 2015: Other net for you. Yes, but you are using your work email; 18 February 2012: Did you mean to send this message from the email you used? Your other address is better.

(2) 19 December 2013: Proud of you and ILY

[IO Note: ILY means I love you.]

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(3) 19 December 2013: [Referring to (b)(6),(b)(7)(C)] I think you should go with it. Wow, what a release/relief that would be for you, huh? And then you can tell me about it and I'll use what you tell me for some me time. :) ILY

(4) 8 April 2013: Well I guess if it makes you feel better to complain to others about your f\*cked up boyfriend, then go ahead. Wish I wasn't such a dreaded source of stress in your life.

(5) 3 May 2012: Per conversation we won't push this difficult time sched this afternoon, rather just meet tonite IAW the plan.

c. (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C)

(1) 14 May 2014: (b)(6),(b)(7)(C)

[IO Note: (b)(6),(b)(7)(C)]

(2) 14 May 2014: (b)(6),(b)(7)(C)

(3) 11 September 2013: (b)(6),(b)(7)(C)

(4) 11 September 2013: (b)(6),(b)(7)(C)  
with you.

(5) 11 September 2013: (b)(6),(b)(7)(C)

[IO Note: (b)(6),(b)(7)(C)]

(6) 6 December 2011: (b)(6),(b)(7)(C)

(7) 22 September 2011: (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C)

(8) 23 May 2011: (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(1) 20 August 2015, 23 July 2015, 21 July 2015, 23 June 2015, 18 April 2015,

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25 February 2015, 24 February 2015: ILY

(2) 21 July 2015: (b)(6),(b)(7)(C)

(3) 28 April 2015: (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(4) 19 March 2015: (b)(6),(b)(7)(C)

(5) 19 March 2015: (b)(6),(b)(7)(C)

(6) 4 February 2015: (b)(6),(b)(7)(C)

(7) 3 February 2014: (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(8) 26 March 2012: (b)(6),(b)(7)(C)

(9) 12 December 2013: (b)(6),(b)(7)(C)

(10) 18 February 2013: (b)(6),(b)(7)(C)

say

(11) 15 June 2012: (b)(6),(b)(7)(C)

[IO Note: MG Haight replied, "I have about 12 – 14 halves (already split 'em)."]

(12) 11 June 2012: (b)(6),(b)(7)(C)

(13) 3 May 2012: (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

6. In an email, 18 November 2015, from (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) also mentioned that MG Haight was the love of her life and thanked him for loving her and being the best partner in the world.

[IO Note: Because (b)(6),(b)(7)(C) sent the email from (b)(6),(b)(7)(C) to (b)(6),(b)(7)(C) (b)(6),(b)(7)(C), it was unclear whether MG Haight ever received the email.

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However, there was email evidence that indicated MG Haight had access to (b)(6),(b)(7)(C) ]

7. In an email, 15 February 2013, from (b)(6),(b)(7)(C) to (b)(6),(b)(7)(C), (b)(6),(b)(7)(C) stated, (b)(6), "I am sorry that I am not always happy about (b)(6) and Dave." (b)(6),(b)(7)(C) forwarded the email to MG Haight's personal email account, who acknowledged the comment.

[IO Note: (b)(6),(b)(7)(C) is (b)(6),(b)(7)(C). (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) ]

8. In an email, 8 February 2012, from (b)(6),(b)(7)(C) to (b)(6),(b)(7)(C) (b)(6),(b)(7)(C), (b)(6),(b)(7)(C) stated that (b)(6) seven year anniversary was on 12 February 2012. (b)(6),(b)(7)(C) did not mention MG Haight's name in the email, but said that he was flying to Tampa, FL, on 12 February 2012, and wanted (b)(6) to meet him there.

9. Defense Travel System (DTS) voucher list, MG Haight, 18LZRN, showed that MG Haight was TDY in Tampa, FL, on 12 February 2012.

10. Evidence concerning (b)(6),(b)(7)(C) personal affairs –

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

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(b)(6),(b)(7)(C)

11. Department of Defense (DD) Form 1352-2 (Travel Voucher or Subvoucher), MG Haight, 100452, 19 May 2015, and supporting travel documents indicated MG Haight was in Memphis, TN, from 10 May 2015 – 14 May 2015. MG Haight did not claim a reimbursement for lodging.

