

APPENDIX B
EXCLUDED GOVERNMENTAL FUNCTIONS,
EXCEPTED AND EXEMPTED ACTIVITIES

B-1. General.

a. The primary purpose of this Appendix is to identify Governmental functions approved to date by the Commander or the Deputy Commander, USACE. It also identifies specific functions that have been excepted from the CA Program by rulings from the Chief Counsel, USACE. The general definitions of the terms "Governmental function," "exclusion," "exception," and "exemption" are contained in the Glossary. Procedures and rationales for obtaining approval for removing all such types of activities from CA cost comparison study are contained in Chapter 2.

b. This Appendix presents those activities which have been removed from the CA Program by type and then by the HQUSACE directorate which received that approval. It also includes the date of the documented approval so that the source documents can be obtained from the proponent if necessary.

B-2. Excluded Governmental Functions.

a. Directorate of Engineering and Construction--Engineering Government Functions dated 29 Aug 1984, amended 22 Nov 1985 and 27 Mar 1987.

(1)Management and Supervision. This includes only the management, supervisory and decision-making activities normally performed by the Chief of the Engineering Division and the branch and section chiefs. The inseparable personal support they require may be included if necessary to avoid potential personal services contracts. Inseparable support personnel should be considered as a part of the main-line function, e.g., a secretary working for Chief, Engineering Division, whose clerical duties require constant interaction with the supervisor should be considered an inseparable function. Any direct project work of a task-oriented nature is not included in this Government function.

(a) Program Management. This includes only those activities necessary to monitor program status; to identify and resolve problems and issues; to develop and coordinate policies and guidance; to develop procedures for cost control and quality control; and to provide technical and management overview of programs to ensure compliance with established practices, procedures, policies, guidance and schedules. Typical examples would include management of the Dam Safety and Periodic Inspections Programs. (See paragraph B-2a(2) for Program Development.)

(b) Technical Assistance. This includes engineering services which are essentially advisory in nature where no reports, studies, and/or investigations are involved. Efforts here are very short term, non-reimbursable responses to technical inquiries from sources outside the Corps of Engineers.

(c) Approval of Answers to Inquiries. This includes the review and approval of Corps and Engineers' replies to communications received from special interest groups, Congressional representatives, other Federal and non-Federal agencies, and the public at large. NOTE: This does not include preparing the answers.

(d) Personnel-Related Activities. This includes the activities of both engineering supervisors and employees which are required by regulations regarding personnel management and administration. Typical examples of the activities include development of job descriptions, performance evaluations, training/developmental plans, and recruitment and hiring.

(2) Program Development. This includes activities necessary to plan, program and budget proposed engineering activities within the technical, policy, and budgetary constraints imposed, including development of alternatives and expected impacts of each. It also includes interfaces with other offices and agencies as necessary to ensure compliance with established guidance and constraints.

(3) Project and Contract Management and Coordination. This includes management and coordination of activities from project planning through design and construction to turnover and post completion inspection(s) including development and interpretation of engineering standards, criteria, guidance and policy and coordination of both detailed engineering and other input in development of the necessary documents (e.g., correspondence, reports,

budgets, schedules, design memoranda, plans and specifications); and management of biddability and constructability reviews and Title II Services required to execute the project. This also includes coordination of all aspects of a project with state and local governments, other offices and agencies, legislatures, public meetings and contractors to facilitate a final product that is satisfactory to the needs of the user.

(a) Supervision of Engineering Division Contracts. This includes only defining and approving scopes of work, specifications and Government estimates; negotiating and approving contracts; and managing contracts. NOTE: This does not include actual preparation of scopes of work.

(b) Cost Estimates. This includes the evaluation and approval of project cost estimates to support the programming and budgeting process and the evaluation and approval of cost estimates (of fair and reasonable costs to the contractor) for the evaluation of construction contract bids. This also includes the preparation and approval of in-house cost estimates for engineering contracts requiring negotiations, e.g., A-E contracts. In addition, this includes the determination of the cost of in-house performance for the evaluation of bids for dredging in connection with industry competition studies.

(4) Evaluation and Approval of In-house/Contractor's Work. This includes the evaluation and approval of both in-house and contractor's work through the process of evaluating and approving the technical review of this work; and the review and/or approval of reports submitted to higher authority for all phases of project development from initiation of feasibility studies through construction, operation and maintenance activities. It should be noted that this does not include the actual technical review of the work (see GFA C122).

