

ACKNOWLEDGEMENT

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I. Introduction

Purpose of the Task Force.

Acting upon the suggestion of several of the senior legal managers of the Corps of Engineers (USACE), the Chief Counsel, Mr. Lester Edelman, established the Task Force on the Delivery of Legal Services in September 1991 to do a systematic examination of the current Corps legal services organization, missions and functions. The purpose of this examination was to determine ways of assuring the delivery of legal services throughout USACE for the future. The Task Force members were each charged to think strategically, keep an open mind, freely examine all relevant considerations, challenge underlying assumptions, and be creative in formulating recommendations for improvements. If necessary, the role of "Counsel" might be redefined or reoriented. The specific functions which USACE attorneys perform were to be identified and an assessment made as to what "value added" is associated with each. The Task Force's Charter appears as Appendix A.

Composition of the Task Force.

The Chief Counsel carefully selected the membership of the Task Force, from an extensive list of volunteers. The Acting Deputy Chief Counsel and the South Pacific Division Counsel were appointed as co-chairs. Three (3) other Division Counsels and three (3) District Counsels were chosen to serve on the Task Force, as were two (2) representatives from HQUSACE. These ten senior attorneys are:

Mr. Craig R. Schmauder, Co-chair	<i>(Then) Acting Deputy Chief Counsel</i>
Mr. Alan P. Shapiro, Co-chair	<i>Division Counsel, SPD</i>
Mr. Bruce H.S. Anderson	<i>(Then) Senior Counsel for Environmental Compliance</i>
Mr. William A. Hough	<i>District Counsel, Savannah District</i>
Mr. Rupert J. Jennings	<i>Senior Counsel for Military Programs</i>
Mr. Terence J. Kelley	<i>(Then) District Counsel, St. Louis District</i>
Mr. Newton Klements	<i>(Then) Division Counsel, NAD</i>
Mr. Robert N. Mahoney	<i>Division Counsel, MRD</i>
Mr. Robert C. Miller	<i>District Counsel, Nashville District</i>
Ms. Reba Page	<i>(Then) Division Counsel, ORD</i>

These attorneys were ably assisted by Ms. Donna Ayres of the Fusion Center who facilitated many of its meetings and helped organize and write this report.

The Process and Methodology.

The Task Force began by using a bottom-up analysis to identify problems associated with specific legal services functions. It was hoped that this approach would help the group amass a fairly detailed information base for use in addressing broader, more systemic legal services concerns. It soon became apparent that this focus was too narrow for the group's initial work, and after two sessions the group sought the services of the Fusion Center at Fort Belvoir and one of its professional facilitators, Ms. Donna Ayres. Ms. Ayres helped the group construct a more broadly focussed methodology that employed strategic planning and organizational design techniques. The analysis then proceeded along three essentially parallel tracks to allow the Task Force to tackle multiple levels of analysis so as to capture the true complexity of a multifaceted legal services system. Although systematic, the methodology was not linear.

Track 1: SCAN-FOCUS-ACT. This strategic planning technique required the group to stand back and "look at the forest" before examining individual trees. During the SCAN stage, the group defined the larger external environment in which the organization functions to identify both constraints and opportunities. The considerable research and data gathering that went on during this process helped the group identify a number of planning assumptions and principles to guide its later deliberations on more specific issues. The group also identified several success criteria against which to measure specific recommendations as they were formulated. During the FOCUS stage the group zeroed in on specific issues, clarified particular needs, and identified areas that were ripe for change. It was at this point that the group crafted a Mission Statement and described twenty-eight fundamental legal services functions performed by the Counsel organization. It also debated such issues as the roles, responsibilities and resource requirements of all levels of the organization, as well as fundamental business processes. During the ACT stage the group formulated a number of specific recommendations for change and addressed four different scenarios under which legal services might be delivered in the future. The four scenarios were: (1) status quo; (2) status quo with modifications; (3) USACE Reorganization Plan; and (4) 25% reduction in overall funding.

Track 2: Philosophical Foundations. Track 2 involved a more abstract inquiry into the professional essence of legal services and the management of such services within the public sector and within a hierarchical organization. This inquiry proceeded as a horizontal analysis of the essence of legal work. It examined such basic questions as who we are and why we exist as an organization. The aim here was to generate a notion of the ideal legal services system and a common understanding about the fundamental nature of legal services work. The inquiry provided a foundation for the discussions conducted on Track 1 about legal

services functions and how to perform them. The philosophical line of inquiry promoted tough, testy, tedious, and tiring but productive sessions. These discussions provided the mortar that ultimately held the more tangible products of the Task Force's efforts together. A Purpose Statement and a Vision Statement eventually emerged.

Track 3: Organizational Redesign. On this track the group examined the Corps' entire legal services organization in detail, both horizontally and vertically. Missions and functions statements were obtained and analyzed, and the results of the 1984 Lake Arrowhead workshop, applying the McKinsey 7-S Model to the Counsel organization, were revisited. An alternative organizational structure was formulated for each scenario identified during the ACT phase of Track 1 and roles and responsibilities were assigned to each organizational element. It was during this phase of the group's analysis that the striking diversity of the various entities that make up the Corps' legal services organization at the different echelons and installations became apparent. Similarities between these entities were also examined for insight into common denominators which might facilitate organizational redesign. It was recognized that redesign must take into account far more than simply performance of twenty-eight specified legal functions. Redesign proceeded with these considerations in mind. This situation, in turn, caused the group to apply both the success criteria and the 7-S Model to each of the final recommendations.

Analysis of the twenty-eight functions ultimately led the group to consideration of "core functions" which the group came to view as the minimum essential functions all District Offices of Counsel must be staffed to perform onsite. While some offices would perform more than the core functions -- even, perhaps, all twenty-eight -- others would execute only the core functions at their locations and rely on other sources to obtain additional legal services, as needed. (See Recommendation 16.)

The McKinsey 7-S Organizational Change Model. Carrying out the legal services function in the Corps involves attention to many interacting elements. The interaction between these elements makes the legal services system both dynamic and complex. After some deliberation, the Task Force decided to use McKinsey's 7-S model to analyze this complex interaction and to diagnose areas ripe for change. The model provided a way to describe the current system and to prescribe recommendations for change in seven major areas. These seven areas, Shared Values/Superordinate Goals, Structure, Staffing, Skills, Strategies, Systems, and Style, are described more fully in Appendix D. (See also Table 2.)

Success Criteria. Shortly after the Task Force's initial meetings, the group recognized the need for some objective criteria to guide their deliberations on alternative mission and organizational scenarios. About this same time (late 1992), the Army General Counsel's Legal Services Study was released. It quickly became apparent to the group that there was some correspondence between what the Army's Legal Services Study Group considered key characteristics of an effective legal services system and what the Task Force viewed as "Success Criteria." The Army's study group identified six key characteristics: Responsive

to Clients, Integrated, Properly Staffed and Resourced, Accountable through Technical Channels, Flexible and Adaptive, and Highly Competent. While the Task Force generally agreed with these characteristics, the success criteria it chose to use as a measure for design of the Corps' legal services system were not completely congruent with the Army's characteristics. The major reason for the group's selection of different success criteria is probably rooted more in the differences in methodology and focus of the two groups than in fundamental philosophical differences. The Task Force identified five success criteria:

Quality. For the Corps lawyer, quality means providing the right legal service at the right time thoroughly, precisely, and accurately. The essence of quality is to do the right thing right the first time, and to provide a useful service that furthers the mission and meets professional standards of competence and care. Consistency and credibility are vital.

Efficiency/Cost Effectiveness. The group quickly recognized that efficient legal services are not necessarily cost effective all the time. Similarly, cost effective legal services are not necessarily efficient all the time. Adequate resources must be applied to the provision of legal services to assure the right result is achievable in a smooth and orderly way most of the time. But the coming reality of increasingly constrained budgets dictates that some balance must be struck between the two concepts, and it is not enough to strive to achieve only one or the other. How risk is managed is growing in importance in the delivery of legal services to the Corps. Sometimes, "good enough" will be just right. Duplication must be eliminated wherever possible, and appropriate functions must be performed at the appropriate organizational level and nowhere else in the ordinary case. Only those echelons and elements should be involved in processing a legal action which can and do add value. Crisis management should be avoided.

Timeliness/Responsiveness. The best legal work product delivered too late is useless. A legal response must reflect the mission and promote client satisfaction. Proximity and accessibility of legal services are major considerations in ensuring timely, responsive legal advice and assistance. The Task Force chose to assign both concepts as a single success criterion because they are so closely connected. However undesirable, it is certainly possible to have timely legal advice which neither responds to the client's needs, nor promotes the finality of legal positions. Failure to respond to judicial or quasi-judicial deadlines in a timely manner, from which there is often no reprieve, can have severe consequences. Timeliness must also take into account the roles and responsibilities of all concerned Corps organizations.

