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IN DEFENSE OF ETHICS: NEW CONSIDERATIONS AFTER THE PACKARD COMMISSION

PAUL E. FIORELLI*

INTRODUCTION

The war in the Persian Gulf has reemphasized the importance of United States military preparedness, even in times of peace. During war-time, it may be easier for military contractors to justify the costs of researching and developing newer, more exotic, "smarter" weapons systems. Now that the current crisis has passed in its technical sense, many in Congress may "shift gears" and attempt to reallocate expenditures from a war-driven economy to one associated with a time of peace. Even the euphoria of victory in the Iraqi-Kuwaiti theatre and feelings of "patriotism" identified therewith will probably not protect the defense industry from increased public scrutiny. Budget cuts required by Gramm-Rudman will place an even greater pressure on defense contractors to compete for increasingly scarce government funds. The pressure to survive may increase the temptation to engage in fraudulent procurement practices, not unknown in this area. Whether contractors succumb to this temptation depends upon a number of factors, including individual corporate resolve, commitment to ethics, and government review.¹

The purpose of this Article is to present an overview of the ethics

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¹ Apart from the current situation in the Middle East, one by-product of the decrease in political tension between East and West should be a corresponding decrease in military expenditures. The circumstances seemed clearer prior to Iraq's invasion of neighboring Kuwait and the current unrest in the Soviet Union. Regardless of problems in the rest of the world, it will become increasingly difficult to justify military growth in light of the current emphasis on reducing the deficit.

process in the defense industry, and suggest appropriate self-policing policies to maximize the probability of compliance. Although current remedies are in need of improvement, the government and private citizens will not hesitate to use the available sanctions, including but not necessarily limited to: (1) fines; (2) imprisonment; (3) suspension; (4) debarment; and (5) *qui tam* actions.²

I. PACKARD COMMISSION

In 1985, President Reagan formed the Blue Ribbon Commission on Defense Management ("Packard Commission") to address a fundamental breakdown of the entire military procurement process.³ This was partially in response to sensationalized spare parts aberrations. Even prior to the current thaw in the "Cold War," it was difficult for Congress to support military spending increases with the press reporting airborne toilet seat covers costing the taxpayer \$1,900 apiece.⁴

Summarizing, the Packard Commission found legitimate cause for dissatisfaction with the process by which the Department of Defense ("DoD") and Congress purchase military equipment and material. The Commission strongly disagreed, however, with the commonly held views of what is wrong in the procurement process and the approach to be used in fixing it. The nation's defense programs, so said the Commission, lose far more to inefficient procedures than to fraud and dishonesty. The truly deleterious impediments were found to be overcomplicated organization and rigid procedure, not avarice or connivance among the members of the defense industry.⁵

The Packard Commission's *Interim Report of February 1986* called

² There is a wealth of material addressing problems associated with government contracting, and fraud in particular. See generally Barletta & Pollack, *Civil Litigation of Allegations of Fraud in Connection with Government Contract Claims*, 18 PUB. CONT. L.J. 235 (1988); Blum & Lobaco, *Following the Money*, 7 CAL. LAW. 36 (1987); Coburn & Sinchak, *Federal Procurement in the Federal Courts 1987-88: A Selective Review*, 19 PUB. CONT. L.J. 14 (1989); Fennell, *Government Contract Fraud*, 25 AM. CRIM. L. REV. 427 (1988); Overly, *Government Contractors, Beware: Civil and Criminal Penalties Abound for Defective Pricing*, 20 LOY. L.A. L. REV. 597 (1987); Pitt, *Minimizing Corporate Civil and Criminal Liability: A Second Look at Corporate Codes of Conduct*, 697 PRAC. L. INST. 319 (1990). For a fine analysis of the impact of recent federal legislation in this area, see Donaldson, *Section Six of the Office of Federal Procurement Policy Act Amendments of 1988: A New Ethical Standard in Government Contracting?*, 20 CUMB. L. REV. 421 (1990).

³ See Mayer, *Military Procurement: Basic Principles and Recent Developments*, 21 GEO. WASH. J. INT'L L. & ECON. 165 (1987) (events leading to formation of Packard Commission).

⁴ See Cincinnati Enquirer, July 26, 1990, at A8, col. 1. Even though the public and the press focused on spare parts abuses, the Packard Commission felt that this was not a fundamental cause of the problem.