(a) Quality Assurance. this includes the verification and evaluation performed by Government employees in determining that (1) the contractor performed the work in compliance with the contract requirements, (2) the end results meet the specified criteria, and (3) the contractor's quality control procedures, equipment, and personnel are adequate for quality control. This includes retention of sufficient in-house surveying, testing and field inspection capability to permit verification. Modeling performed by contract would also require close

quality assurance. NOTE: This is for engineering contracts, not construction contracts.

(b) Quantity Payment and Acceptance Surveys Verification. This includes verification of surveying and mapping conducted before and after earthwork construction and/or dredging for the purpose of (1) determining quantities of earthwork and/or dredged materials for contract payments and/or (2) acceptance of the contractor's work. NOTE: The payment and acceptance surveys are contractible; however, they must be verified by Government surveyors.

(5) Value Engineering (VE) Program Management. This includes the management and overview of the USACE value engineering (VE) program. VE is the process by which a required user function is provided at the lowest total effective cost through the application of value analysis techniques. NOTE: This does not include preparation of VE studies.

(6) Military Mobilization Plans and Exercises. This includes the development of plans to ensure that FOA maintain the capability and posture for immediate response to the urgent demands of each mobilization phase. These plans establish a basis as well as a mechanism for inter-agency integration of mobilization plans.

(7) Civil Emergency Responses. This includes preparation of emergency plans and procedures, training of personnel, procurement of supplies and equipment, provision of technical assistance, administration and supervision of Federal assistance during flood and other emergency operations, and overseeing the repair or restoration of damaged flood control or Federally authorized shore or hurricane protection projects. NOTE: Although this is normally an Operations Division function, it is included here so that Engineering Division employees supporting this activity can be properly excluded as Governmental.

(8) Critical Engineering Services.

(a) Water Control. This includes the development of policies and technical guidance needed to regulate and manage water resource projects to fulfill authorized project purposes, e.g., flood control, water supply, hydropower, recreation; management and review of water control programs; application of Government authority in regulating projects individually and as systems; evaluation

of both the engineering analysis and the recommended application of hydrologic, water quality and meteorologic data necessary for decision-making on project regulation (this does not include the actual engineering analysis, application or collection of such data); and exercising judgments in applying established policy and guidance to regulate projects under various conditions.

(b) Technical Review of Federal Energy Regulatory Commission Applications. In accordance with the Federal Power Act, this includes the Corps review and approval of applications filed with the Federal Energy Regulatory Commission (FERC) by non-Federal entities for planning, design, construction, and operation of hydropower plants at Corps projects. This also includes the development of other appropriate recommendations to FERC in connection with the Corps review.

(c) Water Supply Contract Approval. This includes the preparation of a contract format (by HQUSACE) based on current policy and law and the tailoring of this format by each District Engineer (Contracting Officer) to fit the requirements of the individual Corps project and needs and desires of the particular local sponsor.

(d) Section 22 Engineering and Design. This includes the engineering and design portion of the technical assistance the Corps provides upon request to states in support of their preparation of comprehensive water resource development plans, authorized by Section 22 of the 1974 Water Resources Development Act.

b. Directorate of Civil Works--Government Functions dated 20 April 1984.

(1) Operation of Dams. This includes dam operations performed by persons currently having authority to make final decisions on the release of water from dams, such as the operation of spillway gates and other outlet works, for flood control or maintenance of the navigation pool. This includes only operations and does not include activities supporting dam operations (such as building maintenance, access road and bridge maintenance, grounds maintenance and landscaping, custodial services, debris removal, and the operation, testing and analyzing of domestic water and sanitation services).

(2) Hydropower Operations. Includes hydropower operations performed by persons currently having authority to make final decisions on the release of water from dams, such as the operation of hydropower turbines, spillway gates and other outlet works, for flood control or maintenance of the navigation pool. This includes only operations and does not include maintenance.

(3) Enforcement of Laws, Rules, and Regulations at Locks. This includes that portion of the navigation lock operations function relating to enforcement of laws, rules, and regulations. This function is performed by the person in charge at the lock, who is usually the lockmaster, a lock operator, an on-site maintenance person, or some other individual authorized to carry out the exclusive Governmental function of enforcement. Regulations governing the operation of all navigation locks are promulgated in Title 33 of the Code of Federal Regulations, Part 207; see also 33 U.S.C. sec. 1 and sec. 413. Exercise of the enforcement task at navigation locks arises with varying degrees of frequency. At locks on critical waterway segments, the frequency of exercising the enforcement task may indicate the need for a Government employee at the lock site on every shift. At locks not located on critical waterway segments, it may be feasible to strategically locate Government employees off the lock site to cover a group of locks. (See Glossary for applicable definitions.)

c. Directorate of Civil Works--Operations and Critical Maintenance Functions of the Washington Aqueduct dated 27 August 1984.