Career Development. The nature of the legal services mission in the Corps of

Engineers is such that it often takes years of experience to become thoroughly conversant with even an aspect of the legal context within which the Corps operates, e.g. Civil Works, Regulatory Functions, Environmental Law, Military Construction, etc. This implies that not only must a quality staff be recruited, it must be continually exposed to enough meaningful, challenging work to provide real professional growth over the long term. How the legal services mission is organized and structured can have a significant effect on retention. Experienced Corps attorneys are not easily replaced when they leave. Accordingly, career paths and opportunities have been considered throughout this study. It is the sense of the Task Force, however, that high degrees of specialization will become increasingly unaffordable. Some specialization will be necessary in some areas of practice, but developing versatility must become an objective of individual development plans and training over the long term.

Accountability. Accountability is closely connected to all of the other success criteria, and it was for this reason that the Task Force did not initially list it individually as one of the criteria. In the final analysis, however, the group believed it to be a critical aspect of the future delivery of legal services that have been "powered down" and minimally resourced. It must be emphasized that accountability is not just a one-way street. Adequate oversight must still be provided, successes recognized, and failures addressed.

These criteria are both more specific and more general than the Army's characteristics, but they helped the group be more precise in fashioning tangible recommendations for meaningful change to improve the delivery of legal services to the Corps in support of a more specific mission than that of the Army as a whole. Each recommendation was tested against all of these criteria.

Planning Assumptions and Principles. Early in its deliberations the Task Force made a number of assumptions to help define the scope of its inquiry and analysis. It also adopted several guiding principles to serve as general "design criteria" for an improved legal services organization. After repeated "check-backs" with these planning assumptions and guiding principles, it became apparent that attempts to discriminate between the two concepts led to

artificial distinctions. Accordingly, the Task Force describes them together below only as being general (contextual) and specific (to the legal services organization). A more complete, but less concise listing appears in Appendix B. The group used these assumptions and principles to evaluate its models and to validate its recommendations:

General.

1. Projects will continue to be built in the field.
2. Civil Works General Expense funds and Military Programs Operations and Maintenance Army Funds are expected to be reduced at least 25 percent over 1992 levels.
3. Based on the limited number of Civil Works projects moving from Reconnaissance Study to Feasibility Study, and the fact that most Corps Districts have few or no new projects being authorized, the short-term and long-term Civil Works workload is modest.
4. Reimbursable work for others, including HTRW, will remain stable or grow.
5. There will continue to be a push for consolidation throughout DoD.
6. Local communities and governments will play a greater role in USACE business.
7. Funding (for operations, management, and overhead) will continue to decline significantly.
8. Policy should be made at the highest practicable level.
9. Operational work should be done at the lowest possible level.

Specific.

1. USACE legal services cannot be contracted out.
2. Limited resources will require restructuring USACE legal services.
3. On-site legal services will be provided at every command with a significant requirement (e.g., contracting).
4. There will be a two-tiered (minimum) legal services system.
5. Duplication, including more than one-level of review, should be eliminated to the maximum extent possible.
6. Corps attorneys will provide core legal services to Corps decisionmakers, especially at the operating level.
7. Corps attorneys, except in their corporate and command advisory roles, should minimize non-legal work.

The Task Force recognized that there were many more factors that bore upon its analysis at different points, but by using the 7-S Model, Success Criteria and Planning Assumptions in combination, the group was able to perform regular "reality checks" and cycle back and forth between the conceptual and the specific without losing focus.



A View to the Future.

Vision without action is merely a dream . . .
Action without vision just passes time . . .
Vision with action can change the world.

Joel Barker
Management Consultant

Before proceeding with organizational redesign, the Task Force formulated its vision for the future of the legal services organization, and developed mission and purpose statements. These became essential guideposts for the group as it went about the difficult and often frustrating task of determining how best to organize for an uncertain future of severely constrained resources and increasingly sophisticated legal practice. Consideration of the vision statement helped the group understand more clearly "who we are" as an organization, the purpose statement "why we are," and the mission statement "what we do."

Vision. It is apparent that the values Corps attorneys share are closely linked with their vision for the future. A strong public service ethic is at the heart of what motivates our lawyers. Moreover, this ethic is multi-dimensional. Corps attorneys seem to have a strong sense of public service and are very aware of the fiduciary aspects inherent in faithfully fulfilling the public trust. The service ethic is also central to membership in the legal profession, and it is evident that Corps lawyers feel a strong sense of loyalty to the profession. They take their oath and their role as Officers of the Court seriously, and view the law and the legal profession with respect. They take pride in their profession. Corps lawyers strive to accommodate both their professional and organizational values.

Service to the client is probably the most tangible dimension of the Corps lawyer's service ethic. It is the dimension he/she encounters daily. Moreover, conscientious and capable service to the client reinforces the manifest pride in service to the public and the profession. Finally, Corps lawyers value greatly the opportunity to be of service to the Corps, be it as members of the legal profession or simply fellow members of the Corps team.

Competence and excellence are indispensable ingredients in the Counsel vision of the future. This implies continued recruitment and retention of a well trained, dedicated Counsel team. In the face of increasingly constraining budgets, strong, principled leadership will be essential to develop the versatility and flexibility so vital to maintaining responsiveness and credibility. To improve productivity and add value in the coming era of limited resources, an energetic and committed Counsel family will have to pull together and rely on modern technology and efficient organizational and office environments to compensate for resource shortfalls.

Integrity remains the cornerstone for all we do to confront the monumental challenges that lie ahead.

With these concepts in mind, the Task Force proposes the adoption of a vision statement such as that following:

The Counsel Vision

Mindful of the proud tradition of service and achievement of our predecessors, we envision a future in which a unified and professional legal services organization continues to enable the Corps team to fulfill a dynamic and diversified mission for our Nation. We value excellence in seeking to provide quality, timely and responsive advice to our clients. We pledge to maintain the highest standards of professional practice and public service. We will lead by example.

Purpose. During some of its early deliberations the Task Force sought to clarify the essence of legal services in the Corps of Engineers. The Task Force asked the question, "What is meant when we speak of a unified legal services system?" Equally important, "What value do we add, and what benefits do we provide?" While the group was fairly clear about what lawyering involved, it was less clear about the roles and responsibilities of Counsel in an institutional setting (i.e., "House Counsel") and more particularly in a governmental setting. The group identified a variety of roles actually performed by Corps attorneys. These include, but are not limited to:

Counselor	Legal Advisor
Advocate	Litigator
Negotiator	Representative
Communicator	Writer
Analyzer	Educator
Adjudicator	Fiduciary
Administrator	Public Servant
Facilitator	Arbiter
Problem Solver	Champion
Manager	Leader

Identification of these roles led the group into consideration of the various settings in which these roles are played.

After considerable reflection, and some research and reading, the group focussed upon understanding four interwoven contexts in which lawyering is done in the Corps: the corporate context, the public service context, the professional context, and the military context.

Consideration of the corporate context provided some interesting parallels to the roles of House Counsel in the Corps. The Task Force observed that Corporate Counsel are often directly involved by management in general corporate decisionmaking. The same is true of Corps Counsel. When major managerial decisions are made by Commanders and Directors, Counsel is usually at the table, whether the decision involves legal considerations or not. Moreover, managing attorneys throughout the Corps are expected, indeed required, to manage the Corps' legal business and operations. Corps attorneys thus serve in the capacities of attorney, advisor, and manager, not unlike corporate attorneys who report to a Vice President and General Counsel and advise corporate management on a wide variety of matters, be they legal matters or not. The major difference between the governmental and corporate legal practices is contextual (there are, of course, other significant differences) and relates to the different obligations and responsibilities that inhere in public service.

Analysis of the four contexts mentioned above led the group to consider and develop a model of the purpose of the Corps' legal services organization which compares the roles of Corporate and Government In-House Counsel. An attorney in the Corps performing strictly legal counsel duties compares to an attorney in a General Counsel office in the corporate world who addresses only legal matters. The Corps attorney who is functioning in a general, executive advisory role, especially the heads of legal offices, compares to the corporate Vice Presidential role which provides management with necessary general business advice that is not necessarily legal advice. These two Counsel roles, "Legal Counsel" and "Executive Counsel," overlap when it comes to managing legal services which involves both activities. A Vice President and General Counsel in the corporate world is responsible for managing the delivery of legal services to satisfy corporate needs, just as the heads of legal offices are responsible for managing the delivery of legal services to their Corps organizations. Moreover, the mix of these Legal Counsel, Executive Counsel, and legal services management roles may vary from time to time and place to place. For example, when a particularly large or complex litigation is being conducted, the "Legal Counsel" role may loom larger for a time than the "Executive Counsel" role. The dynamics of this mix of roles would be similar in both the corporate and governmental context, with some differences. One such difference lies in the corporate ability to contract out representation in litigation which the Corps cannot do.