⁵ AN INTERIM REPORT TO THE PRESIDENT, BLUE RIBBON COMMISSION ON DEFENSE MANAGEMENT (PACKARD COMMISSION) 15 (1966).

for defense contractors to perform more self-policing, and increase their efforts in the area of business ethics. The Commission stated bluntly: "To assure that their houses are in order defense contractors must promulgate and vigilantly enforce codes of ethics that address the unique problems and procedures incident to defense procurement. They must also develop and implement internal controls to monitor these codes of ethics and sensitive aspects of contract compliance."⁶ Prior to the Commission's 1986 *Final Report*, thirty-three defense contractors became signatories of what is now known as the "Defense Industry Initiative" ("DII"). The DII was divided into two parts. The first called for contractors to adopt codes of ethics, train employees in the area of business ethics, and provide "whistleblower" reporting mechanisms (*i.e.*, hotlines and/or ombudsmen). The second part called for increased public accountability. Signatories were to complete a questionnaire intended to measure their implementation of the ethical principles. These questionnaires would then be audited by an outside, independent agency and the results made public. They also agreed to participate in a "Best Practices Forum," whereby they could exchange useful information about their individual ethics programs. Finally, they agreed to make all of this information available to their respective boards of directors.

II. PROCUREMENT PRACTICES PRE- AND POST-PACKARD COMMISSION

The Packard Commission changed the way that many large contractors addressed the ethics question. All thirty-four signatories of the DII agreed to answer a questionnaire which would be analyzed by an external, independent body. In 1987, the Ethics Resource Center was chosen to perform this task. Defense industry experts Bedingfield and Stagliano have expanded on the work of the Ethics Resource Center by analyzing the actions of the signatories before the Packard Commission's interim or final report.⁷ Although all thirty-four companies completed the Ethics Resource Center survey, only eighteen completed the Bedingfield study.⁸

Even though the Bedingfield report concluded that the DII has had an impact on how signatories procedurally carry out business ethics compliance, the DII has received mixed reviews. Senator Warner (R. Virginia) stated "[T]he defense industry is to be congratulated . . . [I]n my view, . . . this industry has accomplished more in . . . promoting ethical

⁶ *Id.* at 21.

⁷ See Bedingfield, *A Developing Picture of Business Ethics and Accountability: The Defense Industry Initiative*, 1990 AM. GOV'T ACCT. J. 59 (1990).

⁸ The results of both studies are as follows:

decision-making . . . than any other industry of which I am aware."⁹ While this may be true, it is interesting to note that the DII was adopted shortly after the Packard Commission's February 1986 *Interim Report*. The DII did comply with Commission recommendations, but it may have been a ploy to diffuse the movement in Congress to seek stricter guidelines for defense contractors. Since the DII is voluntary and only a fraction of the military contractors are signatories, Defense Department regulations require that defense contractors with government contracts in excess of \$5 million must either follow the DII or post signs listing government hotline telephone numbers.¹⁰

Other members of Congress have not been as complimentary as Senator Warner. Representative Pat Schroeder (D. Colorado) stated: "Maybe we ought to stop talking about self-policing. We're kidding ourselves."¹¹ Representative Les Aspin (D. Wisconsin) said: "To some, it appears 'self governance' is really a public relations strategy."¹² The Packard Commission called for more self-policing, and less government regulation. A government initiative in this area, Operation "Ill Wind," demonstrates the potential problems with this recommendation.

III. OPERATION "ILL WIND"

Operation "Ill Wind" is an ongoing probe of the defense industry, focusing on the role that consultants played in obtaining large military contracts for certain defense contractors. Ill Wind has already led to thirty-two guilty pleas and two trials with three guilty verdicts.¹³ Some

QUESTION	PRE-PACKARD	POST-PACKARD
1. Does your company have a written code of ethics?	18/18 = 100%	34/34 = 100%
2. Were codes distributed to all employees?	9/18 = 50%	31/34 = 92%
3. Does your company provide all employees with training on the code?	8/18 = 44%	33/34 = 97%
4. Are new employees provided with orientation to the code?	9/18 = 50%	33/34 = 97%
5. Does your company have a Review board, ombudsman, or ethics officer?	9/18 = 50%	34/34 = 100%
6. Does your company have a procedure for voluntary disclosure?	6/18 = 33%	34/34 = 100%

⁹ Stamper, *If We Are Smart . . .*, L.I.V. No. 24 VITAL SPEECHES, 751-52 (1988) (quoting from the May 26, 1988 Congressional Record).

