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NO. 1966

THE RENEGOTIATION BOARD  
Minutes of Meeting of  
Friday, December 12, 1975

2000 M Street, N. W.  
Washington, D. C.  
9:00 A. M. - 9:55 A. M.

The following members were present:

R. C. Holmquist, Chairman  
Rex M. Mattingly  
Goodwin Chase  
Norman B. Houston  
C. U. Sylvester

The following were also present:

R. E. Rapps, Secretary to the Board  
John B. Davis, Special Assistant to Mr. Chase  
William M. Burkhalter  
Donald S. Grenough  
W. H. Harrison  
George Lenches (Item 9, only)

1. Approval of Minutes

The minutes of the meeting held December 9, 1975 were approved.

✓ 2. California Computer Products, Inc. (1975) X  
Request to File Late Application for  
Commercial Exemption - Granted

There was submitted to the Board the memorandum dated December 9, 1975, of the Deputy Director, Office of Review, subject: "Request to file untimely Application for Commercial Exemption, California Computer Products, Inc., Fiscal Year Ended June 30, 1975, LPI No. 87540," together with an attached letter dated November 24, 1975, from the contractor requesting permission to file an untimely Application for Commercial Exemption for the fiscal year indicated (Exhibit A).



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The Board approved the recommendation of the Deputy Director, Office of Review, that the contractor's request for permission to file an untimely Application for Commercial Exemption for the fiscal year ended June 30, 1975, be granted.

3. General Foods Corporation (1972, 1973 and 1974)  
Request to File Late Application for  
Commercial Exemption - Granted

There was submitted to the Board the memorandum dated December 9, 1975, of the Deputy Director, Office of Review, subject: "Request to file untimely Applications for Commercial Exemption, General Foods Corporation, Fiscal Years Ended April 1, 1972, March 31, 1973 and March 30, 1974, LPI No. 13409," together with an attached letter dated December 5, 1975, from the contractor requesting permission to file an untimely Application for Commercial Exemption for the fiscal years indicated (Exhibit B).

The Board approved the recommendation of the Deputy Director, Office of Review, that the contractor's request for permission to file an untimely Application for Commercial Exemption for each of the fiscal years ended April 1, 1972, March 31, 1973 and March 30, 1974, be granted.

4. Minnesota Mining and Manufacturing Company (1972) X  
3M Business Products Sales, Inc. (1972)  
American Lava Corporation (1972)  
Prehler Electrical Insulation Co. (1972)  
Riker Laboratories, Inc. (1972)  
Class A Clearances - Approved

There was submitted to the Board by the Deputy Director, Office of Review, the Reviews of Determination dated December 2, 1975, together with attachments, including Final Opinions (Exhibits C through G, respectively), relative to:

Minnesota Mining and Manufacturing Company  
FYE 12/31/72



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3M Business Products Sales, Inc.  
FYE 12/31/72

American Lava Corporation  
FYE 12/31/72

Prehler Electrical Insulation Co.  
FYE 12/31/72

Riker Laboratories, Inc.  
FYE 12/31/72

As recommended by the Western Regional Board and concurred in by the Deputy Director, Office of Review, the Board approved clearances in the subject cases for the fiscal years indicated.

Clearance Notices will be issued to the contractors by the statutory Board, together with the respective Final Opinions.

5. Rockwell International Corporation (1972) X  
Rockwell Standard (Wallaceburg) Limited (1972)  
Worcester Moulded Plastics Co. (1972)  
The Heim Universal Corporation (1972)  
Maine Electronics, Inc. (1972)  
MGD Pneumatics Incorporated (1972)  
AMFORGE Inc. (1972)  
Nartrans Corporation (1972)  
Navan Incorporated (1972)  
Class A Clearances - Approved

There were submitted to the Board by the Deputy Director, Office of Review, the Reviews of Determination dated December 3, 1975, together with attachments, including Final Opinions (Exhibit H through P, respectively), relative to:

Rockwell International Corporation  
FYE 9/30/72



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Rockwell Standard (Wallaceburg) Limited  
FYE 9/30/72

Worcester Moulded Plastics Co.  
FY Beginning 10/1/71 and Ending 3/31/72

The Heim Universal Corporation  
FYE 9/30/72

Maine Electronics, Inc.  
FYE 9/30/72

MGD Pneumatics Incorporated  
FYE 9/30/72

AMFORGE Inc.  
FY Beginning 12/8/71 and Ending 9/30/72

Nartrans Corporation  
FYE 9/30/72

Navan Incorporated  
FYE 9/30/72

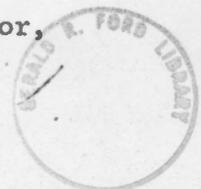
As recommended by the Western Regional Board and concurred in by the Deputy Director, Office of Review, the Board approved clearances in the above cases for the fiscal years indicated.

Clearance Notices will be issued to the contractors by the statutory Board, together with the respective Final Opinions.

Mr. Mattingly and Mr. Sylvester dissented.

6. Kaiser Industries Corporation (1970 and 1971) X  
Henry J. Kaiser Company (1970 and 1971)  
Kaiser Engineers, Inc. (1970 and 1971)  
Kaiser Aerospace & Electronics Corp. (1970 and 1971)  
Jeep Corporation (Formerly Kaiser Jeep Corporation) (1970)  
Myers Drum Company (1970 and 1971)  
Class A Clearances - Approved

There were submitted to the Board by the Deputy Director,



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Office of Review, the Reviews of Determination dated December 8, 1975, together with attachments, including Final Opinions (Exhibit Q through AA, respectively), relative to:

Kaiser Industries Corporation  
FYE 12/31/70

Henry J. Kaiser Company  
FYE 12/31/70

Kaiser Engineers, Inc.  
FYE 12/31/70

Kaiser Aerospace & Electronics Corp.  
FYE 12/31/70

Kaiser Industries Corporation  
FYE 12/31/71

Henry J. Kaiser Company  
FYE 12/31/71

Kaiser Engineers, Inc.  
FYE 12/31/71

Kaiser Aerospace & Electronics Corp.  
FYE 12/31/71

Jeep Corporation (Formerly Kaiser Jeep Corporation)  
FY Beginning 1/1/70 and Ending 2/5/70

Myers Drum Company  
FYE 12/31/70

Myers Drum Company  
FYE 12/31/71

As recommended by the Western Regional Board and concurred in by the Deputy Director, Office of Review, the Board approved clearances in the above cases for the fiscal years indicated.



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Clearance Notices will be issued to the contractors by the statutory Board, together with the respective Final Opinions.

Mr. Mattingly and Mr. Sylvester dissented.

7. Sverdrup & Parcel and Associates, Inc. (1971 and 1973)  
Class A Bilaterals - Approved  
Sverdrup & Parcel and Associates, Inc. (1972)  
Class A Clearance - Approved X

There was submitted to the Board by the Deputy Director, Office of Review, the Review of Determination (Exhibit BB), dated December 5, 1975, together with attachments, including a Final Opinion, relative to SVERDRUP & PARCEL AND ASSOCIATES, INC., fiscal years ended December 31, 1971, December 31, 1972 and December 31, 1973. On May 9, 1975, the Western Regional Board made and entered a recommendation that the contractor realized excessive profits in the gross amounts of \$80,000 for each of the fiscal years ended December 31, 1971 and 1973. On May 21, 1975, the Western Regional Board made a finding that the contractor did not realize excessive profits for the fiscal year ended December 31, 1972. On May 19, 1975, the contractor executed refund agreements prepared by the Western Regional Board providing for the elimination of excessive profits in the amounts of \$65,724 and \$66,909 (subject to appropriate adjustment on account of Federal income taxes) for the fiscal years ended December 31, 1971 and December 31, 1973, respectively.