The group described its conclusions regarding the purpose of the Corps' legal services organization as follows:

The USACE Legal Services Purpose

The purpose of Counsel is to provide essential legal services and to participate in management decision-making in support of the mission of the U.S. Army Corps of Engineers.

Mission.Development of the purpose statement was followed by more detailed discussions of the specific nature of the activities performed by attorneys throughout the Corps. While the legal services mission was found to encompass a diverse array of functions, these functions could be grouped into fairly generic classifications reflecting of the role of attorney, advisor and manager.

The USACE Legal Services Mission

*As **attorneys**, provide quality, timely, and responsive legal advice, guidance, and representation.*

*As **advisors**, provide independent counsel to corporate managers and participate in executive decision-making.*

*As **managers**, deliver cost-effective legal products and administer legal programs and systems.*

It is the sense of the Task Force that this mission statement better captures the essence of the actual legal services mission and the broader role of attorneys in the Corps to provide impartial and objective advice on a wide variety of matters, legal or non-legal, than past mission statements.

II. Recommendations

After defining its objectives with more precision and conducting the research, analysis and deliberation described above, the Task Force formulated 26 specific recommendations for functional and organizational change. Each of these recommendations was cast, debated, recast, and finally reduced to writing in a uniform format that included consideration of significant background, rationale for the proposed change, the McKinsey 7-S Model, the success criteria, the information obtained from the workshops at the 1993 Worldwide Legal Services Conference, and the action needed to implement the recommendation, if adopted. The Task Force conducted four separate briefings for the Chief Counsel during the process of formulating the recommendations. The final recommendations reflect discussions during those briefings, also. Detailed write-ups of each of the recommendations are presented in Appendix D. The recommendations generally fall into five broad categories: 1) legal services system policy, 2) missions and functions, 3) management systems, 4) career development, and 5) automation. The recommendations are summarized below first by category, and then by echelon to reflect the context of organizational change in which they are set. Table 2 catalogues the Task Force's recommendations under the McKinsey 7-S Model elements to which they relate. Once an organizational change model, which arrays the twenty-eight functions by echelon and major organizational element, was settled upon, the group tested each of the recommendations against the model to ensure that the recommendations were consistent with the envisioned future organization.

In its deliberations, the Task Force considered the efficiency and effectiveness of the delivery of legal services by USACE real estate attorneys. Recognizing that the Chief Counsel has specifically addressed this subject on prior occasions, most recently in response to the Army Legal Services Study, the Task Force has not made any recommendations regarding legal support to the real estate activity. The Task Force believes, however, that significant organizational and business process changes will continue to occur and to impact the delivery of legal services by real estate attorneys. The Task Force therefore suggests that these changes be monitored carefully, and that appropriate organizational, staffing, training and resourcing adjustments be made when warranted.

Categories.

Legal Services System Policy. Recommendations 1, 2, 3, and 4 relate to integration of the legal services system and effective development, formulation and dissemination of legal services policy. All of these recommendations are directed at improving communication within the legal services organization.

Recommendation 1. *That the Chief Counsel establish an integrated legal services organization which maximizes quality, efficiency and cost effectiveness, timeliness and responsiveness, accountability, and career development and which has specific attributes and focus at each echelon.*

This recommendation is the overarching umbrella for virtually all of the other recommendations. It contemplates a unified legal services system which can provide all required legal services somewhere in the organization without unnecessary duplication but maintaining the appropriate roles and responsibilities at each organizational echelon. It envisions streamlined resourcing and clear accountability.

Recommendation 2. *That the Chief Counsel realign CECC resources to ensure adequate support for development of policy in each substantive area and to improve overall communications with the field.*

This recommendation emerged from the Task Force's perception, confirmed by input received at the Worldwide Legal Services Conference, that significant CECC resources are consumed doing operational legal work and "managing the in-box." Such utilization of resources appears to be adversely affecting communication of legal guidance and policy to the field in a timely fashion. Implementation of this recommendation would positively affect all of the success criteria.

Recommendation 3. *That communication barriers that limit Districts' authority to directly contact certain sources of expertise, including those at USACE, be eliminated.*

Communication policies are numerous and varied around the Corps legal services organizations, but mostly informal. These policies have engendered a number of different practices from Division to Division. Because of the proliferation of subject matter areas which now must be addressed by Corps attorneys and the increased tempo of operations and communications, observing strict stovepipe protocols for communications may no longer be appropriate. Moreover, expertise in some subject matter areas will not be

available at all locations with legal services offices, especially as resources become increasingly constrained. It is the sense of the Task Force that the Corps legal services organization must be empowered to avail itself of resident expertise wherever situated without observing formal communications protocols that pass communications through essentially uninvolved nodes, which provide little value added. Such empowerment is vital if duplication is to be eliminated and legal resources tailored to the specific mission of each installation.

Recommendation 4. *That the Chief Counsel and Deputy Chief Counsel be encouraged to make periodic visits to the field to meet with USACE attorneys.*

Although the Chief Counsel expressed interest in a letter to the field some time ago about taking advantage of travel opportunities to visit Field Counsel operations, it is the sense of the Task Force that the policy has not been fully implemented. It is evident that the field sees benefit in serious implementation of such a policy, as does the Chief Counsel.

Mission and Functions. Of the thirteen recommendations that address mission and functions specifically, three recommendations (5 through 7) relate to possible restructuring of CECC organizational elements to more effectively address particular functions at Headquarters level. Six recommendations (8 through 13) relate to delegations and authorities. The remaining four recommendations (14 through 17) relate to management and execution of certain legal functions performed at different echelons. These recommendations are primarily a product of the bottom-up analysis of legal functions conducted during the earlier deliberations of the Task Force.

Recommendation 5. *That the Chief Counsel strengthen the CECC-T circle. Merge legal activities relating to the labor counselor, ethics and standards of conduct, information management, organization, and management and administration into CECC-T.*

Implementation of this recommendation will adequately resource what was formerly a one-person circle in the Chief Counsel's Office, group functions more logically, balance the workload and resources of the circles more appropriately, and establish a Counsel staff element capable of stimulating and sustaining strategic planning, TQM and other innovative management initiatives. Moreover, it will be capable of fully and appropriately coordinating these and other legal services policy initiatives, as well as facilitating inter- and intra-echelon communication generally.

Recommendation 6. *That the Chief Counsel modify the Trial Attorney function.*

This proposal represents a major revision to the contract trial attorney function, from top to bottom. Early in its deliberations the Task Force, after some considerable analysis and discussion, concluded that the declining number of claims and appeals would probably not support the kind of fully decentralized contract trial attorney function the Corps has traditionally employed without some significant adjustments. Although attorney managers throughout the Corps organization considered and rejected the notion of a regionally centralized trial attorney function, they were more receptive to changes that would ensure that training and experience requirements are established along with a voluntary trial attorney certification program, to develop the trial expertise necessary to effectively represent the Corps before the boards of contract appeals. Operational work would all be done at the District and FOA level with direct filings to the boards. The Division Trial Attorney role would be revised to a program management type of function, and the Chief Trial Attorney would provide policy and guidance, liaison with boards and the Army Chief Trial Attorney, and general oversight. Support would be provided to small Districts by Districts with experienced or certified trial attorneys on large or complex appeals on a fee-for-service basis. The proposal will require significant effort to implement.

Recommendation 7. *That the Chief Counsel give the legislative program greater emphasis, ensuring that CECC-J keeps the field abreast of legislative matters, and involved in legislation development.*

It is the sense of the Task Force that Field Counsel presently perceive themselves as essentially uninvolved in the entire legislative process, even when it comes to matters that directly affect particular field operations, authorities, etc. In some cases where field offices are asked for input, there is often little, if any, feedback as to outcomes. Moreover, there is little understanding outside of Headquarters of the process by which legislative proposals are generated, drafted, reviewed, and forwarded to Congress. This is particularly true with regard to legislative proposals generated outside the Corps that directly affect Corps operations at particular locations. Current practice regarding communication and coordination of legislative proposals, as well as newly enacted legislation, represents a missed preventive law opportunity in many cases.

Recommendation 8. *That the Chief Counsel delegate FOIA denial authority to the action office level.*

This recommendation is consistent with the overall goal of empowering lower echelons to fully execute their missions and to eliminate unnecessary review by higher echelons. The goal of consistent decisions can be achieved by providing clear guidance on current law and policy. In the unlikely event lower echelons have difficulty, appropriate management action can be taken, including revocation of the initial denial authority (IDA), if necessary. This proposal was strongly supported at the Worldwide Legal Services Conference in September 1993.