¹⁰ See DoD FAR 203.7001 (1990).

¹¹ Read, *Defense Contractors' Ethics Programs Get Scrutinized*, Wall St. J., July 21, 1988, at 4, col. 1.

¹² *Id.*

¹³ Smart, *Look What Ill Wind is Blowing In*, Bus. Wk., Apr. 16, 1990, at 27. Only two acquittals were associated with Ill Wind prosecutions. *Id.*

congressional skepticism of the Packard Commission's call for less government regulation is understandable in light of the fact that many of these pleas have come from DII signatories, including Unisys, Teledyne, Boeing, Hughes, Grumman, and Raytheon.¹⁴

Ethics enforcement becomes even more difficult when dealing with the blurred lines caused by the close relationship between contractors, consultants, and the military. "In this industry, the regulators and the regulated are friends. They served in the military together and they worked together. Sometimes in the name of getting the job done, they engaged in some 'collaborative noncompliance.'"¹⁵ When there are billions of dollars and many thousands of jobs riding on who receives defense contracts, it is not surprising that even some high-ranking government officials are involved in scandals. Prosecutors are currently investigating the role Melvyn Paisley, former Navy acquisition chief turned consultant, might have played in the awarding of military weapon systems to United Technologies and Unisys.¹⁶

The number of DII signatories has increased from thirty-four in 1986, to forty-six in 1989.¹⁷ These forty-six contractors answered two new questions that were specific to Operation Ill Wind. These questions were designed to "call attention to the important issues of marketing practices and the use of consultants."¹⁸ Forty-five companies affirmatively answered the question: "Does the company have a code of conduct provision or associated policy addressing marketing activities?" Forty-four agreed that their company's had "a code of conduct provision or associated policy requiring that consultants are governed by, and oriented regarding, the company's code of conduct and relevant associated policies."¹⁹ The overwhelming positive response to the two new questions shows the commitment of signatories to attempt to prevent similar "ill winds" from blowing in the future.

Even though Operation Ill Wind demonstrated that becoming a DII signatory does not guarantee a company will act ethically, it must be pointed out that neither can increased governmental regulation make that claim. The Packard Commission recognized it would be cost-prohibitive to hire the number of regulators necessary to detect most government fraud and waste.²⁰ Implementation and institutionalization of the pro-

¹⁴ *Id.*

¹⁵ Read, *supra* note 11, at 4 (quoting Gary Edwards, Director of the Ethics Resource Center).

¹⁶ See Smart, *supra* note 13, at 27.

¹⁷ See DEFENSE INDUSTRY INITIATIVE ON BUSINESS ETHICS AND CONDUCT, 1989 ANNUAL REPORT TO THE PUBLIC AND THE DEFENSE INDUSTRY 5 (1990).

¹⁸ *Id.* at 26.

¹⁹ *Id.* at 26-27.

²⁰ See BLUE RIBBON COMM'N ON DEFENSE MANAGEMENT: FINAL REPORT TO THE PRESIDENT,

posed Packard Commission guidelines, along with continued government supervision, is a better strategy for decreasing future violations. This presupposes that top management is truly committed to ethics—by its deeds, not only by its words. Ethical training and codes of conduct mean little when management sets unrealistic goals which employees believe can only be accomplished by using questionable tactics.²¹

IV. CONTRACTORS' COMMITMENT TO ETHICS

Defense contractors should develop codes of ethics and conduct training to show employees that they are serious about the moral implications of their actions.²² Top management must be willing to lose some business in the short run, if the only way to get that business is unethical or illegal actions. Defense contractors should establish methods of reporting violations that do not penalize the reporter. All too often contractors "kill the messenger" by painting the whistleblower, usually an employee of the contractor itself, as a malcontent who is not a "team player." Whistleblowers must be encouraged to report violations, and not be punished for acting as the corporation's conscience. Whistleblowers, along with internal auditors, are among the most effective ways that contractors have for detecting potential violations.