As recommended by the Western Regional Board, and concurred in by the Deputy Director, Office of Review, the Board approved the aforementioned refund agreements and directed that such agreements be duly executed on behalf of the Government and that a fully executed copy of each be sent to the contractor. Also, as recommended by the Western Regional Board, and concurred in by the Deputy Director, Office of Review, the Board approved a clearance in the subject case for the fiscal year ended December 31, 1972. The Board approved the Final Opinion. A Clearance Notice will be issued to the contractor by the statutory Board, together with the Final Opinion.



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8. ARO, Inc., Also Known As Arnold Research  
Organization (1971, 1972 and 1973) X

There was submitted to the Board by the Deputy Director, Office of Review, the Review of Determination dated December 5, 1975, together with attachments, including a Final Opinion (Exhibit CC), relative to ARO, INC., also known as ARNOLD RESEARCH ORGANIZATION, fiscal years ended December 31, 1971, December 31, 1972 and December 31, 1973.

As recommended by the Western Regional Board and concurred in by the Deputy Director, Office of Review, the Board approved clearances in the subject cases for the fiscal years indicated.

Clearance Notices will be issued to the contractor by the statutory Board, together with the Final Opinion.

✓9. Distinguished Service Award - Kurt C. Behrens

The Board unanimously moved and adopted a Distinguished Service Award (Exhibit DD) for Mr. Kurt C. Behrens, Deputy Director, Office of Review, who has announced his retirement from the Renegotiation Board. Each member of the staff present personally, and on behalf of their offices, expressed their sincere respect and affection for Mr. Behrens and their unanimous accord with this action.

Mr. Grenough will be in charge of arrangements for a luncheon honoring Mr. Behrens.

10. Lockheed Aircraft Corporation (Consolidated) (1972)  
Class A Case

Reference was made to the action of the Board on December 9, 1975 (Minutes No. 1965-16), deferring the subject case until December 12, 1975.

There was submitted to the Board by the Deputy Director, Office of Review, the Review of Determination dated December 1, 1975, together with attachments, including a Final Opinion



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(Exhibit EE), and a Supplemental Reviewer's Comments dated  
December 10, 1975 (Exhibit FF), relative to:

Lockheed Aircraft Corporation  
Consolidated with: (wholly-owned subsidiaries)  
Lockheed Air Terminal, Inc.  
Lockheed Shipbuilding and Construction Company  
Lockheed Aircraft International Limited  
Lockheed Missiles & Space Company, Inc.  
Lockheed Electronics Company, Inc.  
Lockheed Aircraft Services Singapore Private Limited  
Fiscal Year Ended December 31, 1972

Mr. Holmquist moved to assign this case to a Division of the statutory Board in view of serious charges made by one Member of the Board. The charges that were made were that Lockheed had been shown in non-Board inquiries to be guilty of gross negligence and gross inefficiency. The Board approved this motion with Mr. Sylvester dissenting. Mr. Sylvester's statement of dissent (Exhibit GG) is included as being a full part of these minutes. Also included as being a full part of these minutes is the memorandum dated January 7, 1976, presented by Mr. Chase to the Board at the meeting of that date and addressed to the Secretary to the Board (Exhibit HH).

11. Adjournment

The meeting adjourned at 9:55 A. M.

12. Final Actions Eliminating Excessive Profits

Final actions taken at this meeting regarding elimination of excessive profits are as follows:

Agreements	\$160,000
Unilateral Orders	<u>None</u>
Total	\$160,000

Richard E. Rapps  
Secretary



December 19, 1975

(Exhibit GG to Minutes of Board Meeting of December 12, 1975)

Lockheed Aircraft Corporation  
Fiscal Year Ended 12/31/72

I reluctantly dissent from the Board's decision to assign to a Division of the Board Lockheed Aircraft Corporation for the fiscal year ended December 31, 1972. This assignment was made as a result of a charge by Mr. Chase that non-Board inquiries had shown Lockheed Aircraft Corporation to be guilty of gross negligence and gross inefficiency. This unsubstantiated charge, I surmise, is the result of newspaper headlines rather than hard evidence.

Lockheed was assigned to the Western Regional Board, which after its review recommended to the Statutory Board that a clearance be issued, and the Office of Review in Headquarters concurred in this recommendation. With a return on renegotiable sales in the review year of 3.3%, further reduced to 0.5% after applying a \$49,802,000 loss carryforward, it is difficult for the writer to understand what can be gained by assigning this case to a Division of the Statutory Board.

Certainly, reported profits do not warrant such an assignment which, therefore, must stand or fall on the charge of gross negligence and gross inefficiency.

Section 103 of the Renegotiation Act allows as a cost in a fiscal year costs exceeding revenue of the prior year, provided that "such excess did not result from gross inefficiency of the contractor or subcontractor."

The Board's Administrative Letter 75-15 dated November 17, 1975, provides with respect to segmental losses in a review year:

Where a loss is generated by one or more of the segments, within the same fiscal year, the amount thereof shall be allowed as an adjustment, in effect a reduction of profits, of significant segments for

which profits are considered high (and would be considered excessive if considered separately). Losses must also be examined for reasonableness to make sure they are not the result of gross inefficiency.

Nowhere in the Renegotiation Act of 1951 or in the Board's Regulations is "gross inefficiency" defined. Webster defines gross as "an overall total, exclusive of deductions" and inefficiency as "not producing the effect intended or desired" and "wasteful of time and energy" as well as "incapable, incompetent."

Black's Law Dictionary defines the term "gross negligence," which Mr. Chase also used, as follows (citations omitted):

The intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another; such a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness. . . . equivalent to the words "reckless" and "wanton."

This definition not only provides us with the type of finding which must be made to sustain the charge of gross negligence but also provides considerable guidance with respect to arriving at a definition of gross inefficiency. This is the concept of the degree of the inefficiency Congress must have intended when using the term "gross inefficiency."

After extensive hearings in the Congress in 1971, legislation was enacted (P. L. 92-70) establishing a loan guarantee fund administered by the Emergency Loan Guarantee Board. Lockheed Aircraft Corporation obtained a loan guarantee of \$250,000,000 from this fund. I just cannot believe that Congress and the Emergency Loan Guarantee Board would so reward a contractor who was guilty of gross negligence and gross inefficiency.

According to a report in the Wall Street Journal of December 11, 1975, Lockheed Aircraft Corporation, with



contracts in excess of \$2 billion, has replaced General Dynamics as the nation's top defense contractor. This announcement must be viewed in light of Section 1, Part 9 of the Armed Services Procurement Regulations, which provide that contracts are not to be entered into by the Government except with contractors considered responsible.

Section 1.903.1(iii) further provides that contractors must:

. . . have a satisfactory record of performance (contractors who are seriously deficient in current contract performance, when the number of contracts and the extent of deficiency of each are considered, shall, in the absence of evidence to the contrary or circumstances properly beyond the control of the contractor, be presumed to be unable to meet this requirement). Past unsatisfactory performance, due to failure to apply necessary tenacity or perseverance to do an acceptable job, shall be sufficient to justify a finding of nonresponsibility.