Recommendation 9. *That the Chief Counsel delegate agency protest decision authority to all Division Counsels of Command and Control Divisions.*

This authority has already been delegated to SAD, MRD, NPD, SPD, and POD (for Korea and Japan). It has worked well, and reduced the time associated with resolving agency protests significantly. The percentage of decisions by these Division Counsels that has been further reviewed is comparable to the percentage of decisions by the Chief Counsel reviewed. None of the Division Counsel's decisions has been reversed. Implementation of this recommendation will streamline the agency protest process, put responsibility (authority and accountability) where it properly belongs, and will free resources in HQUSACE to focus on non-operational matters more appropriate to the Headquarters.

Recommendation 10. *That the Chief Counsel delegate authority to all Division Counsels of Command and Control Divisions to prepare the final agency position on GAO protests.*

Implementation of this recommendation would further "power down" the process for resolving protests. It would have the same positive effects noted for Recommendation 9.

Recommendation 11. *That the Chief Counsel take action to resolve the conflict between responsibilities of USACE and TJAG for USACE civil litigation, to update ER 27-1-1 (Claims and Litigation), and to delegate authority to maintain direct contact (including transmitting settlement positions) with DOJ in certain civil litigation.*

Existing Army regulatory guidance indicates that only TJAG has the authority to represent the Army's litigation settlement position to DOJ. Additionally, existing USACE regulatory guidance, which pre-dates the Army guidance, requires authorization from the Chief Counsel to directly communicate recommendations to DOJ. Implementation of this proposal would enable USACE elements directly concerned with litigation and most knowledgeable of the facts and circumstances surrounding the matter, to communicate more efficiently and effectively with DOJ. Moreover, the delegation would better place operational matters, with which HQUSACE need not be concerned, at the lowest possible organizational level. Appropriate information must expeditiously be entered into CMIS, and prior coordination should continue regarding litigation of a precedential nature or of national significance.

Recommendation 12. *That the Chief Counsel seek to have settlement authority increased for admiralty cases.*

Few maritime claims are within the very limited settlement authority of District Claims Officers/Attorneys (\$5,000). Delegation of additional authority(\$100,000) to the Chief Counsel and to the District Claims Officer/Attorney would greatly ease the administrative burden of processing such claims, and is fully consistent with empowering the lowest appropriate level to perform a function presently well within their expertise. Review and approval by TJAG and Army Claims Service would be minimized or eliminated.

Recommendation 13. *That the Freedom of Information Act Officer function be transferred to IMO.*

Most of the FOIA Officer responsibilities are administrative and clerical. Less than 10% of requests result in denials which require legal attention. Yet in most field offices, an attorney is appointed as the Freedom of Information Officer. Implementation of this recommendation would transfer non-legal effort to the office more properly established to perform such work. The recommendation is fully consistent with the goal of reducing non-legal work in the legal services organization.

Recommendation 14. *That tort claims reports be submitted directly from the originating office to the Army Claims Service; that delegation of settlement authority of \$25,000 to Corps area claims offices be sought.*

The Task Force has concluded that there is little, if any, value added by intermediate reviews of administrative tort claims reports submitted to the Army Claims Service. Implementation of this recommendation will eliminate unnecessary multiple layers of review where value added is minimal to non-existent. Delegation of the recommended settlement authority will maximize locally available authority.

Recommendation 15. *That the Labor Counselor function be recognized and staffed as an operational function at each organizational level; that the Chief Counsel determine whether the Labor Counselor function throughout the Corps is effective, properly staffed and trained, presently and for the future.*

It is the sense of the Task Force that the Labor Counselor function has grown in activity and significance over the course of the last several years. While the group sees a need for a more thorough assessment of the function, it concludes that there will continue to be sufficient, probably even growing, demand for the service in the future to warrant full staffing at each echelon as an operational function. The recommendation recognizes the importance of and special skills associated with the Labor Counselor function. Certain training and experience should be required for assignment as a Labor Counselor. The essence of the recommendation is a commitment to resource the function at all levels even if utilization of the resource is not optimized.

Recommendation 16. *That certain legal functions be recognized as "core" functions which must be fully resourced at Districts.*

In attempting to address the likely possibility that legal services resources would become increasingly constrained over time, the Task Force identified 15 "core" legal functions which it deemed essential to staff at all District Offices of Counsel. A variety of other arrangements would be made to secure other required legal services, from elements elsewhere in the legal services organization. This recommendation may be applied flexibly, with some Offices of Counsel requiring additional staffing to accomplish a broader array of legal services than otherwise would be available by strict application of the core functions concept to every District. The recommendation has significant career development implications, and is not without risk, but should lead to greater integration with less unnecessary duplication of resources.

Recommendation 17. *That the Procurement Fraud Advisor (PFA) function be consolidated within Divisions as a resource to the Districts.*

Procurement fraud requires proficiency in criminal law and procedure as well as in government contract law. It is a sophisticated and non-routine area of practice that requires the skill of an experienced attorney. Consolidation of the function within each Division will apply limited resources more efficiently and effectively and permit the Division PFA to acquire the detailed training and experience necessary to be effective. While each District would have an attorney designated as point of contact for procurement fraud issues, there would only be one PFA within the Division, unless special circumstances dictate otherwise. The Division PFA could be located in a District.

Management Systems. Recommendations 18 and 19 address needs for better management systems. Recommendation 18 is prompted by some of the evolutionary changes that have occurred in the Counsel organization over several years, while 19 is inspired by a need that has been recognized for some time but addressed in only a very limited way at a few locations in the field.

Recommendation 18. *That the Chief Counsel senior rate all Division Counsels, Lab Counsels, Separate FOA Counsels, Senior Counsels, and Assistant Chief Counsels; that Division Counsels senior rate District Counsels. That Commanders rate Division and District Counsels, as well as separate FOA and Laboratory managing attorneys.*

Since the current rating scheme was published in 1984 there have been many changes in personnel assignments, organizational structures, and even performance rating procedures. The current appraisal procedure provides for written input (professional evaluation letter) from the Chief Counsel to Division and Laboratory Commanders, and Directors of certain FOA's prior to issuance of performance appraisals to their managing attorneys. This professional evaluation must be attached to the appraisal. A similar procedure requires written input from Division Counsels for District Counsels within their Divisions. It is the sense of the Task Force that these performance appraisal input procedures have been adhered to erratically. Performance appraisals have sometimes been rendered without considering the required input. Implementation of this proposal would eliminate the need for separate professional evaluation letters and would fully integrate technical accountability into the performance appraisal process.

Recommendation 19. *That a Corps of Engineers Legal Services Deskbook be prepared and distributed to each Corps Legal Services Office.*

Over the last 15-20 years the delivery of legal services has changed and broadened dramatically. Moreover, the pace of that change is accelerating. It is the sense of the Task Force that there is a real need for a reference manual, not unlike the U.S. Attorneys Manual in the Department of Justice, to facilitate the orientation of new Corps attorneys, expedite processing of routine or recurring legal actions, and document office procedures at each location. Accordingly, this recommendation proposes the development of such a reference manual that would be a combination orientation, practice, and office manual. The manual may require some considerable effort to develop, and will have to be maintained, but it would provide another internal control at a time when reduced resources increase the risk of errors in practice and procedure.

Career Development. Recommendations 20, 21, and 22 speak to career development issues. Some of these recommendations further develop ideas first considered by the Career Management Committee (CMC) in its 1987 report to the Chief Counsel. Recommendation 20, which updates a CMC initiative, has been partially implemented.

Recommendation 20. *That participation in the existing awards program be improved.*

Recent experience with the Chief Counsel's honorary awards program reflects limited participation in nominating worthy candidates for consideration. It is evident that better publicity both before and after the awards may spark more activity. Moreover, there appears to be some concern that better and more frequent use could be made of traditional honorary awards, i.e., Commander's Award, Superior Civilian Service Award, etc.

Recommendation 21. *That policy and planning guidance be developed for using rotational assignments and other techniques to lend some organization and structure to the overall career planning and development of the Corps attorney.*

In the past, developmental assignments tended to be workload driven, occurring only in response to a specific need for on-site help. Particular skills were sought, and the assignments were not part of an overall career plan. Corps attorneys may be less mobile in the future for a variety of reasons. Moreover, the experience base to which an attorney may be exposed in one location, especially in some of the smaller Districts, may be rather limited. This proposal is intended to provide opportunities to Corps attorneys

throughout the organization to share experiences in an organized way that is part of a long-term career plan. Fully implemented, it would add flexibility to otherwise constrained career plans, develop more widely experienced attorneys who are more versatile, and lead to a more highly integrated legal services organization. It should also build trust and facilitate communication.

