PERFORMANCE AUDIT

DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS

Report to the Arizona Legislature
By the Auditor General
November 1994
Report 94-9

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November 3, 1994

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Major General Glen Van Dyke, Adjutant General
Department of Emergency and Military Affairs

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Department of Emergency and Military Affairs. This report is in response to a May 5, 1993, resolution of the Joint Legislative Audit Committee. The Performance audit was conducted as part of the Sunset review set forth in A.R.S. §§41-2951 through 41-2957.

The report addresses concerns within both the Division of Emergency Management and the Division of Military Affairs. We found that the Division of Emergency Management needs to take action to improve its ability to coordinate disaster response. In addition, the Department needs to improve its oversight of state and federal funds flowing through the Division of Emergency Management. Further, statutes should be revised to clarify the authority of the Adjutant General over the Division. Our report also contains two findings addressing Camp Navajo, a state-operated enterprise activity within the Division of Military Affairs. While Camp Navajo was established to generate monies to support a federal training site, the Department needs to take action to eliminate the liability the enterprise poses for the State. Further, the Department needs to ensure that all efforts are made to facilitate the timely environmental cleanup of Camp Navajo.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on November 4, 1994.

Sincerely,

Debra K. Davenport

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Deputy Auditor General

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SUMMARY

The Office of the Auditor General has conducted a performance audit and Sunset review of the Department of Emergency and Military Affairs, pursuant to a May 5, 1993, resolution of the Joint Legislative Audit Committee. This audit is conducted under the authority vested in the Auditor General by Arizona Revised Statutes §§41-2951 through 41-2957.

The Department of Emergency and Military Affairs (DEMA) was established by Arizona Revised Statutes §26-101 in 1972 to:

> *"promote, protect and defend the peace, health and safety of the citizens of this state and to respond in emergencies to restore and maintain public order."*

The Department consists of two divisions, the Division of Emergency Management and the Division of Military Affairs.

The Division of Emergency Management Should Take Action To Improve Its Ability to Coordinate Disaster Response (See pages 5 through 10)

The Division of Emergency Management is statutorily charged with the preparation and coordination of all state government efforts during emergencies. Despite this responsibility, the Division lacks a comprehensive state emergency plan, has not ensured its emergency operations center has crucial response information, and has not performed enough drills to prepare responders. This failure to adequately prepare for disasters could impact the Division's ability to coordinate the State's response to a sudden disaster. During the State's most recent major disaster, the 1993 floods, the Division failed to provide proactive leadership and coordination, although it had nearly two months to prepare for flood waters reaching Yuma County.

The Department Should Improve Oversight of State and Federal Funds (see pages 11 through 16)

DEMA needs to implement stronger controls over state and federal monies. During our 1983 audit of the Department, we identified problems that demonstrated the need for strong oversight of funds flowing through the Division of Emergency Management. In

response to our 1983 audit, the Department established an audit function to perform ongoing expenditure reviews; however, the Department has not ensured adequate oversight of audit staff, and mandated audits have not been conducted in a timely manner, if at all. Further, the audits of disaster relief monies, which are conducted by a Division auditor, are of such poor quality that federal officials have deemed the audits unreliable and have ceased funding the audit position until improvements are made. To strengthen oversight and resolve federal concerns, the Department should centralize the audit function at the Department level, and ensure all necessary audits are completed and in compliance with government auditing standards.

The Adjutant General Should Exercise Greater Control Over the Division of Emergency Management (see pages 17 through 20)

The Adjutant General should ensure the Division of Emergency Management receives adequate oversight. As previously noted, the Division has demonstrated an inability to effectively manage its statutory responsibilities. Although the Adjutant General has authority over the Division, the Division has been allowed to largely define the limits of oversight it will accept. This condition has been fostered by the Division Director's use of political support from the counties to resist consolidation and Department oversight. Further impacting the Adjutant General's authority are statutes that allow the Division director, during declared emergencies, to assume authority over all Department personnel (including the Adjutant General), and assets, and to report directly to the governor.

In recent years, the Division and others have proposed separating the Division from the Department, ostensibly to improve emergency management. In reviewing this issue, we found that across the country, other states have a variety of command structures. Currently, emergency management agencies are combined with military organizations in 20 states, with police agencies in 14 states, and with various departments in 6 states. Only 10 states have established their emergency management agency as a separate entity. This suggests Arizona can have an effective program with its current organizational structure. However, to ensure clear leadership the Legislature should consider amending statutes to give the Adjutant General, rather than the Division director, authority over the Department at all times.

Department Activities At Camp Navajo May Not Be In the Best Interests of the State (see pages 21 through 25)

Department efforts to establish a state-operated enterprise activity at Camp Navajo may not be in Arizona's best interest. The operation involves the storage of over $1 billion of military hardware, including Minuteman rocket motors and air-launched cruise missiles, and is intended to support federal training activities at Camp Navajo. However, the Department's agreements with the various Department of Defense agencies for which it is storing hardware place significant liability on the State for any damages incurred to the commodities stored there. Further, these agreements do not allow for the use of storage operation funds to support training activities. While changes to the agreements might resolve some of these problems, the need for adequate oversight of the operation should also be addressed.

The Department Should Act to Ensure the Timely Environmental Restoration of Camp Navajo (see pages 27 through 30)

Federal legislation ordering the Navajo Army Depot's closure includes specific requirements for environmental restoration of the installation. However, the current restoration plan for Camp Navajo, developed by the Department and U.S. Army officials, does not comply with the legislation and could significantly delay cleanup. Although the Department's efforts to secure Camp Navajo for Arizona National Guard use may have contributed to the funding problems and delays, complying with the federal legislation appears to be the best means of remediating the environmental damage at Camp Navajo.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit and Sunset review of the Department of Emergency and Military Affairs, pursuant to a May 5, 1993, resolution of the Joint Legislative Audit Committee. This audit is conducted under the authority vested in the Auditor General by A.R.S. §§41-2951 through 41-2957.

Department Purpose and Structure

The Department of Emergency and Military Affairs (DEMA) was established by A.R.S. §26-101 in 1972 to:

> *"promote, protect and defend the peace, health and safety of the citizens of this state and to respond in emergencies to restore and maintain public order."*

The Department consists of two divisions, the Division of Emergency Management and the Division of Military Affairs.

Division of Emergency Management

The Division of Emergency Management prepares and coordinates the emergency services required to reduce the impact of natural, nuclear, or chemical disasters or other state emergencies. The Division's preparation responsibilities include the development of the state emergency response plan; financial and technical assistance to counties to provide qualified personnel for county response planning; emergency response training; and exercises to test state and local government emergency response capabilities. When a significant disaster occurs and state assistance is requested, the Division serves as the central point of contact within Arizona for both resource allocation and the coordination of response efforts by local, state, and federal agencies. After the disaster response phase, the Division manages the recovery efforts and the disbursement of state and federal disaster recovery funds. The Division has three sections to carry out these functions: Administration and Training, Operations, and Preparedness and Hazardous Materials.

Division of Military Affairs

The Division of Military Affairs is primarily responsible for managing and operating the National Guard of Arizona, including both the Army National Guard and the Air National Guard. The National Guard of Arizona is part of the reserve component of the U.S. Army and U.S. Air Force and provides the armed services with trained, equipped units in case of a state or national emergency. During Operation Desert Storm in 1990, ten units of the Arizona Army National Guard were ordered into federal service. The National Guard provides valuable services to the State of Arizona, including performing search and rescue missions, fighting forest fires, and responding to floods.

In addition to their reserve component and emergency responsibilities, the Arizona National Guard is involved in several other significant training and community service roles. The Air National Guard trains more than 200 fighter pilots annually for the United States, Singapore, and the Royal Netherlands Air Forces. The Army National Guard operates one of two national training sites responsible for training helicopter pilots and aircrew members, graduating over 700 students in fiscal year 1992-93. Through the Joint Counter Narcotics Task Force, the National Guard supports local, state, and federal drug enforcement agencies in reducing the illegal drug supply. In addition, with a $2.6 million grant from the federal government, in 1993 the National Guard established one of ten programs in the nation designed to provide counseling and education opportunities to high-school dropouts in an effort to aid them in obtaining their General Education Diploma (GED).

Budget and Personnel

The Department's operating budget consists of State-appropriated funds, federal grant funds for emergency management, and federal appropriations for the National Guard. During fiscal year 1993-94, the budget controlled by the Adjutant General totaled over $192 million. Of that amount, approximately 2 percent came from State appropriations, 1 percent came from federal grant funds for emergency management, and 97 percent came from federal appropriations for the Arizona National Guard. Also during that same fiscal year, the Department was authorized 90.5 full-time equivalent (FTE) positions, with 62.5 budgeted from State appropriations and 28 from federal program grant funds. In addition, the National Guard had a total of 2,065 FTE's in fiscal year 1992-93, 1,422 technicians and 643 Active Guard Reserves on extended assignments. The Department also has over 7,800 traditional National Guard members, who participate in military training at least 1 weekend a month and 15 days each year.

Audit Scope

This audit report of the Department of Emergency and Military Affairs presents findings and recommendations in five areas:

1. The Division of Emergency Management's lack of preparedness.
2. The Division of Emergency Management's use of funds.
3. The two divisions' inability to work together as one department.
4. The operation of Camp Navajo and whether it poses a significant financial risk to the State of Arizona.
5. The environmental situation at Camp Navajo and efforts needed to ensure timely restoration.

In addition to these audit areas, the report contains a response to the 12 Sunset Factors (see pages 31 through 34) for the Department, and also a Sunset Factor response (see pages 35 through 37), for the State Emergency Council. The State Emergency Council was established per A.R.S. §26-304 in 1971. The Council is responsible for approval of emergency expenditures exceeding $100,000, and for monitoring governor-declared emergencies.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Adjutant General and the staff of the Department of Emergency and Military Affairs for their cooperation and assistance throughout the audit.

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FINDING I

THE DIVISION OF EMERGENCY MANAGEMENT SHOULD TAKE ACTION TO IMPROVE ITS ABILITY TO COORDINATE DISASTER RESPONSE

The Division of Emergency Management is responsible for coordinating the response to state disasters. Despite this responsibility, the Division lacks a comprehensive state emergency response plan, has not ensured its emergency operations center has crucial response information, and has not performed enough drills to prepare responders. This failure to adequately prepare for disasters could impact the Division's ability to coordinate the State's response to a sudden disaster.

Both state statutes and federal requirements governing federal emergency funding require that the State have a current emergency operations plan defining how it will respond to emergencies. The plan should include actions to address the systems and services that could be impacted by a disaster. For example, the plan should provide for continuation or restoration of public services (such as law enforcement and fire protection), transportation systems, medical services, utilities, shelters, food supplies, fresh water, and communication systems. The recent California earthquakes demonstrate that Arizona needs to be able to quickly provide services and information to individuals impacted by a disaster.

By statute, the Division of Emergency Management is responsible for developing the State's emergency response plan and for coordinating the disaster response efforts of all governmental agencies. Specifically, the statutes direct the Division director to develop and test plans for the mobilization and management of state personnel and equipment in response to an emergency. To assist the State in its preparedness efforts, the Division receives funding from the Federal Emergency Management Agency (FEMA) for training, equipment, personnel, and administration. Further, when an emergency occurs, the Division is responsible for administering state and federal disaster relief monies to local governments, public utilities, nonprofit agencies, and individuals.

Division Not Well Prepared for Disaster Response

Despite its responsibilities, the Division is not adequately prepared to effectively respond to disasters. The Division failed to update the emergency operations plan for

over a decade and still does not have a comprehensive plan. Further, the Emergency Operations Center lacks essential coordination materials. Additionally, the Division has not provided adequate training and statewide exercises for its staff and other state agencies. Although federal funds are available for planning, training, and exercising, the Division has not used them efficiently.