If Mr. Chase's charge is correct, and Lockheed Aircraft Corporation is, in fact, guilty of gross negligence and gross inefficiency, the Department of Defense, under its ASPRS, ought not to be awarding defense contracts to Lockheed Aircraft Corporation. Are these officials derelict in their duties?

How does the Board measure the efficiency of a contractor? The Board has established the Office of Procurement Affairs at Headquarters and similar offices in each of its two Regional Boards. It is through these offices that the Regional Boards and the Statutory Board obtain information from the appropriate Department of Defense officials relating to the performance or efficiency of a contractor.

What type of reports has the Board obtained with respect to Lockheed Aircraft Corporation for the year under review as well as prior years? While there has been criticism for cost overruns, missed delivery schedules, and rejects in the C-5A Program and the



Cheyenne Helicopter, this criticism must be tempered in that these products, on fixed-price contracts, required state-of-the-art developments and because they were only part of the contractor's defense business where the contractor also received satisfactory and excellent performance reports. On an overall basis, then, the contractor must be considered as a satisfactory performer. Were it otherwise, Lockheed would not be the nation's largest defense contractor today.

Does approval of a \$250,000,000 loan guarantee; do overall satisfactory performance reports; and does the continuing award of defense contracts provide evidence of gross negligence and gross inefficiency? I think not.

If we can put aside the reckless charge of gross negligence and gross inefficiency, we can proceed to examine the contractor in the aggregate, as required by the Renegotiation Act of 1951. On the basis of the figures presented by the Western Regional Board and the Office of Review, the result, based on Board action with other defense contractors, obviously is a clearance.

As stated previously, the margin of profits on renegotiable sales is 3.3% with a net return on capital and net worth of 5.7% and 23.6%, respectively, before the loss carryforward and income taxes. These returns do not indicate that profits are excessive, especially when considering the contractor's poor profit performance of prior years on the contractor's capital accounts. In addition, after applying the loss carryforward of \$49,802,000 the return on sales is reduced to one-half of one percent, with return on capital and net worth of 0.9% and 5.5%, respectively.

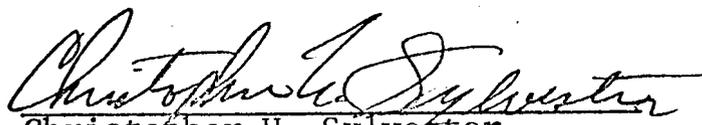
The Board's recently adopted Administrative Letter 75-15 entitled "Segmentation Analysis" requires that the contractor be analyzed on a segmented basis. Such an analysis discloses that, while profits from some segments considered alone may appear high, they are not sufficiently high to overcome losses of some \$29,000,000 reported in two other segments. Segments, again which also have satisfactory performance ratings. These are losses which the majority of the Board apparently refused to recognize in spite of the requirements of the Act providing for aggregate renegotiation



and in spite of the policy statement of the Renegotiation Board embodied in the Administrative Letter.

In view of the Office of Accounting's finding that the Region's accounting report is acceptable, I concur with the Office of Review that the contractor's profits are not excessive. Certainly, a contractor with the volume of defense business which Lockheed has must be very carefully scrutinized by the Board. However, the review year has been before the Western Regional Board and the Statutory Board for more than two years. The assignment of this contractor to a Division of the Board for further study and evaluation only adds to the rapidly growing backlog of cases now at the Statutory Board.

Clearing Lockheed Aircraft Corporation with review year profits of 3.3% renegotiable sales in the aggregate would leave the contractor at a level considerably lower than that at which other major aerospace contractors have been recently cleared. It has been the writer's impression that the Renegotiation Board exists to recover excessive profits not to expend its time and efforts on cases which show net losses or profits so low as to preclude any possible findings of excessive profits.

  
Christopher U. Sylvester  
Board Member



*Original no copies, presented by Mr. Chase  
at Board Meeting of January 7, 1976. RER.*

January 7, 1976 Exhibit HH

*minutes 12/12/75  
(1966) RER*

MEMORANDUM TO: Richard E. Rapps  
Secretary to the Board

FROM : Goodwin Chase  
*Chase*  
Board Member

The minutes of the December 12th Board Meeting were circulated by your office.

Agenda Item No. 10, Lockheed Aircraft Corporation, last paragraph, stated:

"Mr. Holmquist's motion to assign this case to a Division of the Statutory Board was approved. Mr. Sylvester dissented."

On December 15th, you circulated a substitution for Item 10, as follows:

"Mr. Holmquist moved to assign this case to a Division of the Statutory Board in view of serious charges made by one Member of the Board. The charges that were made were that Lockheed had been shown in non-Board inquiries to be guilty of gross negligence and gross inefficiency. The Board approved this motion with Mr. Sylvester dissenting. Mr. Sylvester's statement of dissent (Exhibit GG) is included as being a full part of these minutes."

Concerning this substitution, I noted on the Coordination Sheet under date of December 17th that:

"Last paragraph Agenda Item No. 10 is inaccurate. I stated that 'charges' grew out of Congressional investigation which were given widespread publicity."



"C"

You have not noted my reference to the inaccuracy in the formal substituted minutes. Therefore, I request you make this memorandum a part of the minutes of December 12th.

In the interest of clarification, from the discussion of December 12th, clearly the Board was about to grant Lockheed a clearance for Fiscal Year 1972. I thereupon related numerous reasons why the case should be assigned to a Division of the Board. Among them I pointed out that the Company had been charged in Congressional hearings with gross inefficiency and mismanagement and that the charges had been given widespread publicity. I stated further that we should examine the case to determine if the charges are true and if so, the Board could not give carryforward loss credits to the high profits of classes of contracts ranging from 15.8% to 39.9%.



# THE RENEGOTIATION BOARD

DATE : April 29, 1976

TO : Goodwin Chase  
Division Chairman

FROM : Norman B. Houston  
Board Member

SUBJECT: Minutes of Division Meeting - April 28, 1976  
Lockheed Aircraft Corporation, FYE 1972

Thank you for sending me a copy of the Minutes of our meeting of April 28, 1976. There are errors, however, that I wish to call to your attention.

At the top of page 3, the Minutes prepared by Mr. Davis indicate that other Board Members desired to clear the case. This is presumptuous and obviously an erroneous conclusion growing out of the discussion preceding the Board's action to reassign the case. The Minutes of the Board Meeting December 12, 1975, indicate that four of the five Board Members voted in favor of reassigning Lockheed.

Your attention is also called to the fact that at no time during the meeting did you relate the chronology of events associated with the use of Mr. Driscoll's services. The second and third sentence of the last paragraph on page 2 should therefore be eliminated.

cc: Mr. Holmquist ✓  
Mr. Mattingly  
Mr. Sylvester  
Mr. Chick  
Mr. Ralph Johnson  
Mr. Grenough  
Mr. John Davis



April 29, 1976

MEMORANDUM FOR: Goodwin Chase

Subject: Comments on Minutes of Division Meeting held on  
April 28, 1976 regarding Lockheed Aircraft  
Corporation -- FYE 12-31-72

I appreciate receiving the minutes of our April 28th meeting on Lockheed Aircraft Corporation. However, I believe there are several errors in the minutes which I would like to call to your attention.

On page 2 the second sentence of the second paragraph should read:

"Mr. Mattingly said there should be ...." rather than  
"Mr. Mattingly said there must be ....."