Recommendation 22. *That an orientation program be developed for new Corps attorneys.*

Frequently new Corps attorneys come on board without any orientation to the Corps, government, or government legal practice. It's a new world for them, and they sometimes feel like a fish out of water. Much can be done to ameliorate this situation, however, by establishing a planned orientation program consisting, for example, of an orientation videotape introducing the attorney to the whole legal services mission and organization, selected temporary duty assignments to other elements of the legal services community, within and outside the Corps, several formal training sessions of short duration that focus on specific aspects of the legal services mission routinely encountered, perhaps at different locations, and some project visits at different kinds of projects. It would help build esprit, give new attorneys a sense of community, facilitate communication, build trust, and shorten the learning curve. In short, it would get our new attorneys off to a good start, in a way that would have long term benefits for the people and the organization.

Automation. Recommendations 23, 24, 25, and 26 address needs for better automation. Some of these recommendations interrelate to other recommendations and, if implemented, will positively affect those other recommendations. Accordingly, it can be expected that effective implementation of all interrelated recommendations together will have positive synergistic effects.

Recommendation 23. *That the CEALS Program Manager initiate ways to increase communications electronically to include establishment of USACE brief banks and databases of legal opinions.*

This recommendation is intended to stimulate action to fully implement certain already proposed automation and electronic communications innovations that are now more readily implementable than available technology would have permitted earlier. Moreover, now that the Department of Justice's JURIS research system, which contained useful briefs and legal memoranda on important cases, is no longer available, the need for a similar

Corps resource is greater. Decentralization, delegation, and powering down of certain legal functions formerly centralized will also require the maintenance of a centralized database to better assure uniformity of legal opinions, decisions, etc.

Recommendation 24. *That the CEALS Program Manager initiate a review of whether to retain CMIS II in its present version.*

There is little doubt that some form of automated case management information system is necessary to properly manage the Corps' huge litigation docket. The user unfriendliness of the CMIS II system is well known, however. The time is ripe for an upgrade, and the necessary technology to improve the system appears to be available at reasonable cost.

Recommendation 25. *That the CEALS Program Manager establish a workload and time accounting system for all USACE legal services.*

As overhead budgets become increasingly constrained, it may be necessary for more and more legal services to be paid directly by the client. While time accounting systems for professionals are not popular, some such system will probably be necessary to implement direct billing. Moreover, workload measurement will be necessary to document and justify the need for staff and other resources as competition for money and people intensifies.

Recommendation 26. *That the CEALS Program Manager establish a suspense/tickler system for all USACE legal services offices.*

The Task Force is unaware of any existing automated system which tracks correspondence or actions coming into or leaving the Office of the Chief Counsel or any of the Command Counsel Offices. There appears to be a genuine need for such a system to operate not only within a specific office but also to cut across command and control lines. The group believes there may be readily available, perhaps off-the-shelf, document management software that can be deployed and used easily with little implementation effort or training required. This recommendation would provide a needed internal control system that currently does not exist or is not utilized, and should improve document management and accountability significantly.

Summary by Echelons.

This section of the report describes and portrays the Task Force's overall system design for the delivery of legal services throughout the Corps. That system design is reflected in the narrative that follows, in the twenty-six (26) specific recommendations (see Table 1), and in the depictions set forth in Tables 3-9 which represent the Task Force's attempt to identify all legal services functions and practice areas and to assign roles and responsibilities for them by organizational elements. Twenty-eight (28) such functions and practice areas were so identified. The roles and responsibilities assigned were policy making, decision making, management, and "operational" work. Though built upon discrete functions, legal practice areas, and roles and responsibilities, the end result is a unified and integrated system that addresses quality, timeliness and responsiveness, efficiency and effectiveness, career development, and accountability.

The system, as envisioned by the Task Force: identifies and assigns appropriate, value-adding roles and responsibilities to each Corps legal office, including developing and disseminating legal services policy, discharging assigned legal services missions and functions, establishing and maintaining legal services management, automation, and career development systems; assures that each legal office has the necessary resources and tools to carry out its assigned roles and responsibilities; designates appropriate and necessary centers of expertise; eliminates duplicative effort and multiple levels of review; and assures accountability to both the command structure and to the legal services system.

Under the system, each Corps legal office has: clearly defined roles and responsibilities; self-sufficiency to perform its assigned legal services functions; access to other necessary legal services functions, including specialized subject matter expertise, consolidated, centralized, or otherwise provided elsewhere in the system. Each legal services system echelon has a primary focus.

The Office of the Chief Counsel focuses on developing and disseminating legal policy and guidance; on addressing nationally significant or precedential issues; on resolving legal issues where the law is unclear; on providing "operational" legal services for the Chief of Engineers and the Headquarters staff on "operational" matters originating at and properly arising from the Headquarters role, i.e., those in support of programmatic policy or legislative development and interpretation, or where the Headquarters is the action office or decision maker, or where it has been designated as a center of expertise for a particular legal subject matter or specialty; and on dealing with the national or Headquarters level of other federal and private entities.

The Division Office of Counsel at Command and Control Divisions primarily focuses on managing the legal services provided by its District Offices of Counsel; providing "operational" legal services to the Division Commander and the Division staff on "operational" matters originating and properly arising from the Division role or where the Division is the action office or the decision maker, or where it has been designated a center of expertise for a particular legal subject matter or specialty; and on dealing with regional policy matters and with the regional representatives of public and private entities.

In addition to managing their legal services, **Operating Division, District, Laboratory, and FOA Counsel** provide "operational" legal services to their Commanders and Command staffs in direct support of project execution, and in discharge of their own responsibilities as action office or decision maker. They also represent the Corps legal services system with public and private entities within their responsibilities and geographical boundaries and as not covered by others.

Legal services in the Corps comprise performing substantive "operational" legal work (which the Task Force defines to include acting as a senior advisor to the Command on other than legal matters) managing the performance of legal work, and creating legal services policy.

The Task Force discussed the concept of "operational" legal work and initially concluded that such work is and would be performed only at the first tier legal office within the legal services system, i.e., the District, Operating Division, Laboratory, and Field Operating Activity. "Operational" legal work in this context meant legal work provided to clients directly responsible for project execution. Ultimately, we recognized that "operational" legal work, in a different sense, was and should be performed at Divisions and at HQUSACE where original legal work is performed for a direct client outside the legal services system, e.g., advice to the Commander in the discharge of his decisional authority; or advice related to a purely Division or Headquarters function. If the legal work relates to the execution of a particular project then it is "operational" at the first tier legal office level. If it relates to a function for which the Division is responsible, then it is "operational" at the Division. And, if it relates to a proper HQUSACE function, then it is "operational" in the Chief Counsel's office. Thus, in the Task Force's legal services system design "operational" legal work is performed in all legal offices. But, if it relates to the execution of a particular project or if it arises from the operation of a District, Operating Division, or FOA, it is operational at that level of the organization, and the Divisions and the Headquarters only perform management, policy, or decisional legal services with respect to those "operational" legal issues. The capacity to perform "operational" legal work, by Task Force definition, requires "technical" capability at that level of the organization.

Similarly, the management of legal services is a role and responsibility of each legal office, insofar as "management" is defined as pertaining to the work being performed in that office. Also, under the Task Force proposal, some functions may require management by first tier legal offices of services being provided for them by others or by them for others. An example is Contract Appeal Trial Attorney services for Type III cases. The Task Force recommendations further assign a management role to "Command and Control" Divisions and to the Headquarters vis-a-vis its subordinate Command legal offices as to a variety of functions.

For purposes of the Task Force report and recommendations, legal work involved in developing USACE legal policy or performed in direct support of other USACE policy development is the realm of the Chief Counsel's office. Other HQ roles and responsibilities, like programmatic legislative activities, fit within the scope of "policy" development, but the related legal work could also be considered "operational" legal work at the Headquarters level. (The Task Force recognizes that Division-wide or District-wide legal policy may also be developed at those echelons, but does not address that role or function.)

The Task Force believes that if roles and responsibilities are clear and the system is disciplined enough to require that each office actually perform its assigned function, the legal services system will exceed expectations in satisfying organizational needs.

The tables on the succeeding pages illustrate how the Task Force recommendations and distribution of roles and responsibilities with respect to identified functions affect the Corps legal services community. Table 1 identifies the twenty-six Task Force Recommendations and the Corps legal office directly affected by each. Table 2 catalogues the Task Force recommendations under the McKinsey "7-S" Systems Analysis Model. Tables 3 through 9 identify twenty-eight legal services functions performed by Corps legal offices and the distribution among Corps legal offices of the roles and responsibilities with respect to each function. Moreover, Tables 3-9 incorporate the Task Force's twenty-six specific recommendations and, as previously stated, cover functions and assignments not addressed in those recommendations.