State plan is ineffective — While a comprehensive plan is crucial for disaster preparedness, the Division failed to update the State Emergency Operations Plan for over a decade. A current state plan is essential because it describes how response efforts will be coordinated in the event of a disaster and identifies the personnel, equipment, facilities, and resources available for disaster response. Despite its importance and federal guidelines that call for updates every four years, the Division had not reviewed and revised the state plan since 1982.

Having failed to routinely update the plan, the Division worked sporadically over the last three years developing a new one, finally completing it in February 1994. However, the new plan has been criticized by FEMA, which has noted several deficiencies. They found the plan lacks specific information on the response capabilities state agencies have in place, although this is one of the plan's major purposes. For example, the plan does not indicate what mutual aid agreements and standard operating procedures state agencies have developed; whether agencies have participated in exercises; what hardened communications and databases agencies have in place; or what intensity of disaster the agencies can be expected to handle. Also, FEMA felt that the plan was confusing to the reader and should be organized so that agencies and other users can quickly find their role and responsibilities.[1] Further, the plan is inconsistent with the proposed organizational changes the Division is developing and as such will need to be revised again.

To help ensure effective responses to future disasters, the Division should establish an emergency operations plan that is comprehensive, clear, well organized, and concise. The plan should reflect the emergency organization of the Department, enable the Division to work with the federal response plan, and clearly assign responsibility to state agencies. In addition, the plan should address the resources available and the capabilities of state agencies and other responders. Finally, the plan should be revised as changes occur in organization, staffing, equipment, and other factors. As such, the Division should review it at least annually to make necessary changes and complete a comprehensive revision at least every four years, as required by FEMA.

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(1) FEMA approved a draft of the plan while at the same time citing these significant deficiencies. However, this action appears consistent with the United States General Accounting Office's (GAO) recent criticism of FEMA's failure to adequately monitor states' preparedness efforts. In fact, the GAO noted that FEMA has the authority to withhold funding from states that do not meet performance objectives, such as updating the emergency response plan; however, FEMA has not done this.

Emergency Operations Center lacks basics — The lack of basic materials in the Emergency Operations Center (EOC), the command center for the Division's coordination efforts, also illustrates the Division's lack of preparedness. For example, during the 1993 floods, the Division did not have the basic, yet vital, emergency management information and materials needed for effective coordination of the emergency response, such as:

- **Standard operating procedures** — These are detailed procedures to guide staff in fulfilling their emergency response roles. Almost 50 percent of the Division employees reported that they had not received any procedures or checklists for the duties they were assigned during the flood emergency.

- **State resource listing** — This statutorily required listing should identify resources available for use in emergencies. For example, the State of California Emergency Services Office maintains a resource directory to guide EOC staff in assigning emergency work. The directory contains sections on water, transportation, etc. and lists the agencies that are responsible for these areas. The Office further defines agency capabilities. For example, the directory lists the California Department of Drinking Water as a provider of bottled water. The Department of Drinking Water is responsible for developing procedures defining how bottled water would be obtained and delivered in the event of an emergency. The Office has found this system to be more useful than an inventory listing.

- **Flood maps** — While flood maps aid in predicting where flooding will occur, the Division did not have such maps available as the flood emergency began.

- **Phone lists** — At the time of the flood, the EOC did not contain phone lists for emergency responders, state agency duty officers, public information officers, and dam owners and operators.

- **Fax machines** — The EOC did not contain a fax machine for public information officers.

Training and exercises lacking — The Division has not provided adequate disaster response training or exercises for its own and other agencies' staff. Training and exercise activities are necessary for staff to learn and practice techniques for coordinating the resources of federal, state, and local governments, as this is the Division's major responsibility. Despite the importance of exercises, the Division had not conducted a statewide natural disaster exercise for over three years prior to the 1993 flood disaster. Also, 30 percent of Division staff reported that training provided by the Division left them unprepared for the flood emergency. Finally, when conducting an exercise, the Division should critique its performance during the exercise to evaluate the lessons learned and revise training requirements, plans, and operating procedures accordingly.

Funding is available for planning and training — The Division has failed to fulfill its statutory responsibilities for planning and training despite the availability of federal funds. The Division receives federal monies annually for planning and training; however, some monies have not been used efficiently. As presented in Finding II (see pages 11 through 16), we found several instances where these monies were not used appropriately. For example, the Division used over 65 percent of the 1990-91 training monies on meals and meeting space at conference hotels, although Department facilities were available at no cost. In the future, the Division should use the federal monies it receives more appropriately to fund planning, training, and other activities in order to ensure effective response to disasters.

Division Needs to Implement Changes to Ensure Proactive Leadership and Coordination of Response Efforts

The Division's lack of planning and preparation could hinder the State's ability to respond to a sudden disaster. During the State's most recent major disaster, the 1993 floods, the Division had nearly two months to prepare, yet Division management failed to provide proactive leadership and coordination. Further, the Division has been slow to address problems that surfaced during the floods.

In early 1993, the President of the United States declared Arizona a major disaster area after record rainfall caused severe flooding throughout the state. With damage estimates exceeding $135 million, the 1993 flooding was the most costly disaster ever to affect Arizona. This flooding destroyed homes, roads, bridges, and farmlands, with some of the most severe damage taking place nearly two months after the emergency began, when the Painted Rock Dam overflowed its spillway and flooded more than 20,000 acres of land in Yuma County.

Leadership lacking — Although one of the Division's primary responsibilities during a disaster is to direct the response efforts, several Division employees indicated a general lack of leadership existed during the 1993 flood emergency. In addition, our survey of Emergency Management Division employees revealed that over 50 percent felt they received less than adequate direction for their flood response duties. The activities of the Division director then in office would appear to support these concerns. Specifically, we found the Division director was out of town for at least 17 days during the 2-month period of the 1993 floods. The travel included at least four trips clearly unrelated to the disaster; for example:

- On January 7, 1993, the day the Division activated its Emergency Operations Center and the day before the governor officially declared the flood emergency, the director left for Washington D.C. The purpose of the trip was to attend a national emergency management association conference to discuss issues to lobby before

Congress. The director did not return until late in the day after the emergency was declared.

- Only three days after Yuma County was declared a disaster, the director and his assistant traveled to northern Arizona to meet with the emergency managers of the only two counties not affected by the disaster. On the trip, they diverted to stay in Laughlin, Nevada. Records indicate that the only work done on this two-day trip was less than three hours of meetings.

Reactive to events — Without appropriate planning and effective leadership, the Division's response efforts focused on reacting to individual requests for assistance rather than anticipating events and planning the appropriate response. For example, the Division closed its EOC for nearly one month during the winter floods simply because the number of telephone requests for assistance had slowed. However, during this time, flood waters from around the state were approaching the Yuma area and the Division did little to plan for the response that would be needed.

The lack of preparation and leadership also contributed to the Division's failure to collect and disseminate emergency management data on the severe flooding in Yuma County. For example, the Division failed to:

- Track the completion of missions;
- Display information on the situation in each county, such as the local emergency declarations, shelters established, and evacuations;
- Provide road closure information that was needed by a federal agency;
- Communicate flood stage warnings effectively to those who needed them; and
- Advise all state agencies of the state emergency declaration in a timely manner.

Problems are not addressed after disaster — Although the Division's response to the disaster demonstrated the need for improvements, over a year later it is probably no better prepared to respond. This is primarily because the Division has not analyzed the lessons learned from any recent disaster response, including the 1993 flood, since it has not adequately critiqued or documented its response to the disasters. The lessons learned are important and need to be identified so that the Division can make improvements to problem areas using training, exercises, plan revisions, procedure changes, or other methods. Shortly after a disaster, the Division should conduct a comprehensive critique of the emergency response to identify problems and potential solutions. The Division should compile the results of the critique in a report, similar to one produced in Pennsylvania. The Pennsylvania Emergency Management Agency report details the events of a disaster and response as they occurred, summarizes major

response operations and problems encountered, and presents the lessons learned from a formal critique. Further, to be able to conduct a critique, the Division should keep adequate records of the disasters and the response effort made.

Over one year after the floods, the few problems that were identified have not been addressed. Although no comprehensive critique was done, meetings held with county directors, state and federal agencies, and others indicated some specific response coordination problems; but the Division has not taken actions to address them. For example, two groups recommended annual statewide flood exercises and the Division agreed; however, no exercises have taken place, nor are any scheduled for 1994. In fact, there has been only one statewide exercise since the disaster and this was for earthquakes. Also, state agencies identified the need for a listing of federal agencies and contact points in the state plan, but the Division has not included this information in the 1994 plan revision.

RECOMMENDATIONS

The Division should:

- Develop an effective plan and periodically test the quality of the plan through exercises.
- Develop standard operating procedures and ensure that other state agencies have adopted effective procedures to carry out their disaster relief responsibilities.
- Compile the resource listing required by A.R.S. §26-306.A.8, including the responsibilities and capabilities of state agencies and other responders.
- Maintain necessary materials in the Emergency Operations Center at all times in case of disaster, including phone listings for all possible responders (state agencies, federal agencies, county directors, dam operators, etc.)
- Increase the level of its staff's preparedness through increased training and statewide exercises for handling natural disasters, using the monies currently available for these activities.
- Keep records of the disaster response as it occurs, tracking missions assigned and completed, for use during the response effort and for review afterward.
- Formally critique the response coordination efforts and produce an after-action report that identifies areas needing improvement after each disaster.

FINDING II

THE DEPARTMENT SHOULD IMPROVE OVERSIGHT OF STATE AND FEDERAL FUNDS

DEMA needs to implement stronger controls over state and federal monies. During our 1983 audit of the Department, we identified problems that demonstrated the need for strong oversight of funds flowing through the Division of Emergency Management. In response to our 1983 audit, the Department established an audit function to perform ongoing expenditure reviews; however, the Department has not ensured adequate oversight of audit staff, and mandated audits have not been conducted in a timely manner, if at all. Further, audits of disaster relief monies are of such poor quality that federal officials have deemed the audits unreliable and have ceased funding the audit position until improvements are made. To strengthen oversight and resolve federal concerns, the Department should centralize the audit function at the Department level, and ensure all necessary audits are completed and in compliance with government auditing standards.

The Division of Emergency Management receives and distributes both federal and state funds. During fiscal year 1993-94, the Division received $30.5 million in state and federal funds. Federal funds, totaling $25 million, were used for disaster assistance ($22.8 million) and for Emergency Management programs ($2.2 million). State funds, totaling nearly $5.5 million, were used for emergencies/disaster assistance ($3.6 million), Emergency Management programs ($1.3 million), and for hazard mitigation projects ($550,000).

Past Problems Demonstrated Need for Oversight

Our 1983 performance audit of the Department found the Division of Emergency Management had mismanaged a substantial amount of state and federal monies. The audit found that the Division misspent over $1.4 million in state and federal disaster funds to construct a building, purchase and repair vehicles, purchase equipment, pay expenses for local emergency managers, and sponsor conferences (including greens fees and bar bills). The audit attributed these problems to mismanagement by the former Division director and poor internal controls. As one means of addressing these problems, the report recommended and the legislature subsequently passed, legislation that required DEMA to establish an audit position reporting to the Adjutant General to conduct expenditure reviews and ensure compliance with laws and regulations.