(1) The operational responsibility of the Washington Aqueduct, vested in the Chief of Engineers since the 1850's, is unique in that it is the only water treatment and supply system authorized by Congress to be operated by a Federal agency. It is also so intimately related to the public interest as to mandate performance by Government employees. The intent of Congress to maintain such authority and responsibility under Federal supervision has been expressed in recent hearings.

(2) The criticality and sensitivity of the water supply to the Nation's Capital is of paramount importance. The operations and critical maintenance functions of the Washington Aqueduct are inherently Governmental in nature and as such are excluded from commercial activities cost study under the commercial activities program set forth by OMB Circular A-76. Activities included in the operations and critical maintenance functions of the Aqueduct are the installation and maintenance of distribution main; installation, operation, and maintenance of exterior utilities (operations); controls and instrumentation maintenance; electric power distribution and equipment maintenance; and operation of the water treatment and pumping treatment plants. The associated tasks needed to accomplish these activities are included in this exclusion.

(3) This exclusion does not apply to those activities not directly related to the supply of water, which are grounds maintenance, custodial services, painting, security and automotive maintenance.

d. Assistant Comptroller of the Army (Finance and Accounting)--Contracting for Finance and Accounting Office Support dated 162030Z Dec 85, and Director, Finance and Accounting--Contractibility of Finance and Accounting Functions Policy dated 211635Z May 87.

(1) The Commercial Activities (CA) Program promotes Governmental efficiency and savings by permitting Government agencies to competitively contract with the private sector many functions which have historically been performed in-house. As resource managers, it is our job to make sure the Army takes full advantage of this program. In doing so, however, we must recognize that OMB Circular A-76 expressly prohibits contracting out of "Government functions"--that is, those functions that are ". . .so intimately related to the public interest as to mandate performance by Government employees." FAO functions that meet this definition and therefore must be performed in-house include:

- (a) Disbursing,
- (b) Entitlement determinations,
- (c) Fund certification and control, and
- (d) Supervision of Government employees.

(2) Other functions performed by Army FAO's, such as military/civilian pay and accounting, are totally interrelated and integrated with the disbursing, entitlement determination, and fund certification/control functions. Therefore, any attempt to segregate and contract out those FAO functions which are not classified as Government functions could seriously disrupt internal controls and sound financial management practices.

(3) Approval of all proposals to conduct CA studies of finance and accounting functions may be obtained through command channels from the Director of Finance and Accounting, Office of the Assistant Secretary of the Army (Financial Management).

B-3. Excepted Functions.

a. Directorate of Civil Works--Lock Regulation Enforcement and Operations dated 5 September 1984.

(1) Navigation regulations, 33 U.S.C. sec. 1 and sec. 413 and 33 C.F.R. 207, require on-site enforcement of all laws, rules and regulations at locks; charge lockmasters with enforcement of all laws, rules and regulations for use of the lock, lock areas and mooring facilities; and charge lockmasters with the responsibility for lock operations. The enforcement function requires the exercise of discretion in applying Government authority and therefore is a Governmental function. Because lockmasters are required by existing regulations to perform this Governmental function, their positions may not be contracted.

(2) In addition, the existing navigation regulations make lockmasters responsible for lock operations. Presently, the lock operators and line handlers work under the direct supervision and control of the lockmaster on duty. Their duties include opening and closing of lock gates, operating valves to fill and empty the lock chambers, communicating with vessels and assisting in securing vessels to lock walls. Their duties do not include the enforcement of navigation laws, rules and regulations nor any other activity which can be defined as a Governmental function. However, the Chief Counsel has

issued a legal opinion stating that because the existing navigation regulations prescribe an organizational structure in which lock operators and line handlers work under the direct supervision and control of lockmasters, contracting out for these services given the existing navigation regulations would create a personal service contract. Personal service contracts may not be awarded unless specifically authorized by statute.