The Task Force has not identified a few functions, e.g., HTRW, water law, international law, and Indian law, with specific organizational elements because of the peculiar aspects of those particular subject matter areas. The group acknowledges there is a continuing need for expertise in these areas of practice at particular locations in the Corps, and that the Corps legal services organization can ill afford positioning such expertise at all locations, or even at every echelon. It appears that a few well trained and experienced experts, properly located and supported may be able to service the entire Command in water law, international law, and Indian law. Moreover, these experts could provide technical, managerial, and policy support wherever situated, regardless of where the need arises. It is

the sense of the Task Force that these experts should be located "where the action is" in the particular subject matter area, e.g., western U.S. and/or Great Plains for water law and Indian law, TAD and/or POD for international law. Continuation of the existing Assistant Chief Counsel for Indian law at NPD appears to be appropriate. Additional senior legal support for Indian law elsewhere may also be appropriate.

Different aspects of the HTRW mission are already being supported from several different locations, e.g., remedial action and inventory project investigation and reporting locally throughout, PRP negotiations at seven locations, ordnance and explosive waste at one operating Division, HTRW design at fourteen locations, and the HTRW MCX at MRD. The HTRW mission area is rapidly maturing, but the legal resources needed to support it are not yet fully deployed. It is the sense of the Task Force that there is a continuing need for increased resources who are highly trained in order to properly service these activities. Furthermore, better organization and deployment of resources dedicated to the HTRW mission is warranted. It is evident, however, that such expertise, while needed at a number of different locations and at all echelons, is not needed at all Corps District and Division offices.

Table 2.

Recommendations Organized under the McKinsey "7-S" Model

Table 2 catalogues the Task Force recommendations under the McKinsey "7-S" Systems Analysis Model.

Insert TABLE 2 Graphic HERE

Table 3.

HQUSACE	Technical	Mgmt	Policy	Decision	Change
Administrative Law	x	x	x	-	n
Authorities	x	x	x	-	n
Bid Protests					
Agency	-	x	x	-	y
GAO	-	x	x	-	y
Civil Litigation	x	x	x	-	n
Command Advice	x	x	-	-	n
Contract Formation/Admin	x	x	x	-	n
Contract Appeals (Trial Atty)	-	x	x	-	y
Corporate Management	x	x	-	-	n
Environmental Law	x	x	x	-	n
Ethics Counselor	x	x	x	x	n
FIP (Formation)	x	-	x	-	y
Fiscal Law	x	x	x	-	n
FOIA	-	-	-	-	y
HTRW	x	x	x	-	n
Indian Law	x	x	x	-	n
International Law	x	x	x	-	n
Labor Counselor	x	x	x	-	n
Mistakes-in-Bids	x	x	x	-	n
Patents/Intellectual Property	-	-	x	-	n
Procurement Fraud	-	x	x	-	y
Program Management	x	x	-	-	n
Project Cooperation Agreements	x	x	x	-	n
Project Management	-	-	-	-	y
Real Estate	-	-	x	-	-
Regulatory	x	-	x	-	n
R&D	-	x	x	-	y
Torts	-	-	-	-	y
Water Law	x	x	x	-	n

LEGEND: *Technical* = Denotes an "operational" role.

Management = Denotes a mgmt role (external to immediate office).

Policy = Denotes a legal services system-wide policy role.

Decision = Denotes a decision-making role.

Change = Denotes relationship to current practice (Yes/No)

* = Dependent on whether organization has function.

+ = Dependent on whether Real Estate Attorneys are in Office of Counsel and whether organization has Real estate function

ga = Denotes expectation that office be capable of rendering general advice, but not have in-depth expertise.

Table 4.

HECSA	Technical	Mgmt	Policy	Decision	Change
Administrative Law	x	-	-	-	n
Authorities	x	-	-	-	n
Bid Protests Agency	-	-	-	x	y
GAO	-	-	-	x	y
Civil Litigation	x	-	-	-	y
Command Advice	x	x	-	-	n
Contract Formation/Admin	x	-	-	-	n
Contract Appeals (Trial Atty)	-	-	-	-	y
Corporate Management	x	x	-	-	n
Environmental Law	x	-	-	-	n
Ethics Counselor	x	-	-	x	n
FIP (Formation)	x	x	-	-	n
Fiscal Law	x	-	-	-	n
FOIA	x	x	x	x	y
HTRW	-	-	-	-	n
Indian Law	-	-	-	-	n
International Law	-	-	-	-	n
Labor Counselor	x	-	-	-	n
Mistakes-in-Bids	x	-	-	-	y
Patents/Intellectual Property	x	x	x	-	n
Procurement Fraud	-	-	-	-	n
Program Management	-	-	-	-	n
Project Cooperation Agreements	-	-	-	-	n
Project Management	-	-	-	-	n
Real Estate	-	-	-	-	n
Regulatory	-	-	-	-	n
R&D	x	-	-	-	n
Torts	x	-	-	x	y
Water Law	-	-	-	-	n

LEGEND: *Technical* = Denotes an "operational" role.
Management = Denotes a management role (external to immediate office).
Policy = Denotes a legal services system-wide policy role.
Decision = Denotes a decision-making role.
Change = Denotes relationship to current practice (Yes/No).

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Table 5.

DIVISIONS	Technical	Mgmt	Policy	Decision	Change
Administrative Law	x	-	-	-	n
Authorities	x	x	-	-	n
Bid Protests					
Agency	x	x	-	x	y
GAO	x	x	-	x	y
Civil Litigation	-	x	-	-	y
Command Advice	x	x	-	-	n
Contract Formation/Admin	x	x	-	-	n
Contract Appeals (Trial Atty)	-	x	-	-	y
Corporate Management	x	x	-	-	n
Environmental Law	x	x	-	-	n
Ethics Counselor	x	x	-	x	n
FIP (Formation)	ga	-	-	-	y
Fiscal Law	x	x	-	-	n
FOIA	x	-	-	-	y
HTRW	x	x	-	-	n
Indian Law	*	*	-	-	n
International Law	*	*	-	-	n
Labor Counselor	x	x	-	-	y
Mistakes-in-Bids	x	x	-	-	y
Patents/Intellectual Property	-	-	-	-	y
Procurement Fraud	x	x	-	-	n
Program Management	x	x	-	-	n
Project Cooperation Agreements	-	x	-	-	y
Project Management	-	-	-	-	y
Real Estate	-	+	-	-	n
Regulatory	x	x	-	-	n
R&D	-	-	-	-	n
Torts	-	-	-	-	y
Water Law	*	*	-	-	y

LEGEND: *Technical* = Denotes an "operational" role.
Management = Denotes a management role (external to immediate office).
Policy = Denotes a legal services system-wide policy role.
Decision = Denotes a decision-making role.
Change = Denotes relationship to current practice (Yes/No).

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Table 6.

DISTRICTS	Technical	Mgmt	Policy	Decision	Change
Administrative Law	x	-	-	-	n
Authorities	x	-	-	-	n
Bid Protests					
Agency	x	-	-	-	n
GAO	x	-	-	-	n
Civil Litigation	x	-	-	-	y
Command Advice	x	x	-	-	n
Contract Formation/Admin	x	-	-	-	n
Contract Appeals (Trial Atty)	x	-	-	-	y
Corporate Management	x	x	-	-	n
Environmental Law	x	-	-	-	n
Ethics Counselor	x	-	-	x	n
FIP (Formation)	ga	-	-	-	y
Fiscal Law	x	-	-	-	n
FOIA	x	-	-	x	y
HTRW	x	-	-	-	n
Indian Law	*	-	-	-	n
International Law	*	-	-	-	n
Labor Counselor	x	-	-	-	n
Mistakes-in-Bids	x	-	-	-	n
Patents/Intellectual Property	-	x	-	-	y
Procurement Fraud	ga	x	-	-	y
Program Management	-	-	-	-	n
Project Cooperation Agreements	x	-	-	-	n
Project Management	x	-	-	-	n
Real Estate	+	+	-	-	n
Regulatory	x	-	-	-	n
R&D	-	x	-	-	y
Torts	x	-	-	x	y
Water Law	*	-	-	-	n

LEGEND: *Technical* = Denotes an "operational" role.
Management = Denotes a management role (external to immediate office).
Policy = Denotes a legal services system-wide policy role.
Decision = Denotes a decision-making role.
Change = Denotes relationship to current practice (Yes/No).

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Table 7.