Department Has Not Instituted Effective Oversight

While the Department has taken actions to strengthen financial controls, effective control over state and federal funds has not been achieved. Since our 1983 audit, the Department has established audit positions to conduct expenditure reviews. However, the Department has not ensured that audits are conducted in a timely manner, and that they meet established standards. Further, the Division has continued to inappropriately use some grant monies, although current abuses are nowhere near the level found in our 1983 review.

Background — As an important step to improving oversight, our 1983 audit report recommended that the Department establish an audit function. Through a statutory change in 1984, the Legislature directed the Department's Adjutant General to establish an audit function to review Department expenditures and ensure compliance with laws and regulations. The Department established a chief auditor position reporting to the Adjutant General, and required the chief auditor to conduct expenditure reviews of state and federal funds. In addition, the Division obtained federal funds for an auditor to conduct audits of public entities receiving disaster relief monies. This auditor reports to the Division director and has had no oversight by the Department's chief auditor.

Audits performed by Division auditor are unreliable — While the Division auditor has conducted audits of public entities receiving large sums of federal and state disaster relief monies, these audits are of such poor quality that they have been deemed unreliable by federal officials. Monies flowing through the Division to public entities can be quite large, depending on the impact of the disaster; for example, the Division oversaw the distribution of almost $85 million to public entities as a result of the 1993 floods. Payment of disaster relief monies is based on expenditures incurred by the recipients. It is the Division auditor's responsibility to review expenditure documentation and determine whether the dollar amount claimed by the public entity is appropriate.

Both our own review as well as a review conducted by FEMA's Inspector General's Office identified concerns with the audits conducted by the Division auditor, which are illustrated in the following example.

- Based on an inquiry from a County Attorney's Office in January 1993, our Office provided the Division of Emergency Management with evidence that a city may have falsified a disaster assistance claim involving a flood-damaged road grader. Following discussions with our office, Division officials agreed to conduct audit work to evaluate the legitimacy of the city's claim. However, the Division's auditor failed to conduct the necessary audit work to determine whether reported damage was indeed incurred. Instead, Division officials reported finding no ineligible costs and authorized payment of the city's claim for nearly $40,000 to repair the

equipment. However, after a warrant was prepared to pay the claim, Division officials held the warrant for over six months. Then, shortly after we began our audit, Division officials, without conducting any additional inquiry, requested that FEMA disallow the claim. As a result, FEMA officials requested a criminal investigation of the case.

In January 1994, the FEMA Inspector General's Office conducted a review of the Division's audit work and found it to be unacceptable. The Inspector General's review found that the Division's audits did not comply with government auditing standards. As a result, the FEMA Inspector General's Office recommended that FEMA no longer accept audits conducted by the Division and that federal funding for audits be withheld until an acceptable audit function is developed by the Department.

Department auditor has failed to conduct mandated audits — Following our 1983 audit, the Legislature mandated that the Department conduct expenditure reviews. However, the Department's chief auditor has failed to conduct these required reviews in a timely manner, if at all.

- **Emergency fund audits** — In 1984, statutes were amended to require the Department auditor to review all liabilities and expenditures for state emergencies, and provide reports to the State Emergency Council. These reviews are to be conducted every 90 days during an emergency, and within 90 days after the emergency has ended. Despite this requirement, these reviews are backlogged to 1992. Because of this backlog, reports by the Department's auditor to the State Emergency Council have been completed using expenditure figures that have been compiled without the required reviews.

- **Compliance audits** — In 1984, statutes were amended to require the Department auditor to conduct compliance audits of the Department's divisions and offices. The statutes specifically called for audits to determine compliance with purchase and bidding procedures. Despite the addition of these statutes, compliance audits have never been completed. However, at the time of our review, the Department had initiated an audit of the Department's procurement procedures.

- **Financial audits** — The 1984 statutory amendments also required the Department auditor to conduct at least annual financial audits of all accounts open more than one year, but these audits have not been conducted.

Failure to perform necessary audits stems from both lack of dedicated resources and the Department's failure to exercise its authority. Until recently, the Department had only one central position to conduct these statutorily required audits. The Department has recently filled a second auditor position, and is evaluating the future staffing needs

of the audit function. Further, when attempts were made by the chief auditor to audit Division expenditures, the Division resisted these attempts and no further Department action was taken.

Lack of adequate controls evidenced in small abuses — Although current abuses are minor in comparison to problems found in our 1983 review, our review of federal disaster preparedness and administration expenditures identified instances where grant monies were used inappropriately. The following examples illustrate problem expenditures.

- **Excessive conference costs** — Although these expenditures have been significantly reduced in recent years, in fiscal year 1990-91 the Division spent over 65 percent of its available training funds to provide meals and meeting space at conference resorts rather than using in-house training facilities. These monies could have been used to provide much-needed training for emergency preparedness. Further, we identified several instances in which the Division's expenditures exceeded grant guidelines. For example, in 1991 the Division hosted a conference at a resort hotel in Sedona. Using grant monies designated for training, the Division paid $149 per night, almost three times the amount allowed by grant guidelines, for one employee's lodging; and over twice the allowable amount for five other employees. During the conference, the Division spent almost three times the amount allowed by grant guidelines to provide lunch for the participants.

- **Expenditures for items unrelated to programs** — The Division has used over $2,200 in federal grant monies for administration of disaster assistance on items clearly not related to this purpose. For example, monies were used to purchase a navigating device, a professional association membership, a digital camera, and out-of-state travel for employee training. Because this grant is intended to defray the cost to the State for administering federal disaster assistance, the monies could have been used to reduce state expenditures. Further, any monies spent inappropriately may have to be repaid according to the grant guidelines.

- **Improper use of registration fees** — During fiscal years 1991-92 and 1992-93, the Division collected nearly $13,000 in registration fees for some grant-funded training sessions and conferences, reportedly to offset expenses. However, Division officials have not used <u>any</u> of these monies to defray conference costs. Instead, the monies have been spent on items such as baseball caps, T-shirts, Division logo pins, out-of-state employee travel, and computers.

Oversight of Division Expenditures Should Be Strengthened

Several changes are needed to strengthen Department oversight of federal and state monies. First, the Department should centralize the audit function at the Department level. As noted earlier, audits are currently performed both by Department and Division auditors. Centralizing this function at the Department level would improve audit independence. Further, the Department auditor should be responsible for all audits of state and federal monies, including Division of Emergency Management funds not currently audited, such as grants for planning and training. To fulfill the Department's responsibilities under state and federal rules and regulations, the Department should ensure that the audit function:

- Conducts all audits in accordance with government auditing standards.
- Determines whether the Division's recipients have met federal audit requirements,
- Ensures that recipients of federal disaster assistance and other grant monies have spent the monies appropriately. To do this, the federal regulations allow the Department to review single audits of the recipients or perform a program review of those who do not have single audits.
- Ensures that any instances of noncompliance reported in the recipient's audit reports are corrected within six months,
- Audits claims for disaster assistance before making final payments to local jurisdictions,
- Reviews all liabilities and expenditures of the Governor's Emergency Fund and reports to the State Emergency Council as required by statute,
- Conducts financial and compliance audits of each Division, and
- Audits all accounts open for more than 12 months.

RECOMMENDATIONS

1. The audit function should be centralized at the Department level. The Department auditors should conduct all necessary audits of state and federal monies to fulfill their oversight responsibilities under state and federal regulations.

2. The Department auditors should audit funds used by the Division of Emergency Management (such as grants for planning and training) to ensure these funds are used appropriately.

FINDING III

THE ADJUTANT GENERAL SHOULD EXERCISE GREATER CONTROL OVER THE DIVISION OF EMERGENCY MANAGEMENT

The Adjutant General should ensure the Division of Emergency Management receives adequate oversight. Although the Adjutant General has authority over the Division, the Division has been allowed to largely define the limits of oversight it will accept. Further, statutes allow the Division Director to assume control over all Department personnel, including the Adjutant General, and assets during declared emergencies. The Legislature should consider amending statutes to remove the problems created by having this dual reporting relationship.

Factors Which Impede Adjutant General Action

As discussed in Findings I and II (see pages 5 through 16) of our report, the Division of Emergency Management has demonstrated an inability to manage its statutory responsibilities. While the Adjutant General has authority over the Division of Emergency Management, he has not exercised this authority to address these and other problems in the Division. Instead, even though the Division of Emergency Management was merged with the Department of Military Affairs over two decades ago, the Division has been allowed to function much like a separate agency. This condition has been fostered by the Division director's use of political support from the counties to resist consolidation and Department oversight. Further, during the 1994 legislative session, the former Division director actively lobbied for support of a bill to separate the Division from the Department.

Division still attempts to function like a separate agency — The Division and the Department were combined more than 20 years ago, yet they do not function as one agency. Although efforts were made in 1989 to consolidate some administrative functions such as accounting and personnel, the Division opposed such consolidation. Further, against Department opposition in 1990, Division officials were successful in obtaining a budget appropriation separate from that of the Department. In addition, the Division continues to maintain a separate telephone system, audit function, and emergency operations center.

Division appears to maintain independence through political support — The Division's ability to resist consolidation within the Department appears to be based upon the

political support it receives from local government emergency management officials and the association that represents them. For example,

- In November 1993, the president of the Emergency Services Association wrote the Adjutant General attempting to influence the selection of a replacement for his "good friend," the retiring Division director, and to inform him that local emergency managers would be carefully monitoring the selection process. The association president stated that the new director should allow staff to "perform without unnecessary constraints or a layer of military bureaucracy getting in the way." He closed the letter by stating that he would personally lobby for the selection of a replacement for the retiring Adjutant General who would be more "friendly" to the emergency management community.

- During the 1993 legislative session, the Arizona Emergency Services Association lobbied against a bill designed to increase the Adjutant General's responsibility for state emergency management.

- After the Division was successful in obtaining a budget appropriation separate from the Department in 1990, the association urged its members to contact their legislators to request their support to continue the separation.

- In response to a 1989 recommendation to consolidate the Division's accounting function within the Department's, the Division director then in office sent the Adjutant General a memo from a county emergency services director arguing against the consolidation. In his cover memo, the Division director states that the county's position was "representative of all or most of the other counties."

According to the former Adjutant General, this political pressure from the local emergency managers and the association clearly influenced his decisions regarding the Division, and negatively impacted his efforts to oversee the Division's activities.

However, this support must be viewed in the context of the financial and other relationships which exist between the Division and the local emergency managers. The Division oversees the annual distribution of hundreds of thousands in other federal grant dollars, including various forms of federal and state disaster assistance monies to local governments. In addition, Division officials establish the funding distribution that accounts for approximately one-half of the salaries and administrative expenses for the county emergency managers. The Division also hosts conferences and provides training for the county emergency managers.

Division Director lobbied for separation — The former Division director has used his relationship with county officials to lobby for separation from the Department. At a November 1993 meeting hosted by the Division, the Division director then in office asked the county emergency managers to support a bill in the upcoming legislative

session to separate the Division from the Department. Specifically, the director asked each of the emergency managers to contact their state legislators and solicit support for the legislation.

Statutes Allow Division Director to Assume Control During Emergencies

Current statutes provide the Division director with certain powers during declared emergencies, including authority over all state agencies' response efforts. During emergencies, the Division director assumes authority over all Department personnel and assets, including the National Guard and the Adjutant General. Dual leadership can hamper response capabilities. We identified instances in which the Division director impeded efforts by National Guard officials to plan for and respond to requests for assistance during the 1993 floods. In one instance, the Director initially opposed the Adjutant General's decision to pre-position resources in the Winkelman area in anticipation of the predicted Gila river flooding. Local officials also maintained that frictions arose between the Adjutant General and Director in the deployment of resources in the Yuma area.