(b)(6),(b)(7)(C)

13. DD Form 1352-2, MG Haight, 1PG0K3, June 2015, and supporting travel documents indicated MG Haight was in Tampa, FL, from 16 June 2015 – 19 June 2015.

[IO Note: (b)(6),(b)(7)(C) testified that (b)(6),(b)(7)(C) last saw MG Haight in Clearwater, Florida, in June 2015. (b)(6),(b)(7)(C)]

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

15. A picture showed MG Haight and (b)(6),(b)(7)(C) together in what appeared to be an unofficial setting. This was the same picture the anonymous complainant submitted as part of (b)(6),(b)(7)(C) complaint, which (b)(6),(b)(7)(C) alleged was on their profile page for SLS.com. DAIG obtained the same photo from (b)(6),(b)(7)(C) email account and from (b)(6),(b)(7)(C).

16. A second picture showed MG Haight and (b)(6),(b)(7)(C) together in what appeared to be an unofficial setting. DAIG obtained the photo from (b)(6),(b)(7)(C) email account.

[IO Note: It is unclear when or where both photos were taken.]

17. (b)(6),(b)(7)(C) testified:

(b)(6),(b)(7)(C)

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b. Her communication with MG Haight "varied with frequency." It was best described as random. (b)(6),(b)(7)(C) frequently ended email conversations with MG Haight with "ILY" which meant I love you. She used the term because she felt strongly for him; similar to something you would tell a spouse. MG Haight was there for (b)(6),(b)(7)(C) during (b)(6),(b)(7)(C) and they had a very unique bond.

(b)(6),(b)(7)(C)

d. (b)(6),(b)(7)(C) never met (b)(6),(b)(7)(C); however, (b)(6),(b)(7)(C) remembered communicating with (b)(6),(b)(7)(C) when (b)(6) coached MG and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) basketball team in (b)(6),(b)(7)(C).

(b)(6),(b)(7)(C)

18. (b)(6),(b)(7)(C) testified:

a. (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) worked for the (b)(6),(b)(7)(C) in Iraq. MG Haight, who was a Lieutenant Colonel (LTC) at the time, and (b)(6),(b)(7)(C) were initially in Mosul, Iraq, but later moved to Baghdad, Iraq, which was where (b)(6),(b)(7)(C) was located. After moving to Baghdad, Iraq, (b)(6),(b)(7)(C) told (b)(6),(b)(7)(C) that she and MG Haight were in an intimate relationship. (b)(6),(b)(7)(C) knew that MG Haight was married. (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

b. (b)(6),(b)(7)(C) (b)(6). When MG Haight came over, she greeted MG Haight and excused herself to watch television downstairs. She also departed to give MG Haight and (b)(6),(b)(7)(C) some privacy. Later, MG Haight and (b)(6),(b)(7)(C) came downstairs where (b)(6),(b)(7)(C) was, sat on the sofa, and started "messaging around with his hands on her (b)(6),(b)(7)(C) down there". MG Haight asked (b)(6),(b)(7)(C) if she wanted to participate. She declined, went back upstairs, and locked the door behind her. (b)(6),(b)(7)(C) came upstairs and asked again if she would hang out with them. (b)(6),(b)(7)(C) declined the request.

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c. (b)(6),(b)(7)(C) told (b)(6),(b)(7) that she and MG Haight visited swingers' clubs while he was stationed at Fort Benning, Georgia (GA). (b)(6),(b)(7)(C) did not know about the relationship he had with (b)(6),(b)(7)(C), but there were certain times she may have suspected something was going on. She recalled one instance where (b)(6),(b)(7)(C) found information on the internet concerning (b)(6),(b)(7)(C) and swingers' clubs.

[IO Note: MG Haight was assigned to Fort Benning, GA, from July 2012 until October 2013.]

d. (b)(6),(b)(7)(C) also met MG Haight at (b)(6),(b)(7)(C) house. (b)(6),(b)(7)(C) visited (b)(6),(b)(7)(C) and MG Haight would come over to visit (b)(6),(b)(7)(C).