OPERATING DIVISIONS	Technical	Mgmt	Policy	Decision	Change
Administrative Law	x	-	-	-	n
Authorities	x	-	-	-	n
Bid Protests					
Agency	x	-	-	-	n
GAO	x	-	-	-	n
Civil Litigation	x	-	-	-	y
Command Advice	x	x	-	-	n
Contract Formation/Admin	x	-	-	-	n
Contract Appeals (Trial Atty)	x	-	-	-	n
Corporate Management	x	x	-	-	n
Environmental Law	x	-	-	-	n
Ethics Counselor	x	-	-	-	n
FIP (Formation)	ga	-	-	-	y
Fiscal Law	x	-	-	-	n
FOIA	x	-	-	x	y
HTRW	x	-	-	-	n
Indian Law	*	-	-	-	n
International Law	*	-	-	-	n
Labor Counselor	x	-	-	-	n
Mistakes-in-Bids	x	-	-	-	n
Patents/Intellectual Property	-	-	-	-	y
Procurement Fraud	x	-	-	-	n
Program Management	*	-	-	-	n
Project Cooperation Agreements	*	-	-	-	n
Project Management	*	-	-	-	n
Real Estate	+	-	-	-	n
Regulatory	*	-	-	-	n
R&D	-	-	-	-	y
Torts	x	-	-	-	n
Water Law	*	-	-	-	n

LEGEND: *Technical* = Denotes an "operational" role.
Management = Denotes a management role (external to immediate office).
Policy = Denotes a legal services system-wide policy role.
Decision = Denotes a decision-making role.
Change = Denotes relationship to current practice (Yes/No).

* = Dependent on whether organization has function.
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ga = Denotes expectation that office be capable of rendering general advice, but not have an in-depth expertise.

Table 8.

LABORATORIES	Technical	Mgmt	Policy	Decision	Change
Administrative Law	x	-	-	-	n
Authorities	x	-	-	-	n
Bid Protests					
Agency	x	-	-	-	n
GAO	x	-	-	-	n
Civil Litigation	x	-	-	-	n
Command Advice	x	-	-	-	n
Contract Formation/Admin	x	-	-	-	n
Contract Appeals (Trial Atty)	-	-	-	-	n
Corporate Management	x	-	-	-	n
Environmental Law	x	-	-	-	n
Ethics Counselor	x	x	x	x	n
FIP (Formation)	ga	-	-	-	y
Fiscal Law	x	-	-	-	y
FOIA	x	-	-	x	y
HTRW	x	-	-	-	n
Indian Law	-	-	-	-	n
International Law	-	-	-	-	n
Labor Counselor	x	-	-	-	n
Mistakes-in-Bids	-	-	-	-	n
Patents/Intellectual Property	-	-	-	-	y
Procurement Fraud	x	-	-	-	n
Program Management	-	-	-	-	n
Project Cooperation Agreements	-	-	-	-	n
Project Management	-	-	-	-	n
Real Estate	-	-	-	-	n
Regulatory	-	-	-	-	n
R&D	x	-	-	-	n
Torts	x	-	-	-	y
Water Law	-	-	-	-	n

LEGEND: *Technical* = Denotes an "operational" role.
Management = Denotes a management role (external to immediate office).
Policy = Denotes a legal services system-wide policy role.
Decision = Denotes a decision-making role.
Change = Denotes relationship to current practice (Yes/No).

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Table 9.

HECSA TENANTS	Technical	Mgmt	Policy	Decision	Change
Administrative Law	x	-	-	-	n
Authorities	x	-	-	-	n
Bid Protests					
Agency	-	-	-	-	y
GAO	-	-	-	-	y
Civil Litigation	x	-	-	-	y
Command Advice	x	-	-	-	n
Contract Formation/Admin	x	-	-	-	n
Contract Appeals (Trial Atty)	-	-	-	-	n
Corporate Management	x	-	-	-	n
Environmental Law	x	-	-	-	n
Ethics Counselor	x	-	-	x	n
FIP (Formation)	ga	-	-	-	n
Fiscal Law	x	-	-	-	n
FOIA	x	-	-	-	y
HTRW	x	-	-	-	n
Indian Law	-	-	-	-	n
International Law	-	-	-	-	n
Labor Counselor	x	-	-	-	n
Mistakes-in-Bids	-	-	-	-	y
Patents/Intellectual Property	-	-	-	-	y
Procurement Fraud	-	-	-	-	n
Program Management	-	-	-	-	n
Project Cooperation Agreements	-	-	-	-	n
Project Management	-	-	-	-	n
Real Estate	-	-	-	-	n
Regulatory	-	-	-	-	n
R&D	x	-	-	-	n
Torts	x	-	-	-	y
Water Law	-	-	-	-	n

LEGEND: **Technical** = Denotes an "operational" role.
Management = Denotes a management role (external to immediate office).
Policy = Denotes a legal services system-wide policy role.
Decision = Denotes a decision-making role.
Change = Denotes relationship to current practice (Yes/No).

* = Dependent on whether organization has function.
+ = Dependent on whether Real Estate Attorneys are in Office of Counsel and whether organization has Real estate function.
ga = Denotes expectation that office be capable of rendering general advice, but not have an in-depth expertise

III. Implementation

Because the Task Force recognized that much would have to transpire before many of its recommendations, once approved, could be implemented, it considered implementation only to the extent necessary to assess the feasibility of each recommendation fairly. Several of the recommendations will require considerable additional work before they can be implemented, others require less; some require very little additional work to execute. Table 10 arrays the recommendations, briefly describes actions needed to implement them, designates the appropriate action office or organization, and indicates how these actions may be executed.

**Table 10.
Implementation Concepts**

RECOMMENDATION	ACTIONS NEEDED	BY WHOM	HOW
1. Integrated Legal Services	Provide implementation guidance	CECC-ZA	Various actions
	Revise mission and functions as needed	All Counsel offices	Regulation
	Align resources to fit assigned missions and functions	CECC-ZA, CERM-ZA	Memo
	Develop system of accountability	CECC-ZA, w/Task Force	Various actions
	Develop universally integrated automated systems	CECC-T	Various actions
	Establish centers of expertise or specialization and criteria or qualifications for providing full range of legal services for the entire Command	CECC-ZA	Various actions
2. Realign CECC staffing to support legal policy function & improve communications with field	Revise mission & functions as needed	CECC-ZA	Regulation
	Develop performance standards	CECC-ZB	Form
	Analyze & realign CECC staffing	CECC-ZA	Memo
	Institute training as needed	CECC-ZA	Memo
3. Eliminate communications barriers to allow direct District contact with centers of expertise	Task CECC-T to draft policy.	CECC-ZA	Memo
	Issue policy	CECC-T	Memo
4. Chief Counsel & Deputy Chief Counsel field visits	Develop long term calendar for Chief/Deputy Chief Counsel to facilitate planning field visits	CECC-A	N/A
	Establish system to plan/track visits	CECC-A	N/A
	Encourage Field Counsel to meet with Chief/Deputy Chief Counsel during Washington visits	CECC-ZA	Memo
5. Consolidate functions into CECC-T	Revise mission & functions	CECC-ZA	Regulation
	Reassign staff	CECC-ZA	Memo
	Reconfigure office space	CECC-ZA	Memo
	Reallocate CECC budget	CECC-ZA	Memo

6. Modify trial attorney function	Draft criteria for certification, training programs, performance standards, job descriptions, & performance indicators	CECC-ZA	Memo
	Revise EFARS	CECC-F	Regulation
	Issue regulation or circular	CECC-F/T	Regulation/Circular
	Establish trial attorney network to foster communication, training, etc.	CECC-F	Memo
	Revise mission & functions	CECC-ZA, Divisions & Districts	Regulation
7. Increase CECC emphasis & information on legislative program	Revise mission & functions	CECC-ZA	Regulation
	Analyze & realign CECC staffing	CECC-ZA	Memo
	Develop performance standards	CECC-ZB	Form
	Institute training as needed	CECC-J	Memo
8. Delegate FOIA IDA to action offices	Memo from CECC delegating authority	CECC-ZA	Memo
	Revise missions & functions	All offices	Regulation
9. Delegate agency protest decision authority to C&C Division Counsels & HECSA for Operating Divisions & FOAs	Memo from CECC delegating authority	CECC-ZA	Memo
	Amend EFARS	CECC-C	Regulation
	Develop performance standards	CECC-ZB & Divisions	Form
	Develop staffing requirements	Divisions	Memo
	Revise mission & functions	CECC-ZA & Divisions	Regulation
10. Delegate authority to establish agency position on GAO protests to C&C Divisions & HECSA for Operating Divisions/FOAs	Memo from CECC delegating authority	CECC-ZA	Memo
	Amend EFARS	CECC-C	Regulation
	Develop performance standards	CECC-ZB & Divisions	Form
	Develop staffing requirements	Divisions	Memo
	Revise mission & functions	CECC-ZA & Divisions	Regulation
	Coordinate with GAO	CECC-ZA	Letter.
11. Resolve regulation conflicts and delegate CECC direct liaison authority w/DOJ for litigation settlements	Coordinate with TJAG	CECC-ZA	Memo
	Amend ER 27-1-1	CECC-K	Regulation
	Delegate authority	CECC-ZA	Memo