(3) Although there is no legal impediment to changing the navigation rules, to provide for someone other than the lockmaster with responsibility for enforcement of laws, rules and regulation, such a change is a management decision made outside the scope of OMB Circular A-76. This type of change to the navigation rules would make lock operations, including the non-Governmental functions now performed by lockmasters and all duties of lock operators and line handlers, subject to the requirements of the Commercial Activities Program. The Directorate of Civil Works has decided that at locks where operation is critical (locks passing equal to or greater than 1.6 million tons), the frequency of exercising enforcement requires a Government employee at the lock site on every shift. Conversely, the infrequency of exercising enforcement at locks where operation is not critical (locks passing less than 1.6 million tons) allows for strategically locating Government employees to cover a group of locks. The Directorate of Civil Works has made a management decision not to allow changes in the navigation rules for critical locks, but may recommend changes in the navigation rules for non-critical locks if necessitated by the results of a CA cost comparison study.

b. Directorate of Engineering and Construction--10 U.S.C. 4540, Summary of Legal Argument on A-76 Cost Review of Engineering Design dated 9 August 1984. NOTE: Requests for the entire legal opinion can be addressed to CDR USACE, CECC-C, WASH DC 20314-1000.

(1) 10 U.S.C. 4540 is a barrier to A-76 cost review of in-house engineering design functions.

(2) OMB Circular A-76 (para. 7.c.(1)) does not apply when contrary to a law.

(3) 10 U.S.C. 4540 (a) provides:

Whenever he considers that it is advantageous to the national defense and that existing facilities of the Department of the Army are inadequate, the Secretary of the Army may, by contract or otherwise, employ the architectural or engineering services of any person outside the Department for producing and delivering designs, plans drawings, and specifications needed for any public works or utilities projects of the Department.

It should be noted that this provision covers only the production of "designs, plans, drawings and specifications" for public works or utilities projects (hereinafter, "covered A/E services"), and not all A/E services. Construction supervision and inspection are not, for example, included.

(4) Until 1939 the Army had not contracted out for A/E services, but had performed work in-house. 10 U.S.C.4540 (a) explicitly authorizes the Army to contract out for covered A/E services, but only when both of two conditions are met:

(a) Whenever the Secretary of the Army considers that it is advantageous to the national defense, and

(b) Whenever the Secretary of the Army considers that the "existing facilities" of the Army are inadequate.

(5) Both such findings have been made at Army Assistant Secretary level, on an annual basis until 1981. The EFARS requires the findings be made before contracting and has since January 1, 1959. Contracting for covered A/E services has consistently been done pursuant to these findings.

(6) This agency's consistent and long term interpretation is entitled to great weight and should be deferred to. Udall v. Tallman, 380 U.S. 1 (1965).

(7) 10 U.S.C. 4540 permits contracting for covered A/E services only if existing resources are inadequate to perform that work. A-76 requires a competitive cost comparison between performance of work with in-house staff and by contract. Since the Corps cannot by law contract for A/E services except to supplement "existing facilities," and since A-76 contemplates utilizing contract services in lieu of "existing facilities," the objectives of the statute and A-76 are incompatible. Even if there were to be a test solicitation under A-76, the Corps would not have the authority to enter into a contract for A/E services under these circumstances. 10 U.S.C. 4540 thus is an absolute barrier to the A-76 review of the in-house activities which engage in producing "designs, plans, drawings, and specifications" for public works or utilities projects.

c. Directorate of Engineering and Construction--Technical Review dated 21 November 1986.

(1) Technical review is the review of in-house and contractor designs, plans, specifications, and drawings.

(2) Technical review is generally performed by two groups of employees who have previously been determined not to be subject to A-76 studies.

(a) In-house designs are reviewed by those normally performing management (Governmental) functions, and

(b) Contract designs are reviewed by Government employees who normally produce designs themselves.

(3) 10 U.S.C. 4540 permits contracting for preparation of designs, plans, specifications, and drawings only when no in-house capacity exists, and thus has been determined by the Chief Counsel to conflict with A-76 studies of this function (since an A-76 study would require issuing a solicitation--and a contract--for the work when in-house capacity exists). This interpretation of 10 U.S.C. 4540 was endorsed by ASA(I&L).

(4) Considering the integral relationship that exists between technical review and the in-house production of designs, plans, specifications and drawing and the Government functions performed within engineering and the fact that technical review is normally performed by staff already not subject to A-76 studies, it should be retained exclusively for in-house performance. An activity is to be

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studied under A-76 only if it is "separable from other functions or activities and is suitable for performance by contract." If technical review were contracted out, contractors would be reviewing in-house designs or one contractor would be reviewing another contractor's designs. It would not be prudent nor in the best interest of the Corps to separate all technical review from these two activities and contract for the review separately.