(b)(6),(b)(7)(C)

20. (b)(6),(b)(7)(C)

testified:

a. (b) worked (b)(6),(b)(7)(C) and would sometimes receive more than twenty phone calls from the number (b)(6),(b)(7)(C) which (b) later discovered belonged to (b)(6),(b)(7)(C). (b)(6),(b)(7)(C) disconnected the call anytime someone from the front office answered. On one occasion, (b)(6),(b)(7)(C) called the number back and a female answered. After (b)(6),(b)(7)(C) identified (b)(6),(b) (b)(6),(b)(7)(C) hung up. Since then, the calls slowed down significantly.

b. MG Haight asked (b) and (b)(6),(b)(7)(C) about how to get a personal cell phone from the Base Exchange for (b)(6),(b)(7)(C). He wanted a phone that did not require a contract. Since that conversation, (b) noticed MG Haight using a personal cell phone and a significant reduction in the calls to MG Haight's direct phone line from (b)(6),(b)(7)(C). The only people that called his direct line were (b)(6),(b) and (b)(6),(b)(7)(C) never mentioned the frequent phone calls from

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(b)(6),(b)(7)(C) to MG Haight, nor had anyone else from the front office. They did not want to speculate about the situation, but had inclinations that something was going on.

c. In September 2015, while TDY to Fort Bragg, North Carolina (NC), and Washington, District of Columbia (DC), MG Haight insisted he stay off post. MG Haight paid "out of pocket" for his lodging in NC although there were Distinguished Visitor Quarters (DVQ) available on post. In Washington DC, MG Haight did not want to stay at the same hotel with his travel party and specifically stated he wanted to stay at the Doubletree Hotel. (b)(6),(b)(7)(C) found those requests odd.

21. (b)(6),(b)(7)(C) testified:

a. (b)(6),(b)(7)(C) in (b)(6),(b)(7)(C) would get phone calls several times a day from the phone number (b)(6),(b)(7)(C). Whenever anyone answered the phone, the caller would hang up. One day (b)(6) wrote the number down and called it back. A female answered the phone, but hung up on (b)(6). (b)(6) looked the number up and found that it belonged to (b)(6),(b)(7)(C). (b)(6) believed the calls stopped around December 2015, but was not sure because (b)(6),(b)(7)(C) also answered MG Haight's phone.

b. (b)(6) found it suspicious that MG Haight did not stay in the same hotel with other Service members who traveled to a conference with him. The people traveling with MG Haight were there to prepare him for the meetings; however, he wanted to stay in a different hotel.

22. Department of the Army (DA) Form 3881 (Rights Warning Procedure/Waiver Certificate), MG Haight, 9 February 2016, and email, (b)(6),(b)(7)(C) (b)(6),(b)(7), subject: Investigation, 1 March 2016, indicated MG Haight chose not to answer questions concerning the investigation.

[IO Note: MG Haight declined to testify. He also declined to answer questions DAIG provided through his attorney.]

#### ANALYSIS / DISCUSSION:

1. In October 2015, an anonymous complainant alleged MG Haight was engaged in an inappropriate relationship with (b)(6),(b)(7)(C). In November 2015, the complainant alleged the relationship was sexual in nature.

2. AR 600-20 states, all commanding officers and others in authority in the Army are required to show in themselves a good example of virtue and honor, and to guard

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against and suppress all dissolute practices. AR 600-100 states, leaders are role models for others. They are viewed as the example and must maintain standards and provide examples of effective behaviors. When Army leaders model the Army Values, they provide tangible evidence of desired behaviors and reinforce verbal guidance by demonstrating commitment and action.

3. Evidence indicated that MG Haight engaged in an intimate, sexual relationship with (b)(6),(b)(7)(C) since 2005, while married.

a. (b)(6),(b)(7)(C) testified (b) had a sexual relationship with MG Haight since 2006. (b)(6),(b)(7)(C) testified that (b)(6),(b)(7)(C) was involved in a sexual relationship with MG Haight. (b)(6),(b)(7)(C) further testified that on one occasion MG Haight tried to get (b) to engage in a sexual encounter with him and (b)(6),(b)(7)(C).

[IO Note: (b)(6),(b)(7)(C) testified that (b) relationship with MG Haight began in 2006; however, evidence indicates it began on 12 February 2005. In an email dated 11 September 2013, from (b)(6),(b)(7)(C) to MG Haight, (b) stated that (b)(6) was blessed to have spent the last 8+ years with him. That indicates the relationship started in 2005. In another email dated 8 February 2012, from (b)(6),(b)(7)(C) to (b)(6),(b)(7)(C), (b)(6),(b)(7)(C) stated Sunday was (b) seven-year anniversary. That indicates the relationship started on 12 February 2005. "Twelve February" was also the alias (b)(6),(b)(7)(C) assigned to MG Haight's personal email accounts.]

b. Emails exchanged between MG Haight and (b)(6),(b)(7)(C) contained sexually explicit verbiage, including references to sex acts. These emails also included words and references indicative of an intimate relationship, like "I love you; sweetheart; honey; can I have anal; making our own naughty movies; suck your duck [sic]; blue pills; you are the seducer; and blessed to have spent the last 8+ years with you."