Statutes Should Be Amended to Clarify Leadership

In recent years, the Division and others have proposed separating the Division from the Department, ostensibly to improve emergency management. In reviewing this issue, we found that across the country, other states have a variety of command structures. Currently, emergency management agencies are combined with military organizations in 20 states, with police agencies in 14 states, and with various departments in 6 states. Further, 10 states have established their emergency management agency as a separate entity. In addition, states with their emergency management agency combined with other organizations had varying reporting structures during emergencies (i.e. report to the Adjutant General, the Governor, or department director). We surveyed several states and found that each of these structures can be effective. In other words, Arizona can have an effective program with its current organizational structure. However, to do so, leadership must be strong and clear. As the Department director, the Adjutant General should have control of the Department and its personnel and equipment, allowing for a coordinated and unified response to a disaster. To accomplish this, the Legislature should consider amending A.R.S. §26-302, §26-303.H and §26.305.C to give the Adjutant General, rather than the Division director, the emergency powers of the governor and control of state resources when authorized. Further, the Legislature should consider revising A.R.S. §26-102 to allow the Adjutant General the authority to delegate these powers when deemed necessary.

RECOMMENDATIONS

1. The Legislature should consider amending A.R.S. §26-302, §26-303.H and §26-305C to place the Governor's emergency powers with the Adjutant General to provide for a unified emergency response and proper leadership. Further, the Legislature should consider amending A.R.S. §26-102 to allow the Adjutant General to delegate these powers when deemed necessary.

2. The Adjutant General should increase his oversight over the Division of Emergency Management, to ensure the Division fulfills its statutory responsibilities and that the Division's functions are consolidated into the Department.

FINDING IV

DEPARTMENT ACTIVITIES AT CAMP NAVAJO MAY NOT BE IN THE BEST INTERESTS OF THE STATE

Department activities at Camp Navajo may not be in the best interests of the State. The Department has established a state-operated enterprise activity designed to support the federal training mission at Camp Navajo. However, decisions made by the Department in establishing the operation place significant liabilities on the State and are inconsistent with federal laws and regulations. While changes to the business operation might resolve these problems, the need for adequate oversight of the operation should also be addressed.

In 1942, over 28,000 acres of National Forest Service lands were withdrawn from public use to establish the Navajo Army Depot. Located approximately 12 miles west of Flagstaff and consisting of over 750 concrete storage bunkers and several large warehouses, the Depot operated as an ammunition and supply storage facility for the United States Army. It was placed in reserve status in 1971, and in 1982, under a license agreement with the Army, the Arizona National Guard assumed control of the Depot, primarily for the purpose of destroying surplus munitions stockpiles located there. In 1988 the Base Realignment and Closure (BRAC) Commission recommended closure of the Depot. In 1993, the Department obtained a new license from the Army to operate the Depot as a training site for Arizona National Guard troops, renaming it Camp Navajo.

State Enterprise Designed to Support Federal Training Mission

Utilizing the extensive storage facilities located at Camp Navajo, the Department, as an agency of the State of Arizona, has contracted through the National Guard Bureau (an agency within the Department of Defense that acts as a communication channel between the federal government and the State) with various branches of the Department of Defense (DOD) to store certain types of military hardware, primarily Minuteman rocket motors, air-launched cruise missiles, and raw rubber. Department officials estimate the value of these commodities at over $1.25 billion. Under existing contracts, by the end of 1995 the inventory levels should increase to an estimated value of nearly $4 billion. According to Department officials, the primary purpose of the storage operation is to financially support the training site and activities at Camp Navajo. Specifically, the Department's concept plan for Camp Navajo indicates:

"Utilization of Camp Navajo's idle storage space to provide a customer service will generate revenues to operate the Installation and significantly reduce OM ARNG (Operational Maintenance - Army National Guard) funding required to support training at the Training Site."

The Department's fiscal year 1994-95 budget for Camp Navajo indicates nearly $100,000 in storage operation revenues will be used to support training site activities.

Storage Operation Places Liability on the State and Is Inconsistent with Federal Regulations and Grant Agreements

The Department's intent in running the storage operation is to support the training function at Camp Navajo. However, significant problems exist with this approach. First, the Department has potentially made the State of Arizona financially responsible for the commodities stored at Camp Navajo. Second, current agreements between the Department and DOD agencies do not allow for the use of storage operation funds to support training activities. As a result, the State could be liable for repaying over $5 million dollars collected for these purposes.

State potentially liable for commodities stored at Camp Navajo — The Department's agreements with the various DOD agencies place significant liability on the State of Arizona for any damages to commodities stored at Camp Navajo. Our review of these agreements indicates the only limitation on the Department's, and therefore the State's, liability for property damage is where the loss is due to acts of God. Additionally, the license agreement between the Department and the Army provides:

"That the (United States) Government will not be responsible for any injury to persons or damage to property arising out of or incident to the use or occupancy of the licensed property by the licensee (the Department), howsoever such injury or damage may be caused and <u>the licensee shall indemnify and save the Government harmless from any and all claims for any such injury or damage,</u> excepting claims for any injury or damage arising from activities of the Government on the said property which are conducted exclusively for the benefit of the Government." (Emphasis added)

There is no exception to the State's obligation to protect the government against loss, because the sole beneficiaries of the storage operation are the State of Arizona and the National Guard Bureau. In addition, the National Guard Bureau has eliminated its responsibility for losses arising from the storage operation through its agreement with the Department. As a result, unless the Department can modify its agreement with the National Guard Bureau to hold the State harmless, it appears the State has assumed all risk for the storage operation.

In addition, risk management officials with the Arizona Department of Administration (DOA) acknowledge the State has assumed some level of risk for the storage operation at Camp Navajo. Despite this assumption of risk, for fiscal year 1993-94 the Department paid only $8,500 into the State's risk management fund to insure the $1 billion inventory and related operational activities at Camp Navajo. In comparison, the State pays $1 million in premiums to a private insurance carrier to insure approximately $1 billion of state-owned property against loss. DOA officials, relying on the Department's interpretation of its agreements and loss prevention procedures, have informed us there is no need for the State to purchase additional property coverage for Camp Navajo. Although the estimated value of the rockets, missiles, and rubber stored at Camp Navajo under existing contracts will increase to nearly $4 billion by the end of 1995, DOA officials believe that any probable loss can be managed under the State's self-insured program. Regardless of the DOA's position regarding the appropriate cost to the Department for insurance coverage, the storage operation has created a significant liability for the State of Arizona.

Liability for overcharges under current agreements — The State could be required to repay the federal government over $5 million. Although the Department intended to use storage site revenues to support training activities, under existing agreements, federal regulations do not allow monies to be used for this purpose. The agreements between the Department and the DOD agencies, for whom commodities are being stored, are essentially grants.[1] Federal regulations governing grant funds do not generally allow costs that are indirectly related to the activity being funded. A provision of the Department's agreement specifically disallows indirect costs. These regulations also require that the amount charged for the services provided by the State be basically the same as what the State pay for those services. In addition, the regulations specifically forbid creating any profit associated with the grant activity or establishing unspecified reserves of grant funds.

Despite these restrictions, the Department has accumulated a fund balance of over $5 million. Department officials now state the fund balance is being accumulated to pay for future capital improvements and maintenance projects. While Federal regulations do allow monies to be accumulated and used for these purposes, the regulations are very specific as to how this must be done. For example, the Department **cannot** charge more than the actual labor costs. Yet, under their fiscal year 1993-94 agreements with the U.S. Air Force to store Minuteman rocket motors, the Department charged the Air Force over $880,000 in labor costs. However, Department budget documents for the same period indicated only $368,423 in actual labor costs for the services provided.

Under Federal regulations, the Department must also be able to demonstrate the basis on which it has projected its future maintenance and capital improvement needs, and

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[1] The Department contracts with the various DOD agencies through the National Guard Bureau using a cooperative agreement. This agreement is governed by the same provisions as are grants; the only difference being the National Guard Bureau's expressed intent to be involved in the activity covered by the agreement.

develop an acceptable cost allocation plan for accumulating the monies to meet the needs. Currently the Department does not have a cost allocation plan. As a result, the Department may be liable for repayment of the over $5 million dollars in excess funds it has accumulated.

Need for Oversight Has Implications for Program Improvements

Changes to the Department's business approach at Camp Navajo might resolve the problems associated with the storage operation. However, the need to ensure adequate oversight of the business operation should also be addressed.

Changes might make program feasible — By altering the nature of the relationship with the DOD agencies from grant agreements to competitive procurement contracts, the Department could begin to address the significant legal and financial issues associated with the current operational approach at Camp Navajo. Specifically, by obtaining procurement contracts with the DOD agencies, the Department could probably avoid the restrictions involving the generation and use of profits associated with grant-funded projects. In addition, the Department could purchase liability and property loss insurance coverage for the inventory and related operations at Camp Navajo, potentially addressing the State's financial responsibility for the activities taking place there. However, these changes could also negatively impact the Department's ability to operate the storage facility at a profitable level. For example, to change to procurement contracts, the DOD would have to use a competitive bidding process. If the DOD were to use a competitive bidding process, there is no guarantee the Department would be the successful bidder, or obtain the level of financial support needed to continue the operation. Additionally, the increased operating costs associated with purchasing insurance, perhaps as high as $4 million annually, could make the entire function infeasible.

Oversight of operation needed — Based upon the financial and legal problems encountered by the Department in establishing the storage operation at Camp Navajo, additional oversight by the Legislature is clearly necessary. Currently, since the operating budget for Camp Navajo is derived from its enterprise activities, which are nonappropriated funds, all decisions relating to this multimillion-dollar operation are the responsibility of one person, the Adjutant General. As with most agency activities, this responsibility should be subject to periodic legislative oversight, including annual review of the operating budget for Camp Navajo and review of all capital construction projects the Department has planned.

RECOMMENDATIONS

1. To ensure adequate oversight of the Department's operations at Camp Navajo, the Legislature should consider requiring the Department to submit annual operating and capital construction budgets for review.

2. The Department should modify its agreements with the National Guard Bureau to: a) hold the State harmless for loss to commodities stored at Camp Navajo, thereby eliminating the State's liability for Camp Navajo's operations, and b) to comply with federal laws and regulations governing the expense of grant monies.

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FINDING V

THE DEPARTMENT SHOULD ACT TO ENSURE THE TIMELY ENVIRONMENTAL RESTORATION OF CAMP NAVAJO

The Department should act aggressively to ensure the timely environmental cleanup of Camp Navajo. Federal legislation ordering the Navajo Army Depot's closure includes specific requirements for environmental restoration of the installation. However, the Department entered into an agreement with the Army that does not comply with the legislation and could result in significant delays in cleanup. Although the Department's efforts to secure Camp Navajo may have contributed to the current problem, complying with the legislation appears to be the best means of remediating the environmental damage.

Legislation Closing Camp Navajo Includes Requirements for Environmental Restoration

The Base Realignment and Closure (BRAC) Commission officially closed the Navajo Army Depot through the 1988 legislation. The closure of the depot was later confirmed by the Assistant Secretary of the Army through a written Record of Decision dated September 30, 1991. BRAC legislation provides funds for environmental restoration of closed facilities and requires that only those funds be used for such activities. Specifically, the legislation states that the base closure account is to be the "exclusive source of funds for environmental restoration projects." At present, Camp Navajo has about 70 different sites suspected of containing groundwater, surface water, air, or soil pollution. The estimated cost of cleaning these sites is over $111 million. According to the U.S. Department of Defense, all contamination is attributable to the activities of the former Army depot.

The Department Has Not Fully Complied with Base Closure Requirements

Despite the specific BRAC funding requirements, the current restoration plan for Camp Navajo does not comply with this portion of the legislation. The details of environmental restoration management are included in an agreement between the Department and

the Army. However, this agreement contradicts BRAC legislation. As such, the agreement may result in significant delays in Camp Navajo's cleanup.