B-4. Exempted Functions.

a. Engineer Topographic Laboratories (ETL), Terrain Analysis Center (TAC) Exemption Request approved 9 November 1983 by the Assistant Secretary of the Army (Installations, Logistics and Financial Management). This decision exempts from CA cost study the TAC, ETL, at Fort Belvoir, VA, for reasons of nonavailability of a satisfactory commercial source and delay or disruption of an essential program.

(1) The TAC is responsible under the Department of the Army Consolidated Topographic Support Program for accomplishment of the Army Terrain Analysis Program, and provides the ARSTAF, MACOMS, and Joint Commands with combat-oriented terrain intelligence products and services for planning and operations purposes.

(2) Approximately 70 percent of the total work conducted by the TAC is being performed by contract and the remainder is performed in-house. Of the six personnel working in the organization, three are devoted to developing requirements and administering these contracts. The remainder of the personnel are devoted to supporting the USAINSCOM Army Intelligence Survey (AIS) program. This is a 5-10 year program which precludes participation by contractors due to the sensitive nature of source materials. TAC utilizes Special Compartmented Information, domestic and foreign proprietary information, and unique data as source materials in the preparation of the topographic materials.

(3) The US Army Intelligence and Threat Analysis Center has indicated that the source documents from which AIS products are derived contain the NOCONTRACT caveat, and as such cannot be released to commercial contractors without prior consent of the originator. The Center also states that obtaining this consent is often a time-consuming process and would unreasonably delay and disrupt the project.

(4) Those personnel devoted to developing requirements and administering the contracts should be reclassified as a Governmental function and not listed as a commercial activity. The preparation of specifications for contracts and monitoring of contractor performance are properly considered to be discretionary contract activities within the meaning of paragraph 1-5k, DA Circular 235-1. As a Governmental function, this part of the activity does not require exemption.

(5) The authority for the NOCONTRACT requirement of INSCOM is paragraph 6c, Director of Central Intelligence Directive No. 1/7. This requirement, along with the comments of the US Army Intelligence and Threat Analysis Center, verifies that having to obtain permission for release of AIS documents would unreasonably delay and disrupt the AIS program.

b. Select Reference and Technical Libraries of the US Army Corps of Engineers Included in the Adjutant General's Library Exemption Request which was approved 25 June 1984 by the Assistant Secretary of the Army (Installations and Logistics).

(1) The justification applies to the Corps libraries with less than 3 FTE in which one or two professional librarians share service, operational and management responsibilities. It also brings attention to revised OMB Circular A-76, dated Aug 4, 1983, that differentiates between recreational and research libraries.

(2) The technical information libraries, as established by ER 5-1-4, provide the information requirements of Corps of Engineers' personnel in fields of interest to the Corps. Service is also provided to Corps contractors and to appropriate public and private experts. Librarians provide consultative services in both the application of information resources to problem solving and in the area of bibliographic information systems design and development. Librarians, through the use of advanced information transfer technology and telecommunications networks, make available to clientele applicable national and international information resources. Librarians insure the inclusion of appropriate CE generated technical information into nationally available information retrieval systems. Liaison and/or reciprocal programs with other major information networks are developed to enhance the delivery of services.

(3) The Corps' Scientific and Technical Information (STINFO) network consists of 50 libraries/technical information centers. They are located in most divisions, districts, and laboratories. Total staffing is 46 FTE professional librarians and 41 FTE technicians. Total personnel cost for the libraries with two or less professional librarians is 1.8 million dollars or 36 thousand dollars per library. Staffing in the libraries range from one to four personnel. Most libraries have one professional librarian GS-1410, Grade 7 to 11, plus one library technician, Grade 3 to 7. Some libraries are operated by one professional only and a few by one technician only. The average annual operating budget of 38,000 dollars per library should not significantly change under contract.

(4) Discretionary Exercise of Government Authority. The Corps librarians have responsibilities that include budget preparation, the direction and supervision of procurement, the selection of library materials and the development of the Corps library collections. Library operation and program development is the responsibility of each FOA librarian.

(a) Budgeting and Revenue Disbursement. The operating budget (excluding salary) for the libraries under consideration totals approximately 1.7 million dollars and averages 38,000 dollars per library. The head librarian in each case is responsible for the development and preparation of the budget, its management, and for revenue disbursements. The librarian is responsible for the selection and procurement of library materials, i.e., books, periodical subscriptions, technical reports, data bases and library furniture and equipment. The librarian can purchase directly from publishers, utilize book vendors and subscription agencies, and can utilize deposit accounts and blanket purchase agreements. The budgeting, planning, bookkeeping and record maintenance is performed by in-house staff with a history of knowledge of the needs and requirements of the library program and the information needs of the organization.