You did not relate a chronology of events as indicated in the final paragraph on page 2 and the first full paragraph on page 3, except that you did indicate that the services of Mr. Driscoll were no longer available to you.

In the final paragraph on page 2 which is continued on page 3 the minutes state that other members of the Board desired that Lockheed be cleared. It is inaccurate to state that members desired to clear the case since only one member voted not to assign the case to a division.

(signed) Rex M. Mattingly

Rex M. Mattingly

cc: Mr. Holmquist, Chairman  
Mr. Houston  
Mr. Sylvester  
Mr. Chick  
Mr. Ralph Johnson  
Mr. Grenough



THE RENEGOTIATION BOARD

DATE : May 4, 1976  
TO : Goodwin Chase  
Board Member  
FROM : R. C. Holmquist  
Chairman  
SUBJECT: Lockheed Aircraft Corporation

Pursuant to your memorandum of April 28 to Messrs. Mattingly and Houston, and the attached minutes of your division meeting with them on the Lockheed case, I would like to clarify one point.

Beginning at the bottom of page two of your minutes, you state that "... the possibility of gross inefficiency was responsible for bringing about the assignment of the case to a division of the Board rather than clearing it as the other Board Members desired and the Western Regional Board recommended." This is an incorrect statement inasmuch as it was I who said that since such serious charges had been made in this case, it should be assigned to a division for further review instead of being cleared. The vote was four to one in favor of assigning the case to a division. To state that all of the Board Members other than yourself desired to have the case cleared is inaccurate.

cc: Board Members  
Mr. Grenough  
Mr. Lambert  
Mr. Chick



*Mr. Holmgren*  
JR

April 26, 1976

MEMORANDUM TO : Ralph Johnson  
Chairman, Eastern Regional Renegotiation Board

FROM : Goodwin Chase  
Board Member *Chase*

This is with reference to our discussion concerning request for staff support in furtherance of the Lockheed Aircraft Corporation Fiscal Year 1972 examination.

The Division will be benefited by the assistance of Mr. Timothy Driscoll of your staff for what appears at this time to be approximately 15 working days. You have advised me that Mr. Driscoll is available. Thus I would appreciate his reporting to my Special Assistant, Mr. Davis, at the earliest possible time.

cc: Board Members  
Mr. Grenough  
Mr. Chick



"G"

# THE RENEGOTIATION BOARD

DATE : April 29, 1976

TO : Goodwin Chase  
Board Member

FROM : R. C. Holmquist  
Chairman *RCH*

SUBJECT: Lockheed Aircraft Corporation

Pursuant to your memorandum of April 26 to Ralph Johnson regarding the possible use of Mr. Driscoll on subject case for approximately 15 working days, and our conversation yesterday morning regarding this matter, it is important to make clear to everyone involved just how we will proceed in helping your Division to expedite this case. I am sure that you, as Division Chairman, will agree that this case is an extremely important one which deserves the highest priority, and which must be pursued in an orderly manner and with great thoroughness.

As indicated to you and Mr. Grenough during our discussion yesterday, I asked Mr. Chick and Mr. Johnson for their thoughts in this matter, and based upon this discussion, I believe the Headquarters staff can be most helpful to you and your Division if we proceed as follows.

It would appear that the investigation you plan to make primarily involves accounting issues. With this in mind, Mr. Chick plans to present for the Division's consideration a draft of a letter to Lockheed requesting certain key information. The status of the review at present indicates that such a letter could be ready the first part of next week, and Mr. Chick believes that a full reply could be received from Lockheed in 30 days or less. When this response is received, it should indicate where the investigatory work should be done; that is, at one or more Lockheed locations. It would also indicate the time that would be required to make the investigation and the staffing needed to get the job done. The above, of course, is in line with our usual procedure in handling a case of this kind, and as I understand it, you have already agreed that this is a good plan to follow.

Regarding your personal choice of Mr. Driscoll to work for a period of approximately 15 days in developing the accounting information needed, Mr. Johnson advises me that Mr. Driscoll is in the midst of wrapping up an important case (Clark Equipment Company) and he would like him to complete this work which will take a few more days. He also plans to use Mr. Driscoll on a number of oil cases, but he has agreed that he



can work around this for this temporary period. In view of the above situation, Mr. Driscoll will be loaned on a temporary basis to the Office of Financial Analysis to work full time on this case. If for some reason it is imperative that Mr. Driscoll be assigned immediately rather than waiting until he can finish up the case he is now working on, please discuss this with me and I will see what can be done.

It is also the opinion of Messrs. Grenough, Chick and Johnson as well as myself that inasmuch as this was originally a Western region case, we should take advantage of the experience and background they have on the subject and any guidance or help they might provide in carrying out the investigation. We suggest, therefore, that your Division keep this in mind.

If you feel that the above would in any way hamper the expeditious handling of this case by the Division, please let me know.

cc: Board Members  
Mr. Grenough  
Mr. Chick  
Mr. Johnson, ERRB



*Mr. H. H. H. H. H.*

April 29, 1976

MEMORANDUM TO : Rex M. Mattingly, Division Member  
 Norman B. Houston, Division Member

SUBJECT : Lockheed Aircraft Corporation  
 Fiscal Year Ended December 31, 1972

The attached letter from Mr. Frederick Neuman, Deputy Director, Defense Contract Audit Agency, dated April 13, 1976, is with reference to the review of renegotiation filings of the Lockheed Aircraft Corporation by DCAA.

Mr. Neuman said the thrust of Item 2, page 2, was the statement of the Lockheed representative (Mr. O'Hara) expressing his Company and industry's displeasure with the pending legislation (Minish Bill). Mr. Neuman assured me that his approach to review of Lockheed's records was only for the purpose of examining and reporting information.

I am also enclosing a self-explanatory copy of General Counsel's memorandum of April 27, 1976, received in this office the afternoon of April 28th.

*Goodwin Chase*

Goodwin Chase  
 Division Chairman

Attachments

cc: Board Members  
 Mr. Chick (2)  
 Gen Counsel  
 Mr. Grenough



"I" T



DEFENSE CONTRACT AUDIT AGENCY  
CAMERON STATION  
ALEXANDRIA, VIRGINIA 22314

Rec'd: 1:00 P.M.  
4/14/76

13 April 1976

IN REPLY REFER TO  
DD

Honorable Goodwin Chase  
Renegotiation Board  
2000 M St., N.W.  
Washington, D. C. 20446

Re: Request for Review of Renegotiation Filing of Lockheed Aircraft Corp.

Dear Mr. Chase:

As you know, after reviewing the material in our audit files we found it necessary to obtain additional information from the contractor, as well as access to its records covering the renegotiable year ending 31 December 1972. Pursuant to your 26 March 1976 letter, we approached the contractor at four different locations to obtain this information (Lockheed Georgia Co. in Marietta, Ga.; Lockheed Shipbuilding and Construction Co. in Seattle, Washington; Lockheed Space & Missile Co. in Sunnyvale, California; and Lockheed-California Co. in Burbank, California) and were told that the matter had to be referred to the corporate level for a policy decision.

On 31 March 1976, Lockheed advised that it would not give us access to information or discuss RB-1 filings for the year 1972. Lockheed considered it "illegal" for us to have any RB-1 reports and believed it was outside the current statutes for the Board to request audit assistance from DCAA.