Agreement between the Department and the Army – In September 1993, the Department entered into an agreement with the Army that gives the Department the responsibility of managing Camp Navajo's environmental restoration and delineates funding sources for specific contamination sites. According to the agreement, the Department shares the responsibility of managing Camp Navajo's restoration with the National Guard Bureau, an agency within the U.S. Department of Defense. Specifically, the Department is responsible for identifying and evaluating contamination sites and requesting cleanup money from the appropriate funding source. Actually, the Department had already begun performing these duties prior to their agreement with the Army.

In addition to assigning responsibilities, the agreement delineates funding sources for specific contamination sites at Camp Navajo. According to the agreement, the Department is required to request money for most contamination sites from the Defense Environmental Restoration Account (DERA), an environmental restoration funding account for active military sites. In addition, the agreement allows for a limited number of contamination sites to be funded by BRAC.

Agreement contradicts BRAC and could delay cleanup – The agreement between the Department and the Army contradicts BRAC legislation. According to BRAC, all environmental restoration activities must be funded exclusively with BRAC money. Because Camp Navajo was included in the 1988 BRAC legislation, this provision applies to the installation. Despite this fact, the agreement instructs the Department to request funds from sources other than BRAC for the majority of the contamination sites at Camp Navajo.

The agreement's noncompliance with BRAC requirements could significantly delay needed restoration at Camp Navajo. Under the agreement, the majority of the restoration is to be funded using DERA rather than BRAC monies. However, DERA funds are difficult to obtain due to the criteria that must be met. Essentially, to receive DERA monies, an active military installation must be on the National Priority List, signifying that the level of contamination is known to be threatening to human health and the environment. Because the testing conducted at Camp Navajo to date indicates that no such threat exists, the installation is not a part of the list and therefore not a priority for DERA funding.[1]

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[1] Although Camp Navajo is not on the National Priority List, Arizona Department of Environmental Quality officials question whether the testing conducted to date is sufficient to adequately determine the level of threat to human health and the environment. However, under the agreement with the Army, to conduct the additional testing necessary to accurately determine the level of threat and potentially increase the DERA funding priority, the Department must obtain DERA funds.

Compliance with BRAC is Best Means of Restoring the Site

The Department's efforts to secure Camp Navajo for Arizona National Guard use may have contributed to the funding problems and delays. Regardless of these efforts, complying with the BRAC requirements would appear to be the best means of remediating the environmental damage at Camp Navajo.

Department efforts to obtain Camp Navajo — Various explanations for the inconsistent funding provisions of the agreement between the Department and the Army have been given, including an interpretation by Army officials that since Camp Navajo is now an active training site it never actually "closed," and therefore is not eligible for BRAC funding. However, the available evidence discounts these explanations, particularly since Camp Navajo has already received more than $700,000 of BRAC funding for various closure-related projects.

The Department and the Army likely sought the current funding agreement believing it to be mutually beneficial. Department officials may have endorsed the agreement in an effort to enhance their ability to maintain control of Camp Navajo. Because the original 1942 agreement withdrawing the installation's lands from the U.S. Forest Service stipulated its return when there was no longer a "military purpose," the BRAC closure of the depot created a legal dispute over control of the lands. As such, it is clear the Department was eager to obtain the Army's support for their efforts to use the installation as an Arizona National Guard training site. At the same time, the Army may have seen the agreement as an opportunity to diminish their responsibility to fund the environmental restoration efforts. It appears the Army knew the high threshold for obtaining DERA funds would significantly reduce Camp Navajo's chances of securing these monies.

BRAC best means of remediating Camp Navajo — Despite the actions of the Department and the Army, according to Department of Defense officials we spoke with, the use of BRAC funds would be the most expeditious means of remediating the environmental damage at Camp Navajo. These same officials stated that Camp Navajo had been scheduled to receive BRAC restoration funds prior to the Army's decision to move the camp into active site status and utilize DERA funding. Further, the expeditious nature of the BRAC funds over DERA funding is perhaps best illustrated in the agreement itself. Specifically, the agreement identifies 5[1] of the 69 recognized contamination sites for restoration using BRAC monies. However, these sites are part of a federal environmental compliance program that requires timely cleanup in order to avoid penalty assessment. These exceptions clearly suggest that even the Army recognizes the desirability of BRAC funds to ensure timely remediation efforts.

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[1] Although the agreement specifies only five sites to be restored with BRAC money, the Department received BRAC money for the cleanup of ten sites associated with the compliance program.

RECOMMENDATION

To ensure timely remediation of the environmental damage at Camp Navajo and to comply with the requirements of BRAC, the Department should seek to revise its agreement with the Army and secure BRAC funding for all necessary remediation efforts.

SUNSET FACTORS

Department of Emergency and Military Affairs

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Department of Emergency and Military Affairs should be continued or terminated.

1. Objective and purpose in establishing the Agency

The Department of Emergency and Military Affairs was established by the Legislature in 1972 to:

> *"promote, protect and defend the peace, health and safety of the citizens of this state and to respond in emergencies to restore and maintain public order."*

The Department consists of two divisions. The Division of Military Affairs is primarily responsible for managing and operating the Arizona Army and Air National Guard. The National Guard is part of the reserve component of the United States Army and Air Force and provides the armed services with trained, equipped units in case of a state or national emergency. The National Guard must be available to serve for active federal duty when ordered by the President of the United States.

The Division of Emergency Management serves the State by preparing and coordinating emergency services required to reduce the impact of disasters. The Emergency Management Division coordinates its efforts with the federal government, Arizona's political subdivisions, and various state agencies. In addition, the Division develops and maintains a nuclear emergency plan, manages a state hazardous materials emergency management program, and is the lead agency for implementing Title III of the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499).

2. The effectiveness with which the Agency has met its objectives and purposes and the efficiency with which the Agency has operated.

While the Department has generally been effective in meeting its overall objectives and purpose, we identified particular areas in which the Department could improve its effectiveness. Specifically, we found the Division of Emergency Management is not well prepared to effectively respond to disasters (see Finding I, pages 5 through 10). For example, the Division had not updated the State's

emergency response plan in over 10 years, and lacks important information and materials needed for effective coordination of an emergency response. In addition, we found the Department had not ensured adequate oversight of funds (see Finding II, pages 11 through 16).

3. The extent to which the Agency operates within the public interest.

Overall, we found the Department operates within the public interest. For example, the Department has responded to numerous state emergencies in recent years, and over 1,500 Arizona National Guard troops were called to active duty to participate in Operation Desert Shield and Desert Storm. However, the Department's activities related to the operation of Camp Navajo may not be in the public interest (see Finding IV, pages 21 through 25). We found the Department's operation involving the storage of military hardware at Camp Navajo is inconsistent with federal laws and may place significant liabilities on the State. In addition, we found the Department has entered into an agreement with the federal government that could indefinitely delay needed environmental restoration at Camp Navajo (see Finding V, pages 27 through 30). Finally, we found the Division of Emergency Management has resisted efforts to consolidate and work under the direction of the Department, despite having been merged with the Department more than 20 years ago (see Finding III, pages 17 through 20).

4. The extent to which rules and regulations promulgated by the Agency are consistent with the legislative mandate.

According to the Department's attorney general representative, all rules promulgated are consistent with each division's legislative mandate.

5. The extent to which the Agency has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.

The Department keeps the public informed through a combination of news releases, display ads, legal notices, public service announcements, and public affairs plans. In addition, the Department has also established community advisory groups and held public scoping meetings. Finally, during emergency periods, the Division of Emergency Management maintains a high level of public visibility due to increased media involvement.

6. **The extent to which the Agency has been able to investigate and resolve complaints that are within its jurisdiction.**

This factor does not apply because the Department has no statutory authority to investigate and resolve complaints.

7. **The extent to which the Attorney General, or any other applicable agency of state government, has the authority to prosecute actions under enabling legislation.**

The Department's enabling legislation does not establish such an authority.

8. **The extent to which the Agency has addressed deficiencies in the enabling statutes that prevent it from fulfilling its statutory mandate.**

In recent years, the Department has pursued legislation pertaining to both divisions of the Agency. For example, during the 1992 legislative session a bill was passed giving the National Guard authority for involvement in drug interdiction activities. In addition, legislation has been enacted pertaining to the Division of Emergency Management's Nuclear Emergency Management Fund and various flood relief appropriations.

9. **The extent to which changes are necessary in the Agency's laws to adequately comply with the factors listed in the subsection.**

Based on our findings and conclusions presented in Finding III (see pages 17 through 20) we recommend the Legislature consider amending A.R.S. §26-302, §26-303.H and §26-305C to place the governor's emergency powers with the Adjutant General, rather than the director of the Division of Emergency Management, to ensure a unified response during state emergencies, and to clarify Department leadership. In connection with these changes, the Legislature should consider amending A.R.S. §26-102 to allow the Adjutant General clear authority to delegate these powers when deemed necessary.

10. **The extent to which termination of the Agency would significantly harm the public health, safety, or welfare.**

The Department's role is to provide "personnel, equipment, and funds to contribute to the defense, safety and welfare of the citizens of Arizona." Termination of the Department would undoubtedly harm the public's safety and welfare. The Arizona National Guard is part of the nation's first-line defense, and is an important resource during state emergencies. In recent years, the Guard has responded to numerous flood emergencies throughout the state. The Arizona

National Guard also benefits public safety and welfare through participation in federally funded programs designed to assist Arizona law enforcement in their drug interdiction efforts, and they aid Arizona youths by providing drug intervention and education programs.

Despite the fact that it is not adequately prepared, (see Finding I, pages 5 through 10), the Division of Emergency Management plays a significant role in public safety and welfare. The Division provides services to coordinate state and local response to disasters. In addition, the Division is the only state agency through which federal emergency management programs are implemented.

11. The extent to which the level of regulation exercised by the Agency is appropriate and whether less or more stringent levels of regulation would be appropriate.

This factor does not apply as the Department has no regulatory authority.

12. The extent to which the Agency has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.

Private contractors are used extensively by the Department for activities such as construction, custodial services, vehicle and aircraft maintenance and repair, and office furniture and supplies, etc. In addition, the Division of Emergency Management uses private contractors for hazardous materials training and trained disaster response personnel who assist in disaster response, damage assessment, and recovery programs. However, due to the nature of the duties performed by the Arizona National Guard, private sector contractors appear to be inappropriate or unavailable for many functions. Our audit work does not indicate the need for further private sector contracting.

SUNSET FACTORS

State Emergency Council

In accordance with A.R.S. §41-1954, the Legislature should consider the following factors in determining whether the State Emergency Council should be continued or terminated.

1. The objective and purpose in establishing the State Emergency Council.

The State Emergency Council was established per A.R.S. §26-304 in 1971. By statute, the Council is comprised of ten voting members and two advisory members, with representation by the governor, the secretary of state, the attorney general, the president of the Senate, the Speaker of the House of Representatives, and the directors of seven state agencies. The Council's responsibilities include:

A) Making recommendations to the governor for orders, rules and procedures, and assignment of any responsibility, service, or activity to a state agency relative to emergencies or planning for emergencies, issuing state of emergency proclamations in the event the governor is inaccessible,

B) Providing approval for expenditure of more than $100,000 for any single contingency or emergency declared by the governor, and

C) Monitoring each emergency declared by the governor and reporting to the governor and the Legislature when emergency conditions have stabilized and the emergency is substantially contained.

2. The effectiveness with which the Council has met its objective and purpose and the efficiency with which the Council has operated.