12. Increase & delegate CECC settlement authority in admiralty cases	Memo from CECC to TJAG requesting increased delegation with power of re-delegation	CECC-ZA	Memo
	Amend ER 27-1-1 as needed	CECC-K	Regulation
	Revise missions & functions	All offices	Regulation
13. Transfer FOIA to IM	Coordinate with IM & other appropriate organizations	CECC-ZA	Memo
	Revise IM and OC mission & functions	CECC-ZA/CEIM-ZA	Regulation
	Review staffing & train IM personnel	CECC-ZB/CEIM-ZB	N/A
	Establish internal SOPs	CECC-ZB/CEIM-ZB	Circular.
14. Delegate authority to submit tort claims reports directly to Army Claims Service	Memo from CECC delegating authority	CECC-ZA	Memo
	Amend ER 27-1-1	CECC-K	Regulation
	Designation by C&C Divisions of a District to process Division tort claims	Divisions	Memo
	Revise mission & functions	All offices	Regulation
15. Review staffing, training, establish centers of expertise, levels of review, & certification for Labor Counselor function	Establish implementation team	CECC-ZA	Memo
	Review function & issue recommendations	Team	Report
16. Establish core legal functions	Task CECC-ZB	CECC-ZA	Memo
	Draft & publish regulation or circular	CECC-ZB	Regulation/Circular
17. Consolidate Procurement Fraud Advisor in C&C Divisions	Issue policy memo to TJAG & Corps organizations	CECC-ZA	Memo
	Revise District & Divisions mission & functions	All offices	Regulation
	Establish training & development program	CECC-T	Regulation/Circular
	Revise job descriptions/review staffing	All offices	Form
18. Chief Counsel senior rate Division Counsels & Division Counsels senior rate District Counsels	Consult with raters for input/views on proposed changes	CECC-T	Regulation
	Revise USACE Supp. to AR 690-300, 302	CECC-ZA	Memo
19. Prepare a legal services deskbook	Establish implementation team to develop & publish the deskbook	CECC-ZA	Memo

20. Enhance participation in existing awards system	Schedule, review & update annual awards announcement	CECC-T	Memo
	Review Counsel recognition in other Corps awards; take appropriate action	CECC-T	Memo
	Consider increasing publicity of award recipients	CECC-T	Memo
21. Develop system of rotational assignments	Task Career Mgmt. Committee to develop program	CECC-ZA	Memo
	Publish the program	CECC-T	EC
	Develop funding solutions	CECC-ZB/T	N/A
22. Develop orientation program for new attorneys	Task Career Mgmt. Committee to implement	CECC-ZA	Memo
	Publish the program	CECC-T	Report
23. Develop accessible brief and legal opinion banks	Task CEALS Program Manager	CECC-ZA	Memo
	Review & recommend appropriate action	CECC-T	Memo
24. Initiate review of CMIS retention & alternatives	Task CEALS Program Manager	CECC-ZA	Memo
	Issue report & procure	CECC-T	Report
25. Establish workload & time accounting systems for all legal services offices	Task CEALS Program Manager	CECC-ZA	Memo
	Review & recommend appropriate action	CECC-T	Memo
26. Establish suspense system for all legal services offices	Task CEALS Program Manager	CECC-ZA	Memo
	Review & recommend appropriate action	CECC-T	Memo

APPENDICES

Appendix A *The Task Force Charter*

Appendix B *Planning Assumptions, Guiding Principles and Success Criteria*

Appendix C *McKinsey 7-S Organizational Change Model*

Appendix D *Recommendations 1-26*

**Chief Counsel's Task Force
on the Delivery of USACE Legal Services**

CHARTER

- ▶ Provide recommendations to the Chief Counsel on ways of improving the effectiveness and efficiency of the delivery of legal services throughout USACE.
- ▶ Challenge all assumptions.
- ▶ Be creative and keep an open mind.

**Chief Counsel's Task Force
on the Delivery of USACE Legal Services**

ASSUMPTIONS

1. Projects will continue to be built in the field.
2. There is an on-going need for a Washington-based legislative expertise.
3. USACE will continue to be involved in litigation.
4. USACE will have a regulatory responsibility.
5. We will build in quality standards of performance wherever we perform the legal services mission.
6. There will continue to be a need for labor law expertise.
7. USACE legal services cannot be contracted out.
8. USACE will continue to have a real estate mission.
9. Project execution will require legal sufficiency reviews of environmental documentation.
10. Civil Works and Military Programs will decline.
11. There will continue to be a push for consolidation throughout the Department of Defense ("purple suits").
12. Reimbursable work for others will remain stable or grow requiring increased accountability.
13. Local communities and governments will play a greater role in USACE business.
14. Operational funds for both HQ and Divisions will continue to decline.
15. Levels of technical review will diminish.
16. There is a definite need to "right size."
17. All governmental agencies will continue to be highly regulated.
18. There is a quantifiable cost to not having legal services available to decision makers.

**Chief Counsel's Task Force
on the Delivery of USACE Legal Services**

GUIDING PRINCIPLES

1. Policy will be performed at the highest level.
2. Operational legal work will normally be performed at the lowest organizational level practicable.
3. Eliminate multiple levels of review.
4. Office of Counsel, except in its corporate and command advisory roles, should minimize nonlegal work.
5. Legal services will be performed at every command with a significant requirement (e.g. contracting).
6. Create Centers of Expertise where the workload does not allow expertise at each command.
7. Core legal functions (as specifically defined) will be performed at each District.
8. Establish systems that promote/ensure accountability.
9. Seize opportunities to be proactive (e.g., preventive law and corporate advice).
10. Improve and expand automation programs.
11. Stimulate professionalism and integrate morale and welfare into the administration of legal services.
12. Define interagency legal services roles and responsibilities.
13. Reduce unnecessary communication barriers.

**Chief Counsel's Task Force
on the Delivery of USACE Legal Services**

SUCCESS CRITERIA

1. The delivery of USACE legal services must always be of the highest professional quality.
2. The delivery of USACE legal services must be timely and responsive in order to satisfy the needs of our clients.
3. The delivery of USACE legal services must be cost-efficient.
4. The USACE legal services family (attorneys and support staff) is vital to the operation of the system. Career management and development is therefore essential to the delivery of USACE legal services.
5. The USACE legal services system must recognize and promote accountability.

The McKinsey 7-S Organizational Change Model

Carrying out the legal services function in the Corps involves attention to many interacting elements. The interaction between/among these elements makes the legal services system both dynamic and complex. One way to deal with complexity while looking for improvement is to consider specific areas for change. The Task Force has decided to utilize McKinsey's 7-S mode. At the Worldwide Legal Services Conference held at Lake Arrowhead in 1984, this model was used to diagnose areas ripe for change. The model provides a way to describe the current system as well as a way to prescribe recommendations for change in seven major areas. The following defines each of the 7S areas.

Shared Values/Superordinate Goals. This element includes purpose, mission, foundation organizational values, fundamental principles, and broad goals, i.e., why the organization or entity exists. Clarity about shared values and goals provided not only a sense of the organizations's purpose or missions, but also a broad notion of its future direction. An organization's vision, purpose, and mission statements express shared organizational values and Superordinate goals. As such, this element provides meaning to the member of the organization.

Structure. Structure is the most visible and perhaps obvious change element. Structure denotes the way people are organized to accomplish work. Structure is expressed in organization charts, tasks, reporting relationships, formal policies, roles, responsibilities, and functions. When organizational structure is clear, people are clear about their own and other's roles and responsibilities -- who does what. An organizational wiring diagram reflects its structure.

Staffing. This element describes or specifies the number and types of people required to perform organizational tasks, missions, roles, and responsibilities for each organization level. Staffing guidelines clarify where talent should be placed or deployed. Manpower documents and position descriptions specify staffing requirements.

Skills. The specific type of expertise, knowledge, talent or competency required to perform organizational tasks and roles become skills requirements. Selection and training systems specify job-related skills needed to succeed in a job. An organization's capability is set by the level of skills and knowledge extant among the organization's members.

Strategies. The generic approaches and intentions adopted to accomplish work, to achieve desired outcomes, and to plan for the future constitute strategies. These may be formal and explicit or information yet acceptable norms for "doing business"; as such, strategies are related to organizational style.

Systems. Systems are the backbone of the organization. Systems comprise the processes, procedures, mechanisms,, programs, and means to accomplish organizational goals and objectives. Systems coordinate levels of effort. They are the "infrastructure" or the organization. There are recruitment, selection, placement, training, reward/punishment, information, communication, resource management, and planning evaluation systems, to name a few systems in organizations.

Style. Style reflects the organization's "personality." It is embodied in the culture, tone of interactions among members, attitudes, leadership/management style, history, tradition, symbols, command climate of the organization. How people spend their time, what they pay attention to, and what they reward all communicate an organization's style. The most mundane routines of daily life may "speak" louder than formal pronouncements, manipulating these thus provides key leverage points for change.