On 1 April 1976, we arranged for a discussion at the corporate office with officials of the company to obtain a complete understanding of the reasons for their denial of access to records and information. The following individuals attended this meeting on behalf of the Lockheed Aircraft Corp.:

Thomas J. O'Hara - Corporate Vice President - Contracts & Pricing  
Charles Hardinghaus - Corporate Manager - Gov't Accounting Policy

During the early part of the discussion it became clear that the contractor officials were not placing any great reliance on any legal grounds, even though initially they cited various portions of the U.S. Code as support for the alleged impropriety of the current DCAA interface with the Renegotiation Board. Aside from any possible legal objections, however, the officials made two additional points:



DD  
Honorable Goodwin Chase

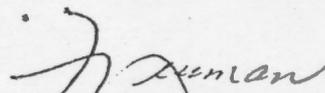
13 April 1976

1. The current review placed DCAA in a position that would be considered by industry to be in conflict with the basic DCAA advisory role to DoD procurement in the pricing of contracts. They alleged that DCAA and DoD contracting officers could use currently unavailable profit data in a manner not now contemplated under the existing DCAA audit mission.

2. Lockheed was espousing an industry position that renegotiation of profits on a divisional basis or product-line basis is not equitable and not currently practiced; Lockheed was not prepared to assist in any such undertaking at this time. The officials made several general references to recent Renegotiation Board and congressional deliberations on this issue. They further advised that Lockheed was seeking several industry association actions to exert all possible influence to defeat legislation that would establish such procedures. The officials also implied that they would oppose the assignment of audit assistance to any department or agency engaged in contract administration.

As a result of this meeting we decided to conclude our review with the information already obtained rather than to await the outcome of this issue of Lockheed's denial of access to records. This decision is in keeping with our agreement to furnish you whatever information we can by mid-April 1976.

In light of the contractor's current attitude we will finalize our interim report to you without the benefit of discussing our comments and observations with the contractor. Accordingly, we cannot be sure that all factual matters pertaining to the issues discussed have been considered or whether our assumptions are fully supportable. We plan to have a draft report available for discussion with you not later than 16 April 1976.

  
FREDERICK NEUMAN  
Deputy Director



THE RENEGOTIATION BOARD

DATE : APR 27 1976

TO : Goodwin Chase  
Board Member

FROM : General Counsel

SUBJECT: Lockheed Aircraft Corporation  
Fiscal Year Ended December 31, 1972

At your request this office has reviewed the letter dated April 13, 1976 from Frederick Neuman, Deputy Director, Defense Contract Audit Agency (DCAA), concerning their study, at your request, of the renegotiable filing of Lockheed Aircraft Corporation (Lockheed) for its fiscal year ended December 31, 1972. The letter states that in view of DCAA's inability at this time to obtain additional data from Lockheed, it proposes to submit its interim report in keeping with the Board's time schedule.

Although DCAA states that it does not believe Lockheed was placing "any great reliance" on legal grounds initially cited as support for its "alleged impropriety of the current DCAA interface with the Renegotiation Board," you desire a further legal opinion on the Board's authority (1) to furnish DCAA with Lockheed's RB Form 1; and (2) to "request audit assistance from DCAA."

The Board's authority to furnish copies of RB Form 1's or other information from the Board's files to DCAA or any other procurement or other agency of the Government is without question. RBR 1480.10(a) and (b) so provide with respect to "Departments" named in the Act when access to such information is necessary to further the procurement activities of, or for the performance of duties required by the Renegotiation Act with respect to, such named "Departments." Further,



RBR 1480.10(c) states that the Board in specific instances will afford any agency of the Government access to its records if the Board determines that such access is in the best interest of the Government. Since the inception of the Act, the Board from time to time has furnished procurement and other agencies of the Government with access to a variety of information from the Board's files as the situation demanded, including copies of RB Form 1's. As a precautionary measure and in order to avoid a possible misuse of the information outside the particular Department involved, the Board includes a caveat concerning the confidential nature of the information contained in the furnished document. Such a caveat was included in your letter dated February 20, 1976 to Mr. B.B. Lynn, Director, DCAA, forwarding a copy of the RB Form 1 in question.

Although we believe that furnishing DCAA with Lockheed's RB Form 1 for its fiscal year ended December 31, 1972 could be construed to be necessary to further DCAA's procurement activities, it is clear that it is in the Board's interest to supply the filing in seeking to obtain supplemental data. The Act does not preclude such disclosure.

With respect to the Board's authority to request "audit assistance from DCAA" section 107(c) of the Act provides as follows:

\* \* \* The Board may, with the consent of the head of the agency of the Government concerned, utilize the services of any officers or employees of the United States, and reimburse such agency for the services so utilized. \* \* \*



Although section 105(e)(2) of the Act provides the Board with the authority to request the IRS, with the approval of the Secretary of the Treasury, to provide "examinations and audits" under the Renegotiation Act, sections 107(c) and (d) of the Act clearly provide that the Board may request and obtain assistance, including "audit assistance" from any Government agency, including DCAA.

Furthermore, the Department of Defense has prescribed in ASPR 1-319 the types of renegotiation performance reports and other information that will be regularly furnished to the Board and subsection (d)(xvii), in particular, states that "such other information as may be particularly requested by the Renegotiation Board" shall be provided. We construe this ASPR to authorize the furnishing to the Board of all available information necessary for the Board to perform its duties and functions, including supplemental audit information or other data and the Board has often obtained internal pricing, audit and other memoranda. Any available data on types of contracts, divisions, or other segments of the contractor's business would fit into this category.

Additionally, section 1-205.5 of DCAA's Contract Audit Manual provides that "DCAA auditors will furnish copies of DCAA audit reports and will permit Board representatives to review audit working papers at DCAA audit offices, when written requests are received from the Board, for use in renegotiation proceedings." The Board regularly obtains copies of DCAA audits and quite often seeks clarifications and supplemental data from DCAA.

Under the authority of section 107(c) and (d) of the Act, ASPR 1-319 and section 1-205.5 of the DCAA Contract Audit Manual, the Board has clear authority to obtain "audit assistance" from DCAA.



David M.F. Lambert

General Counsel

# THE RENEGOTIATION BOARD

DATE : April 30, 1976

TO : R. C. Holmquist

FROM : C. U. Sylvester

SUBJECT: General Counsel's review dated April 27, 1976 of  
DCAA letter with respect to Lockheed Aircraft  
Corporation, FY 12/31/72

Although I don't anticipate that either the Board or the Division reviewing the Lockheed case will have occasion to further utilize the services of DCAA in this case, I do think a word of caution with respect to General Counsel's subject review or opinion is in order.

I believe General Counsel misreads the two subsections of Section 107 of our Act and, in fact, failed to read all of subsection (d). Subsection (c) entitled "Personnel" which General Counsel relies upon in his opinion, deals mainly with the establishment of the Board and the logistics of immediately obtaining personnel. This provision relates to the loan of personnel subject to reimbursement of their parent agency. It does not relate to the retaining of the services of an agency as such.