During the last four fiscal years (1990-93), the Council has met an average of four times per year. It reviews an updated listing of "open" state emergencies that identifies the status of each, and sometimes projects close out dates. The Council has also made funding recommendations needed to address these ongoing emergencies. Per A.R.S. §35-192, the director of the Division of Emergency Management annually presents a report to the governor detailing the actions of the Council. This annual report lists the fiscal year gubernatorial proclamations, the gubernatorial proclamations that are terminated, and the proclaimed emergencies that are still open. Additionally, tables presenting fund allocations and expenditures are provided.

3. **The extent to which the Council has operated within the public interest.**

Refer to Sunset Factors 1 and 2.

4. **The extent to which rules and regulations promulgated by the Council are consistent with the legislative mandate.**

The Council has no statutory authority to promulgate rules and regulations.

5. **The extent to which the Council has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.**

The Council's meeting dates and times are duly posted in accordance with open meeting laws, and although the Council does not have the authority to promulgate rules and regulations, its recommendations on funding allocations have included input from the public.

6. **The extent to which the Council has been able to investigate and resolve complaints that are within its jurisdiction.**

This factor is not applicable to the Council as it has no statutory authority to investigate and resolve complaints.

7. **The extent to which the Attorney General or any other applicable agency of state government has authority to prosecute actions under the enabling legislation.**

This factor is not applicable.

8. **The extent to which the Council has addressed deficiencies in its enabling statutes which prevent it from fulfilling its statutory mandate.**

There have been several minor statutory changes to the Council statute since it was added by laws in 1971. Changes in previous years have included slight wording modifications, and increasing the number of Council members. The most recent amendment was during the 1992 legislative session, which added two additional Council members.

9. The extent to which changes are necessary in the laws of the Council to adequately comply with the factors listed in the Sunset Law.

See response to Sunset Factor 8. Our review indicates no other statutory changes are currently being pursued.

10. The extent to which termination of the Council would significantly harm the public health, safety, or welfare.

Because the Council is charged with declaring state of emergency proclamations in the event of an inaccessible governor, termination of the council could potentially harm the public by delaying the declaration of an emergency. However, to this date, the Council has never had to exercise this authority.

11. The extent to which the level of regulation exercised by the Council is appropriate and whether less or more stringent levels of regulation should be appropriate.

The Council has no regulatory authority, nor is there a need for such authority.

12. The extent to which the Council has used private contractors in the performance of its duties and how the effective use of private contractors could be accomplished.

This factor does not apply as the Council does not directly contract for services.

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STATE OF ARIZONA
Department of Emergency And Military Affairs
5636 EAST McDOWELL ROAD
PHOENIX, ARIZONA 85008-3495
(602) 267-2700 DSN: 853-2700

FIFE SYMINGTON
GOVERNOR

THE ADJUTANT GENERAL
MAJ. GEN. GLEN W. VAN DYKE
DIRECTOR

31 October 1994

Mr. Doug Norton, The Auditor General
Office of the Auditor General
2910 North 44th Street
Suite 410
Phoenix, AZ 85018

Dear Mr. Norton:

In accordance with your draft report of the Sunset Audit of DEMA, I am providing to you our response. I greatly appreciate the efforts of your staff to understand the complexities of this Department and some vey unique projects.

Sincerely,

GLEN W. VAN DYKE, Maj Gen, AZ ANG
The Adjutant General

FINDING I

Recommendations:

The Division should:

- **Develop an effective plan and periodically test the quality of the plan through exercises.**
- **Develop standard operating procedures and ensure that other state agencies have adopted effective procedures to carry out their disaster relief responsibilities.**
- **Compile the resource listing required by A.R.S. §26-306.A.8, including the responsibilities and capabilities of state agencies and other responders.**
- **Maintain necessary materials in the Emergency Operations Center at all times in case of disaster, including phone listings for all possible responders (state agencies, federal agencies, county directors, dam operators, etc.).**
- **Increase the level of its staff's preparedness through increased training and statewide exercises for handling natural disasters, using the monies currently available for these activities.**

Comment: We concur, with the following comments:

Recommended Solutions

A large portion of the Division's funding is obtained through an annual contract with the Federal Emergency Management Agency (FEMA), which coincides with the federal fiscal year. Obligations which were contracted for in the prior fiscal year had to be completed before the restructuring of personnel assignments could occur to address this finding. However, beginning in federal fiscal year 1995, the Division will dedicate a full-time position within the Plans, Training and Exercises Section (PT&E) to revise the state plan to ensure that it is a product that provides a high level of readiness for the State of Arizona to respond to emergency conditions. Enclosed (Attachment A) is a list titled "Recommendations" which identifies the work effort for FY '95 that addresses each of the recommendations in Finding One.

The state planning effort will address the deficiencies noted in the audit, i.e.; specific information on the response capabilities of state agencies, state agency mutual aid agreements and standard operating procedures, description of hardened communications and databases, a listing of federal agencies and contact points, and integration with the Federal Response Plan. However, it should be noted that the integration of the concepts in the Federal Response Plan have been difficult to formalize. With each new federal disaster, the

federal plan has changed. In addition, the critical link to the federal plan, the Regional Response Plan, has not been completed. In our discussions with the leadership at FEMA Region IX, they have recognized that the State Plan can not proceed to incorporate the Emergency Response Functions (ESF's) until the Regional Plan matures. This is a transitional period for the federal and state emergency management community, and while this "reinvention of government" is proceeding, it should be noted that there is a current State Plan and it has been signed by all of the state agencies that have a role in it's implementation.

During the previous administration, the responsibility for the operation of the Emergency Operating Center (EOC) rested with a single person. Since the reorganization, Operations has been refocused as a collective responsibility of each person in the Division. The Division has started a program to train all of the staff and assign responsibilities that are consistent with daily job descriptions to reduce the personal learning curve that each employee faces when the EOC is activated. Standard Operating Procedures, checklists and operational guidelines are being developed for each position and functional area.

The concept of having a state "current" resource list as envisioned in A.R.S. 26-306, paragraphs 6,7,8 is not feasible, as the audit staff has recognized by suggesting the implementation of the California concept, which lists state agency capability only. Perhaps the Legislature could consider a change in the law that would enable ADEM to utilize precious manpower more effectively, rather than concentrating effort on keeping resource lists "current." Resource lists like the one which is attached are updated every four years to comply with the Four Year Plan Update (Attachment B).

The amount of monies used to fund meals and meeting spaces for training has been reduced significantly since 1990-91. An internal audit of the training account showed that in 1992-93 and 1993-94 the amount spent on these costs was approximately 5% of the training budget. The Division will continue to hold these costs to a minimum, and will use governmental training facilities available at no cost whenever possible.

Beginning in calendar year 1994, the Division has implemented a policy to review each state emergency proclamation by writing a state mitigation plan that reviews the conditions of the emergency, the actions and the recovery efforts. The plan focuses on mitigative activities that will reduce the need to respond to similar events in the future.

FINDING II

Recommendation 1

The audit function should be centralized at the Department level. The Department auditors should conduct all necessary audits of state and federal monies to fulfill their oversight responsibilities under state and federal regulations.

We concur with the Auditor General's recommendation and have centralized the audit function at the Department level to ensure organizational independence. The centralization also ensures oversight of the former Division auditor by the Department's Chief Auditor. All audits will be conducted in accordance with government auditing standards, and the Department auditors have responsibility for audits of all state and federal monies.

With respect to mandated audits, the termination audits are now current. The first quarter review of the Governor's Emergency Fund for fiscal year 1995 has begun. The compliance audit report for purchasing and bidding has been completed and the report issued.

Recommendation 2

The Department auditors should audit funds used by the Division of Emergency Management (such as grants for planning and training) to ensure these funds are used appropriately.

We concur and a review of the Division of Emergency Management's internal controls and grants has been scheduled for this fiscal year.

FINDING III

Recommendation 1

The Legislature should consider amending A.R.S. §26-303.H to place the Governor's emergency powers with The Adjutant General to provide for a unified emergency response and proper leadership.

Comment: We do not concur

Recommended Solution:

While it can be argued that the points made in the report are valid, we think, since the leadership has changed significantly, that this issue should be eliminated from the report. The audit team should recognize that they had the unfortunate timing of conducting their audit at the height of ADEM's organizational disfunctionalism. A number of personnel

actions and the stress placed on the staff (12 hour days, every day from January 5th through March) in an emotionally charged situation where lives and significant property hang in the balance, caused the staff to become frustrated. Many took the opportunity to vent some of their anger. Unfortunately, the audit staff had the responsibility of sorting out what was real and what was exaggerated. Since the leadership has changed, I believe this issue should be stricken from the record. There are enough substantive issues that the reader can draw their own conclusions about leadership without being this blatant.

This finding identifies the root of the problem that manifests itself as Finding One. The Division has always seen itself as a separate agency and that attitude has been allowed to exist for a variety of reasons, politically and personally, for over a decade. As a result, an organizational personality has developed that has created a general feeling of distrust between the ADEM staff and our military partners. Department leadership allowed that attitude to foster and mature by not addressing the problem and took no substantive action to change the attitude of the Division leadership.

Recommendation 2

The Adjutant General should increase his oversight over the Division of Emergency Management, to ensure the Division fulfulls its statutory responsibilities and that the Division's functions are consolidated into the Department.

Comment: We do not concur

Recommended Solution:

We agree that the statutes need to be examined to identify conflicts, and areas that represent potential for conflict. A.R.S. 26-303.H, is not the problem. The legislative intent of the law is to provide the Director with the authority to mobilize state resources in events that will undoubtedly become emergencies or disasters when the Governor can not be reached immediately. The power of the Director in this case is short lived and has never been invoked. The statute that creates the problem with who has control over all federal, state personnel and equipment (including equipment of the Arizona National Guard) is A.R.S. 26-305.C. In addition A.R.S. 26-302 allows the Governor to delegate emergency management authority to either the Adjutant General <u>or</u> the Director of Emergency Management which, at a minimum, sends a subtle message which implies equality. There are other emergency management statutes that are out-of-date, vague and contradictive. Comprehensive emergency management legislation should be considered to clarify the Department's and Division's role in making Arizona a safer place to live and work.

FINDING IV

Recommendation 1

To ensure adequate oversight of the Department's operations at Camp Navajo, the Legislature should consider requiring the Department to submit annual operating and capital construction budgets for review.

DEMA supports the concept of informing the legislature regarding the Camp Navajo operating and deferred maintenance budgets. The annual budget is approved by the General Staff at its July meeting pursuant to ARS 26-114 and 26-115. The minutes and actions are forwarded to the Governor for his approval. It can then be made available to the Legislature for review. The assertion that the Adjutant General is solely responsible for the financial decisions, relating to Camp Navajo, is contrary to statute and practice at Camp Navajo.

Recommendation 2

The Department should attempt to modify its agreements with DOD agencies in order to eliminate the State's liability for Camp Navajo's operations and to comply with federal laws and regulations.

DEMA concurs with this recommendation to modify the agreement, however, changes needed are not those indicated in the recommendation. The report identifies two potential sources of state liability, one for the commodities stored at Camp Navajo, and one for what is termed as "overcharges". These issues will be addressed separately.

a. **"State potentially liable for commodities stored at Camp Navajo".**

On the Reentry System Launch Program (Appendix 1 of the Master Cooperative Agreement) and the Air Launch Cruise Missile Program (Appendix 3 of the Master Cooperative Agreement) there is no clear break in passing of responsibility on to the National Guard by way of the USPFO. These are clearly matters which need to be amended to conform with the intention of the parties (USPFO & Arizona National Guard). In each of the other appendices, the MOA indicates that the USPFO would not be responsible for losses which are beyond of the control and without the fault and negligence of the Arizona National Guard. Thus, if the National Guard was at fault, it would trigger liability on the part of the USPFO. There is not, however, any passing of this liability by the USPFO on to the state by way of the respective appendices involved.