4. Evidence further indicated MG Haight and (b)(6),(b)(7)(C) engaged in questionable practices typically reserved for relationships stronger than friendships or acquaintances.

a. MG Haight and (b)(6),(b)(7)(C) met during several TDY trips. (b)(6),(b)(7)(C) testified (b) last saw MG Haight in Clearwater, FL, in June 2015. On 15 June 2015, (b)(6),(b)(7)(C) "checked in" via Facebook, at a bar near the Tampa International Airport, with a post that read, "waiting." Travel vouchers and coordinating emails further indicated MG Haight and (b)(6),(b)(7)(C) were both in Memphis, TN, from 10 – 14 May 2015. MG Haight was TDY and (b)(6),(b)(7)(C) was there on leave before going TDY to Camp Robinson, AR.

(b)(6),(b)(7)(C)

c. On at least 20 occasions, MG Haight directed (b)(6),(b)(7)(C) to go to the "other net" during email conversations. This was a strong indication that MG Haight knew the relationship with (b)(6),(b)(7)(C) was inappropriate. He made deliberate attempts to conceal the inappropriateness of the relationship by directing (b)(6),(b)(7)(C) to use (b)(6),(b)(7)(C) for certain conversations. He also reminded (b)(6),(b)(7)(C) regularly that his government email accounts were monitored.

d. MG Haight was married during the entire time of his relationship with (b)(6),(b)(7)(C).

**CONCLUSION:** The preponderance of credible evidence supports the conclusion that MG Haight was married and had an intimate, sexual relationship with (b)(6),(b)(7)(C) that was improper. MG Haight failed to exemplify the highest ethical and professional standards as embodied in the Army Values. Further, his nearly 11-year inappropriate relationship was not exemplary conduct, and did not represent a good example of virtue and honor. The allegation that MG Haight engaged in an inappropriate sexual relationship with a (b)(6),(b)(7)(C) was substantiated.

**ALLEGATION #2: MG Haight misused government resources.**

**STANDARD:** DOD 5500.07-R (Joint Ethics Regulation (JER)), paragraph 2-301, Use of Federal Government Resources, section a(1)(2) states... Communication Systems. Federal Government Communication systems and equipment (including Government owned telephones, facsimile machines, electronic mail, internet systems, and commercial systems when use is paid for by the Federal Government) shall be for official use and authorized purposes only.

1. Official use includes emergency communications and communications that the DOD Component determines are necessary in the interest of the Federal Government. Official use may include, when approved by theater commanders in the interest of morale and welfare, communications by military members and other DOD employees who are deployed for extended periods away from home on official DOD business.

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2. Authorized purposes include brief communications made by DOD employees while they are traveling on Government business to notify family members of official transportation or schedule changes. They also include personal communications from the DOD employee's usual work place that are most reasonably made while at the work place (such as checking in with spouse or minor children; scheduling doctor and auto or home repair appointments; brief internet searches; e-mailing directions to visiting relatives) when the Agency Designee permits categories of communications, determining that such communications:

a. Do not adversely affect the performance of official duties by the DOD employee or the DOD employee's organization;

b. Are of reasonable duration and frequency, and whenever possible, made during the DOD employee's personal time, such as after duty hours or lunch periods;

c. Serve a legitimate public interest (such as keeping DOD employees at their desks rather than requiring the use of commercial systems; educating the DOD employee on the use of the communications system; improving the morale of DOD employees stationed for extended periods away from home; enhancing the professional skills of the DOD employee; job-searching in response to Federal Government downsizing);

d. Do not put Federal Government communications systems to uses that would reflect adversely on DOD or the DOD Component (such as uses involving pornography; chain letters; unofficial advertising, soliciting, or selling except on authorized bulletin boards established for such use; violations of statute or regulation; inappropriately handled classified information; and other uses that are incompatible with public service); and,

e. Do not overburden the communication system (such as may be the case with broadcasts and group mailings), create no significant additional cost to DOD or the DOD Component, and in the case of long distance communications, charges are:

(1) Charged to the DOD employee's home telephone number or other non-Federal Government number (third number call);

(2) Made to a toll free number;

(3) Reversed to the called party if a non-Federal Government number (collect call);

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(4) Charged to a personal telephone credit card; or

(5) Otherwise reimbursed to DOD or the DOD Component in accordance with established collection procedures.