General Counsel, to support his opinion, cites subsection (d) entitled "Delegation of Powers." In addition to authorizing the delegation of its powers by the Board, except its power to promulgate its regulations and its power to grant permissive exemptions, this subsection also contains a limitation on those persons or agencies to whom the Board may make such a delegation. The limitation reads as follows:

" . . . But no function, power, or duty shall be delegated or redelegated to any person pursuant to this subsection or subsection (f) unless the Board has determined that such person

(other than the Secretary of a Department) is responsible directly to the Board or to the person making such delegation or redelegation and is not engaged on behalf of any Department in the making of contracts for the procurement of supplies or services, or in the supervision of such activity . . ." (Emphasis supplied)

You will note that the Board is prohibited from making such a delegation to any person who is engaged on the behalf of any Department in the making of contracts for the procurement of supplies or services, or in the supervision of such activity. The Defense Contract Audit Agency appears to come within this prohibition. The United States Government Manual 1975/1976 describes the functions of DCAA as follows:

"DCAA performs all necessary contract audit functions for the Department of Defense and provides accounting and financial advisory services to all Defense components responsible for procurement and contract administration. These services are provided in connection with the negotiation, administration and settlement of contracts and subcontracts. They include evaluating the acceptability of costs claimed or proposed by contractors and reviewing the efficiency and economy of contractor operations. Other Government agencies may request DCAA's services under appropriate arrangements."  
(Emphasis supplied)

I haven't taken the time to go to the source document for all of DCAA's authority but I am sure the source document would contain a similar description of DCAA's functions. This description obviously includes the services involved in the making of contracts as well as the supervision of such activities



when it provides for the services to be provided in connection with the "negotiation, administration and settlement of contracts and subcontracts," and also authorizes DCAA to provide accounting and financial advisory services to all defense components responsible for such procurement.

The language of Section 107(d) has remained unchanged since its inclusion in the Renegotiation Act of 1951. Senator George, in the Report of the Senate Finance Committee accompanying H.R. 1724, quite succinctly explained this provision when he said:

"The delegation power is limited in that no function, power, or duty shall be delegated or redelegated to any person engaged on behalf of any department in the making of contracts for procurement of supplies or services or engaged in the supervision of such activity."

This is the point I believe that Mr. Neuman was addressing himself to in his first point on page 2 of his letter to Mr. Chase summarizing Lockheed Aircraft Corporation's objections to DCAA's audit of their records.

General Counsel very quickly glosses over Section 105(e)(2) of our Act which authorizes us in the interest of economy and the avoidance of duplication of inspection and audits to utilize the services of Internal Revenue upon approval of the Secretary of the Treasury. It is obvious from the section of our Act in which this section appears that this is the provision Congress intended to be used for the types of services we erroneously

W. R. FEAD

sought from DCAA. Although DCAA was not in existence at the time this provision was written, our Act has been extended many times during the life of DCAA, and the Congress thus far has not included DCAA in this section.

  
Christopher U. Sylvester  
Board Member

cc: Board Members  
Mr. Chick  
General Counsel  
Mr. Grenough

RECEIVED  
U. S. DEPARTMENT OF COMMERCE  
WASHINGTON, D. C.

Mr. B. August  
May 4, 1976

MEMORANDUM TO : Rex M. Mattingly, Division Member  
Norman B. Houston, Division Member

FROM : Goodwin Chase, Division Chairman *Goodwin*

SUBJECT : Lockheed Aircraft Corporation  
Fiscal Year Ended December 31, 1972

It is not my purpose here to comment upon the conclusions drawn by Mr. Sylvester in his memorandum to the Chairman, dated April 30, 1976.

Mr. Sylvester has however stated . . . "I don't anticipate that either the Board or the Division reviewing the Lockheed case will have occasion to further utilize the services of the DCAA in this case . . ."

This is to advise you that my office and the Office of Financial Analysis are utilizing the services of the DCAA and intend to continue to do so. With the Agency's invaluable assistance and in-put, essential information is being developed useful to furthering our examination and analysis of the case. Moreover, the DCAA is a cost-saving source of information that would otherwise burden our already limited operating budget.

I hope to have your concurrence that the DCAA continue to provide information available to them consistent with the best interests of the Board and the renegotiation process.

cc: Mr. Holmquist ✓  
Mr. Sylvester  
Mr. Chick  
Mr. Grenough  
General Counsel



Mr. Holmquist  
re  
30

May 5, 1976

MEMORANDUM TO : Rex M. Mattingly, Division Member  
Norman B. Houston, Division Member

FROM : Goodwin Chase, Division Chairman *Chase*

SUBJECT : Lockheed Aircraft Corporation  
Fiscal Year Ended December 31, 1972

The attached DCAA Report is an overview of the Lockheed Aircraft Corporation's costs that in the auditor's opinion is sufficiently significant to merit an in-depth audit.

The information represents, for the most part, a composite of audits developed by DCAA of the Lockheed Corporation's subsidiaries and divisions. While much of the information will be highly useful to us, in some instances the writer has expressed a philosophy of possible application to the renegotiation process that is not applicable under our existing regulations and the Renegotiation Act.

cc: Mr. Holmquist ✓  
Mr. Sylvester  
Mr. Chick  
Mr. Lambert  
Mr. Grenough



"M"

# THE RENEGOTIATION BOARD

DATE : May 5, 1976

TO : Goodwin Chase  
Board Member

FROM : R. C. Holmquist  
Chairman

SUBJECT: Your Memorandum of May 3, 1976 re  
Lockheed Aircraft Corporation  
FYE 1972

In reading your memorandum of May 3, I find several statements which appear to be inaccurate and/or misleading, and I would like to comment on them as follows.

You seem to feel that your authority as Division Chairman has been abrogated. I do not understand how you can arrive at such a conclusion since my memorandum of April 29 to you indicates clearly that Mr. Driscoll is available to work on the Lockheed case, and his availability has not been rescinded. However, as I have indicated to you, it is my judgment, as well as that of Messrs. Grenough, Chick and Johnson, that we should proceed on this important case in an orderly manner as outlined in this same memorandum. I stated further that if it is imperative for Mr. Driscoll to be assigned immediately instead of waiting for him to finish the case he is now working on, I would see what could be done.

Your statement, "That the oversight responsibility of the Division Chairman is being stifled by procedural limitation not heretofore practiced by the Board" is questionable. There is no intention, nor to my knowledge has there been any effort on the part of anyone, to stifle a thorough and expeditious review of the Lockheed case. As to a change in practice of how cases are handled, I perceive no significant difference between the way this case is being processed and other cases, except perhaps for the fact that you have sought the assistance of the Defense Contract Audit Agency in the investigation.

I take exception to your statement about your "insistence that the Board review the Regional Board recommendation...". As I pointed out in my separate response to the minutes of your divisional meeting on April 28, it was at my insistence,

RBF-37 INTEROFFICE MEMO  
4-70



"N"

as Chairman of the Board, that this case was assigned to a division. Please refer to the Board minutes of December 12, 1975.

You state that your efforts are meeting with increasing resistance from Board Members and the Director of Operations. This is a serious charge. I am not aware of such resistance, and since it is my responsibility as Chairman to stop any such resistance immediately, I would like to have the particulars on this accusation so that I can take appropriate action.

Your reference as to how Mr. Driscoll became involved in working on the case is somewhat cloudy to me, particularly with regard to the sequence of events. For instance, it is my understanding that you and/or Mr. Davis approached Mr. Driscoll about working on the case without first informing either Mr. Kandt, Mr. Johnson or Mr. Grenough, all of whom are in supervisory positions over Mr. Driscoll. In any event, Mr. Johnson did make Mr. Driscoll available. Mr. Driscoll is still available, as indicated in my memorandum of April 29, and I only asked that, if possible, his working on the Lockheed case be delayed until he finishes up the case he is now working on.