A. Internal Auditing

The Packard Commission called for an increased role for internal auditors in the ethics review process.²³ In 1985, Peat, Marwick, Mitchell & Co. ("Peat Marwick") conducted a survey of 250 defense contractors regarding this question.²⁴ Eighty-five percent of the contractors responded, representing approximately \$90 billion of annual government sales for 1985.²⁵ The Peat, Marwick report concluded that there was room for significant improvement regarding internal auditors participation in ethics

QUEST FOR EXCELLENCE 77 (1986) [hereinafter FINAL REPORT] (conclusions of the Packard Commission).

²¹ See generally Fiorelli, *Winking Through The Blindfold: What Motivates the White-Collar Criminal?*, 21 AKRON L. REV. 327, 328 (1988) (further explanation of what motivates employees to act illegally unethically and strategy for employer's action to counter problems).

²² See Pitt, *supra* note 2, *passim* (guideline for corporate codes of conduct to minimize civil and criminal liability).

²³ See FINAL REPORT, *supra* note 20, at 81.

²⁴ Peat, Marwick's survey began: "For the purposes of this survey, the internal audit function has been defined to include any regular or special examination conducted by or on behalf of a company's management to assess the extent of compliance with the company's established policies, procedures, and systems of internal controls." FINAL REPORT, *supra* note 20, at 277, 287 (report on survey of defense contractors' internal audit processes).

²⁵ See *id.* at 283.

compliance:

Over one-quarter of the business units surveyed had no formal internal audit function; over two-thirds had no such function at their operating levels. Seven in ten indicated that they rely for audit coverage, in whole or in part, on the work of independent accountants and on government auditors. Given the added degree of effort needed to monitor government contract work, internal audit staffs are too small: fifty-eight percent of the business units surveyed had fewer than ten internal auditors, and almost two-thirds reported that their internal audit staffs do not complete a full cycle of auditable areas within a three year period.²⁶

The Peat Marwick study reported that government access to internal auditors' reports and working papers may not be conducive for auditors candor and objectivity.²⁷ The report recommended that the DoD facilitate strong internal auditing by randomly using investigative subpoenas to compel disclosure of this information.²⁸

The Packard Commission expressed some concern about the impact of governmental audits on the internal audit functions of contractors. The Commission believed that this could cause the internal auditor to become complacent, or even create a "game-like" relationship whereby the contractors will see how much they can get away with. The Commission went on to state:

Intensive federal regulation has not only increased costs and lead-time, but may have decreased the sense of individual and corporate responsibility for the quality of products and services delivered to the federal government. The standard of ethical business conduct seems to have become regulatory compliance, rather than responsible decision making. In areas where these are not coincidental or where regulations do not dictate conduct, the management conscience may fail. The sense of moral agency and ethical responsibility may be overridden by the 'gamesmanship' attitude fostered by regulatory adversarialism. . . . Whatever actions the present Administration or the Congress may take to improve the effectiveness of federal regulations and oversight activities, serious attention must be paid to the inherent limitations and possible counter-productivity of an approach that is almost entirely a matter of external policing.²⁹

Increased involvement of internal auditors in the self-policing process should be one important piece of the puzzle in improving ethics compliance. Once management is made aware of violations, either by whistleblowers or internal auditors, the next step should be to disclose this information to the government.

²⁶ *Id.* at 86.

²⁷ *Id.* at 87.

²⁸ *Id.* at 88.

²⁹ *Id.* at 88-89.

B. Voluntary Disclosure

The Packard Commission believed that additional money spent on hiring more government auditors would not address the problem of contractor abuse as well as self-policing and voluntary disclosure.³⁰ Contractors are doing a better job training their employees in business ethics and detecting code violations, but they are still weary about reporting these violations to the government. They fear that the disclosure will result in an investigation, possible fines, imprisonment, suspension or debarment.

Whereas contractors should not be rewarded for correcting their own problems, neither should they be punished harshly merely to set an example for the rest of the defense industry. If they are treated the same as non-disclosers, the signal is sent not to disclose violations and take a chance that government auditors will not detect the problem. Assuming the contractor has detected the abuse, thoroughly investigated the problem, disciplined the violators and accurately reported the information to the government, before they became aware of an independent government investigation of the matter, contractors should be shown some leniency. This point would be reinforced if the government reserved its harshest sanctions for contractors which were aware of the problem, and neither corrected, nor disclosed the violation.

C. Sanctions

Prior to 1980, when government auditors detected overpricing they merely sought to recover the money.³¹ During the 1980's auditors began to crack down and referred matters to the Department of Justice for criminal prosecution. This can have an immediate impact on the contractor because after the indictment, the DoD normally suspends a contractor from competing for additional contracts.