In an effort to reassure the Review Team that the State bears no more liability for losses at Camp Navajo than would ordinarily be expected in the event of an act of gross negligence by one of its employees, the USPFO has agreed to restructure its liability clause in each of its Inter-Service Support Agreements. The following language, consistent with that found

in the Agreement with the U.S. Navy, will be proposed by the USPFO to each DOD Agency with which the USPFO has "contracted" for service at Navajo:

> Each party to this agreement shall be responsible for loss or damage to their respective property, equipment, and materials. The USPFO for Arizona shall not be liable for the loss or damage to (as applicable to appendix) materials stored at Camp Navajo. Likewise, (DOD agency) is not liable for the loss or damage to the utilized igloos, transfer facility, storage warehouses, or equipment used at Camp Navajo for this storage mission. Each party shall follow established standard operating procedures for dealing with the commodities and equipment of the other party.

Additionally, the following language will be proposed to the National Guard Bureau as an additional sentence for Section 713 of the Master Cooperative Agreement:

> "It is not the intention of the USPFO for Arizona to pass along to the Arizona National Guard any liability under this Agreement other than that which the State expressly accepts."

It is hoped that this additional language will allay the State's apprehensions over its legal vulnerability in operating Camp Navajo.

b. **"Liability for overcharges under current agreements".**

There are two subparts of this concern. The first addresses the appropriateness of the charges made for the services provided. The second is based on concerns regarding compliance with OMB Circular A-87 as it relates to using the funds for "contingencies".

The points made by the Sunset Audit Review Team regarding cost appropriateness under the provisions of the Camp Navajo Master Cooperative Agreement (MCA), in concert with OMB Circular A-87, are well taken and appreciated as an aid to improving the Navajo operation.

It must be noted, however, that the Department is operating Camp Navajo for the Federal Government (specifically, the National Guard Bureau, represented locally by the U.S. Property and Fiscal Officer (USPFO), in a contiguous relationship, with substantial involvement by NGB. Thus, we are operating under a cooperative agreement as opposed to a grant. The USPFO is in full concurrence with the operating procedures at Camp Navajo, and was and is an integral participant in the drafting of the MCA with the Department. The requirements and intentions of the NGB are being efficiently and cogently accomplished through the synergistic interface between the storage and training missions at Camp Navajo.

The Concept Plan for Camp Navajo is an attempt to conceptualize the operations of the

installation with the best interests of the Arizona National Guard at heart. The Auditor General Report has identified several inconsistencies in the language the two parties have incorporated into the Plan, as well as some inconsistencies in the MCA verbiage itself. The Department is in full compliance with the "intentions" of NGB for accounting and costing the Navajo operation. The USPFO has established the requirements for the continued, effective operation of Camp Navajo as a training site. Also, the USPFO has endorsed the storage mission as a means of supporting the infrastructure at Camp Navajo.

It is the USPFO's prerogative as the agent of the Federal Government to accept or reject costs presented by the Arizona National Guard for reimbursement for Navajo operations. It is the USPFO as the Grantor who must be assured that the Federal Government's intentions and regulations are duly satisfied. A detailed cost report, that has successfully met the USPFO's scrutiny since the operation's inception, is submitted with each Departmental reimbursement request.

As discovered by the review and pointed out in the report, the MCA and the Concept Plan are in need of revision to more thoroughly articulate the consistency required to bring them into concert with one another and regulatory guidelines. This provides a higher level of reassurance to all players involved that Camp Navajo's operation fully complies with applicable laws.

Since the USPFO is the Grantor as defined in A-87, his authority will allow the necessary changes to Section 502 of the MCA to incorporate any costs in question that are allowed by law, to include a listing of allowable indirect costs. The Cost Allocation Plan will be improved in keeping with regulatory directions contained in A-87 and the MCA, and will continue to be refined as a working document in order to respond to the fluidity of the changing missions and programs supporting the operation of Camp Navajo.

OMB Circular A-87 defines a contingency as a reserve for "Unforeseen Events". As referenced on Page 12, Section VIII, Para d(2) of the Concept Plan for Camp Navajo, the "Contingency Account" is defined as a "Fund to offset capital improvement expenditures and repairs of facilities at Navajo". Obviously the term "contingency" as used in the Concept Plan is not consistent with the definition for contingencies found in A-87. The funds held in reserve, and referred to as "profit" or "overcharges" from the grantor, are not profit or overcharges. Rather, they are intended for deferred maintenance expenditures and facilities repairs. Such expenditures and repairs are suitably predictable, and hence, not unforeseen in terms of time or usage measurements, and for which projections can be calculated and costed. Said costs, as defined in OMB A-87 under Attachment B, Para B.11, B.17, B.18, C.2 and C.3 are <u>specifically</u> allowable and are the intended costs referred to as the "Contingency Account" in the Concept Plan. A more precise description, consistent with OMB A-87, would be a Reserve Account. This would better distinguish it from a "Contingency" fund and will be incorporated into the Concept Plan to eliminate any future misconceptions as to the appropriateness of these costs.

The Concept Plan will be revised to eliminate any reference to the utilization of reserve funds to fund shortfalls in the operating account with assurances created to preclude such use.

FINDING V

Recommendation

To ensure timely remediation of the environmental damage at Camp Navajo and to comply with the requirements of BRAC, the Department should seed to revise its agreement with the Army and secure BRAC funding for all necessary remediation efforts.

The Base Commission report directed the Army's mission at Camp Navajo to end, and for Camp Navajo to transfer to the Arizona National Guard. BRAC law was fulfilled when, in September 1994, the demilitarization of obsolete ammunition was completed, bringing to a close the Army's mission. Camp Navajo remains federal land, controlled by the National Guard Bureau, and operated under a license issued to the Arizona National Guard. Camp Navajo's cleanup is not incidental to or necessary for the implementation of BRAC law, except that portion directly related to the Army's mission. Other portions of Camp Navajo remain eligible for Defense Environmental Restoration Account (DERA) funds.

The Arizona National Guard has sought funding for environmental projects at Camp Navajo consistent with the direction that we have received from the Secretary of the Army. The Department of the Army's interpretation is that funding under DERA is authorized. In this regard, see the enclosed photocopy (Attachment C) of an undated letter to Major General Owens (received by facsimile on August 7, 1992). Further, Chapter 9 of Army Regulation 200-1, Environmental Quarterly: Environmental Protection and Enhancement (April 23, 1990), gives the Army's guidance that DERA funds are appropriate for remediating installations under current military control. With this in mind, legal opinions from the U.S. Army, the National Guard Bureau, the Arizona National Guard, and the Army Material Command reached a consensus in the Memorandum of Agreement clarifying environmental funding sources and responsibility. Thus, although it appears as though funding should be exclusively from the Base Realignment and Closure Account (BRAC) the Army has not "closed" Camp Navajo in the same manner as other "closure" actions. The Memorandum of Agreement accurately reflects both BRAC and DERA funding, as applicable, for all necessary remediation efforts. Since 1989, over $7 million in DERA funding, and approximately $200,000 in BRAC funding, has been provided for environmental restoration.

RECOMMENDATIONS

Develop an effective plan and periodically test the quality of the plan through exercises.

HQ105 *Develop or update State or local EOPs or annexes.*
25%/25%/25%/25% (EMA, HAZ, OA)

HQ107 *Integrate Federal Response Plan concepts into EOPs.*
6/6/6/6 (EMA, OA)

HQ108 *Identify Federal response Plan State components in EOPs; e.g., staging areas, DFOs, POAs, MOB centers.*
25%/25%/25%/25% (EMA, OA)

HQ111 *Develop or update State or local disaster recovery plans; e.g., debris removal, reconstruction, economic development.*
1/0/1/0 (DPI)

HQ112 *Develop and implement a corrective action program following an exercise or actual disaster event.*
25%/25%/25%/25% (OA)

HQ401 *Develop/update multi-year exercise schedule.*
0/0/0/1 (EMA, EMT)

HQ402 *Develop, conduct, and/or participate in exercises; e.g., chemical, natural disaster response, hazardous materials, radiological.*
25%/25%/25%/25% (DPI, EMA, EMT, EP, HAZ, OA)

Develop standard operating procedures and ensure that other state agencies have adopted effective procedures to carry out their disaster relief responsibilities.

HQ103 *Develop or update preparedness plans; e.g., critical resources, SCM, RIM&C Operation, communications.*
25%/25%/25%/25% (DPI, EMA, OA)

HQ106 *Develop or update State or local SOPs; e.g., implementing documents, damage assessment handbook.*
6/6/6/6 (EMA, OA)

HQ508 *Participate in operational activities; e.g., stand 24-hour watch, maintain updated call down list, checklists and SOPs, update operational/response databases.*
No activity listed.

Compile the resource listing required by A.R.S. §26-306.A.8, including the responsibilities and capabilities of state agencies and other responders.

HQ103 *Develop or update preparedness plans; e.g., critical resources, SCM, RIM&C Operation, communications.*
25%/25%/25%/25% (DPI, EMA, OA)

HQ106 *Develop or update State or local SOPs; e.g., implementing documents, damage assessment handbook.*
6/6/6/6 (EMA, OA)

HQ507 *Participate in actual disaster operations. (Note: If this code is used, narrative must be provided regarding funding and/or resources used.)*
0/0/0/0 (OA)

HQ601 *Conduct needs assessment for use in developing program and achieving program goals; e.g., inventory of human and programmatic resources, programmatic technical reviews.*
25%/25%/25%/25% (EMA, EP, USR)

Maintain necessary materials in the Emergency Operations Center at all times in case of disaster, including phone listings for all possible responders (state agencies, federal agencies, county directors, dam operators, etc.).

HQ508 *Participate in operational activities; e.g., stand 24-hour watch, maintain updated call down list, checklists and SOPs, update operational/response databases.*
No activities listed.

Increase the level of its staff's preparedness through increased training and statewide exercises for handling natural disasters, using the monies currently available for these activities.

HQ301 *Identify training/education requirements including target audiences, training/education needs assessment, and recommendations for course and curriculum development.*
25%/25%/25%/25% (EMA, EMT, SAR)

HQ305 *Participate in training/education courses, conferences, workshops, seminars, presentations, or demonstrations; e.g., workshops, systems, conferences, multi-disaster protection, SALEMDUG.*
25%/25%/25%/25% (DPI, EP, OA, USR)

HQ402 *Develop, conduct, and/or participate in exercises; e.g., chemical, natural disaster response, hazardous materials, radiological.*
25%/25%/25%/25% (DPI, EMA, EMT, EP, HAZ, OA)

Keep records of the disaster response as it occurs, tracking missions assigned and completed, for use during the response effort and for review afterward.

HQ403 *Develop and conduct evaluations/critiques of exercises.*
25%/25%/25%/25% (EMA, EMT, HAZ, OA)

HQ404 *Perform exercise reporting requirements; e.g., EMERS.*
25%/25%/25%/25% (EMA, EMT, HAZ, OA)

HQ507 *Participate in actual disaster operations. (Note: If this code is used, narrative must be provided regarding funding and/or resources used.)*
0/0/0/0

HQ510 *Perform critique/evaluation of disaster operations.*
No activities listed.

Formally critique the response coordination efforts and produce an after-action report that identifies areas needing improvement after each disaster.