I am somewhat confused by your statement that you have concluded that the case and its involvements are beyond the time-frame capability of your staff. This case, like all other cases, will require the assistance of the Office of Financial Analysis in the development of the case, and Mr. Chick is fully aware of this. He will give you all the help necessary in reviewing this case.

Your memorandum states that I suggested the Board should use the Western Regional Board to fulfill the audit requirements in the development of the Lockheed case. This is a misstatement, and I want to correct it. What I said was that since the Western Regional Board had already completed its work on this case, the experience and background they have



developed in connection with it could be helpful in the investigation now being made by your division. In this connection, you referred to the Western Regional Board's glaring oversight of critical data disclosed in your review of the RB-1 and case file. I think that you ought to wait until all of the facts are in before drawing such conclusions. It seems premature to indict the Western Regional Board with this kind of criticism.

You go on further to refer to "obvious information" your office and the Office of Financial Planning has developed. I presume you mean the Office of Financial Analysis. At this point that Office is in the midst of its review of this case and has made no report, nor, as far as I know, drawn any conclusions. So again, I think you are a bit premature with such statements.

You also refer in your memorandum to your visit to the Los Angeles office where according to you two officials said that their work was being directed by the Statutory Board and their independent judgment on the method and depth of analysis was not being considered. This is a serious charge, and I would like to have further details as to when this took place and who the officials were. As you know, the Statutory Board does not interfere with the independent judgment of the Regional Boards.

I hope this memorandum will be helpful in clarifying the record. Meanwhile, I trust this case is moving ahead as quickly as possible under the arrangements outlined in my memorandum of the 29th.

cc: Board Members  
Mr. Grenough  
Mr. Chick  
Mr. Johnson, ERRB  
Mr. Broselow, WRRB



May 6, 1976

MEMORANDUM TO : R. C. Holmquist, Chairman  
FROM : Goodwin Chase, Board Member  
SUBJECT : Your Memorandum of May 5, 1976 re  
Lockheed Aircraft Corporation  
Fiscal Year Ended December 31, 1972

Your memorandum of May 5 is distressing and leaves me no responsible alternative but to restate the facts as I related them to you yesterday morning.

(Your Memorandum, Paragraph 2)

My authority as a Board Member and Division Chairman has been abrogated. After having gone through channels, Mr. Driscoll performed services for my office and the Office of Financial Analysis until suddenly on April 26, without my knowledge, he was ordered by the Director of Operations to return to the Eastern Region. Your later memorandum of April 29th was written after the fact and I had brought the matter to your attention.

(Your Memorandum, Paragraph 3)

My oversight responsibility as Division Chairman has been stifled. Among other occurrences, Mr. Sylvester's legal memorandum of April 30th challenging authority to call upon the Defense Contract Audit Agency, together with the Director of Operations withdrawing Mr. Driscoll, stifled my efforts. I did not seek the assistance of the DCAA. Mr. Don Grenough, then Director of the Office of Accounting, properly initiated the original inquiries and I made appropriate additional requests thereafter.

(Your Memorandum, Paragraph 4)

Indeed, you should refer to the Board Minutes of December 12, 1975, wherein it is stated:

"Mr. Holmquist moved to assign this case to a Division of the statutory Board in view of serious charges made by one Member of the Board."



But for my insistence, the case would have been cleared.

(Your Memorandum, Paragraph 5)

Refer to Paragraph 3 above.

(Your Memorandum, Paragraph 6)

I am the source of your "understanding." I related to you on two occasions that Mr. Davis, at my request, casually inquired of Mr. Driscoll how his workload was coming, and Mr. Driscoll said he was finalizing a case which would catch him up, or something to that effect. Learning of that, I then went through channels.

(Your Memorandum, Paragraph 7)

As I told you yesterday morning and related in my memorandum, the time frame capability problem of my staff refers to the 2,000 pages of documents pertaining to gross inefficiency, thus the need for Mr. Driscoll.

(Your Memorandum, Paragraph 8)

In our meeting on April 28th, you stated that we should use the Western Regional Board for our audit because we are having budgetary problems and that the \$3,000 I requested for the audit may not be available. I insisted that it would not be appropriate for the Western Region to be in control of the audit after it had recommended a clearance. I have expressed approval of the Region assisting us.

With reference to the glaring oversight of critical data disclosed, the fact is I have that information and will be pleased to discuss it with you at any time you wish.

(Your Memorandum, Paragraph 9)

The fact is, the Office of Financial Analysis has made a preliminary report to me of the information it has developed and on April 28th, I reported that information to the Division.



(Your Memorandum, Paragraph 10)

I stand firmly behind my statement regarding advice given me by officials of the Western Regional Board. The fact is, the Statutory Board did direct the affairs of the Region and judging by the Lockheed Aircraft Corporation recommended clearance, I suspect it may still be doing so. The two people who advised me gave me concrete evidence of the interference. Should I disclose names, their positions would be jeopardized.

(Your Memorandum, Paragraph 11)

I agree that your memoranda and discussions with me indicate that you are injecting yourself into the Lockheed case, of which I am the Division Chairman.

cc: Board Members  
Mr. Grenough  
Mr. Chick  
Mr. Johnson, ERRB  
Mr. Broselow, WRRB



## THE RENEGOTIATION BOARD

DATE : July 7, 1976

TO : J. S. Lieberman, Jr., Acting Director  
Office of Financial Analysis

FROM : H. M. Chick, Director  
General Counsel

SUBJECT: Lockheed Shipbuilding & Construction Co.  
FYE: 12/31/72

I think it is important that I bring you up-to-date on developments on the Lockheed case as of yesterday morning when I was still Director of the office.

I took Bob Moreland, Jack O'Connor, Tim Driscoll and Henry Miller to Mr. Chase's office in the morning for essentially a brief rundown by Jack and Tim of their activities for the past week and a half in connection with Lockheed and their trip to Seattle. The reports of both Jack and Tim were concerned with the Technical Analysis Reports (TAR) of the Navy with respect to the claims filed by Lockheed Shipbuilding with respect to the contracts completed in this year, and information from the Navy and the FBI concerning the same thing.

Jack O'Connor and Tim Driscoll indicated that it would take them from one to two weeks to produce a report on the investigations conducted in Seattle, therefore it was concluded that we must await this report and Lockheed's response to our accounting letter of May 13, 1976 and an analysis thereof before we could decide on the next course of action.



Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

Jack Anderson and Les Whitten

# Auditing Lockheed

The incredible Lockheed Aircraft Corp., plagued with mismanagement, on the brink of bankruptcy, under fire for bribery, had the temerity recently to chase federal auditors from its door.

The industrial colossus is dependent upon the Pentagon for a whopping \$2 billion worth of business a year. The

"DCAA did attempt to pursue such audit activities in two of our divisions," reported Thomas J. O'Hara, a corporate vice president, in an April 1 memo, "but I refused to grant them access."

He contended that the Renegotiation Board should be conducting the audit, declaring militantly: "The industry

July 12, 1976

MEMORANDUM TO DIVISION MEMBERS: Rex M. Mattingly  
Norman B. Houston

SUBJECT: Lockheed Aircraft Corporation  
Fiscal Year Ended December 31, 1972

Attached is a copy of Mr. Thomas J. O'Hara's letter of April 1, 1976 to Mr. J. M. Turner, Assistant Director, Aerospace Procurement Service, Aerospace Industries Association of America, Inc., which I discussed last week with the Chairman and brought to your attention this morning in Executive Session.