Suspension is usually a temporary matter, not lasting longer than one year.³² Defense Department officials can suspend a contractor "on the basis of adequate evidence" of a violation.³³ The DoD has interpreted this to mean that once there is sufficient evidence to indict, there is adequate evidence to suspend. Debarment is more permanent in nature and may last up to three years.³⁴ While suspension may occur after an indictment, debarment occurs after a criminal conviction for fraud or waste.

The DoD has demonstrated an increased willingness to aggressively use these sanctions against contractors. In 1980, the DoD suspended and/

³⁰ *Id.* at 77.

³¹ *Id.* at 286.

³² See DoD FAR 9.407-1 (1990).

³³ *Id.*

³⁴ *Id.* 9.406-4.

or debarred seventy-eight contractors. In 1985, the number increased to 652.³⁶ This eight-fold increase in suspensions and debarments has in all likelihood increased the tension and suspicion between contractors and the DoD. Many defense-industry contractors believe that the DoD improperly uses automatic suspensions as a tool to coerce them into entering guilty pleas in order to avoid the draconian effect of a debarment. The Packard Commission's findings addressed this matter, stating:

There is concern that DoD has improperly concluded that the fact of a criminal indictment of a contractor or a management employee is an 'automatic' ground for actions already taken. Such claimed abuses are said not only to constitute arbitrary denials of protected personal and property rights, but also to eliminate as the criteria for suspension, the measure of a contractors 'present' responsibility.³⁶

The Packard Commission was concerned that automatic suspension upon indictment created distrust between the DoD and its contractors.³⁷ There was also apprehension that contractors were being severely punished for past actions without having their current actions taken into account. The Packard Commission called for a reexamination of DoD regulations, particularly FAR 9.407-2(b), to give some credit to companies that were presently operating in an ethically responsible manner, while reserving suspension and debarment for those lacking in such behavior.³⁸

D. *Qui Tam* Awards

One additional weapon in the arsenal against contracting fraud is the *qui tam* action. The *qui tam* procedure allows private plaintiffs³⁹ to sue government contractors, receiving a percentage of any award obtained from fraudulent parties.⁴⁰ This often represents a huge amount, and should provide an additional financial incentive for a reluctant whistleblower to come forward with information.

1. History of the *Qui Tam* Action

During the Civil War, many defense contractors submitted false

³⁶ See FINAL REPORT, *supra* note 20, at 103.

³⁶ *Id.* at 102-03.

³⁷ See *id.* at 103.

³⁸ See *id.* at 111.

³⁹ Such plaintiffs are often former employees of the violators themselves.

⁴⁰ The *qui tam* action is a suit

brought by an informer, under a statute which establishes a penalty for the commission or omission of a certain act, and provides that the same shall be recoverable in a civil action, part of the penalty to go to any person who will bring such action and the remainder to the state or some other institution.

BLACK'S LAW DICTIONARY 1126 (6th ed. 1990).

claims to the United States government. In 1863, Congress passed the False Claims Act to provide sanctions against these contractors.⁴¹ These Lincoln Laws remained virtually unchanged until 1986. One of the Packard Commission's recommendations was to amend the False Claims Act.⁴² Congress followed the recommendations and provided stiffer criminal and civil penalties for violators. The act also amended the infrequently used *qui tam* provisions. *Qui tam*, meaning literally "who as well," stands for the proposition that private plaintiffs can bring an action against parties trying to defraud the government, even if the government itself does not wish to bring the suit.

The *qui tam* plaintiff has to notify the Department of Justice (DoJ) of the alleged violation.⁴³ The DoJ then decides whether to join the action. Regardless of whether or not the DoJ joins the action, if the proceedings result in a verdict against the contractor, the *qui tam* plaintiff is entitled to a percentage of the reward.