HQ403 *Develop and conduct evaluations/critiques of exercises.*
25%/25%/25%/25%

HQ404 *Perform exercise reporting requirements; e.g., EMERS.*
25%/25%/25%/25%

HQ507 *Participate in actual disaster operations. (Note: If this code is used, narrative must be provided regarding funding and/or resources used.)*
0/0/0/0 (OA)

HQ510 *Perform critique/evaluation of disaster operations.*
No activities listed.

FOUR YEAR PLAN UPDATE

CITY	1990 CENSUS	EOP DATE	22 1994	23 1995	24 1996	20 199
(EMA) APACHE COUNTY	61,591	07/01/91	NO	YES	NO	NO
EAGER	4,025	07/01/90	YES	NO	NO	NO
SPRINGERVILLE	1,802	02/01/91	NO	YES	NO	NO
ST.JOHNS(CTY SEAT)	3,294	09/01/89	NO	NO	NO	YES
(EMA) COCHISE COUNTY	97,624	01/28/91	NO	YES	NO	NO
BENSON	3,824	05/15/93	NO	NO	NO	YES
BISBEE(CTY SEAT)	6,288	07/16/90	YES	NO	NO	NO
DOUGLAS	12,822	05/15/93	NO	NO	NO	YES
HUACHUCA CITY	1,782	10/30/91	NO	YES	NO	NO
SIERRA VISTA	32,983	10/15/92	NO	NO	YES	NO
TOMBSTONE	1,220	07/15/91	NO	YES	NO	NO
WILCOX	3,122	07/30/93	NO	NO	NO	YES
(EMA) COCONINO COUNTY	96,591	03/30/91	NO	YES	NO	NO
FLAGSTAFF(CTY SEAT)	45,857	05/01/91	NO	YES	NO	NO
EDONIA	1,207	08/01/93	NO	NO	NO	YES
PAGE	6,598	11/01/92	NO	NO	YES	NO
SEDONA	7,720	11/01/92	NO	NO	YES	NO
WILLIAMS	2,532	12/01/90	YES	NO	NO	NO
(EMA) GILA COUNTY	40,216	07/01/90	YES	NO	NO	NO
GLOBE(CTY SEAT)	6,062	COVERED BY GILA COUNTY EOP				
HAYDEN	909	07/01/88	NO	NO	YES	NO
MIAMI	2,018	COVERED BY GILA COUNTY EOP				
PAYSON	8,377	03/01/91	NO	YES	NO	NO
WINKELMAN	676	12/01/88	NO	NO	NO	YES
(EMA) GRAHAM COUNTY	26,554	05/18/92	NO	NO	YES	NO
PIMA	1,725	07/01/87	NO	NO	NO	YES
SAFFORD(CTY SEAT)	7,359	04/01/91	NO	YES	NO	NO
THATCHER	3,763	05/30/92	NO	NO	YES	NO
(EMA) GREENLEE COUNTY	8,008	06/01/90	YES	NO	NO	NO
CLIFTON(CTY SEAT)	2,840	08/01/90	NO	YES	NO	NO
NCAN	662	11/01/86	NO	NO	NO	YES

ATTACHMENT B

(EMA)						
LA PAZ COUNTY	13,844	08/01/90	YES	NO	NO	NO
RKER(CTY SEAT)	2,897	08/01/91	NO	YES	NO	NO
(EMA)						
MARICOPA COUNTY	2,122,101	09/30/91	NO	YES	NO	NO
AVONDALE	16,169	02/01/86	NO	YES	NO	NO
BUCKEYE	5,038	09/01/89	NO	NO	NO	YES
CAREFREE	1,666	03/01/93	NO	NO	NO	YES
CAVE CREEK	2,925	01/01/86	YES	NO	NO	NO
CHANDLER	90,533	01/01/86	YES	NO	NO	NO
EL MIRAGE	5,001	08/13/87	NO	YES	NO	NO
GILA BEND	1,747	08/16/89	NO	NO	NO	YES
GILBERT	29,188	10/14/86	YES	NO	NO	NO
GLENDALE	143,134	10/31/88	NO	NO	YES	NO
GOODYEAR	6,258	01/04/89	NO	NO	NO	YES
GUADALUPE	5,458	09/29/88	NO	NO	YES	NO
LITCHFIELD PARK	3,303	05/18/89	YES	NO	NO	NO
MESA	288,091	07/01/89	YES	NO	NO	NO
PARADISE VALLEY	11,671	04/07/87	NO	YES	NO	NO
PEORIA	50,618	04/28/88	NO	NO	YES	NO
PHOENIX(CTY SEAT)	983,403	03/01/89	NO	NO	NO	YES
SCOTTSDALE	130,069	10/31/88	NO	NO	YES	NO
SURPRISE	7,122	05/26/88	NO	NO	YES	NO
TEMPE	141,865	04/20/88	NO	NO	YES	NO
TOLLESON	4,434	07/08/86	YES	NO	NO	NO
LCKENBURG	4,515	09/29/87	NO	YES	NO	NO
YOUNGTOWN	2,542	12/28/88	NO	NO	YES	NO
(EMA)						
MOHAVE COUNTY	93,497	06/01/90	YES	NO	NO	NO
BULLHEAD CITY	21,951	08/30/92	NO	NO	YES	NO
KINGMAN(CTY SEAT)	12,722	12/01/88	NO	NO	NO	YES
LAKE HAVASU	24,363	02/19/92	NO	NO	YES	NO
(EMA)						
NAVAJO COUNTY	77,658	06/30/92	NO	NO	YES	NO
HOLBROOK(CTY SEAT)	4,686	07/01/91	NO	YES	NO	NO
PINETOP/LAKESIDE	2,422	04/30/93	NO	NO	NO	YES
SHOWLOW	5,019	07/14/92	NO	NO	YES	NO
SNOWFLAKE	3,679	04/24/92	NO	NO	YES	NO
TAYLOR	2,418	08/01/91	NO	YES	NO	NO
WINSLOW	8,190	09/01/90	YES	NO	NO	NO
(ERA)						
PIMA COUNTY	666,880	05/01/92	NO	NO	YES	NO
MARANA	2,187	COVERED BY COUNTY EOP				
ORO VALLEY	6,670	COVERED BY COUNTY EOP				
UTH TUCSON	5,093	COVERED BY COUNTY EOP				
TUCSON(CTY SEAT)	405,390	COVERED BY COUNTY EOP				

(NON-EMA)						
PINAL COUNTY	116,379	07/15/93	NO	NO	NO	YES
APACHE JUNCTION	18,100	04/15/92	NO	NO	YES	NO
CASA GRANDE	19,002	06/30/92	NO	NO	YES	NO
COOLIDGE	6,927	12/03/86	YES	NO	NO	NO
ELOY	7,211	10/29/90	YES	NO	NO	NO
FLORENCE(CTY SEAT)	7,510	09/30/92	NO	NO	YES	NO
KEARNY	2,262	12/30/90	YES	NO	NO	NO
MAMMOTH	1,845	12/30/86	YES	NO	NO	NO
SUPERIOR	3,468	12/30/86	YES	NO	NO	NO
(EMA)						
SANTA CRUZ COUNTY	29,676	10/30/90	YES	NO	NO	NO
NOGALES(CTY SEAT)	19,489	09/30/88	YES	NO	NO	NO
PATAGONIA	888	09/01/92	NO	NO	YES	NO
(EMA)						
YAVAPAI COUNTY	107,714	08/30/91	NO	YES	NO	NO
CAMP VERDE	6,234	05/25/91	NO	YES	NO	NO
CHINO VALLEY	4,837	04/31/91	NO	YES	NO	NO
CLARKDALE	2,144	01/31/88	NO	NO	NO	YES
COTTONWOOD	5,918	01/31/88	NO	NO	YES	NO
JEROME	403	04/31/91	NO	YES	NO	NO
PRESCOTT(CTY SEAT)	26,455	01/31/89	NO	NO	NO	YES
PRESCOTT VALLEY	8,858	11/30/84	NO	NO	YES	NO
(EMA)						
YUMA COUNTY	106,895	09/30/90	YES	NO	NO	NO
SAN LUIS	4,212	09/30/91	NO	YES	NO	NO
SOMERTON	5,282	06/30/91	NO	YES	NO	NO
WELLTON	1,066	09/30/91	NO	YES	NO	NO
YUMA(CTY SEAT)	54,923	12/31/92	NO	NO	YES	NO

TOTAL POPULATION OF THE STATE OF ARIZONA AS OF 1990 IS 3,665,228

ATTACH C

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, DC 20310-0111

REPLY TO
ATTENTION OF

Major General Donald L. Owens
The Adjutant General
Arizona National Guard
5636 East McDowell Road
Phoenix, Arizona 85088

Dear General Owens:

This responds to your memorandum of June 17, 1992, regarding environmental responsibilities at the Navajo Army Depot Activity (NADA). We want to assure you that the Army will respond to the environmental contamination cleanup requirements at NADA in a manner that is fully protective of human health and the environment.

NADA will remain federal land with a license to the Arizona National Guard. Under no circumstances will liability for Army-generated contamination be transferred to the State of Arizona. I am unaware of any regulatory scheme under which a state can be held liable for past federal contamination on land that remains in federal hands. Because NADA is an Army property, all Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) response actions will be eligible for participation in the Army Installation Restoration Program (IRP). Such response actions are centrally funded by the Department of Defense, using the Defense Environmental Restoration Account (DERA). Thus, the issue of IRP management at NADA concerns which MACOM (AMC or NGB) will process paperwork for submission to DOD. It is not an issue of transfer of liability from the Army to the State.

To ensure that this process is clear, I will highlight the mechanics of IRP project management. Funding priority for IRP is based on a worst-first concept. That is, response actions for sites that pose a human health risk or environmental hazard receive funding priority. Installations must identify their requirements in the semi-annual 1383 report for IRP programming consideration. The U.S. Army Toxic and Hazardous Materials Agency (USATHAMA) uses the 1383 report exhibits to compile a prioritized IRP workplan and to prepare budget submission to DOD.

ATTACHMENT C

If it is determined that contamination at NADA represents a imminent human health or environmental hazard, the IRP priorities are adjusted to provide for the appropriate response action. Immediate, in-the-field, assistance is available in the IRP to respond to imminent human health or environmental hazards. Additionally, the IRP recognizes the importance of compliance with regulatory agency requirements and funding priorities can be adjusted accordingly.

I am somewhat confused by NGB's concern with the IRP as it relates to ongoing operations at NADA. Does IRP work interfere with mission activities? I do not understand how a cleanup enforcement action would affect ongoing operations. It seems more likely that a media compliance issue (i.e., Clean Air, Clean Water or RCRA compliance, etc.) rather than a cleanup issue would impact mission activities. Therefore, we think it entirely appropriate for NGB to negotiate with AMC during the relocation period to ensure that AMC leaves compliance infrastructure (sewage treatment plants, hazardous waste storage/treatment facilities) in a condition such that NADA will not be faced with enforcement actions in the near future which could impact mission activities. I will support you in your efforts to secure such assurances from AMC.

After AMC leaves NADA, upon completion of the relocation of their storage mission in 1993, the continuing Army environmental restoration program should transition to, and be managed by the National Guard Bureau. However, we have no objection to your entering into a Memorandum of Agreement (MOA) with the Army Materiel Command (AMC) for 1) the provision of environmental program management services; and 2) assurance that compliance infrastructure will be left in a condition commensurate with sustained media compliance at NADA.

The point of contact in this office is Mr. Rick Newsome at (703) 614-9531.

Sincerely,

Lewis D. Walker

Lewis D. Walker
Deputy Assistant Secretary of the Army
(Environment, Safety and Occupational Health)
OASA(I,L&E)