For your information, I have assurance from Mr. Frederick Neuman, Deputy Director, Defense Contract Audit Agency, that neither he nor his assistant discussed with Mr. O'Hara or anyone at the Lockheed Corporation that "The Board has had several discussions with DCAA and has made available to DCAA several renegotiation filings of major defense contractors, for its review and analysis," and further that I ". . . brought the matter to the personal attention of the members of the Renegotiation Board and obtained legal clearance from his General Counsel that such request was proper under the provisions of current legislation."

Mr. Neuman stated that his conference with Mr. O'Hara was in the presence of his assistant and another Lockheed executive. He further stated that until my telephone conversation, he did not know I had discussed the matter with the Board or had a legal opinion.

Attachment

cc: Mr. Holmquist ✓  
Mr. Sylvester

*Chase*  
Goodwin Chase  
Board Member



"R"

# LOCKHEED AIRCRAFT CORPORATION

BURBANK, CALIFORNIA 91520

April 1, 1976

Mr. J. M. Turner  
Asst. Director Aerospace Procurement  
Service  
Aerospace Industries Association  
of America, Inc.  
1725 De Sales Street, N. W.  
Washington, DC 20036

Dear Eiff:

Subject: DCAA Role of Audit Function for Renegotiation Board

Attached for your information is the text of a recent letter (probably mid-March) from Goodwin Chase of the Renegotiation Board to Earnie Lynn, DCAA, requesting the assistance of DCAA in auditing Lockheed's renegotiable filing for FY/1972. DCAA did attempt to pursue such audit activities in two of our divisions but I refused to grant them access. This afternoon I had an informal discussion in my office with Fred Neuman of DCAA, and believe the conversation will be of interest to you.

I discussed the fact that the Comptroller General had issued two reports last year highlighting alleged deficiencies in the Renegotiation Board's handling of its activities. Several recommendations were made by GAO to improve the Board's operations, including, inter alia, a recommendation that the Board perform more detailed audit of contractors' filings and utilize the services of the IRS and DCAA in that regard. The Board has had several discussions with DCAA and has made available to DCAA several renegotiation filings of major defense contractors, for its review and analysis. When Mr. Neuman informed Mr. Chase that DCAA would have to visit a contractor's plant and inspect records at that plant before it could make valid comments on a filed report, Mr. Neuman requested that Mr. Chase send a formal written request to DCAA to inspect such records for the stated purpose. Before transmitting the attached text to DCAA, Mr. Chase supposedly brought the matter to the personal attention of the members of the Renegotiation Board and obtained legal clearance from his General Counsel that such request was proper under the provisions of current legislation.

We further discussed the fact that under the proposed legislation in the Minish Bill (which has passed the House and is, hopefully, stalled in the Senate) DCAA will be specifically ordered to assume a greater role in assisting the Renegotiation Board in audit activities. I gathered that Mr. Neuman would like to gauge the extent of manhours involved in such an exercise in order that DCAA may be in a position to request the appropriate additional personnel if the Minish Bill should become law.

Mr. Neuman queried me as to why I had "chased" his auditors away, I explained that I thought their activities in that regard were improper, under my concept of

April 1, 1970

M. Turner

negotiation activities should be conducted. I explained that renegotiation since an excess profit tax and should be handled like any other corporate matter; that DCAA involvement in such function provided a "grave potential for" since they would be conducting other audits in the same timeframe relating costs incurred under incentive contracts and with respect to allowable costs for period. I told him I considered it imprudent on DCAA's part to accede to the request of Mr. Chase. I told him that the request of the Board seemed inconsistent with the literal language of the existing Renegotiation Act, as well as the existing Rules & Regulations of the Board, to say nothing of the fact that since passage of present legislation in 1951 the DCAA has never been involved in connection with audit of renegotiable filings. The DCAA presently complains it is overburdened is quite dilatory in fulfilling its main function of assisting DoD Contracting Officer, etc. -- to blindly take on this added significant function could only impede further its capability to perform its main function.

discussion was frank and without rancor. Neither Mr. Neuman nor I disputed the merits of either side -- we just stated the facts as we knew them and the opinions we had with respect thereto. We parted on a most friendly note with Mr. Neuman agreeing to bring the matter to the attention of Mr. Lynn and Mr. Chase promptly.

could suggest that Industry must line up its argument as to why the DCAA's role in renegotiation is ill-advised, illegal and/or improper. You will note further in Mr. Chase's letter refers to analysis of the "sales, cost and profit data of the Contractors' various renegotiable product lines." This is consistent with the proposal at last Fall of the Renegotiation Board that it henceforth would analyze on such a basis despite the explicit language in the present Statute.

Mr. Neuman did state that Lockheed was the only company that DCAA had attempted to audit for the Renegotiation Board. Whether they will now try it out on some other company or persist in their efforts to audit us is undecided.

I am attaching a legal observation from my most capable attorney, Maury Paradis, that advances some cogent arguments. Others should consider what further arguments the industry can advance. Moreover, we must not be unmindful of the audit language in the Minish Bill if it should surface in the future (I think June 30 is the drop-dead date).

Sincerely,

*Tom*

Thomas J. O'Hara  
 Vice President  
 Contracts and Pricing



Attachments

- A. K. Cook
- J. C. Fogarty
- J. Freeman
- D. A. Nipert
- M. L. Paradis
- V. F. Knutze
- V. N. Marafi
- N. L. Robert
- N. L. Smith
- G. G. Whipple
- TOW/RJ/CDM

THE RENEGOTIATION BOARD

REPORT OF:  Telephone Conversation  Personal Interview  Conference  
 Headquarters  \_\_\_\_\_ Regional Board

Wednesday, July 14, 1976 - 8:45 a.m.  
(Date and Time)

Lockheed Aircraft Corporation  
(Contractor's Name)

\_\_\_\_\_  
(Asgmt. or LPI No.)

\_\_\_\_\_  
(Contractor's Address)

FYE December 31, 1972  
(F/Y/E)

\_\_\_\_\_  
(Contractor's Tel. No.)

NAME OF ALL PERSONS CONFERRING: Frederick Neuman, Deputy Director, DCAA  
Goodwin Chase, Board Member

REPORT OF DISCUSSION:

Mr. Frederick Neuman, Deputy Director, DCAA, advised me by telephone this morning that my request for his auditors to return to Lockheed, should the contractor consent, has been denied.

Mr. Neuman advised the request was taken up with Assistant Secretary of Defense McClary.

Referring to the Jack Anderson column of July 9th, Neuman said the decision was based on the desire that the DCAA should "lay low."

Mr. Neuman assured me that in the event any representative of the Board makes a Lockheed plant visit, their resident auditors will be pleased to cooperate in any way they can, but such cooperation would be limited to information already developed.

Mr. Neuman considered my request that DCAA re-enter Lockheed as "informal" and indicated he would appreciate our not considering it a formal request.

I hastened to thank Mr. Neuman for the contribution he and DCAA have made for the Board and assured him that my request was indeed informal.

*Chase*

\_\_\_\_\_  
Interviewer(s) Goodwin Chase  
Board Member

(Use other side or separate blank sheet for additional space if needed)

Form RB 68  
4-67

(over)

cc: Board Members, Office of Financial Analysis, General Counsel, H. Miller,  
J. O'Connor, T. Driscoll, Central Files

"S"