(b) Library Material Selection. Clientele service, based on librarian judgment and decision can influence government management and direction. Library services can directly influence decisions made by engineers, scientists, resource managers, legal staff and management activity at all organizational levels. Preliminary research for new RDT&E efforts begins in the library. Judgements made by librarians during this process can influence project planning and direction. The selection of information to satisfy clientele requests is an intellectual choice based on communication with the end user and an understanding of his requirements, his intentions and emphasis. Conversely, to prevent information overload, decision and choices are also made in deciding what not to make available to clientele. Library material selection decisions are made in MACRO (collection development and weeding) and MICRO (every literature search).

(c) Collection Development. Corps libraries are responsible for the development and maintenance (including weeding) of their collections. Collection development is an anticipatory function, based on an understanding of an organization's mission and goals and being attuned to changing conditions and emphasis. The ability to develop an organized information resource base requires long term institutional knowledge that is not acquired short of several years experience. Long term organizational knowledge is even more critical during the weeding/discard process. Inappropriate decisions made by library staff as to the organizational value of old library materials and organization records can be costly and embarrassing to an organization. Obtaining discarded or lost copies can be time consuming at best and is often not possible.

(5) Personal Services. Library functions require the constant attention of the functional head or Chief Librarian. The librarian closely supervises the work of subordinates. Functional heads review and have quality control checks on both operational and service functions. The great majority of Corps libraries are staffed with one professional librarian. The head librarian will on average supervise one employee with multiple functions. Small library operations in the Corps are supervisor intensive. Examples include collection development and weeding, card filing, input into the Corps private retrieval system and reference work. Reference requests and results, except for the most routine directional inquiries, are regularly guided by the supervisor. Input to the Corps retrieval system is held in a holding file until reviewed and

released by the head librarian. It is almost impossible, and highly impractical, not to have an employer-employee relationship between the librarian and one full-time or part-time technician. This is the kind of relationship that is prohibited by Defense Acquisition Regulations and by OMB Circular No. A-76 (Revised).

(6) Disruption of Essential Programs. The technical libraries of the Corps of Engineers provide an essential service in support of the Corps' mission and goals. Librarian judgement and decisions can influence management decision and direction. Factors affecting library service other than general technical library management ability are subject knowledge, mission understanding, institutional memory and network cooperation. Competence in these factors uniquely identify Corps librarians. Lack of competence in these factors can severely disrupt support to Corps' programs.

(a) Scientific and Engineering Knowledge. It is rare within the professional library community for librarians to have educational backgrounds in engineering or science. Existing Corps librarians have assimilated over long years the technical knowledge necessary to function effectively in these areas. This knowledge is needed in the Corps libraries and cannot be acquired from any private source.

(b) Mission Understanding and Institutional Memory. In-house Corps personnel have undergone years of specialized training to gain first-hand knowledge of and working familiarity with unique collections which have and are being tailored to meet the mission requirements of the Corps. The ability to create and build upon these resources is based upon a long-term and continuous history of knowledge of the Corps mission, programs and developments. Ability to successfully fill the Corps' increasingly specific information needs is inextricably bound to the Corps' trained and experienced existing staff.

(c) Network Cooperation. The integration, standardization and cooperation that exist between Corps' libraries is the result of years of planning and training. The corps libraries utilize the same key systems and interact with the system in a standard and consistent manner. The ability of the 50 Corps libraries to interrogate and communicate with each other is unique within library networks. The network is in accordance with ER 5-1-4 and is tightly monitored and controlled by the OCESTINFO Manager. Regardless of the stringency and the

thoroughness of a contract performance work statement, the system will not function with 50 or even 10 independent operations. The integrated information resource that constitutes the network will in all probability be lost.

(7) Attachment A, OMB Circular No. A-76 (Revised) dated August 4, 1983, makes a significant distinction between recreational and technical libraries. The Circular states that recreational libraries would be deemed commercial activities but that certain functions within research libraries might not be considered commercial activities. Differentiating functions in Corps libraries is not applicable, given the small staff of the libraries. The professional supervisor operates in all functions and is responsible for all functions. Considering the Discretionary Exercise of Government Authority and the Disruption of Essential Programs provided in this document and the latest OMB Circular, an exemption is deemed appropriate and in the best interests of the Corps.