**DOCUMENTS / TESTIMONY:**

1. Government cell phone activity log, MG Haight, June 2015 – November 2015, indicated MG Haight called (b)(6),(b)(7)(C) 84 times from his government cell phone for over 1,400 minutes of conversation.

2. Email Log, (b)(6),(b)(7)(C), October 2010 – November 2015, indicated MG Haight and (b)(6),(b)(7)(C) sent over 800 personal emails to each other. Most of the emails were sent during duty hours and to/from a government computer.

3. (b)(6),(b)(7)(C) testified that the J-3 office was in a Sensitive Compartmented Information Facility (SCIF), so they could not bring in electronic devices; however, when MG Haight disappeared and someone needed to get ahold of him, (b)(6),(b)(7) knew to check the hallway, outside of the SCIF, where he was usually on the cell phone.

**ANALYSIS / DISCUSSION:**

1. During the conduct of the investigation, evidence indicated that MG Haight may have misused a government cell phone and computer to make an abundance of personal phone calls and send an excessive number of personal emails.

[IO Note: Phone records for MG Haight's and (b)(6),(b)(7)(C) office phones were requested by DAIG for the investigation, but were not provided due to technical faults.]

2. The JER states Federal Government Communication systems and equipment shall be for official use and authorized purposes only. Authorized purposes include personal communications from the DOD employee's usual work place that are most reasonably made while at the work place provided it does not adversely affect the performance of official duties. The communication should also be of reasonable duration and frequency, and whenever possible, made during the DOD employee's personal time, such as after duty hours or lunch periods.

3. Evidence indicated that MG Haight's communications with (b)(6),(b)(7)(C) were not for official use and exceeded the authorized purposes stated in the JER. MG Haight called (b)(6),(b)(7)(C) 84 times from his government cell phone for over 1,400 minutes of conversation between June 2015 and November 2015. The number of calls and total

minutes billed to the government indicated MG Haight abused authorized purposes for the phone.

4. Email records from (b)(6),(b)(7)(C) government email account indicated MG Haight and (b)(6),(b)(7)(C) sent over 800 personal emails, some of which were inappropriate, to each other from (b)(6),(b)(7)(C). Most of the emails were sent during duty hours and to/from a government computer. Further, MG Haight and (b)(6),(b)(7)(C) used government systems to communicate with each other as part of their ongoing inappropriate relationship. MG Haight invoked his rights and did not answer questions concerning the use of the government cell phone or excessive emails.

**CONCLUSION:** The preponderance of the evidence supports the conclusion that MG Haight used his government computer and cell phone to make extensive personal communications to (b)(6),(b)(7)(C) which exceeded official and authorized use standards in the JER. The allegation that MG Haight misused government resources was substantiated.

**OTHER MATTERS:**

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

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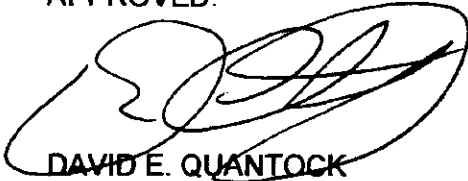
**RECOMMENDATIONS:**

1. This report be approved and the case closed.
2. Refer this report to the Office of The Judge Advocate General.
3. Take no further action on the issues in Other Matters paragraphs 1 – 3.

(b)(6),(b)(7)(C)

Lieutenant Colonel, IG  
Investigator

**APPROVED:**



**DAVID E. QUANTOCK**  
Lieutenant General, USA  
The Inspector General

**COORDINATION:**

IN Legal Initials  
Chief, IN Branch Initials  
Chief, IN Division Initials  
IG Legal Initials  
OGC Initials

(b)(6),(b)(7)  
(C)

Date: 4 APR 16  
Date: 4 APR 16  
Date: 4 Apr 16  
Date: 13 APR 16  
Date: 12 APR 16

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