2. The Amendments of 1986

The 1986 amendments made it even more desirable to become a *qui tam* plaintiff. The amendments standardized the burden of proof, by requiring *qui tam* plaintiffs to establish their cases by a preponderance of the evidence.⁴⁴ Before the amendments, courts were split as to whether a preponderance or the higher "clear and convincing" standard was appropriate.⁴⁵ The 1986 amendments also awarded the *qui tam* plaintiff a higher percentage of the ultimate award, plus reasonable attorneys fees. Prior to the 1986, *qui tam* plaintiffs were entitled to a maximum of twenty-five percent if the government refused to become involved, and ten percent if the government did become involved. After the False Claims Act was amended, these percentages changed to: (1) no less than twenty-five, and no more than thirty percent, if the government did not become involved, and (2) no less than fifteen and no greater than twenty five percent if the government did involve itself in the suit.⁴⁶

If the DoJ becomes a party, it is considered the primary participant of the lawsuit. While *qui tam* plaintiffs may only play a secondary role,

⁴¹ See False Claims Act, ch. 67, 12 Stat. 696, 696 (1863).

⁴² See FINAL REPORT, *supra* note 20, at 111.

⁴³ See 31 U.S.C.A. § 3730(b)(2) (1988 & Supp. 1990). See generally Oparil, *The Coming Impact of the Amended False Claims Act*, 22 AKRON L. REV. 525, 525-30 (1989) (describing *qui tam* procedure).

⁴⁴ See 31 U.S.C.A. § 3731(c) (West 1988 & Supp. 1990).

⁴⁵ Compare *Federal Crop Ins. Corp. v. Hester*, 765 F.2d 723, 727 (8th Cir. 1985) (advocating "preponderance" standard) with *United States v. Milton*, 602 F.2d 231, 233 (9th Cir. 1979) (upholding "clear and convincing" standard).

⁴⁶ See 31 U.S.C.A. § 3730(d)(2) (1988 & Supp. 1990).

they can still object to proposed settlements if they believe that the amounts are unreasonably low. In *Gravitt v. General Electric Corporation*,⁴⁷ a former G. E. employee reported an incident of government waste being committed by that company to the DoJ. The DoJ became involved, later agreeing to settle the case with the defendant for \$234,000. The *qui tam* plaintiff, Mr. Gravitt, complained that the amount was inordinately low. The presiding judge rejected the deal and allowed Mr. Gravitt to continue prosecution of the claim. Mr. Gravitt's attorney settled three combined lawsuits against G.E. for \$3.5 million.⁴⁸ Mr. Gravitt's share of the settlement was \$770,000, representing twenty-two percent of the recovery. The amount was less than the twenty-five percent minimum because it occurred prior to the 1986 amendments.

Without the *qui tam* provisions in the False Claims Act, so-called "whistleblowers" risk losing their jobs with little in the way of incentive. Through the Act, particularly the 1986 amendments, Congress has provided a financial inducement for private parties, especially those employed in the defense industry, to make the government aware of potentially fraudulent situations.

CONCLUSION

The Packard Commission recommended system-wide changes in the defense-contracting industry to minimize military procurement abuses. Many of these recommendations have been implemented by both defense contractors and the government. While no single change will protect the system against corruption, an entire ethics arsenal will give the taxpayer maximum protection. For contractors, these ethical weapons should include: (1) the setting of realistic goals for their employees which can be achieved with aggressive, but ethical tactics; (2) adoption of a Code of Ethics, which would become a part of the corporate culture of the organization; (3) conducting ethics training programs, stressing corporate commitment to moral standards; (4) rewarding ethical behavior, while investigating and punishing that considered unethical; and (5) giving increased authority to internal auditors to detect ethical violators. For the government, it is recommended to: (1) continue vigilance in overseeing defense contractors, awarding defense contracts to the best contractor, not the one with the best consultant; (2) treat those who voluntarily disclose violations more leniently than those who do not; (3) encourage internal auditing by randomly utilizing the investigative subpoena; (4) do not invoke automatic suspension merely upon indictment, but use this sanction only

⁴⁷ 680 F. Supp. 1162 (S.D. Ohio), *aff'd*, 848 F.2d 190 (6th Cir.), *cert. denied*, 488 U.S. 901 (1988).

⁴⁸ See Strasser, *When the Big Whistle Blows . . .*, NAT'L L. J., May 8, 1989, at 1, col. 3.

against violators which are not presently engaged in responsible business practices; and (5) foster a partnership, rather than an adversarial relationship with defense contractors, in order to encourage self-policing.

Operation Ill Wind has damaged the relationship between government and industry. Contractors can improve this relationship by increasing their true commitment to total ethical management. Once the defense industry takes this seriously, there will be less need for government regulation and future "ill winds" may become rare events.